# Fiscal Notes Prepared by the Missouri State Auditor's Office in 2016

| Fiscal Note Number | Date Received | Fiscal Note Description | Date Submitted to Secretary of State |
|---|---|---|---|
| **16-SJR 1** | 01/12/2016 | **Senate Joint Resolution - Sales and Use Tax for Soil and Water Conservation and for State Parks** | 02/11/2016 |
| **16-HJR 53** | 05/26/2016 | **House Joint Resolution 53 (Voter Identification)** | 06/27/2016 |
| **16-223** | 03/23/2016 | Proposal Related to Chapter 72, RSMo, version 2 (Brown) - Shall the Village of Riverview Become a City of Fourth Class | Rejected by Secretary of State |
| **16-222** | 03/18/2016 | Proposal Related to Chapter 321, RSMo (Brown) - Consolidation of Castlepoint, Riverview, and Moline Fire Protection Districts Into One Fire Protection District | Rejected by Secretary of State |
| **16-221** | 03/16/2016 | Proposal Related to Chapter 235, RSMo (Brown) - Annexation of the Castlepoint Street Light District of St. Louis County | Rejected by Secretary of State |
| **16-220** | 02/24/2016 | **Proposal Related to Chapters 286 & 143, RSMo (Apple) - The Climate Crisis Response Project** | 03/25/2016 |
| **16-219** | 01/28/2016 | **Proposal Related to Chapter 386, RSMo (Klindt) - Net Metering and Easy Connection Act** | Withdrawn by Petitioner |
| **16-218** | 01/22/2016 | Proposal Related to Chapter 386, RSMo (Klindt) - Net Metering and Easy Connection Act | Withdrawn by Petitioner |
| **16-217** | 01/21/2016 | **Proposal Related to Chapter 386, RSMo, version 46 (Zellers) - The Clean Energy Independence and Investment Act** | Withdrawn by Petitioner |
| **16-216** | 01/14/2016 | Proposal Related to Chapter 451, RSMo (Brown) - Separation of Church and State | Rejected by Secretary of State |
| **16-215** | 01/11/2016 | **Proposal Related to Chapter 386, RSMo, version 12 (Linhares) - Missouri Solar Energy Tax Credit** | 02/11/2016 |
| **16-214** | 01/11/2016 | **Proposal Related to Chapter 386, RSMo, version 11 (Linhares) - Missouri Solar Energy Tax Credit** | 02/11/2016 |
| **16-213** | 01/11/2016 | **Proposal Related to Chapter 386, RSMo, version 10 (Linhares) - Missouri Solar Energy Tax Credit** | 02/11/2016 |
| **16-212** | 01/05/2016 | **Proposal Related to Chapters 196 and 210, RSMo, version 5 (Ketcher) - Tobacco Tax** | 02/04/2016 |
| **16-211** | 01/05/2016 | **Proposal Related to Chapters 196 and 210, RSMo, version 4 (Ketcher) - Tobacco Tax** | 02/04/2016 |
| **16-210** | 01/04/2016 | **Proposal Related to Chapter 386, RSMo, version 45 (Zellers) - The Clean Energy Independence and Investment Act** | Withdrawn by Petitioner |
| **16-209** | 01/04/2016 | **Proposal Related to Chapter 386, RSMo, version 44 (Zellers) - The Clean Energy Independence and Investment Act** | Withdrawn by Petitioner |
| **16-208** | 01/04/2016 | **Proposal Related to Chapter 386, RSMo, version 43 (Zellers) - The Clean Energy Independence and Investment Act** | Withdrawn by Petitioner |
| **16-207** | 01/04/2016 | **Proposal Related to Chapter 386, RSMo, version 42 (Zellers) - The Clean Energy Independence and Investment Act** | Withdrawn by Petitioner |
| **16-206** | 01/04/2016 | **Proposal Related to Chapter 386, RSMo, version 41 (Zellers) - The Clean Energy Independence and Investment Act** | Withdrawn by Petitioner |
| **16-205** | 01/04/2016 | **Proposal Related to Chapter 386, RSMo, version 40 (Zellers) - The Clean Energy Independence and Investment Act** | Withdrawn by Petitioner |
| **16-204** | 01/04/2016 | **Proposal Related to Chapter 386, RSMo, version 39 (Zellers) - The Clean Energy Independence and Investment Act** | Withdrawn by Petitioner |
| **16-203** | 01/04/2016 | **Proposal Related to Chapter 386, RSMo, version 38 (Zellers) - The Clean Energy Independence and Investment Act** | Withdrawn by Petitioner |
| **16-202** | 01/04/2016 | **Proposal Related to Chapter 386, RSMo, version 37 (Zellers) - The Clean Energy Independence and Investment Act** | Withdrawn by Petitioner |
| **16-201** | 12/23/2015 | Proposal Related to Chapter 386, RSMo, version 36 (Zellers) - The Clean Energy Independence and Investment Act | Withdrawn by Petitioner |
| **16-200** | 12/23/2015 | Proposal Related to Chapter 386, RSMo, version 35 (Zellers) - The Clean Energy Independence and Investment Act | Withdrawn by Petitioner |
| **16-199** | 12/23/2015 | Proposal Related to Chapter 386, RSMo, version 34 (Zellers) - The Clean Energy Independence and Investment Act | Withdrawn by Petitioner |
| **16-198** | 12/23/2015 | Proposal Related to Chapter 386, RSMo, version 33 (Zellers) - The Clean Energy Independence and Investment Act | Withdrawn by Petitioner |
| **16-197** | 12/23/2015 | Proposal Related to Chapter 386, RSMo, version 32 (Zellers) - The Clean Energy Independence and Investment Act | Withdrawn by Petitioner |
| **16-196** | 12/23/2015 | Proposal Related to Chapter 386, RSMo, version 31 (Zellers) - The Clean Energy Independence and Investment Act | Withdrawn by Petitioner |
| **16-195** | 12/23/2015 | Proposal Related to Chapter 386, RSMo, version 30 (Zellers) - The Clean Energy Independence and Investment Act | Withdrawn by Petitioner |
| **16-194** | 12/23/2015 | Proposal Related to Chapter 386, RSMo, version 29 (Zellers) - The Clean Energy Independence and Investment Act | Withdrawn by Petitioner |
| **16-193** | 12/23/2015 | Proposal Related to Chapter 386, RSMo, version 28 (Zellers) - The Clean Energy Independence and Investment Act | Withdrawn by Petitioner |

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| **16-192** | 12/23/2015 | **Proposal Related to Chapters 196 and 210, RSMo, version 3 (Ketcher) - Tobacco Tax** | 01/22/2016 |
| **16-191** | 12/23/2015 | **Proposal Related to Chapters 196 and 210, RSMo, version 2 (Ketcher) - Tobacco Tax** | 01/22/2016 |
| **16-190** | 12/18/2015 | **Proposal Related to Chapter 386, RSMo, version 18 (Zellers) - The Clean Energy Independence and Investment Act** | Withdrawn by Petitioner |
| **16-189** | 12/18/2015 | **Proposal Related to Chapter 386, RSMo, version 9 (Linhares) - Missouri Solar Energy Tax Credit** | Withdrawn by Petitioner |
| **16-188** | 12/18/2015 | **Proposal Related to Chapter 386, RSMo, version 8 (Linhares) - Missouri Solar Energy Tax Credit** | Withdrawn by Petitioner |
| **16-187** | 12/18/2015 | **Proposal Related to Chapter 386, RSMo, version 7 (Linhares) - Missouri Solar Energy Tax Credit** | Withdrawn by Petitioner |
| **16-186** | 12/18/2015 | **Proposal Related to Chapter 386, RSMo, version 6 (Linhares) - Missouri Solar Energy Tax Credit** | Withdrawn by Petitioner |
| **16-185** | 12/18/2015 | **Proposal Related to Chapter 386, RSMo, version 5 (Linhares) - Missouri Solar Energy Tax Credit** | 01/20/2016 |
| **16-184** | 12/18/2015 | Proposal Related to Chapter 386, RSMo, version 4 (Linhares) - Missouri Solar Energy Tax Credit | Rejected by Secretary of State |
| **16-183** | 12/18/2015 | **Proposal Related to Chapter 386, RSMo, version 3 (Linhares) - Missouri Solar Energy Tax Credit** | Withdrawn by Petitioner |
| **16-182** | 12/18/2015 | **Proposal Related to Chapter 386, RSMo, version 2 (Linhares) - Missouri Solar Energy Tax Credit** | Withdrawn by Petitioner |
| **16-181** | 12/18/2015 | **Proposal Related to Chapter 386, RSMo, version 1 (Linhares) - Missouri Solar Energy Tax Credit** | 01/20/2016 |
| **16-180** | 12/17/2015 | **Proposal Related to Chapter 386, RSMo, version 17 (Zellers) - The Clean Energy Independence and Investment Act** | Withdrawn by Petitioner |
| **16-179** | 12/17/2015 | **Proposal Related to Chapter 386, RSMo, version 16 (Zellers) - The Clean Energy Independence and Investment Act** | Withdrawn by Petitioner |
| **16-178** | 12/17/2015 | **Proposal Related to Chapter 386, RSMo, version 15 (Zellers) - The Clean Energy Independence and Investment Act** | Withdrawn by Petitioner |
| **16-177** | 12/17/2015 | **Proposal Related to Chapter 386, RSMo, version 14 (Zellers) - The Clean Energy Independence and Investment Act** | Withdrawn by Petitioner |
| **16-176** | 12/17/2015 | **Proposal Related to Chapter 386, RSMo, version 13 (Zellers) - The Clean Energy Independence and Investment Act** | Withdrawn by Petitioner |
| **16-175** | 12/17/2015 | **Proposal Related to Chapter 386, RSMo, version 12 (Zellers) - The Clean Energy Independence and Investment Act** | Withdrawn by Petitioner |
| **16-174** | 12/17/2015 | **Proposal Related to Chapter 386, RSMo, version 11 (Zellers) - The Clean Energy Independence and Investment Act** | Withdrawn by Petitioner |
| **16-173** | 12/17/2015 | **Proposal Related to Chapter 386, RSMo, version 10 (Zellers) - The Clean Energy Independence and Investment Act** | Withdrawn by Petitioner |
| **16-172** | 12/14/2015 | Proposal Related to Chapter 386, RSMo, version 9 (Zellers) - The Clean Energy Independence and Investment Act | Withdrawn by Petitioner |
| **16-171** | 12/14/2015 | Proposal Related to Chapter 386, RSMo, version 8 (Zellers) - The Clean Energy Independence and Investment Act | Withdrawn by Petitioner |
| **16-170** | 12/14/2015 | Proposal Related to Chapter 386, RSMo, version 7 (Zellers) - The Clean Energy Independence and Investment Act | Withdrawn by Petitioner |
| **16-169** | 12/14/2015 | Proposal Related to Chapter 386, RSMo, version 6 (Zellers) - The Clean Energy Independence and Investment Act | Withdrawn by Petitioner |
| **16-168** | 12/14/2015 | Proposal Related to Chapter 386, RSMo, version 5 (Zellers) - The Clean Energy Independence and Investment Act | Withdrawn by Petitioner |
| **16-167** | 12/14/2015 | Proposal Related to Chapter 386, RSMo, version 4 (Zellers) - The Clean Energy Independence and Investment Act | Withdrawn by Petitioner |
| **16-166** | 12/14/2015 | Proposal Related to Chapter 386, RSMo, version 3 (Zellers) - The Clean Energy Independence and Investment Act | Withdrawn by Petitioner |
| **16-165** | 12/14/2015 | Proposal Related to Chapter 386, RSMo, version 2 (Zellers) - The Clean Energy Independence and Investment Act | Withdrawn by Petitioner |
| **16-164** | 12/14/2015 | Proposal Related to Chapter 386, RSMo, version 1 (Zellers) - The Clean Energy Independence and Investment Act | Withdrawn by Petitioner |
| **16-163** | 12/14/2015 | **Proposed Constitutional Amendment - Article XIV, version 40 (Ketcher) - Changes Impacting Elected Officials** | 01/15/2016 |
| **16-162** | 12/14/2015 | **Proposed Constitutional Amendment - Article XIV, version 39 (Ketcher) - Changes Impacting Elected Officials** | 01/15/2016 |
| **16-161** | 12/14/2015 | **Proposed Constitutional Amendment - Article XIV, version 38 (Ketcher) - Changes Impacting Elected Officials** | 01/15/2016 |
| **16-160** | 12/14/2015 | **Proposed Constitutional Amendment - Article XIV, version 37 (Ketcher) - Changes Impacting Elected Officials** | 01/15/2016 |
| **16-159** | 12/07/2015 | **Proposal Related to Chapter 128, RSMo (Apple) - Congressional Elections** | 01/07/2016 |
| **16-158** | 12/04/2015 | **Proposed Constitutional Amendment - Article III, version 36 (Ketcher) - Changes Impacting** | 01/05/2016 |

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| | | **the General Assembly** | |
| **16-157** | 12/04/2015 | **Proposed Constitutional Amendment - Article III, version 35 (Ketcher) - Changes Impacting the General Assembly** | 01/05/2016 |
| **16-156** | 12/04/2015 | **Proposed Constitutional Amendment - Article III, version 34 (Ketcher) - Changes Impacting the General Assembly** | 01/05/2016 |
| **16-155** | 12/04/2015 | **Proposed Constitutional Amendment - Article III, version 33 (Ketcher) - Changes Impacting the General Assembly** | 01/05/2016 |
| **16-154** | 12/02/2015 | **Proposal Related to Chapter 128, RSMo (Apple) - Congressional Elections** | 01/05/2016 |
| **16-153** | 11/25/2015 | **Proposal Related to Chapters 196 and 210, RSMo (Ketcher) - Tobacco Tax** | Withdrawn by Petitioner |
| **16-152** | 11/23/2015 | **Proposed Constitutional Amendment - Article IV (Greim) - Tobacco Tax** | 12/24/2015 |
| **16-151** | 11/20/2015 | Proposal Related to Chapter 178, RSMo (Brown) - Public Comment at Board Meetings | Rejected by Secretary of State |
| **16-150** | 11/19/2015 | Proposed Constitutional Amendment - Article I (Pannett) - Refugees from Syria | Rejected by Secretary of State |
| **16-149** | 11/09/2015 | **Proposed Constitutional Amendment - Article XIV, version 32 (Ketcher) - Changes Impacting Elected Officials** | 12/10/2015 |
| **16-148** | 11/09/2015 | **Proposed Constitutional Amendment - Article VII, version 31 (Ketcher) - Changes Impacting Elected Officials** | 12/10/2015 |
| **16-147** | 11/09/2015 | **Proposed Constitutional Amendment - Article VII, version 30 (Ketcher) - Changes Impacting Elected Officials** | 12/10/2015 |
| **16-146** | 11/09/2015 | **Proposed Constitutional Amendment - Article VII, version 29 (Ketcher) - Changes Impacting Elected Officials** | 12/10/2015 |
| **16-145** | 11/09/2015 | **Proposed Constitutional Amendment - Article VII, version 28 (Ketcher) - Changes Impacting Elected Officials** | 12/10/2015 |
| **16-144** | 11/05/2015 | **Proposed Constitutional Amendment - Article III, version 27 (Ketcher) - Changes Impacting the General Assembly** | 12/08/2015 |
| **16-143** | 11/05/2015 | **Proposed Constitutional Amendment - Article III, version 26 (Ketcher) - Changes Impacting the General Assembly** | 12/08/2015 |
| **16-142** | 11/05/2015 | **Proposed Constitutional Amendment - Article III, version 25 (Ketcher) - Changes Impacting the General Assembly** | 12/08/2015 |
| **16-141** | 11/05/2015 | **Proposed Constitutional Amendment - Article XIV, version 24 (Ketcher) - Changes Impacting Elected Officials** | 12/08/2015 |
| **16-140** | 11/05/2015 | **Proposed Constitutional Amendment - Article XIV, version 23 (Ketcher) - Changes Impacting Elected Officials** | 12/08/2015 |
| **16-139** | 11/05/2015 | **Proposed Constitutional Amendment - Article XIV, version 22 (Ketcher) - Changes Impacting Elected Officials** | 12/08/2015 |
| **16-138** | 11/05/2015 | **Proposed Constitutional Amendment - Article III, version 21 (Ketcher) - Changes Impacting the General Assembly** | 12/08/2015 |
| **16-137** | 11/05/2015 | **Proposed Constitutional Amendment - Article III, version 20 (Ketcher) - Changes Impacting the General Assembly** | 12/08/2015 |
| **16-136** | 11/05/2015 | **Proposed Constitutional Amendment - Article III, version 19 (Ketcher) - Changes Impacting the General Assembly** | 12/08/2015 |
| **16-135** | 11/05/2015 | **Proposed Constitutional Amendment - Article XVI, version 2 (Dundon) - Medical Marijuana** | 12/08/2015 |
| **16-134** | 11/05/2015 | **Proposed Constitutional Amendment - Article I, version 1 (Dundon) - Medical Marijuana** | 12/08/2015 |
| **16-133** | 11/03/2015 | Proposed Constitutional Amendment - Article III, version 18 (Ketcher) - Changes Impacting the General Assembly | Withdrawn by Petitioner |
| **16-132** | 11/03/2015 | Proposed Constitutional Amendment - Article III, version 17 (Ketcher) - Changes Impacting the General Assembly | Withdrawn by Petitioner |
| **16-131** | 11/03/2015 | Proposed Constitutional Amendment - Article III, version 16 (Ketcher) - Changes Impacting the General Assembly | Withdrawn by Petitioner |
| **16-130** | 10/28/2015 | Proposed Constitutional Amendment - Article XVI, version 2 (Dundon) - Medical Marijuana | Withdrawn by Petitioner |
| **16-129** | 10/28/2015 | Proposed Constitutional Amendment - Article I, version 1 (Dundon) - Medical Marijuana | Withdrawn by Petitioner |
| **16-128** | 10/20/2015 | **Proposed Constitutional Amendment - Article XV (Bradshaw) - Medical Marijuana** | 11/19/2015 |
| **16-127** | 10/09/2015 | **Proposed Constitutional Amendment - Article III (Dueker) - House of Representatives** | 11/10/2015 |
| **16-126** | 10/09/2015 | **Proposed Constitutional Amendment - Article III (Lamping) - House of Representatives** | 11/10/2015 |
| **16-125** | 10/08/2015 | Proposed Constitutional Amendment - Article XVI, version 2 (Dundon) - Medical Marijuana | Withdrawn by Petitioner |
| **16-124** | 10/08/2015 | Proposed Constitutional Amendment - Article I, version 1 (Dundon) - Medical Marijuana | Withdrawn by Petitioner |
| **16-123** | 09/30/2015 | Proposed Constitutional Amendment - Article III (Dueker) - House of Representatives | Withdrawn by Petitioner |
| **16-122** | 09/30/2015 | Proposed Constitutional Amendment - Article III (Lamping) - House of Representatives | Withdrawn by Petitioner |

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| **16-121** | 09/28/2015 | Proposal Related to Chapter 178, RSMo (Brown) - St. Louis City and County Police Department to Contract Campus Police Services | Rejected by Secretary of State |
| **16-120** | 09/23/2015 | **Proposed Constitutional Amendment - Article I, version 2 (Reed) - Missouri Career Centers** | 10/23/2015 |
| **16-119** | 09/23/2015 | **Proposed Constitutional Amendment - Article I, version 1 (Reed) - Missouri Career Centers** | 10/23/2015 |
| **16-118** | 09/17/2015 | **Proposed Constitutional Amendment - Article VII, version 15 (Ketcher) - Changes Impacting Elected Officials** | 10/20/2015 |
| **16-117** | 09/17/2015 | **Proposed Constitutional Amendment - Article VII, version 14 (Ketcher) - Changes Impacting Elected Officials** | 10/20/2015 |
| **16-116** | 09/17/2015 | **Proposed Constitutional Amendment - Article VII, version 13 (Ketcher) - Changes Impacting Elected Officials** | 10/20/2015 |
| **16-115** | 09/17/2015 | **Proposal Related to Chapters 210, 196, and 149, RSMo, version 17 (Greim) - Tobacco Tax** | Withdrawn by Petitioner |
| **16-114** | 09/17/2015 | **Proposal Related to Chapters 210, 196, and 149, RSMo, version 16 (Greim) - Tobacco Tax** | Withdrawn by Petitioner |
| **16-113** | 09/17/2015 | **Proposal Related to Chapters 210 and 149, RSMo, version 15 (Greim) - Tobacco Tax** | 10/20/2015 |
| **16-112** | 09/17/2015 | **Proposal Related to Chapters 210, 196, and 149, RSMo, version 14 (Greim) - Tobacco Tax** | Withdrawn by Petitioner |
| **16-111** | 09/17/2015 | **Proposal Related to Chapters 210, 196, and 149, RSMo, version 13 (Greim) - Tobacco Tax** | Withdrawn by Petitioner |
| **16-110** | 09/17/2015 | **Proposal Related to Chapters 210, 196, and 149, RSMo, version 12 (Greim) - Tobacco Tax** | Withdrawn by Petitioner |
| **16-109** | 09/17/2015 | **Proposal Related to Chapters 210, 196, and 149, RSMo, version 11 (Greim) - Tobacco Tax** | Withdrawn by Petitioner |
| **16-108** | 09/17/2015 | **Proposal Related to Chapters 210, 196, and 149, RSMO, version 10 (Greim) - Tobacco Tax** | Withdrawn by Petitioner |
| **16-107** | 09/17/2015 | **Proposal Related to Chapters 210, 196, and 149, RSMo, version 9 (Greim) - Tobacco Tax** | Withdrawn by Petitioner |
| **16-106** | 09/17/2015 | **Proposal Related to Chapters 210, 196, and 149, RSMo, version 8 (Greim) - Tobacco Tax** | Withdrawn by Petitioner |
| **16-105** | 09/17/2015 | **Proposal Related to Chapters 210, 196, and 149, RSMo, version 7 (Greim) - Tobacco Tax** | Withdrawn by Petitioner |
| **16-104** | 09/10/2015 | **Proposed Constitutional Amendment - Article XIV, version 12 (Ketcher) - Changes Impacting Elected Officials** | 10/14/2015 |
| **16-103** | 09/10/2015 | **Proposed Constitutional Amendment - Article XIV, version 11 (Ketcher) - Changes Impacting Elected Officials** | 10/14/2015 |
| **16-102** | 09/10/2015 | **Proposed Constitutional Amendment - Article XIV, version 10 (Ketcher) - Changes Impacting Elected Officials** | 10/14/2015 |
| **16-101** | 09/10/2015 | **Proposed Constitutional Amendment - Article III, version 9 (Ketcher) - Changes Impacting the General Assembly** | 10/14/2015 |
| **16-100** | 09/10/2015 | **Proposed Constitutional Amendment - Article III, version 8 (Ketcher) - Changes Impacting the General Assembly** | 10/14/2015 |
| **16-099** | 09/10/2015 | **Proposed Constitutional Amendment - Article III, version 7 (Ketcher) - Changes Impacting the General Assembly** | 10/14/2015 |
| **16-098** | 09/10/2015 | **Proposed Constitutional Amendment - Article III, version 6 (Ketcher) - Changes Impacting the General Assembly** | 10/14/2015 |
| **16-097** | 09/10/2015 | **Proposed Constitutional Amendment - Article III, version 5 (Ketcher) - Changes Impacting the General Assembly** | 10/14/2015 |
| **16-096** | 09/10/2015 | **Proposed Constitutional Amendment - Article III, version 4 (Ketcher) - Changes Impacting the General Assembly** | 10/14/2015 |
| **16-095** | 09/10/2015 | **Proposed Constitutional Amendment - Article III, version 3 (Ketcher) - Changes Impacting the General Assembly** | 10/14/2015 |
| **16-094** | 09/10/2015 | **Proposed Constitutional Amendment - Article III, version 2 (Ketcher) - Changes Impacting the General Assembly** | 10/14/2015 |
| **16-093** | 09/10/2015 | **Proposed Constitutional Amendment - Article III, version 1 (Ketcher) - Changes Impacting the General Assembly** | 10/14/2015 |
| **16-092** | 09/10/2015 | **Proposal Related to Chapters 286 & 143, RSMo (Apple) - The Climate Crisis Response** | 10/14/2015 |
| **16-091** | 09/04/2015 | **Proposal Related to Chapter 192, RSMo (Apple) - The Missouri Health Insurance Cooperative** | 10/05/2015 |
| **16-090** | 09/04/2015 | **Proposal Related to Chapters 286 and 143, RSMo (Apple) - Public Sector Employment** | Withdrawn by Petitioner |
| **16-089** | 09/04/2015 | Proposed Constitutional Amendment - Article I (Reed) - Missouri Career Centers | Rejected by Secretary of State |
| **16-088** | 09/02/2015 | **Proposal Related to Chapter 393, RSMo (Grimes) - Electric Suppliers** | Withdrawn by Petitioner |
| **16-087** | 08/26/2015 | Proposal Related to Chapter 393, RSMo (Grimes) - Electric Suppliers | Withdrawn by Petitioner |
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| **16-086** | 08/19/2015 | **Proposal Related to Chapters 149, 196, and 210, RSMo, version 6 (Greim) - Tobacco Tax** | Petitioner |
| **16-085** | 08/19/2015 | **Proposal Related to Chapters 149 and 210, RSMo, version 5 (Greim) - Tobacco Tax** | 09/21/2015 |
| **16-084** | 08/19/2015 | **Proposal Related to Chapters 149, 196, and 210, RSMo, version 4 (Greim) - Tobacco Tax** | Withdrawn by Petitioner |
| **16-083** | 08/19/2015 | **Proposal Related to Chapters 149 and 210, RSMo, version 3 (Greim) - Tobacco Tax** | 09/21/2015 |
| **16-082** | 08/19/2015 | **Proposal Related to Chapters 149, 196, and 210, RSMo, version 2 (Greim) - Tobacco Tax** | Withdrawn by Petitioner |
| **16-081** | 08/19/2015 | **Proposal Related to Chapters 149 and 210, RSMo, version 1 (Greim) - Tobacco Tax** | 09/21/2015 |
| **16-080** | 08/17/2015 | **Proposal Related to Chapter 149, RSMo, version 2 (Hatfield) - Tobacco Tax** | 09/21/2015 |
| **16-079** | 08/17/2015 | **Proposal Related to Chapter 149, RSMo, version 1 (Hatfield) - Tobacco Tax** | 09/21/2015 |
| **16-078** | 08/10/2015 | Proposal Related to Chapters 149, 196, and 210, RSMo, version 6 (Greim ) - Tobacco Tax | Withdrawn by Petitioner |
| **16-077** | 08/10/2015 | Proposal Related to Chapters 149 and 210, RSMo, version 5 (Greim) - Tobacco Tax | Withdrawn by Petitioner |
| **16-076** | 08/10/2015 | Proposal Related to Chapters 149, 196, and 210, RSMo, version 4 (Greim) - Tobacco Tax | Withdrawn by Petitioner |
| **16-075** | 08/10/2015 | Proposal Related to Chapters 149 and 210, RSMo, version 3 (Greim) - Tobacco Tax | Withdrawn by Petitioner |
| **16-074** | 08/10/2015 | Proposal Related to Chapters 149, 196, and 210, RSMo, version 2 (Greim) - Tobacco Tax | Withdrawn by Petitioner |
| **16-073** | 08/10/2015 | Proposal Related to Chapters 149 and 210, RSMo, version 1 (Greim) - Tobacco Tax | Withdrawn by Petitioner |
| **16-072** | 07/22/2015 | **Proposal Related to Chapter 290, RSMo, version 10 (Granich) - Minimum Wage** | 08/24/2015 |
| **16-071** | 07/22/2015 | **Proposal Related to Chapter 290, RSMo, version 9 (Granich) - Minimum Wage** | 08/24/2015 |
| **16-070** | 07/22/2015 | **Proposal Related to Chapter 290, RSMo, version 8 (Granich) - Minimum Wage** | 08/24/2015 |
| **16-069** | 07/22/2015 | **Proposal Related to Chapter 290, RSMo, version 7 (Granich) - Minimum Wage** | 08/24/2015 |
| **16-068** | 07/22/2015 | **Proposal Related to Chapter 290, RSMo, version 6 (Granich) - Minimum Wage** | 08/24/2015 |
| **16-067** | 07/22/2015 | **Proposal Related to Chapter 290, RSMo, version 5 (Granich) - Minimum Wage** | 08/24/2015 |
| **16-066** | 07/22/2015 | **Proposal Related to Chapter 290, RSMo, version 4 (Granich) - Minimum Wage** | 08/24/2015 |
| **16-065** | 06/03/2015 | **Proposed Constitutional Amendment - Article III (Apple) - House of Representatives** | 07/06/2015 |
| **16-064** | 05/21/2015 | **Proposed Constitutional Amendment - Article VIII (Ashcroft) - Voter Identification** | 06/23/2015 |
| **16-063** | 05/18/2015 | **Proposal Related to Chapter 192, RSMo (Apple) - The Missouri Health Insurance Cooperative** | Withdrawn by Petitioner |
| **16-062** | 05/18/2015 | **Proposal Related to Chapters 286 and 143, RSMo (Apple) - Public Sector Employment** | Withdrawn by Petitioner |
| **16-061** | 05/18/2015 | **Proposal Related to Chapters 130 and 143, RSMo (Apple) - Public Financing for Elections** | 06/18/2015 |
| **16-060** | 05/13/2015 | **Proposed Constitutional Amendment - Article X, version E (Hatfield) - Limitation on Imposing Any Sales and Use Tax** | 06/15/2015 |
| **16-059** | 05/13/2015 | **Proposed Constitutional Amendment - Article X, version D (Hatfield) - Limitation on Imposing Any New Tax** | 06/15/2015 |
| **16-058** | 05/13/2015 | **Proposed Constitutional Amendment - Article X, version C (Hatfield) - Limitation on Imposing Any Sales or Use Tax** | 06/15/2015 |
| **16-057** | 05/12/2015 | **Proposed Constitutional Amendment - Article III (Wilson) - Reducing the Age Eligibility for Legislative Members** | 06/11/2015 |
| **16-056** | 05/12/2015 | **Proposal Related to Chapter 208, RSMo, version 1 (Mazur) - Minimum Wage and Benefits to In-Home Service Employees and Personal Care Attendants** | 06/11/2015 |
| **16-055** | 05/11/2015 | **Proposed Constitutional Amendment - Article X (Hatfield) - Limitation on Imposing Any New Tax** | 06/11/2015 |
| **16-054** | 05/11/2015 | **Proposed Constitutional Amendment - Article X (Hatfield) - Limitation on Imposing a Sales of Use Tax** | 06/11/2015 |
| **16-053** | 05/04/2015 | Proposal Related to Chapter 67, RSMo (Apple) - Minimum Wage | Rejected by Secretary of State |
| **16-052** | 05/04/2015 | Proposal Related to Chapters 130 and 143, RSMo (Apple) - Public Financing for Elections | Rejected by Secretary of State |
| **16-051** | 05/04/2015 | Proposal Related to Chapters 21 and 105, RSMo (Apple) - Legislative Salaries | Rejected by Secretary of State |
| **16-050** | 04/27/2015 | Proposal Related to Chapter 610, RSMo (Dean) - Proposed Statutory Amendment | Rejected by Secretary of State |
| **16-049** | 04/17/2015 | Proposal Related to Chapters 286 and 143, RSMo (Apple) - Public Sector Employment | Rejected by Secretary of State |
| **16-048** | 04/17/2015 | Proposal Related to Chapter 192, RSMo (Apple) - The Missouri Health Insurance Cooperative | Rejected by Secretary of State |
| **16-047** | 04/15/2015 | **Proposal Related to Chapter 290, RSMo, version 3 (Granich) - Minimum Wage** | 05/15/2015 |

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|---|---|---|---|
| **16-046** | 04/15/2015 | **Proposal Related to Chapter 290, RSMo, version 2 (Granich) - Minimum Wage** | 05/15/2015 |
| **16-045** | 04/15/2015 | **Proposal Related to Chapter 290, RSMo, version 1 (Granich) - Minimum Wage** | 05/15/2015 |
| **16-044** | 04/09/2015 | Proposal Related to Chapter 290, RSMo (Peterson) - Minimum Wage | Rejected by Secretary of State |
| **16-043** | 04/09/2015 | Proposal Related to Chapter 196, RSMo (Peterson) - Regulations of Retail Food Sales | Rejected by Secretary of State |
| **16-042** | 04/09/2015 | Proposal Related to Chapter 386, RSMo (Apple) - Renewable Energy | Rejected by Secretary of State |
| **16-041** | 04/09/2015 | Proposal Related to Chapters 130 and 143, RSMo (Apple) - Public Financing for Elections | Rejected by Secretary of State |
| **16-040** | 04/09/2015 | Proposal Related to Chapter 21, RSMo (Apple) - Legislative Salaries | Rejected by Secretary of State |
| **16-039** | 04/09/2015 | **Proposed Constitutional Amendment - Article III (Apple) - Repealing Term Limits** | 05/12/2015 |
| **16-038** | 04/09/2015 | Proposal Related to Chapters 290 and 67, RSMo (Apple) - Minimum Wage | Rejected by Secretary of State |
| **16-037** | 04/09/2015 | **Proposed Constitutional Amendment - Article III (Apple) - House of Representatives** | 05/12/15 Withdrawn by Petitioner |
| **16-036** | 04/02/2015 | Proposed Constitutional Amendment - Article III (Apple) - House of Representatives | Withdrawn by Petitioner |
| **16-035** | 04/02/2015 | Proposal Related to Chapters 290 and 67, RSMo (Apple) - Minimum Wage | Withdrawn by Petitioner |
| **16-034** | 03/23/2015 | Proposal Related to Chapter 610, RSMo (Dean) - Proposed Statutory Amendment | Rejected by Secretary of State |
| **16-033** | 03/05/2015 | **Proposed Constitutional Amendment - Article VIII (Daniels) - Missouri Voter Disenfranchisement Reform Initiative** | 04/06/2015 |
| **16-032** | 03/04/2015 | Proposed Constitutional Amendment (Dean) | Rejected by Secretary of State |
| **16-031** | 02/27/2015 | Proposed Constitutional Amendment (Dean) | Rejected by Secretary of State |
| **16-030** | 02/13/2015 | **Proposal Related to Chapter 195, RSMo (Riffle) - Repeal Without Probation or Parole Sentence for Non-Violent Drug Offenders** | 03/17/2015 |
| **16-029** | 02/09/2015 | Proposed Constitutional Amendment - Article IX, version 4 (Shore) - Local Control of School Districts | Rejected by Secretary of State |
| **16-028** | 02/09/2015 | Proposed Constitutional Amendment - Article IX, version 3 (Shore) - Local Control of School Districts | Rejected by Secretary of State |
| **16-027** | 02/09/2015 | Proposed Constitutional Amendment - Article IX, version 2 (Shore) - Local Control of School Districts | Rejected by Secretary of State |
| **16-026** | 02/09/2015 | **Proposed Constitutional Amendment - Article IX, version 1 (Shore) - Local Control of School Districts** | 03/13/2015 |
| **16-025** | 02/09/2015 | Proposed Constitutional Amendment - Article I, version 5 (Carter) - Parents Bill of Rights | Rejected by Secretary of State |
| **16-024** | 02/09/2015 | Proposed Constitutional Amendment - Article I, version 4 (Carter) - Parents Bill of Rights | Rejected by Secretary of State |
| **16-023** | 02/09/2015 | Proposed Constitutional Amendment - Article I, version 3 (Carter) - Parents Bill of Rights | Rejected by Secretary of State |
| **16-022** | 02/09/2015 | **Proposed Constitutional Amendment - Article I, version 2 (Carter) - Parents Bill of Rights** | 03/13/2015 |
| **16-021** | 02/09/2015 | **Proposed Constitutional Amendment - Article I, version 1 (Carter) - Parents Bill of Rights** | 03/13/2015 |
| **16-020** | 01/29/2015 | Proposed Constitutional Amendment - Article I (Carter) - Parents Bill of Rights | Rejected by Secretary of State |
| **16-019** | 01/29/2015 | Proposed Constitutional Amendment - Article IX (Shore) - Local Control of School Districts | Rejected by Secretary of State |
| **16-018** | 01/27/2015 | Proposal Related to Chapter 195, RSMo (Riffle) - Repeal Without Probation or Parole Sentence for Non-Violent Drug Offenders | Withdrawn by Petitioner |
| **16-017** | 01/20/2015 | Proposal Related to Chapter 195, RSMo (Riffle) - Repeal Without Probation or Parole Sentence for Non-Violent Drug Offenders | Rejected by Secretary of State |
| **16-016** | 01/08/2015 | Proposed Constitutional Amendment - Article VIII, version 2 (Daniels) - Amending Voter Qualifications | Rejected by Secretary of State |
| **16-015** | 01/08/2015 | Proposed Constitutional Amendment - Article VIII, version 1 (Daniels) - Amending Voter Qualifications | Rejected by Secretary of State |
| **16-014** | 01/06/2015 | Proposal Related to Chapter 195, RSMo (Riffle) - Repeal Without Probation or Parole Sentence for Non-Violent Drug Offenders | Withdrawn by Petitioner |
| **16-013** | 12/26/2014 | **Proposed Constitutional Amendment - Article IV (Raines) - Cannabis Decriminalization** | 01/26/2015 |
| **16-012** | 12/22/2014 | Proposed Constitutional Amendment - Article VIII, version 2 (Daniels) - Amending Voter Qualifications | Rejected by Secretary of State |
| **16-011** | 12/22/2014 | Proposed Constitutional Amendment - Article VIII, version 1 (Daniels) - Amending Voter Qualifications | Rejected by Secretary of State |

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|---|---|---|---|
| **16-010** | 12/04/2014 | Proposed Constitutional Amendment - Article I (Viets) - Marijuana Legalization | Withdrawn by Petitioner |
| **16-009** | 12/04/2014 | **Proposed Constitutional Amendment - Article I (Viets) - Marijuana Legalization** | 01/06/2015 |
| **16-008** | 12/02/2014 | Proposed Constitutional Amendment - Article IV (Raines) - Cannabis Decriminalization | Rejected by Secretary of State |
| **16-007** | 12/02/2014 | **Proposed Constitutional Amendment - Article VIII (Jones) - Campaign Contribution Reform Initiative** | 01/06/2015 |
| **16-006** | 11/21/2014 | Proposal Related to Chapter 195, RSMo (Riffle) - Repeal Without Probation or Parole Sentence for Non-Violent Drug Offenders | Rejected by Secretary of State |
| **16-005** | 11/14/2014 | **Proposed Constitutional Amendment - Article III, version 3 (Ketcher) - Changes Impacting the General Assembly** | 12/15/2014 |
| **16-004** | 11/12/2014 | Proposed Constitutional Amendment - Article III, version 2 (Ketcher) - Changes Impacting the General Assembly | Withdrawn by Petitioner |
| **16-003** | 11/07/2014 | Proposed Constitutional Amendment - Article III (Ketcher) - Changes Impacting the General Assembly | Withdrawn by Petitioner |
| **16-002** | 11/06/2014 | Proposed Constitutional Amendment - Article VIII (Jones) - Campaign Contribution Reform Initiative | Withdrawn by Petitioner |
| **16-001** | 11/06/2014 | Proposed Constitutional Amendment - Article I (Viets) - Marijuana Legalization | Rejected by Secretary of State |

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
JAN 12 2016
STATE AUDITORS OFFICE

16-SJR 1

January 12, 2016

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Fiscal Note and Fiscal Note Summary Request for Article IV, Section 47(c), Missouri Constitution (SJR 1, 2005)

Dear Auditor Galloway:

In 2005, the General Assembly passed Senate Joint Resolution 1 (amending Article IV of the Missouri Constitution), which was placed on the August 8, 2006 ballot and approved by the voters. The text of Article IV and the resolution requires that the amendment be resubmitted to voters for approval every ten years, which is 2016. Enclosed please find a copy of Article IV and SJR 1.

We are referring the enclosed joint resolution to you for the purposes of preparing a fiscal note and fiscal note summary in accordance with Sections 116.160.1, 116.170 and 116.175, RSMo. As you are aware, the fiscal note and fiscal note summary are required to be forwarded by you to our office within thirty days of receipt of Article IV (SJR 1, 2005), pursuant to Section 116.170, RSMo.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander
Secretary of State

cc: Chris Koster
Sheri Hoffman
Barbara Wood

16-SJR1



**Section 43(c). Effective date—self-enforceability.**—The effective date of this amendment* shall be July 1, 1977. All laws inconsistent with this amendment shall no longer remain in full force and effect after July 1, 1977. All of the provisions of sections 43(a)-(c) shall be self-enforcing except that the general assembly shall adjust brackets for the collection of the sales and use taxes.

(Adopted November 2, 1976)

*This amendment contained Secs. 43(a), 43(b) and 43(c).

**Section 44. Self-enforceability—enabling clause—repealing clause.**—Sections 40-43, inclusive, of this article shall be self-enforcing, and laws not inconsistent therewith may be enacted in aid thereof. All existing laws inconsistent with this article shall no longer remain in force or effect.

Source: Const. of 1875, Art. XIV, Sec. 16.

**Section 45. Rules and regulations—filing—review.**—The rules and regulations of the commission not relating to its organization and internal management shall become effective not less than ten days after being filed with the secretary of state as provided in section 16 of this article, and such final rules and regulations affecting private rights as are judicial or quasi-judicial in nature shall be subject to the judicial review provided in section 22 of article V.

**Section 46. Distribution of rules and regulations.**—The commission shall supply to all persons on request, printed copies of its rules and regulations not relating to organization or internal management.

## NATURAL RESOURCES

**Section 47. Natural resources, department of—duties of department—director, how appointed.**—The department of natural resources shall be in charge of a director appointed by the governor, by and with the advice and consent of the senate. The department shall administer the programs of the state as provided by law relating to environmental control and the conservation and management of natural resources.

(Adopted August 8, 1972)

**Section 47(a). Sales and use tax levied for soil and water conservation and for state parks—distribution of parks sales tax fund to counties, purpose, limitation.**—For the purpose of providing additional monies to be expended and used by the department of natural resources through the state soil and water districts commission as defined in Section 278.070, RSMo, for the saving of the soil and water of this state for the conservation of the productive power of Missouri agricultural land, and by the department of natural resources through the division responsible for the State park system for the acquisition, development, maintenance and operation of state parks and state historic sites in accordance with Chapter 253, RSMo, and for the administration of the laws pertaining thereto, an additional sales tax of one-tenth of one percent is hereby levied and imposed upon all sellers for the privilege of selling tangible personal property or rendering taxable services at retail in this state upon the sales and services which now are or hereafter are listed and set forth in, and, except as to the amount of tax, subject to the provisions of and to be collected as provided in the "Sales Tax Law" and subject to the rules and regulations promulgated in connection therewith; and an additional use tax of one-tenth of one percent is levied and imposed for the privilege of

16-SJR1



storing, using or consuming within this state any article of tangible personal property as set forth and provided in the "Compensating Use Tax Law" and, except as to the amount of the tax, subject to the provisions of and to be collected as provided in the "Compensating Use Tax Law" and subject to the rules and regulations promulgated in connection therewith. In addition, monies deposited in the state parks sales tax fund pursuant to the provisions of section 47(b) of this article shall also be appropriated to make payments to counties for a period of five years for the unimproved value of land for distribution to the appropriate political subdivisions as payment in lieu of real property taxes for privately owned land acquired by the department of natural resources for park purposes after July 1, 1985, in such amounts as determined by appropriation, but in no event shall such amounts be more than the amount of property tax imposed by political subdivisions at the time the department acquired or acquires such land.

(Adopted August 7, 1984) (Amended November 8, 1988) (Amended November 8, 1994) (Amended November 5, 1996) Effective 11-8-1998 Expires, unless reauthorized (see Article IV, Section 47(c))

**Section 47(b). Disbursement of revenue, purposes.**—Fifty percent of the monies arising from the additional sales and use taxes provided for in Section 47(a) hereof shall be deposited in the Soil and Water Sales Tax Fund and fifty percent shall be deposited in the State Park Sales Tax Fund, and the monies in both funds shall be expended pursuant to appropriation by the General Assembly and used by the state soil and water districts commission and the department of natural resources for the purposes set forth in Section 47(a), and for no other purpose.

(Adopted August 7, 1984) (Amended November 8, 1988) (Amended November 5, 1996) Effective 11-8-1998 Expires, unless reauthorized (see Article IV, Section 47(c))

**Section 47(c). Provisions self-enforcing, exception—not part of general revenue or expense of state—effective and expiration dates.**—All laws inconsistent with this amendment shall no longer remain in full force and effect after the effective date of this section. All of the provisions of Sections 47(a), 47(b) and 47(c) shall be self-enforcing except that the General Assembly shall adjust brackets for the collection of the sales and use taxes. The additional revenue provided by Sections 47(a), 47(b) and 47(c) shall not be part of the "total state revenue" within the meaning of Sections 17 and 18 of Article X of this Constitution. The expenditure of this additional revenue shall not be an "expense of state government" under Section 20 of Article X of this Constitution. Upon voter approval of this measure in a general election held in 2006, or at a special election to be called by the governor for that purpose, the provisions of this section, 47(b), and 47(a) shall be reauthorized and continue until a general election is held in 2016 or at a special election to be called by the governor for that purpose. Every ten years thereafter, the issue of whether to continue to impose the sales and use tax described in this section shall be resubmitted to the voters for approval. If a majority of the voters fail to approve the continuance of such sales and use tax, Section 47(a), 47(b), and 47(c) shall terminate at the end of the second fiscal year after the last election was held.

(Adopted August 7, 1984) (Amended November 8, 1988) (Amended November 5, 1996, effective November 8, 1998) (Amended August 8, 2006) Expires, unless reauthorized

## PUBLIC SAFETY

**Section 48. Public safety, department of—duties of department—director, how appointed.**—The department of public safety shall be in charge of a director to be appointed by the governor by and with the advice and consent of the senate, and

16-SJR1

# PROPOSED AMENDMENT TO THE CONSTITUTION OF MISSOURI

SJR 1 [ SS SJR 1]

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

**Resubmits the parks and soils tax to a vote of the people starting in 2008.**

**JOINT RESOLUTION** Submitting to the qualified voters of Missouri, an amendment repealing section 47(c) of article IV of the Constitution of Missouri, and adopting one new section in lieu thereof relating to the parks and soils tax.

SECTION

A. Enacting clause.

47(c). Provisions self-enforcing, exception — not part of general revenue or expense of state — effective and expiration dates.

*Be it resolved by the Senate, the House of Representatives concurring therein:*

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2006, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article IV of the Constitution of the state of Missouri:

SECTION A. ENACTING CLAUSE. — Section 47(c), article IV, Constitution of Missouri, is repealed and one new section adopted in lieu thereof, to be known as section 47(c), to read as follows:

SECTION 47(C). PROVISIONS SELF-ENFORCING, EXCEPTION — NOT PART OF GENERAL REVENUE OR EXPENSE OF STATE — EFFECTIVE AND EXPIRATION DATES. — [The effective date of this amendment shall be November 8, 1998.] All laws inconsistent with this amendment shall no longer remain in full force and effect after the effective date of this section. All of the provisions of Sections 47(a), 47(b) and 47(c) shall be self-enforcing except that the General Assembly shall adjust brackets for the collection of the sales and use taxes. The additional revenue provided by Sections 47(a), 47(b) and 47(c) shall not be part of the "total state revenue" within the meaning of Sections 17 and 18 of Article X of this Constitution. The expenditure of this additional revenue shall not be an "expense of state government" under Section 20 of Article X of this Constitution. [This Section 47(a), 47(b) and 47(c) shall terminate after ten years following the effective date of this amendment.] **Upon voter approval of this measure in a general election held in 2006, or at a special election to be called by the governor for that purpose, the provisions of this section, 47(b), and 47(a) shall be reauthorized and continue until a general election is held in 2016 or at a special election to be called by the governor for that purpose. Every ten years thereafter, the issue of whether to continue to impose the sales and use tax described in this section shall be resubmitted to the voters for approval. If a majority of the voters fail to approve the continuance of such sales and use tax, Section 47(a), 47(b), and 47(c) shall terminate at the end of the second fiscal year after the last election was held.**

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-SJR 1)**

## Subject

Truly Agreed To and Finally Passed Senate Joint Resolution No. 1, 2005. (Received January 12, 2016)

## Date

February 1, 2016

## Description

This proposal is a resubmission of an amendment to Article IV of the Constitution of Missouri.

The amendment is to be voted on in 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this joint resolution would have no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this proposal, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated:

Fiscal Impact Statement (133 words):
The Parks, Soils and Water sales and use tax was first approved by Missouri voters in 1984. Reauthorization by voters in 2016 would continue, not increase, the existing sales and use tax. The one-tenth-of-one percent tax generates nearly $90 million annually. The Department of Natural Resources divides the revenue equally to maintain Missouri soil and water conservation efforts and the state park system. One-half of the tax is used to conserve Missouri's soil and water resources by assisting agricultural landowners through voluntary programs administered by soil and water conservation districts in each county. The other half represents approximately three-fourths of the state park system budget; providing visitors with the opportunity to enter Missouri's nearly 90 state parks and historic sites at no charge. If approved, the next reauthorization vote would occur in 2026.

Summary on fiscal impact (50 words):
The reauthorization continues until 2026, but does not increase the existing sales and use tax of one-tenth of one percent passed in 1984 that must be renewed in 2016. The tax would generate approximately $90 million annually for soil and water conservation efforts and operation of the state park system.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this joint resolution will have no fiscal impact on their department. If the ballot measure fails and the tax is not extended, their department must make changes to the integrated tax system. In addition, this requires their department to notify businesses of the rate change.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this proposal.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this joint resolution.

Officials from the **Office of Administration** (OA) indicated the proposal would send an extension of the Department of Natural Resources soil and water and state parks sales tax to a vote of the people.

OA assumes that a general election or special election will be held before the sales tax authorization expires. Since this tax is voter approved and is not a part of total state revenue, this proposal will not have an impact on total state revenue or the calculations under Article X, Section 18(e), of the Missouri Constitution..

This proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, joint resolutions proposing a constitutional amendment are submitted to a vote of the people at the next general election. If a special election is called to submit a joint resolution to a vote of the people, Section 115.063.2, RSMo, requires the state to pay the costs. The cost of the special

election has been estimated to be $7.1 million based on the cost of the 2012 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this joint resolution will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have not impact to their office.

Officials from **Greene County** indicated there are not estimated costs or savings to report from their county for this joint resolution.

Officials from the **City of Columbia** indicated they would feel a fiscal impact whether the taxes are renewed (possible continuation of $100,000 - $125,000 in state grants every other year) or not (loss of those funds).

Since the state parks sales tax funds operations of the state parks program (including the grant administration office), they understand that failure to renew would restrict their access to federal grants administered at the state level. Examples include grants through the Land and Water Conservation Fund and the Recreational Trails Programs.

Officials from the **City of Jefferson** indicated they expect no fiscal impact should this bill become law.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Health and Senior Services,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College**.

**Fiscal Note Summary**

The measure continues and does not increase the existing sales and use tax of one-tenth of one percent for 10 years. The measure would continue to generate approximately $90 million annually for soil and water conservation and operation of the state park system.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

RECEIVED
MAY 2 6 2016
STATE AUDITORS OFFICE

ELECTIONS DIVISION
(573) 751-2301

16-HJR53

May 26, 2016

The Honorable Nicole Galloway
State Auditor
State Capitol Building, RM 121
Jefferson City, MO 65101

RE: Fiscal Note and Fiscal Note Summary Request for Senate Substitute for House Joint Resolution No. 53

Dear Ms. Galloway:

Enclosed please find a copy of Senate Substitute for House Joint Resolution No. 53 that was received by our office.

We are referring the enclosed joint resolution to you for the purposes of preparing a fiscal note and fiscal note summary in accordance with Sections 116.160.1, 116.170 and 116.175, RSMo. As you are aware, the fiscal note and fiscal note summary are required to be forwarded by you to our office within thirty days of receipt of the joint resolution, pursuant to Section 116.170, RSMo.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander
Secretary of State

cc: Chris Koster
Sheri Hoffman
Barbara Wood

16-HJR53

SECOND REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

SENATE SUBSTITUTE FOR

# HOUSE JOINT RESOLUTION NO. 53

## 98TH GENERAL ASSEMBLY

4553S.07T 2016

## AN ACT

Submitting to the qualified voters of Missouri an amendment to article VIII of the Constitution of Missouri, and adopting one new section relating to elections.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2016, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article VIII of the Constitution of the state of Missouri:

Section A. Article VIII, Constitution of Missouri, is amended by adding one new section, to be known as section 11, to read as follows:

**Section 11. A person seeking to vote in person in public elections may be required by general law to identify himself or herself and verify his or her qualifications as a citizen of the United States of America and a resident of the state of Missouri by providing election officials with a form of identification, which may include valid government-issued photo identification. Exceptions to the identification requirement may also be provided for by general law.**

Section B. Pursuant to chapter 116 and other applicable constitutional provisions and laws of this state allowing the general assembly to adopt ballot language for the submission of this joint resolution to the voters of this state, the official summary statement of this legislation shall be as follows:

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16-HJR53



"Shall the Constitution of Missouri be amended to state that voters may be required by law, which may be subject to exception, to verify one's identity, citizenship, and residence by presenting identification that may include valid government-issued photo identification?".

✓

Speaker of the House

President Pro Tem of the Senate

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-HJR 53)**

## Subject

Truly Agreed To and Finally Passed House Joint Resolution No. 53. (Received May 26, 2016)

## Date

June 15, 2016

## Description

This proposal would amend Article VIII of the Constitution of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College, St. Louis County Election Board, St. Louis City Election Board, Kansas City Election Board, Platte County Board of Elections, Jackson County Election Board,** and **Clay County Election Board.**

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this bill would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this joint resolution, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact to this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this joint resolution will not have a fiscal impact on their department.

Officials from the **Department of Public Safety** indicated there is no fiscal impact.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated this joint resolution has no impact to their operation.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated:

Prior legislation concerning elections and photo identification has been paired with companion joint resolutions detailing statutory amendments. Considering past court decisions, and due to language contained within legislation (passed by the General Assembly but not yet signed by the Governor, House Bill 1631), the implementation of the statutory amendments is effective only upon the passage and approval of a companion joint resolution. Thus, for purposes of this fiscal note, the following costs assume that both the joint resolution and any companion statutory changes are passed.

Implementation of these new identification provisions would require the state's election authority (the Secretary of State) and/or local election authorities to provide advance notice of the personal identification documents required to vote. The advance notice provided by the election authorities would include at a "minimum the use of advertisements and public service announcements in print, broadcast television, radio, and cable television media." This language comes from House Bill 1631.

For fiscal year (FY) 2018 advance notice advertisements will be provided to voters prior to the February and April 2018 elections. For FY 2019 advance notice advertisements will be provided to voters prior to the August 2018 and November 2018 elections. For all subsequent years advance notice advertisements will be provided to voters prior to each federal primary and general election.

Assumptions include:

Production of radio and TV public service announcements- $2,000
Print ad to run twice before an election- $203,284
Cable television ad to run twice every day for eight weeks- $299,472
TV and Radio ad to run through broadcast media- $497,311
Total- $1,002,067

Upon enactment of implementing legislation, the Secretary of State will send a mailer to all registered voters to notify them of any new identification requirements at a cost of $2,003,682.62. A similar mailer will be sent before the August 2018 and November 2018 elections. For all other elections, their office will send mailings to newly registered voters prior to each election. Based on the estimated 355,007 newly registered voters in 2014, these mailings could cost $173,953.43.

Mailing to all registered voters:
4,089,038 registered voters x $0.49 postage, printing and processing= $2,003,628.62

Mailing to newly registered voters prior to each election:
355,007 new registered voters x $0.49 postage, printing and processing = $173,953.43

Implementation of this measure's provisions imposes new requirements on election authorities in notifications, additional provisional ballots, trainings, affidavits and processes with regard to notifying and processing voters. Whether the notice requirements fall on the Secretary of State or local election authorities, it will be necessary for their office to request appropriation for these costs. Section 115.430, RSMo, requires the Secretary of State to provide provisional ballot envelopes to local election authorities. This joint resolution and any companion statutory change, based on previously filed legislation, will increase the number of elections in which provisional ballots are available and the number of provisional ballots that will be cast. Based on previous history, their office will require additional funding for printing provisional ballot envelopes in the amount of $9,800 per election.

Furthermore, any new state mandates must be funded as additional responsibilities under Article X, section 21 of the Missouri Constitution.

The new photo identification requirements are not limited to statewide elections but will affect every election. The cost per fiscal year will vary based on the number of elections held. In addition to the general municipal election each April and the primary and general elections in August and November of even numbered years, there are additional days available for public elections in February, March, and in August and November of odd numbered years, which are used only as needed.

Section 115.427.2(2), RSMo, (contained in House Bill 1631) provides that for any individual who appears at a polling place without a form of personal identification described in Section 115.427.1, RSMo, and who is otherwise qualified to vote at that polling place, the election authority may take a picture of such individual and keep it as part of that individual’s voter registration file at the election authority. For purposes of this fiscal note, their office assumes this legislation does not contemplate electronic integration of such pictures with the electronic statewide voter registration system. Such a requirement would require significant costs for software and hardware upgrades.

Section 115.427.6, RSMo, (contained in House Bill 1631) provides that any individual seeking a birth certificate or other legal documents in order to obtain a form of personal

identification described in Section 115.427.1, RSMo, in order to vote may request that the Secretary of State's office facilitate the acquisition of such documents. Because of the potentially high volume and time-consuming nature of these requests, their office estimates that one additional full-time employee (FTE) will need to be hired in the Elections Division.

Section 115.427.6, RSMo, (contained in House bill 1631) requires the Secretary of State's office to pay any fee or fees charged by another state or its agencies, any court of competent jurisdiction in this state or any other state, or the federal government or its agencies to obtain a birth certificate or other legal documents for individuals seeking those documents in order to vote. Because of the difficulty in estimating the number of people that might need to obtain the particular documents listed in Section 115.427.6, RSMo, and because the fees for these various documents vary by each state, their office estimates the cost for obtaining such documentation to be unknown.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, their office reserves the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Unless a special election is called for the purpose, joint resolutions proposing a constitutional amendment are submitted to a vote of the people at the next general election. Article XII section 2(b) of the Missouri Constitution authorizes the governor to order a special election for constitutional amendments referred to the people. If a special election is called to submit a joint resolution to a vote of the people, Section 115.063.2, RSMo, requires the state to pay the costs. The cost of the special election has been

estimated to be $7.1 million based on the cost of the 2012 Presidential Preference Primary and a cost determined by Legislative Oversight.

Additionally, many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislation session. The fiscal impact to the Administrative Rules Division of their office for this requirement is less than $2,500. Their office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, their office also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what their office can sustain with their core budget. Therefore, their office reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

FY 2017:
$2,003,628 (notice to all voters)
$48,096 (1 FTE)

**$2,051,724 FY 2017 TOTAL**

FY 2018:
February 2018
$1,002,067 (public advertisements)
$9,800 (provisional ballots)

April 2018
$1,002,067 (public advertisements)
$9,800 (provisional ballots)

$173,953 (notice to newly registered voters)
$58,672 (1 FTE)

**$2,256,359 FY 2018 TOTAL**

FY 2019:
August 2018
$2,003,628 (notice to all voters)
$1,002,067 (public advertisements)
$9,800 (provisional ballots)

November 2018
$2,003,628 (notice to all voters)
$1,002,067 (public advertisements)
$9,800 (provisional ballots)

February 2019
$9,800 (provisional ballots)

April 2019
$9,800 (provisional ballots)

$173,953 (notice to newly registered voters)
$58,672 (1 FTE)

**$6,283,215 FY 2019 TOTAL**

Officials from the **Office of the State Public Defender** indicated this joint resolution will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this joint resolution would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this joint resolution.

Officials from **St. Louis County** indicated there will be no fiscal impact on their county as result of House Joint Resolution 53 because the Governor has determined that the election will take place in November of this year. A special election would have involved additional expense, but since the general election date has been selected, there will be no cost. No additional revenues, savings or losses are anticipated if the photo ID requirement is enacted.

Officials from the **Kansas City Election Board** indicated the fiscal impact of HJR 53 is difficult to estimate. However, they know there would be additional staff and election worker trainings ($35,000) and legal notices ($25,000) for a total of $60,000 at minimum.

Officials from the **Platte County Board of Elections** indicated they expect no fiscal impact from the joint resolution.

Officials from the **Jackson County Election Board** indicated they see very little fiscal impact on their office.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community**

**College, University of Missouri, St. Louis Community College, St. Louis County Election Board, St. Louis City Election Board,** and **Clay County Election Board.**

**Fiscal Note Summary**

The proposed amendment will result in no costs or savings because any potential costs would be due to the enactment of a general law allowed by this proposal. If such a general law is enacted, the potential costs to state and local governments is unknown, but could exceed $2.1 million annually.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
MAR 23 2016
STATE AUDITORS OFFICE

16-223

March 23, 2016

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Theodis Brown regarding a proposed statutory amendment to Chapter 72, version 2 (2016-223)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Theodis Brown on March 23, 2016.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

 16-223

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

2016
INITIATIVE PETITION
STATUTORY AMENDMENT TO RSMO. CHAPTERS 72,80,

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

RECEIVED
2016 MAR 23 AM 8:08

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the ___ day of ____, 20__, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

SHALL MISSOURI LAW BE AMENDED TO: 72.050RSMO 2015

PROPOSITION 1;BE IT ENACTED BY THE PEOPLES&VOTERS OF THE VILLAGE OF RIVERVIEW,MISSOURI;SHALL THE VILLAGE OF RIVERVIEW BECOME A CITY OF FOURTH CLASS AND BE GOVERNED BY A MAYOR AND BOARD OF ALDERMEN TO BE ELECTED BY RESIDENTS AS PROVIDED BY LAW ?; YES OR NO

VERSION 2

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| | NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

Signature of Affiant
(Person obtaining signatures)

Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 2016

Signature of Notary

Address of Notary

Notary Public (Seal)

My commission expires _____

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

16-222

March 18, 2016

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Theodis Brown regarding a proposed statutory amendment to Chapter 321 (2016-222)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Theodis Brown on March 18, 2016.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-222

# . PETITION TO CONSOLIDATE THE CASTLEPOINT FPD&RIVERVIEW FPD&MOLINE FPD BE CONSOLIDATED INTO ONE FPD TO BE KNOWN AS THE CASTLEPOINT FIRE PROTECTION DISTRICT

RECEIVED
2016 MAR 18 AM 11:30
MO SEC. OF STATE

County
Page

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8 day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

BE IT ENACTED BY THE PEOPLES OF ST LOUIS COUNTY;SHALL THE CASTLEPOINT FIRE PROTECTION DISTRICT&RIVERVIEW FIRE PROTECTION DISTRICT AND MOLINE FIRE PROTECTION DISTRICT BE CONSOLIDATED INTO ONE FIRE PROTECTION DISTRICT WITH A FIVE MEMBER BOARD INVOKING SECTION 321.687RSMO 2014 TO BE KNOWN AS THE CASTLEPOINT COUNTY FIRE PROTECTION DISTRICT ? YES OR NO ?

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I _____, being first duly sworn, say (print or type names of signers)

| | NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street/City, Town or Village) | ZIP CODE | CONGR. DIST | NAME (Printed or Typed) |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

Signature of Affiant
(Person circulating signatures)

Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 2016

Signature of Notary

Address of Notary

Notary Public (Seal)

My commission expires

RECEIVED
MAR 16 2016
STATE AUDITORS OFFICE

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

16-221

March 16, 2016

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Theodis Brown regarding a proposed statutory amendment to Chapter 235 (2016-221)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Theodis Brown on March 16, 2016.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-221 County
Page

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name

PETITION REQUESTING THE ANNEXATION OF THE CASTLEPOINT STREET LIGHT DISTRICT OF ST LOUIS COUNTY INVOKING SECTION 235.210RSMO&235.240RSMO2015; BE IT ENACTED BY COUNTY VOTERS; SHALL THE CITY,TOWN,VILLAGES OF ST LOUIS COUNTY NOT CURRENTLY PART OF CASTLEPOINT STREET LIGHT DISTRICT OF ST LOUIS COUNTY(DESCRIBITION OF AREA) NOT APART OF THE OTHER 4 CHAPTER 235RSMO DISTRICTS;BE ANNEXED TO THE CASTLEPOINT STREET LIGHT DISTRICT OF ST LOUIS COUNTY VENUES? YES OR NO

RECEIVED
2016 MAR 10 PM 12:49
SECRETARY OF STATE

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR DIST | NAME (Printed or Typed) |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ✓ (check one) expect to be paid for circulating this petition. If paid, list the payer _____.

Signature of Affiant (Person obtaining signatures) | (Printed Name of Affiant) | Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 2016

Signature of Notary | Address of Notary

Notary Public (Seal) | My commission expires

RECEIVED
FEB 24 2016
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

February 24, 2016

16-220

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Winston Apple regarding a proposed statutory amendment to Chapters 286 & 143 (2016-220)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Winston Apple on February 23, 2016.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-220

County:_____
Page number: _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021 RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail, or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

RECEIVED
2016 FEB 23 PM 4:28
SEC. OF STATE

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print of type names of signers)

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong. Dist. | NAME (Print or Typed) |
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Signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____.

_____
Signature of Affiant (Person obtaining signatures)

_____
(Printed Name of Affiant)

_____
Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A. D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)
My commission expires _____

16-220

*Be it enacted by the people of the state of Missouri:*

*Two new sections of the Revised Missouri Statutes are hereby enacted, to be known as sections 286.131 and 143.012, to read as follows:*

286.131. 1. An agency to be known as "The Climate Crisis Response Project" is hereby created within the Missouri Department of Labor.

2. Funding for The Climate Crisis Response Project will be provided through revenues from a tax on capital gains, as provided for in Section 143.012.

3. As funds become available, staff and workers will be hired to plan projects to improve energy efficiency in homes and businesses; manufacture wind turbines and solar panels; construct wind farms and solar farms; and plant trees.

4. a. The compensation provided for, and other specific policies related to, work done through public sector employment shall be determined and set by the labor and industrial relations commission, but, at a minimum, shall be set at a level that provides a living wage, which is hereby defined as putting a worker, and her or his family, at least ten percent above the poverty level, as determined by the federal government, provided a worker is present and working 40 hours per week.

b. If a family has two adult members and no child under the age of three, compensation will be based on both adults working 40 hours per week, however in no event shall the hourly wage paid under this program be less than the applicable minimum wage.

c. Management and administrative positions will pay a reasonable salary based on the prevailing salaries for positions with similar responsibilities elsewhere within the government of the state of Missouri.

5. Once the state of Missouri is producing all of its electricity from clean, renewable sources, the funds generated by the tax on capital gains may be used, as directed by appropriate legislation, for infrastructure projects or to replace funds generated by the state sales tax so that sales taxes may be reduced or eliminated.

143.012. Beginning with the 2017 calendar year, a tax of ten percent on the amount of capital gains reported on each Missouri resident's Federal tax return (Form 1040), will be imposed, with the funds collected dedicated to providing funding for The Climate Crisis Response Project.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-220)**

## Subject

Initiative petition from Winston Apple regarding a proposed amendment to Chapters 286 and 143 of the Revised Statutes of Missouri. (Received February 24, 2016)

## Date

March 15, 2016

## Description

This proposal would amend Chapters 286 and 143 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development,** including the Missouri Housing Development Commission, Division of Business and Community Services, Division of Energy, Public Service Commission, and Office of Public Counsel, indicated they anticipate no fiscal impact as a result of the proposed legislation.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Labor and Industrial Relations** (DOLIR) indicated:

This petition could affect Department of Revenue, Office of Administration, or Department of Economic Development.

Space will be required for 115 administrative full time employees (FTE) throughout the state.

It is possible that the proposal could impact small businesses in several ways including imposition of the capital gains tax and the loss of projects to the state-funded agency.

Information Technology Services Division (ITSD) estimates costs of $308,567 in fiscal year (FY) 2017, and $77,527 in FY 2018, and $79,465 in FY 2019 to set up and implement the computer system.

A tax on capital gains of 10% would be imposed beginning with the 2017 calendar year. They defer to the Office of Administration (OA) regarding the estimate of revenue collected from this surtax. For the purposes of this fiscal note, they are relying on a previous estimate by OA.

**Summarize how this bill affects the department**

This petition seeks to create a new Section 286.131, RSMo, requiring the Department of Labor to create an agency known as the, "The Climate Crisis Response Project." Funds would be generated from a 10% tax on capital gains as stated in Section 143.012, RSMo. As funds are available, this agency would use those funds to improve energy efficiency in homes and businesses; manufacture wind turbines and solar panels; construct wind farms and solar farms; and plant trees.

With an annual revenue estimate of $617,500,000, they estimate 8,212 FTE could participate in The Climate Crisis Response Project each year. If revenues increase or decrease in a given year, the number of participants in the program would rise or fall proportionally. They estimate an additional 115 FTE would be needed to administer the program.

ITSD Costs

A new system will be developed for this proposal.

**Long-range implications**

Proceeds from a capital gains tax of 10% would be used to fund The Climate Crisis Response Project. Because revenue can fluctuate from year to year, projects would increase or decrease based on the availability of funding. The proposed language is unclear regarding the long-range implications, how constructed assets would be managed, and how revenues (if any) from the projects would be assessed and used.

**Assumptions and methodology used in arriving at state fiscal impact**

Revenue Projections
They defer to the Office of Administration (OA) regarding the revenue estimate. For the purpose of this fiscal note, they are using the previous estimate of $617,500,000.

Cost Estimates
*Administrative Costs and Management of Projects*
They estimate that an estimated $7,702,991 will be needed for The Climate Crisis Response Project agency. Salaries for agency staff are similar to wages in other state agencies. In addition, it is assumed they will contract for the management of the construction/manufacturing projects. Project management fees are estimated to be 10% of the cost of wages and material, an estimated $55,398,463 (10% x [materials $137,454,832 + labor $416,529,795]).

*Participant Wages and Benefits*
Section 286.131.4.a. requires that participants in The Climate Crisis Response Project be paid a living wage, defined as 10% over Federal Poverty Level (FPL). The average household has three dependent children. Using the FPL for 2016, for a family of five to

earn wages at 10% over FPL, the hourly pay required would be $15.04. Fringe benefits are calculated at the standard state rate. They estimate that 8,212 FTE could participate in the program annually.

*Material Costs for Projects*
In calculating the material costs, they assume a labor to material cost at a ratio of 3 to 1; an estimated $137,454,832 (33% X $416,529,795).

Summary
Best estimates of wages, expenses, materials, and project management costs have been used. Because the capital gains tax begins with tax year 2017, collections are not expected until calendar year 2018. They assume that the fund will require several months to build in order to support The Climate Crisis Response Project. Therefore, costs are not expected to begin until FY 2019 (July 1, 2018). Depending on the types and number of projects, costs will vary significantly. Therefore the number of participants which could be funded will also vary. The scope of this statute revision is very broad and the long-range implications are unknown.

Officials from the **Department of Revenue** indicated the total increased costs would be $175,147 for FY 2017, $181,985 for FY 2018, and $183,470 for FY 2019. Increased revenue is expected to be $233.8 million per year.

**Section 286.131**
This section creates the Climate Crisis Response Project in the Department of Labor and Industrial Relations. A tax on capital gains provides revenues to fund the project. The moneys from the tax fund energy efficiency in homes and businesses, wind turbines, solar panels, wind farms, solar farms, and planting trees. Once Missouri produces electricity from renewable sources, the tax may be used for infrastructure projects or reducing or eliminating state sales tax.

**Section 143.012**
Beginning in calendar year 2017, the legislation imposes a 10 percent tax on capital gains reported on resident's federal form 1040.

In tax year 2013, capital gains of $3.51 billion were reported on federal returns by filers of Missouri Individual Income Tax returns. They estimate that $2.37 billion would be attributable as Missouri source capital gains. Therefore, they estimate this provision will generate $233.8 million in revenues for the Climate Crisis Response Project.

**Administrative Impact:**
The department requires form updates and programming changes.

**Personal Tax**:
Personal Tax requires two (2) Revenue Processing Technicians I (Range 10, Step L); one for every 19,000 error corrections and one for every 2,400 pieces of correspondence.

**Collection & Tax Assistance**:
Collection & Tax Assistance will see additional customer contacts from this additional tax and from notice of adjustments. This section requires two (2) Tax Collection Technicians I (Range 10, Step L); one for every additional 15,000 contacts annually on the non-delinquent tax line and one for every additional 15,000 contacts annually on the delinquent tax line. Each technician requires CARES equipment and license.

**Integrated Tax System**:
This capital gains tax would be implemented within the Individual Income Tax business rules in the Integrated Tax System.

Officials from the **Department of Public Safety** indicated there is no fiscal impact for their department due to this legislation.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** (OA) indicated this proposal adds Sections 286.131 and 143.012, RSMo. It establishes the "Climate Response Project" agency in the Department of Labor to hire staff and workers to plan energy efficiency projects, manufacture wind turbines and solar panels, construct wind and solar farms, and plant trees. The functions of this project will be funded with a ten percent capital gains tax. If the state produces all electricity from clean, renewable sources, the funds from the capital gains tax may be used for infrastructure projects or to replace sales tax proceeds and lower or eliminate the sales taxes.

Based on the most current tax data available (Tax Year 2013), there were $3,541.4 million in capital gains reported by all taxpayers. OA estimates that a 10% tax on the capital gains for Missouri residents would increase General Revenue by $228.4 million per year.

This proposal should have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal will have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from **St. Louis County** indicated they have reviewed this initiative petition and have determined that it will have no fiscal impact on county revenues.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated the proposed legislation should not have a fiscal impact on their university.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Corrections,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate annual revenue increases of $228.4 million to $617.5 million to fund the proposed program. State governmental entities estimate startup costs of approximately $465,000 and annual operating costs of approximately $180,000. Local governmental entities indicate no fiscal impact.

16-219

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 28, 2016

RECEIVED
JAN 28 2016
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from David Klindt regarding a proposed statutory amendment to Chapter 386 (2016-219)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by David Klindt on January 28, 2016.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-219

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2016 JAN 28 AM 10: 51
OFFICE OF SECRETARY OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____
(Name of payer) Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.
Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____.

16-219

RECEIVED
2016 JAN 28 AM 10:51
SEC. OF STATE

*Be it enacted by the people of the state of Missouri:*

Section A. Section 386.890 is amended to read as follows:

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal electric utility, rural electric cooperative as provided in chapter 394, or electrical corporation as provided in this chapter;

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

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(e) Is intended [primarily to offset part or all] not to exceed one hundred percent of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of [natural resources] economic development;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other

sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any [municipal utility,] electrical corporation regulated under this chapter that provides retail electric service in this state, [or] any rural electric cooperative under chapter 394 that provides retail electric service in this state and that serves ten thousand or more connected meters, or any municipal utility that provides retail electric service in this state and that serves ten thousand or more connected meters.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for other electric utilities may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and

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monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator [but shall not]; except that, in order to ensure that no eligible customer-generator shall be subsidized by customers who are not customer-generators and if approved by the commission for the commission-regulated supplier or by the respective governing body of the non-regulated suppliers the retail electric supplier also may charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that [would not otherwise be charged if the customer were not an] is reasonably calculated to recover that portion of the fixed costs of the supplier and demand charges attributable to and necessary for providing service to the eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs

may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be

credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) For any rural electric cooperative under chapter 394, or municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device

or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule or equivalent formal action by each respective governing body:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and

specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer approved by the retail electric supplier that the installation meets the requirements of subdivision (1) of subsection 6 of this section . If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its

net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10. The governing body of a rural electric cooperative or municipal utility shall, within nine months of January 1, 2008, adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple

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procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly as well as for purposes of compliance with any applicable federal law.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units.
Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

16-219

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-219)**

## Subject

Initiative petition from David Klindt regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received January 28, 2016)

## Date

February 17, 2016

## Description

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **Public Service Commission,** and the **Missouri Joint Municipal Electric Utility Commission**.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** (DED) provided the following information:

Section 386.890.2(4), RSMo - The DED, Division of Energy (DE), which was previously located in the Department of Natural Resources, continues to certify other sources of energy that become available as renewable, as required by statute.

DE assumes it would be involved in the implementation of this proposal that modifies the existing net metering and interconnection requirements for regulated electric utilities, rural electric cooperatives and municipal utilities. It is assumed there would be a rulemaking docket to revise the Public Service Commission's (PSC) current rules to address the provisions of this proposal that allow additional standby, capacity, interconnection or other fees or charges to recover the portion of fixed costs of the utility and demand charges attributable to and necessary for providing service; no longer require municipal utilities and rural electric cooperatives with less than 10,000 meters to offer net metering to their customers; and require approval by utilities of the professional electricians or engineers that install net-metered systems.

Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where revised net metering provisions are considered.

For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this proposal but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year’s legislative session. Funding for this item is adjusted

each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson** indicated they do not expect any fiscal impact should this petition become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from **University of Missouri** indicated they have not seen cost impact studies on this initiative from their electric utility suppliers, but they do not believe this will have a significant impact on their university.

Officials from the **Public Service Commission** (PSC) indicated:

Section 386.890.2.(3)(e) states "is intended. . . not to exceed one hundred percent". "Intended" is existing language that introduces vagueness in the section since it is not a firm number. The section also does not include a period of time over which the electrical requirements would be measured.

Section 386.890.7 requires the customer-generator to furnish the retail electric supplier a certification for a qualified professional electrician or engineer approved by the retail electric supplier. This could limit competition since the customer-generator cannot choose its own electrician or engineer.

The Office of Public Counsel (OPC) indicated this petition will result in increased operating expenses of $87,039 for fiscal year 2017, $100,176 for fiscal year 2018, and $101,126 for fiscal year 2019.

This initiative petition changes the definition of "customer generator" under the Missouri Net Metering and Easy Connection Act, expanding the potential number of customer generators, eligible for rate reductions because it also changes and expands the number of electric retail suppliers covered under the Act. This expansion in the number of covered retail electric providers to those subject to PSC jurisdiction will initially prompt additional and new litigation surrounding who is eligible, the amount of cost the utility is permitted to offset and recover in rates, and impact to retail ratepayer rates for those customers who do qualify for a reduction in their electric rates through potential intra-class subsidization. Additionally, it also removes a number of small businesses that could qualify as "customer generators," by eliminating municipal suppliers of electric service from coverage under the Net Metering and Easy Connection Act, which could result in higher electric utility bills for those customers.

The estimated impact for this petition was based on a review of the initial impact to the office from similar legislation including the original Missouri Net Metering and Easy Connection Act passage. The office anticipates an additional ½ full-time employee (FTE) for an attorney, ½ FTE for an auditor, and ¼ FTE for an analyst to handle issues brought up during rate proceedings because of this proposed legislation.

Officials from the **Missouri Joint Municipal Electric Utility Commission** (MJMEUC) indicated:

Missouri Public Utility Alliance (MJMEUC is part of the alliance) through its electric division represents 65 of the 86 cities with municipal electric utilities.

After careful review and analysis for this petition, they believe that implementation would increase municipal electric utility revenues by approximately $1,100 annually:

1. Reducing the number of cities covered by net metering from 86 to four (Springfield, Independence, Columbia, and Kirkwood)
2. There appears to be only a marginal level of interest on the part of covered cities to implement a "standby, capacity, interconnection, or other fee" for net-metering customers, therefore the additional revenue for effected cities would be less than $2,000 per year for all covered cities.

There would be a minimal reduction in costs for cities not covered by the new metering law since they would no longer be required to notify customers annually of the presence of a net metering policy. In most cases those notices are printed on monthly billing

statements already going to customers. The result is that reduction of costs would likely be negligible.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate increased annual operating costs of approximately $101,000. Local government electric revenue may increase $1,100 annually with minimal reduction in operating costs.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

RECEIVED
JAN 22 2016
STATE AUDITORS OFFICE

ELECTIONS DIVISION
(573) 751-2301

January 22, 2016

16-218

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from David Klindt regarding a proposed statutory amendment to Chapter 386 (2016-218)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by David Klindt on January 21, 2016.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

16-218

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2016 JAN 21 PM 3:02
MO SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____

(Name of payer) Signature of Affiant (Person obtaining signatures)

_____

Printed Name of Affiant

_____

Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____

Signature of Notary

_____

My commission expires _____. Address of Notary (Street, City, State & Zip Code)

16-218

*Be it enacted by the people of the state of Missouri:*

Section A. Section 386.890, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 386.890, to read as follows:

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal electric utility, rural electric cooperative as provided in chapter 394, or electrical corporation as provided in this chapter;

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

16-218

(e) Is intended [primarily to offset part or all] not to exceed one hundred percent of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of [natural resources] economic development;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other

sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any [municipal utility,] electrical corporation regulated under this chapter that provides retail electric service in this state, [or] any rural electric cooperative under chapter 394 that provides retail electric service in this state and that serves ten thousand or more connected meters, or any municipal utility that provides retail electric service in this state and that serves ten thousand or more connected meters.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for other electric utilities may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and

monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator [but shall not]; except that, in order to ensure that no eligible customer-generator shall be subsidized by customers who are not customer-generators and if approved by the commission for the commission-regulated supplier or by the respective governing body of the non-regulated suppliers the retail electric supplier also may charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that [would not otherwise be charged if the customer were not an] is reasonably calculated to recover that portion of the fixed costs of the supplier and demand charges attributable to and necessary for providing service to the eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs

may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be

credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) For any rural electric cooperative under chapter 394, or municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device

or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule or equivalent formal action by each respective governing body:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and

specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer approved by the retail electric supplier that the installation meets the requirements of subdivision (1) of subsection 6 of this section . If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its

net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10. The governing body of a rural electric cooperative or municipal utility shall, within nine months of January 1, 2008, adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple

procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly as well as for purposes of compliance with any applicable federal law.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units.
Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
JAN 21 2016
STATE AUDITORS OFFICE

16-217

January 21, 2016

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 46 (2016-217)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on January 20, 2016.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-217 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2016 JAN 20 PM 12:46
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this _____day of _____, A.D. 201_____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

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*Be it enacted by the people of the state of Missouri:*

Section A: Section 386.890 is amended and sections 386.860, 386.870, 386.900, 386.910 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.900 to 386.1000 shall be known and may be cited as the "Clean Energy Independence and Investment Act of 2016".

386.870. An electrical corporation shall be allowed to recover its costs and add in its rate base prudently incurred costs to purchase and install electric vehicle charging stations intended to recharge electric motor vehicles, provided the electricity consumed at such stations is partially powered by a clean energy resource, as defined in 386.900, or offset with renewable energy credits, as defined in 393.1025. Any clean energy resources or renewable energy credits used for this section shall count toward compliance with 393.1030. Investments made pursuant to this section shall not raise the retail rates charged to the customers of any such electrical corporation by more than one-half of one percent in any year. In calculating this one percent, any reviewing court shall grant the Commission the maximum amount of deference allowed under the law.

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any [municipal electric utility,] rural electric cooperative as provided in chapter 394[, or electrical corporation as provided in this chapter];

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

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(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of [natural resources]economic development, division of energy;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any [municipal utility, electrical corporation regulated under this chapter, or] rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which [the commission for a public utility or] the governing body for the supplier[other electric utilities] may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If

the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) [For any rural electric cooperative under chapter 394, or municipal utility, u]Upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not

customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, [the commission for public utilities and] the governing body for the supplier [other utilities] shall, by rule or equivalent formal action[ by each respective governing body]:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. [Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated s]Suppliers shall submit [the same] an annual net metering report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

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(3) The total estimated net kilowatt-hours received from customer-generators.

9. [The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10.] The governing body of a <u>supplier</u> [rural electric cooperative or municipal utility] shall[, within nine months of January 1, 2008,] adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

[11.] <u>10.</u> For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

[12.] <u>11.</u> The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

[13.] <u>12.</u> The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

[14.] <u>13.</u> Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

[15.] <u>14.</u> No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

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[16.] 15. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

[17.] 16. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.900. 1. This section shall be known and may be cited as the "Enhanced Net Metering and Easy Connection Act". It shall be the policy of the state to facilitate the use of customer-sited or controlled clean energy resources.

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal utility or electrical corporation as provided in this chapter;

(2) "Clean energy resource", electrical energy produced from:

(a) Wind;
(b) Solar thermal sources;
(c) Hydroelectric sources;
(d) Photovoltaic cells and panels;
(e) Fuel cells using hydrogen produced by a source listed in paragraphs (a) through (d) of this subdivision; or
(f) Other sources of energy that become available after January 1, 2017, and are certified as clean by the department.

(3) "Commission", the public service commission of the state of Missouri;

(4) "Customer-generator", the owner, lessee or operator of a qualified electric energy generation unit which:

(a) Is powered by a clean energy resource or micro CHP;

(b) Has an electrical generating system with a capacity of not more than five hundred kilowatts, measured in alternating current;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of

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Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(5) "Department", the department of economic development, division of energy;

(6) "Micro CHP", combined heat and power or cogeneration systems that simultaneously generate electricity and thermal energy in a single integrated system with a nameplate rated capacity equal to or lower than 130 kilowatts, measured in alternating current;

(7) "Net excess energy", the amount of energy expressed in kilowatt hours delivered by a customer-generator to a supplier that exceeds the amount of energy delivered by the supplier to the customer-generator over a single billing period;

(8) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(9) "Retail electric supplier" or "supplier", any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals seven percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for a municipal utility may increase the total rated generating capacity of net metering systems to an amount above seven percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds two percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is

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necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the retail electric supplier shall pay for the costs to purchase and install the necessary additional equipment, unless the commission or governing body makes a determination that the customer-generator is the only customer benefiting from the additional distribution equipment. If the commission or governing body determines the customer-generator is the only customer benefiting, such customer-generator shall reimburse the electric supplier for reasonably incurred equipment expenses. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subdivision (2) of subsection 3 of this section and all net excess energy shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent months;

(4) Any net excess energy credits carried forward under subdivision (3) of this subsection shall expire without any compensation at the earlier of either the next subsequent March billing period or when the customer-generator disconnects service or otherwise terminates the net metering relationship with the supplier;

(5) For any municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the

fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection;

(3) For customer-generator systems of greater than ten kilowatts, the commission for commission-regulated suppliers and the governing body for other utilities shall, by rule:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (4) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems one hundred kilowatts or less and within sixty days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application. Retail electric suppliers shall interconnect qualified energy generation units within thirty days of being notified the generation unit is installed and meets the requirements of this section.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for notifying the retail electric supplier.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other suppliers shall submit the same report to their respective governing body and make said report available to a customer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

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(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall by October 1, 2017 promulgate any rules necessary for the administration of this section for commission-regulated suppliers, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. Any court reviewing the Commission's rulemaking process or the final set of rules shall apply only the minimum amount of review and scrutiny to the rule. Courts shall apply the maximum amount of deference to the Commission for purposes of reviewing the rule. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after October 1, 2017, shall be invalid and void.

10. The governing body of a municipal utility shall by October 1, 2017 adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity and anticipated energy produced from all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs, including lost revenues and lost earnings opportunities associated with reduced demand or kilowatt hours sales, incurred under this section by a retail electric supplier shall be recovered in a timely manner in that utility's rate structure in the form of a tracker or other appropriate rate recovery mechanism. At the time of any general change in a supplier's rates, any

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over-recovery or under-recovery balance shall be included in the supplier's revenue requirement used to set rates as amortized over a period not exceeding three years, and shall be recovered from each rate class pursuant to the supplier's approved rate design. At the time any general change in prospective rates is proposed, the commission shall permit the commission-regulated supplier to estimate the total generation output from all customer-owned generation for each rate class for the twelve-month period following the effective date of any change in rates, and rates shall be set using energy and demand billing units that reflect the estimated reduction of energy and demand likely to occur due to customer-owned generation. When considering costs for commission-regulated suppliers, the commission may evaluate the value of distributed generation and clean energy resources. To the extent any costs, lost revenues, or lost earnings are recovered under this section, they shall not raise the retail rates charged to the customers of any such electrical corporation by an average of more than one percent in any year. Any limitation on cost recovery shall not limit the availability of net metering except as provided in subsection 3 of this section.

15. No customer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a customer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said customer and terminate said customer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.910. 1. This section shall be known and may be cited as the "Community Solar Act."

2. Within thirty days of enactment of this section, the commission shall open a docket and by December 1, 2017, the commission shall adopt rules and regulations allowing customers to participate in community solar facilities and set a value-of-community-solar rate as described in subsection 5 of this section. For purposes of this section, a "community solar facility" is a photovoltaic electric generation facility with a capacity of between one hundred and one thousand kilowatts, measured in alternating current, that allows five or more customers of an electrical corporation to offset their energy usage with solar energy and such facility is located within the Missouri service territory of the electrical corporation where such customers have one or more electrical accounts. For the purposes of this section, an electrical corporation is as defined in 386.020.

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3. The aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous calendar year, and such capacity of community solar facilities shall not count towards the system-wide net metering cap defined in subsection 3 of section 386.900. Electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. Entities or individuals that are not electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of an electrical corporation's single-hour peak load during the previous year. The commission shall allow prudently incurred costs and expenses for community solar facilities owned by an electrical corporation to be included in such electrical corporation's rate base. Once the four percent aggregate cap is reached for community solar facilities, the commission shall open a docket to determine whether or not the community solar program shall be expanded, and the commission may increase the aggregate capacity cap above four percent. The commission shall consider benefits and costs of such an expansion when making its decision. Community solar facilities shall not be eligible for tax credits under section 386.1000.

4. For any community solar facility that is owned or operated by an entity other than an electrical corporation, the energy generated by such community solar facility shall be provided to the electrical corporation to which it is interconnected in exchange for the allocation and facilitation of bill credits as provided in subsection 5 of this section.

5. Kilowatt hours generated from community solar facilities shall be allocated, on a pro rata basis, to the designated subscribers of the community solar facility at the direction of the community solar facility owner or operator. Allocated bill credits shall be set at a value-of-community-solar rate per kilowatt hour determined by the commission. The commission shall determine the value of bill credits per kilowatt hour taking into consideration costs and benefits of solar energy including but not limited to energy value, generation value, environmental value, transmission and distribution system value, disaster recovery value, reactive power value and other grid benefit value, but such bill credits shall not be less than the electrical corporation's average retail rate. The value of allocated community solar bill credits shall be used to reduce the customer's total bill. When a community solar facility is placed in service it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years. Nothing in this subsection shall affect the commission's ratemaking authority over electrical corporations.

6. Owners and operators of community solar facilities shall not be considered a public utility as defined in section 386.020, except that this provision shall not apply to any owner or operator who is an electrical corporation.

7. The commission shall promulgate rules and regulations it deems necessary to carry out the provisions of this section. The commission's rules shall: allow electrical corporations to recover

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costs; provide earning opportunities for electrical corporations; provide an orderly process, including a reservation system, to allow potential community solar facility owners and operators to develop projects within the capacity limits in subsection 3 of this section; and provide options, which may include financial incentives, to encourage low-income participation. Any court reviewing the Commission's rulemaking process or the final set of rules shall apply only the minimum amount of review and scrutiny to the rule. Courts shall apply the maximum amount of deference to the Commission for purposes of reviewing the rule.

8. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section, shall be invalid and void.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall be eligible to receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. The total amount of clean energy tax credits offered annually shall not exceed one percent of the value of electricity used in Missouri as determined in subsection 4 of this section.

2. The department of economic development shall certify when the tax credits provided in this section have cumulatively resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the clean energy tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall

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not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.890 and 386.900, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on publicly available reports, including FERC Form Number 1 as allowed by 18 CFR § 141, or an equivalent as determined by the commission, of megawatt hours sales of retail electricity and corresponding revenues for the preceding calendar year or most current reporting period as determined by the commission. The commission shall publish the value of electricity used in Missouri to the public and department of economic development within sixty days of the enactment of this section and at least forty-five days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may apply for and receive the credit authorized by this section only for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

7. To obtain initial approval for tax credits allowed under this section, a taxpayer shall submit an application for tax credits to the department of economic development. Each application shall be

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reviewed in the order of the date on which the application was received, with the oldest received date receiving highest priority in the queue. Applications received on the same day, that are not time-stamped, shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. The department may retain, for the purposes of administering this section, up to half of each application deposit, which shall not be subject to refund and shall not exceed one hundred dollars for residential taxpayers and two hundred and fifty dollars for all other taxpayers. Such application deposit, except the portion retained for administration purposes by the department, shall be refunded at completion of the project or in the event the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. The taxpayer may request a refund of the application deposit; however, any refunds of the deposit for an application shall cause such application to lose its spot in the application queue. If the taxpayer wants to maintain its position in the application queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

9. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision of its intent to disapprove, including the reasons for intending to disapprove, and to remove such application from the

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application queue. The taxpayer shall have one opportunity, not to exceed fifteen days of notification of intent to disapprove, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

10. If the department of economic development deems the initial application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the date the department received the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for approval shall be notified by the department of economic development that the maximum amount of credits authorized for the program have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available.

12. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial approval for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available, then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development, to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

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13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1, 3 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by postal or electronic letter and shall issue, to the taxpayer, a tax credit certificate within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

15. If the amount of the credit under subsection 14 of this section exceeds the taxpayer's total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

16. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsections 10 or 11 of this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

17. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is

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subject to all of the provisions of chapter 536. Such rules may include repayment provisions necessary to recover tax credit benefits from taxpayers found to have used fraud or misrepresentations of fact on applications, and other anti-fraud and compliance measures as may be required by the department and the provisions of sections 135.800 to 135.830.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-217)**

## Subject

Initiative petition from Andy Zellers regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received January 21, 2016)

## Date

February 10, 2016

## Description

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **Public Service Commission,** and the **Missouri Joint Municipal Electric Utility Commission**.

**Mark R. Reading** provided information to the State Auditor's Office as a proponent of this initiative petition.

**Edward D. Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Assumptions**

Officials from the **Attorney General's office** indicated Section 386.900.13, RSMo, of the proposal assigns new rulemaking responsibility to their office regarding mandatory disclosures of information by sellers of qualified electric generation units, as well as new investigatory and litigation duties. They assume they would need 1/4 full-time employee (FTE) to handle the complaints, enforcement and the rulemaking responsibilities assigned to their office, resulting in increased operating expenses of $13,890 for fiscal year 2017, $16,810 for fiscal year 2018, and $16,952 for fiscal year 2019.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** (DED) provided the following information:

The Division of Energy (DE) indicated this petition will result in increased operating expenses of $759,071 for fiscal year 2017, $827,781 for fiscal year 2018, and $835,826 for fiscal year 2019. These costs will be offset by additional revenues to the Clean Energy Fund of $0 for fiscal year 2017, $370,943 for fiscal year 2018, and $370,943 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Section 386.870 – Electric Vehicle Charging Stations

The DE participates in Public Service Commission (PSC) regulatory cases to evaluate issues from a formal state policy and planning perspective consistent with its interests in clean, affordable, abundant energy, and its efficient use. DE is active in cases before the PSC related to energy efficiency and renewable energy and has responsibilities associated with certifying clean energy sources under Missouri's Renewable Energy Standard (RES) and net metering statutes. As such, DE assumes it would be involved in the implementation of this provision by monitoring and participating in cases that allow regulated electric utilities to install and recover costs associated with electric vehicle recharging stations that are partially powered by a clean energy source or offset with renewable energy credits.

Section 386.900 – Enhanced Net Metering and Easy Connection Act

DE assumes it would be involved in the implementation of this provision that modifies the existing net metering and interconnection requirements for regulated electric utilities. It is assumed there would be a rulemaking docket to set the process and details associated with this proposal. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop

proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where enhanced net metering provisions are considered.

Section 386.910 – Community Solar Act
DE assumes it would be involved in the implementation of the Community Solar Act provisions including participation in the rulemaking docket to set the process and details associated with this section. DE assumes it would monitor and participate in tariff and other related cases where community solar facilities are established for purposes of determination of eligibility and certification under the RES.

Section 386.1000 – Clean Energy Tax Credit
DE is required to administer the Clean Energy Fund created by this section and promulgate rules to implement the Clean Energy Tax Credit. The proposal requires DE to receive applications and deposits, review and initially approve applications and required information within 30 days, review final approval applications, issue certificates and provide notifications, refund deposits for completed and disapproved projects, at least quarterly publish a list of the amount of tax credits initially and finally approved for each fiscal year and amounts reserved for future years, notify individual applicants of disapproved applications and approval within specified timeframes, notify applicants if the maximum amount of credits authorized have been allocated for the fiscal year and grant three-month extensions if needed for project completion with additional deposit payments.

**Long-range implications**

Fiscal impacts associated with the Clean Energy Tax Credits could continue until June 30, 2022. The authorization for the tax credit would sunset sooner if the 1,000 megawatt limit is reached. Economic benefits associated with construction of solar facilities would also have long-range implications.

**Assumptions and methodology used in arriving at state fiscal impact**

Section 386.870 – Electric Vehicle Charging Stations
For purposes of this fiscal note, DE assumes it would be involved in cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

Section 386.900 – Enhanced Net Metering and Easy Connection Act
For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

386.910-Community Solar Act

For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

The RES requires investor-owned utilities in Missouri to either produce green power or purchase Renewable Energy Certificates (RECs) for compliance. One REC represents 1 megawatt-hour of electricity generated from an eligible renewable energy resource. The in-state renewable energy generation can receive a multiplier of 1.25 for RES compliance purpose. DE has statutory authority to certify eligible renewable energy resources before RECs associated with those renewable energy resources can be used for RES compliance. DE does not charge any certification fees.

A community solar facility is defined as a solar photovoltaics facility with a capacity of 100-1000 kilowatts (kW) under this section. DE anticipates that in-state community solar facilities will request DE to certify their renewable energy resources/projects for the purpose of generating additional revenue from REC sales. DE's review primarily focuses on environmental impacts of renewable electric generation facilities on air, water or land use. The actual staff time spent on each application varies from one project to another. Solar photovoltaics facilities with a larger capacity typically require more staff time for reviewing their third-party environmental impact assessments in addition to verifying applicable environmental permits. Staff time will be also needed for data requests and discussion, data collection, database management, report production and website maintenance.

Current average staff time to review and certify renewable energy facilities ranges from 2 hours for small projects of a few hundred kW and 8-10 hours for larger projects of a few hundred kW to 1000 kW. It is assumed that small projects will account for two-thirds of the total community solar facilities and one-third will be larger projects. The weighted average of staff time (based on 2 hours for smaller projects and 8 hours for larger projects) is 4 hours (calculation: 2*{2/3}+8*{1/3)}). The number of projects at the assumed 200 kW ranges from 71 to 209 if the full amount of tax credits are used (Source: Mark Reading). By multiplying the average staff time of 4 hours, the annual staff time will range from 284 to 836 hours. For purposes of this fiscal note, DE assumes it could implement the provisions of this section related to RES environmental certifications with staff requested to implement the clean energy tax credit in Section 386.1000, RSMo (see below).

Section 386.1000 – Clean Energy Tax Credit

Retail sales of Missouri's utilities totaled $7.6 billion in 2014 (Source: Mark Reading; U.S. DOE/EIA). If all tax credits were used each year up to the cap of 1% of the annual statewide Missouri revenue of Missouri's retail electric suppliers, the decrease in the state's general revenues would be approximately $76 million/year from the effective date through June 30, 2022, depending on the schedule of implementation and applications submitted and approved. If the tax credits cumulatively result in installations of 1,000

megawatts prior to June 30, 2022, the tax credits would sunset. Note the actual tax credit cap would be based on revenues as determined by the PSC pursuant to Section 386.1000.4, RSMo, of this proposal. The tax credits would have unknown economic benefits from the construction and installation of solar energy systems.

If the full amount of tax credits were used each year and with consideration to the estimated cost and size of the projects, it is estimated there would be 4,933 residential project applications and 283 commercial project applications submitted for tax credit reviews (Source: Mark Reading). DE assumes that it would take approximately 2 hours each to do the initial review/approval of each application and another 2 hours to do the review and issuance of a certification after a project is completed for residential projects. Each of these would include clerical time for input/issuing letters/filing, etc. For larger commercial projects, an estimated 8 hours is anticipated for each of these two steps. See response above for detailed tasks required by the proposal.

19,732 hours for residential applications
4,528 hours for commercial applications
24,260 hours total

To implement this provision, DE assumes it will need a total of 12 FTE (including a portion of an FTE to implement Community Solar provisions, Section 386.910, RSMo, above) as follows:
8 – Energy Specialist I/II
2 – Energy Engineer II
2 – Administrative Office Support Assistant (AOSA)

- Energy Specialist I/II - Professional level staff to review the renewable energy project applications and to complete project evaluation activities.
- Energy Engineer II - Professional staff with expertise in engineering aspects of renewable energy projects to review the technical aspects of the projects, review of projects related to the Renewable Energy Standard and Renewable Energy Certificates and familiar with environmental impacts of renewable electric generation.
- AOSA - Staff to assist with the administrative requirements of the reviews such as drafting and sending communication to applicants, maintaining the database of applicants, and tracking status of applications.

An application deposit of 2 cents/watt is required to be paid to DE and deposited in the Clean Energy Fund. The proposal provides that DE may retain, for the purposes of administering this section, up to half of each application deposit to administer the provisions of this proposal but would not exceed one hundred dollars for residential taxpayers and two hundred and fifty dollars for all other taxpayers. Using the assumption above, if the full amount of tax credits were used each year and with consideration to the estimated cost and size of the projects, it is estimated there would be 4,933 residential project applications (at an average size of 6.1 kW) and 283 commercial project applications (at an average size of 200 kW) submitted for tax credit reviews. The application deposit for a residential project would be $122 and DE could retain 50% or

$61 for a total of $300,913. The application deposit for a commercial project would be $4,000 and DE could retain a maximum of $250/application for a total of $70,750.

For purposes of this fiscal note, DE assumes there could be up to $370,943 per year available from the Clean Energy Fund to administer the provisions of this proposal. As this is less than the estimated costs to implement the provisions of the proposal, DE assumes the shortfall would be from General Revenue funds. It is also assumed that General Revenue funds would be necessary to cover all DE's costs in fiscal year 2017 until such time as sufficient application deposits are received.

DE also assumes that the DED's existing tax credit database will be used to track the applications. Some IT costs to generate the necessary reports are estimated.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** estimate this petition will result in increased operating expenses of $243,282 for fiscal year 2017, $181,985 for fiscal year 2018, and $183,470 for fiscal year 2019.

The legislation creates an unknown, negative impact to total state revenue by creating a new tax credit.

**Section 386.1000**
The provisions of this section authorize the issuance of a clean energy tax credit to taxpayers incurring costs for the installation of a clean energy resource project. The taxpayer may claim 35 percent (35%) of the total cost of the project. The legislation caps

the amount of tax credits at not more than one percent (1%) of the value of the electricity used in Missouri.

**Section 386.1000.15**
The department suggests changing the provisions pertaining to the transfer of the tax credit to the Department of Revenue because this is currently the department's responsibility based on a previously issued executive order.

**Administrative Impact:**
**Personal Tax:**
Personal Tax requires one (1) Revenue Processing Technician I (Range 10, Step L) for every 6,000 credits claimed.

**Corporate Tax:**
Corporate Tax requires three (3) Revenue Processing Technicians I (Range 10, Step L) for every 4,000 credits redeemed, 4,000 credits transferred, and for every 520 SB 1099 compliance mailings and correspondence.

**Integrated Tax System:**
The integrated tax system incurs additional costs of $43,680 to implement the provisions of this petition.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** (OA) indicated the proposal amends Section 386.890, RSMo, and enacts five new sections entitled the "Clean Energy Independence and Investment Act of 2016."

The proposal:

- Allows utilities to recover costs and add in its rate base costs to install electric vehicle charging stations intended to recharge electric motor vehicles, provided the energy consumed at each station is partially powered by a clean energy resource. This could

result in a total state revenue reduction. OA does not have the data to estimate the fiscal impact. The DED or the PSC may have such data.

- Authorizes the use of net-metering, with certain limits to facilitate the use of customer-sited or controlled clean energy resources.
- Allows retail electric suppliers to recover any costs incurred in this act in that utility's rate structure. To the extent any such costs, lost revenues or lost earnings are recovered, they shall not raise the customer retail rates by an average of more than 1% in any year. This could impact total state revenue. OA does not have the data to estimate the fiscal impact. The DED or the PSC may have such data.
- Allows participation in community solar facilities.
- Enacts a "Clean Energy" income tax credit for an amount equal to 35% of the total cost of the clean energy project. The annual cap on the credits is 1% of the value of electricity used in Missouri as determined by the PSC. This will result in a total state revenue reduction. This will also impact the calculation under Article X, Section 18(e) of the Missouri Constitution. OA understands the DED and/or the PSC may have the data to estimate the fiscal impact, therefore OA defers to the DED and the PSC.
- Establishes the Clean Energy Fund, which is to be used to advance clean energy through the efficient administration of the Clean Energy Tax Credit Program. This will result in an increase to total state revenue. The revenue in the fund will come from various application deposits, but could also come from appropriated moneys, gifts, contributions, grants or bequests. The DED will administer this fund. OA defers to the DED for the estimated impact of the application deposits.

This proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced

funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from **Jasper County** indicated utility cost increases to their county of about $1200 per year. Total cost could be much higher if PSC were to allow rate increases to utility companies in order to cover costs for all of these so called clean energy initiatives.

Officials from the **City of Jefferson** indicated they expect no fiscal impact should this bill become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from **University of Missouri** indicated they have not seen cost impact studies on this initiative from their electric utility suppliers, but they do not believe this will have a significant impact on their university.

Officials from the **Public Service Commission** (PSC) indicated:

Section 386.870 states investments made pursuant to this section shall not raise the retail rates charged to customers of electrical corporations by more than **one half of one percent** in any year; however, it goes on to say, "In calculating this **one percent**…" The PSC suggests the drafter clarify whether the rate increase is capped at one-half of one percent or one percent.

Sections 386.890 and 386.900 both use the terms "Retail electric supplier" or "supplier", but in Section 386.890 a "retail electric supplier" or "supplier" is any rural electric cooperative under Chapter 394 that provides retail electric service in this state and in Section 386.900 a "retail electric supplier" or "supplier" is any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in

this state. Although the terms are in different statutes, it may be confusing to define the same term in a different manner. It may be clearer to use different terms applicable to the respective intent. Further since Section 386.890 is only applicable to rural electric cooperatives, it may make sense to move the entire provision to Chapter 394.

Sections 386.890 and 386.900 use the term "wholesale generator." The PSC respectfully suggests this term be defined.

Section 386.900.6.(2) references "subsection 4 of this section." This appears to be an inaccurate cross-reference as there is no subsection 4 of the section.

Section 386.910.7 adds language stating that any court reviewing the Commission's rulemaking process of the final set of rules shall apply only the minimum amount of review and scrutiny to the rule and that courts shall apply the maximum amount of deference to the Commission for purposes of reviewing the rule. It is the PSC's understanding that this language was added to address concerns related to placing more defined parameters around various terms such as lost revenues, earnings opportunity, defining the retail rate impact, etc.

Section 386.1000 discusses a "clean energy tax credit". It is not clear why the tax credit is in the PSC statute and not in a tax-related statute.

The Office of Public Counsel (OPC) indicated this petition will result in increased operating expenses of $218,203 for fiscal year 2017, $257,374 for fiscal year 2018, and $259,879 for fiscal year 2019.

This petition creates a new subsection under Chapter 386, RSMo, known as the Enhanced Net Metering and Easy Connection Act in addition to an addition in Section 386.860, RSMo, encouraging an electric price stability mechanism what would create a need for additional resources in the form of 1 attorney position, 1 utility regulatory analyst, ½ an auditor position, and ½ of an engineer position. The petition would place more emphasis on auditing certain energy efficient projects, determining engineering capabilities of both the regulated utility as well as qualified generators who want access to the electric grid, as well as new and novel legal concepts that would likely lead to more issues litigated during a rate proceedings before the Commission. Additionally this petition allows regulated electric utilities to recover the costs of electric vehicle recharging stations in their rate base as part of a potential utility rate increase. This additional cost of added utility plant would require additional audit review and time to evaluate the prudence of the incurred charges. These conclusions were reached after evaluating the overall impact of the Infrastructure Replacement Surcharge Mechanism and the Fuel Adjustment Clause on workload and case load within the office.

Officials from the **Missouri Joint Municipal Electric Utility Commission** (MJMEUC) indicated:

Missouri Public Utility Alliance (MJMEUC is part of the alliance) through its electric division represents 65 of the 86 cities with municipal electric utilities.

After careful review and analysis, they believe that implementation would reduce municipal electric utility revenues of approximately $23,900,000 annually based on:

1. Varying changes to the state's net metering law.
2. Greater penetration of solar panels throughout the state because of a state funded tax rebate for their purchase and installation.

Other proposed changes would increase the cost of city operations by approximately $1,520,000.

Several of these proposals modify the state's net metering law to require cities to carry forward to subsequent months excess customer generation. Current software is not designed to provide this functionality and each city would have to contract with their own vendor to modify their billing software.

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art X Sec 16) that reduces income or increases costs without "full state financing", they anticipate that the costs would be reflected in the final state cost when the fiscal note is completed. They have no idea what litigation costs might be necessary.

**Mark R. Reading** provided the following information as a proponent of this initiative petition.

Submitted by:

_____

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**Clean Energy Independence and Investment Act of 2016 – Version 46**
**Sec. of State # 217**

**Proposed Statement of Fiscal Impact**
**for Clean Energy Independence and Investment Act of 2016 - Version 46**
**Sec. of State # 217**

**Fiscal Impact Information Submitted Pursuant to Section 23.140.2**

The amendment's estimated impact decreases state revenue between $32 to $64 million depending upon the speed of up to $225 million in additional clean energy project construction and implementation by the Department of Economic Development, residential homeowners, and businesses. Local revenue is estimated to grow between $2.6 to $5.1 million.

| ESTIMATED NET EFFECT ON STATE FUNDS | | |
|---|---|---|
| **Fund Affected** | **FY 2017** | **FY 2018** |
| **General Revenue** | $0 | From ($33,037,828) to ($66,019,325) |
| | | |
| **Total Estimated Net Effect on All State Funds** | $0 | From ($32,045,806) to ($64,028,436) |
| **ESTIMATED NET EFFECT ON LOCAL FUNDS** | | |
| Local Funds | $0 | From $2,553,188 to $5,128,651 |
| | | |
| **Total Estimated Net Effect on All Local Funds** | $0 | From $2,553,188 to $5,128,651 |

**SUMMARY OF VERSIONS OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT**

Nine additional versions of the Clean Energy Independence and Investment Act of 2016 have been submitted for review. A summary of which topics are in each version is provided below.

Two additional versions of the Clean Energy Independence and Investment Act of 2016 have been submitted for review. A summary of which topics are in each version is provided below.

**CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT OF 2016**
**SUMMARY OF VERSIONS**

| Petition version | 386.870 - Electric vehicle | 386.890 - Net metering | 386.900 - Enhanced net metering | 386.910 - Community Solar | 386.1000 - Tax credits |
|---|---|---|---|---|---|
| | | | | | |
| **1% Electric Versions** | | | | | |
| Version 46 | X | X | X | X | X |

## ANALYSIS OF FISCAL IMPACT OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT

The fiscal impact analysis contained herein focuses on estimating the fee and tax revenue resulting from the statutory changes proposed in the initiative petition. Table 1 summarizes the revenue estimated by source and by fiscal year. Page and Table numbers are provided to help readers find specific subjects.

**Table 1 - Summary of Fiscal Impact by Fund**

| Page # | Table # | Purpose | FY 2017 | FY 2018 - low range | FY 2018 - high range | Revenue Type |
|---|---|---|---|---|---|---|
| 4-12 | Table 10 | Tax credit | $0 | ($39,494,829) | ($78,989,658) | Income |
| 14-15 | Table 14 | Taxes from clean energy tax credit construction | $0 | $4,429,063 | $8,858,126 | Various |
| 16-18 | Table 17 | Taxes from community solar construction | $0 | $2,027,938 | $4,112,207 | Various |
| | | subtotal General Revenue Fund | $0 | ($33,037,828) | ($66,019,325) | |
| | | | | | | |
| 8-13 | Table 11 | Clean Energy Fund | $0 | $185,926 | $371,663 | Application deposit |
| | | | | | | |
| 14-15 | Table 14 | Prop C sales tax - clean energy | $0 | $451,369 | $902,739 | Sales tax |
| 16-18 | Table 17 | Prop C sales tax - community solar | $0 | $206,669 | $419,078 | Sales tax |
| | | subtotal Prop C | $0 | $658,038 | $1,321,817 | |
| | | | | | | |
| 14-15 | Table 14 | Conservation sales tax - clean energy | $0 | $56,421 | $112,842 | Sales tax |
| 16-18 | Table 17 | Conservation sales tax - community solar | $0 | $25,834 | $52,385 | Sales tax |
| | | subtotal Conservation | $0 | $82,255 | $165,227 | |
| | | | | | | |
| 14-15 | Table 14 | Parks and Soils sales tax - clean energy | $0 | $45,137 | $90,274 | Sales tax |
| 16-18 | Table 17 | Parks and Soils sales tax - community solar | $0 | $20,667 | $41,908 | Sales tax |
| | | subtotal Parks and Soils | $0 | $65,804 | $132,182 | |
| | | | | | | |
| | | subtotal Other State Funds | $0 | $992,023 | $1,990,889 | |
| | | | | | | |
| | | subtotal all state funds | $0 | ($32,045,806) | ($64,028,436) | |
| | | | | | | |
| 14-15 | Table 14 | Local Sales Tax - clean energy | $0 | $1,751,314 | $3,502,627 | Sales tax |
| 16-18 | Table 17 | Local Sales Tax - community solar | $0 | $801,875 | $1,626,024 | Sales tax |
| | | subtotal Local Funds | $0 | $2,553,188 | $5,128,651 | |
| | | | | | | |
| | | Grand Total State and Local | $0 | ($29,492,617) | ($58,899,785) | |

**Clean Energy tax credits**

The proposal creates a clean energy tax credit in Chapter 386 RSMo. The annual level of tax credits for each calendar year shall not exceed one percent of the annual statewide Missouri revenue of Missouri retail electric suppliers. The Public Service Commission (PSC) is required to determine the revenue for retail electric suppliers using available reports, including FERC Form Number 1 as allowed by 18 CFR § 141 or an equivalent determined by the PSC.

The data for this calculation is gathered and published by the U.S. Energy Information Administration on its website.[1] Table 2 shows the revenues reported by each Missouri entity in 2014. Retail sales totaled $7.6 billion in 2014 for the 74 entities.

**Table 2**
**2014 Utility Bundled Retail Sales - Total**
(Data from forms EIA-861- schedules 4A & 4D and EIA-861S)

| Entity | Ownership | Revenues (Thousands Dollars) |
|---|---|---|
| Atchison-Holt Electric Coop | Cooperative | $6,727 |
| Barry Electric Coop | Cooperative | $16,654 |
| Barton County Elec Coop, Inc | Cooperative | $16,262 |
| Black River Electric Coop - (MO) | Cooperative | $42,554 |
| Boone Electric Coop | Cooperative | $55,335 |
| Callaway Electric Cooperative | Cooperative | $24,618 |
| Carroll Electric Coop Corp - (AR) | Cooperative | $14,104 |
| Central Missouri Elec Coop Inc | Cooperative | $25,350 |
| Chillicothe Municipal Utils | Municipal | $10,035 |
| Citizens Electric Corporation - (MO) | Cooperative | $123,087 |
| City Utilities of Springfield - (MO) | Municipal | $249,286 |
| City of Ava - (MO) | Municipal | $2,894 |
| City of Cameron | Municipal | $7,728 |
| City of Carthage - (MO) | Municipal | $24,493 |
| City of Columbia - (MO) | Municipal | $109,927 |
| City of Farmington - (MO) | Municipal | $18,390 |
| City of Fulton - (MO) | Municipal | $14,228 |
| City of Hannibal - (MO) | Municipal | $25,785 |
| City of Harrisonville - (MO) | Municipal | $12,072 |
| City of Independence - (MO) | Municipal | $135,338 |
| City of Jackson - (MO) | Municipal | $16,281 |
| City of Kennett - (MO) | Municipal | $10,988 |
| City of Kirkwood - (MO) | Municipal | $21,547 |
| City of Lamar - (MO) | Municipal | $6,961 |
| City of Lebanon - (MO) | Municipal | $22,949 |
| City of Macon - (MO) | Municipal | $9,740 |
| City of Marshall - (MO) | Municipal | $17,390 |
| City of Monett - (MO) | Municipal | $20,534 |
| City of Mount Vernon - (MO) | Municipal | $6,790 |
| City of Nixa - (MO) | Municipal | $14,132 |
| City of Poplar Bluff - (MO) | Municipal | $31,686 |
| City of Rolla - (MO) | Municipal | $27,694 |
| City of Sikeston - (MO) | Municipal | $17,528 |

| | | |
|---|---|---|
| City of Sullivan - (MO) | Municipal | $9,645 |
| City of West Plains - (MO) | Municipal | $15,208 |
| Clay County Electric Coop Corp | Cooperative | $96 |
| Co-Mo Electric Coop Inc | Cooperative | $46,302 |
| Consolidated Electric Coop | Cooperative | $21,936 |
| Crawford Electric Coop, Inc | Cooperative | $30,705 |
| Cuivre River Electric Coop Inc | Cooperative | $105,621 |
| Empire District Electric Co | Investor Owned | $456,324 |
| Farmers Electric Coop, Inc - (MO) | Cooperative | $28,697 |
| Gascosage Electric Coop | Cooperative | $17,074 |
| Grundy Electric Coop, Inc | Cooperative | $12,214 |
| Howard Electric Coop | Cooperative | $6,057 |
| Howell-Oregon Elec Coop, Inc | Cooperative | $38,226 |
| Intercounty Electric Coop Assn | Cooperative | $53,855 |
| KCP&L Greater Missouri Operations Co. | Investor Owned | $802,845 |
| Kansas City Power & Light Co | Investor Owned | $824,706 |
| Laclede Electric Coop, Inc | Cooperative | $63,330 |
| Lewis County Rural E C A | Cooperative | $13,534 |
| Macon Electric Coop | Cooperative | $23,795 |
| Missouri Rural Electric Coop | Cooperative | $17,812 |
| New-Mac Electric Coop, Inc | Cooperative | $38,876 |
| North Central MO Elec Coop Inc | Cooperative | $14,098 |
| Osage Valley Elec Coop Assn | Cooperative | $28,034 |
| Ozark Border Electric Coop | Cooperative | $68,293 |
| Ozark Electric Coop Inc - (MO) | Cooperative | $52,354 |
| Pemiscot-Dunklin Elec Coop Inc | Cooperative | $19,856 |
| Platte-Clay Electric Coop, Inc | Cooperative | $51,737 |
| Ralls County Electric Coop | Cooperative | $12,711 |
| SE-MA-NO Electric Coop | Cooperative | $9,438 |
| SEMO Electric Cooperative | Cooperative | $33,195 |
| Sac-Osage Electric Coop Inc | Cooperative | $16,676 |
| Southwest Electric Coop, Inc | Cooperative | $58,853 |
| Sunnova | Behind the Meter | $1 |
| Three Rivers Electric Coop | Cooperative | $36,751 |
| Trenton Municipal Utilities - (MO) | Municipal | $8,647 |
| Tri-County Electric Coop Assn | Cooperative | $12,512 |
| Union Electric Co - (MO) | Investor Owned | $3,112,534 |
| United Electric Coop, Inc - (MO) | Cooperative | $21,579 |
| Webster Electric Coop | Cooperative | $28,828 |
| West Central Electric Coop Inc - (MO) | Cooperative | $25,967 |
| White River Valley El Coop Inc | Cooperative | $86,488 |
| Adjustment 2014 | Other | $159,914 |
| Total | | $7,644,407 |

Source: http://www.eia.gov/electricity/sales_revenue_price/
Table 10: All Sectors - Class of ownership, number of consumers, sales, revenue, and average retail price by State and utility:

Table 3 shows the data series by year from 1990 through 2014 reported by the U.S. Energy Information Administration.[2] The average annual increase in these revenues is 3.33 percent.

**Table 3**
**Revenue from Sales to Ultimate Customers**
**(Thousand Dollars) for Missouri, 1990-2014**

| Year | Total Revenue | $ Growth over previous year | % Growth over previous year |
|---|---|---|---|
| 1990 | $3,484,572,000 | | |
| 1991 | $3,653,391,000 | $1,688,190 | 4.8% |
| 1992 | $3,489,099,000 | ($1,642,920) | (4.5%) |
| 1993 | $3,709,661,000 | $2,205,620 | 6.3% |
| 1994 | $3,749,115,000 | $394,540 | 1.1% |
| 1995 | $3,891,751,000 | $1,426,360 | 3.8% |
| 1996 | $3,961,895,000 | $701,440 | 1.8% |
| 1997 | $4,005,066,000 | $431,710 | 1.1% |
| 1998 | $4,196,674,000 | $1,916,080 | 4.8% |
| 1999 | $4,185,713,000 | ($109,610) | (0.3%) |
| 2000 | $4,370,246,000 | $1,845,330 | 4.4% |
| 2001 | $4,414,434,000 | $441,880 | 1.0% |
| 2002 | $4,565,227,000 | $1,507,930 | 3.4% |
| 2003 | $4,470,188,000 | ($950,390) | (2.1%) |
| 2004 | $4,494,108,000 | $239,200 | 0.5% |
| 2005 | $4,959,849,000 | $4,657,410 | 10.4% |
| 2006 | $5,169,747,000 | $2,098,980 | 4.2% |
| 2007 | $5,614,317,000 | $4,445,700 | 8.6% |
| 2008 | $5,768,459,000 | $1,541,420 | 2.7% |
| 2009 | $5,871,973,000 | $1,035,140 | 1.8% |
| 2010 | $6,698,608,000 | $8,266,350 | 14.1% |
| 2011 | $7,008,476,000 | $3,098,680 | 4.6% |
| 2012 | $7,029,475,000 | $209,990 | 0.3% |
| 2013 | $7,538,092,000 | $5,086,170 | 7.2% |
| 2014 | $7,644,407,000 | $1,063,150 | 1.4% |
| | | Avg. annual growth | 3.33% |

Source: http://www.eia.gov/electricity/sales_revenue_price/
Supplemental Data: 1990 - 2013 Revenue from Retail Sales of Electricity by State by Sector by Provider (EIA-861)

For purposes of this fiscal analysis it is assumed that the Public Service Commission will use the most recent available data for establishing the annual cap. The state is currently in FY 2016 and the most recent available data is from 2014. Thus, for the fiscal periods included for consideration by the State Auditor's Office the FY 2017 cap will be established using 2015 data published by the U.S. Energy Information Administration. Similarly, the FY 2018 cap will be established using 2016 data. In this manner the cap for each calendar year will be established eight months before it begins instead of four months after it starts.

**Table 4**
**Data and Timeline for Establishing Annual Tax Credit Cap**

| Data available | Time period of data | CY year for the cap |
|---|---|---|
| April 2015 | 2014 actual data | CY 2016 |
| April 2016 | 2015 actual data | CY 2017 |
| April 2017 | 2016 actual data | CY 2018 |

As shown in Table 3 the average annual growth rate from 1990 to 2014 was 3.33 percent. Table 5 assumes that the average annual growth rate will carry forward for the next several years. The clean energy tax credits cap is estimated at $76.4 million for CY 2016, $79 million for CY 2017 and $81.6 million for CY 2018.

**Table 5**
**Clean Energy Tax Credit Estimate of Cap**

| Calendar Year for cap | Fiscal Year for likely redemption of credits | Revenue data | Total Revenue | Tax credit at 1.0% |
|---|---|---|---|---|
| CY 2016 | FY 2017 | 2014 actual data | $7,644,407,000 | $76,444,070 |
| CY 2017 | FY 2018 | 2015 projection | $7,898,965,753 | $78,989,658 |
| CY 2018 | FY 2019 | 2016 projection | $8,162,001,313 | $81,620,013 |

For purposes of the fiscal note the State Auditor's office asks that estimates be provided for the first two fiscal years of implementation which are FY 2017 and FY 2018 since the provisions of the proposal would go into effect in December 2016. Almost all taxpayers file their taxes on the April 15th deadline. Therefore, CY 2016 taxes would be due on April 15, 2017 which is in FY 2017 as shown in Table 5.

The proposal establishes a cap beginning for CY 2016. However, the provisions of the act will go into effect in December 2016. Paragraph 13 of the proposed section 386.1000 states that any taxpayer verified by the Department of Economic Development to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with the provisions shall be deemed eligible for the tax credit. This allows for the Department of Economic Development to include projects in 2016 before its processes are in place. Paragraph 17 of the proposed section 386.1000 provides that the Department of Economic Development shall issue rules necessary to administer the act. In addition, paragraph 10 gives the Department of Economic Development 45 days to notify an applicant of approval after the application is submitted.

Issuing rules is at best a months long process. The 45 day processing time allowed for any completed application filed after the rules are adopted makes it very unlikely that the Department of Economic Development will issue any CY 2016 tax credits before April 15, 2017 that would affect the taxpayers initial tax filing and reduce taxes paid during FY 2017. Tax credits issued between April 15 and June 30, 2017 would require an amended filing which also would be unlikely to be completed by June 30, 2017. Thus, this fiscal analysis assumes a de minimis or no impact on FY 2017 general revenue tax collections. Any CY 2016 tax credit impact would at most impact the FY 2018 tax collections through amended returns or through CY 2017 taxes.

**Application Deposit revenue**

The proposed Section 386.1000 RSMo requires that taxpayers submit an application to the Department of Economic Development to receive approval for tax credits (paragraph 7). Each application must include a two cent per watt application deposit. The total revenue from application deposits is dependent upon:

- the number of projects that will be submitted;
- the number of watts generated from all of those projects

Each of these is affected by the:

- percentage of residential v commercial projects
- number of kW generated by residential v commercial projects
- cost of residential and commercial projects
- total construction completed
- any phase-in period as the Department of Economic Development institutes rules and prepares the program
- any phase-in period as the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available

All of these factors must be estimated and evaluated in order to calculate the amount of application deposit revenue that will be received by the Department of Economic Development.

Tax credits are available to both residential and commercial projects. Paragraph 5 of the proposed Section 386.1000 RSMo provides that no electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit.

The Missouri Department of Economic Development, Division of Energy published a Missouri Comprehensive State Energy Plan in October 2015. The report states that half of the installed net-metered PV solar is residential and the other half commercial customers.[3] However, the report also indicates that there are challenges that face residential customers making it more difficult and expensive to install solar projects. These challenges include local ordinances or homeowner's association rules the may prohibit installation or require design changes that decrease efficiency or add to the cost.[4] In addition, over the past decade an industry has developed to assist with the financing of solar projects. Such financing alternatives are easier to obtain by commercial projects because of their size, scope, and estimated return on investment.[5] Commercial projects can have a longer-term outlook than homeowners who may not know how long they may live in their current house. The Missouri State Energy Plan indicates that residential rooftop solar is a relatively expensive energy option due to these and other factors.[6]

For all of the reasons identified in the preceding paragraph, for purposes of this fiscal analysis residential solar installation is assumed to be 40% of the total solar construction. Commercial solar installation is assumed to be 60% of the total solar construction. This fiscal analysis has already indicated that 2016 solar construction will likely not be affected by the approval of the petition by voters in November 2016. Thus, CY 2017 is the first full year of impact. Tax credits resulting from such construction will first affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office.

The next factor to consider is the number of kW generated by residential and commercial projects. A recent report on photovoltaic system pricing trends published by the U.S. Department of Energy indicates that the median residential project is 6.1 kW while the modeled commercial system is 200 kW. Paragraph 5 of the proposed section 386.1000 establishes a 200 kW limit on installations that are authorized for tax credits.[7] For purposes of this fiscal analysis it is assumed that all commercial projects will be at the 200 kW size and that residential projects will be 6.1 kW. Paragraph 7 of the proposed section 386.1000 requires a two cent per watt application deposit fee. Table 6 shows that there would be a $122 application deposit required for the median residential project. There would be a $4,000 application

deposit required for the 200 kW commercial project. A portion of this revenue will be available to the department for operational purposes as shown later in Table 11.

**Table 6**
**Application Deposit Required for Projects**

| Construction type | Project size in kW | Project size in watts | Application deposit for project at 2 cents per watt |
|---|---|---|---|
| Residential | 6.1 | 6,100 | $122 |
| Commercial | 200.0 | 200,000 | $4,000 |

The recent report on photovoltaic system pricing trends published by the U.S. Department of Energy also discusses the historical, recent, and near-term pricing of solar projects.[8] Project cost information was obtained on more than 400,000 systems in 42 states. The modeled system prices identified in the report showed a Q1 2015 residential system price of $3.12/watt and a commercial 200 kW system cost of $2.17/watt. These were reductions in price of from Q4 2013 of 7% and 19% respectively. The report also indicates that prices for residential and commercial PV systems have decreased by 6-12% per year, on average, from 1998-2014. In addition, the report indicates that analysts project the system prices will fall 16-33% for residential systems between 2014-2020.

Table 7 projects residential solar project costs. Projections are made to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 7 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $3,000/kW for residential solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 6.1 kW residential project is estimated at $18,300.

**Table 7**
**Residential Solar Project Estimate**

| | Cost of Residential project per kW | Cost of Residential project at 6.1 kW project size |
|---|---|---|
| CY 2015 | $3,120 | $19,032 |
| CY 2016 | $3,039 | $18,538 |
| CY 2017 | $2,960 | $18,056 |
| average cost of CY16 and CY17 estimates | $3,000 | $18,300 |

The modeled commercial system price identified in the report showed a Q1 2015 commercial 200 kW system cost of $2.17/watt. However, the national average cost of commercial projects is affected by states with more mature solar markets and industries and large companies, like Wal-Mart and Ikea, that have moved to install significant solar projects on their facilities. The first Missouri commercial systems are less likely to meet the $2.17/watt cost projections. Table 8 uses other data in the report to amend the estimate of commercial solar project costs. The report shows that the price of the modeled 200 kW commercial system has fallen from $2.68/watt to $2.17 between 2013 Q4 and 2015 Q1. The mid-point of that decrease is $2.425/watt. Further, it is assumed that the cost of Missouri projects will be higher by 2.6%, or one-year's worth of the low end of the price declines found in the report. The result is that this analysis will assume that the Missouri 2015 Q1 price is $2.488/watt.

**Table 8**
**Commercial Solar Project Cost Estimate per kW**

| | |
|---|---|
| 2013 Q4 | $2,680 |
| 2015 Q5 | $2,170 |
| Mid-point | $2,425 |
| One-year behind (2.6%) | $2,488 |

Table 9 then projects the $2,488/kW 2015 Q1 cost to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 9 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $2,392/kW for commercial solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 200 kW commercial project is estimated at $478,400.

**Table 9**
**Commercial Solar Project Estimate**

| | Cost of Commercial project per kW | Cost of Commercial project at 200 kW project size |
|---|---|---|
| CY 2015 | $2,488 | $497,600 |
| CY 2016 | $2,423 | $484,600 |
| CY 2017 | $2,360 | $472,000 |
| average cost of CY16 and CY17 estimates | $2,392 | $478,400 |

The analysis so far has identified:

- a $79 million estimate of the maximum clean energy tax credits using one percent of the annual statewide Missouri revenue of Missouri retail electric suppliers as directed by paragraph 1 of the proposed section 386.1000.
- an estimate that 40% of total solar construction would be residential and 60% commercial
- project cost estimates of $18,300 for 6.1 kW residential projects and $478,400 for 200 kW commercial projects

The final factor to calculate before arriving at the amount of application deposit revenue is any phase-in period as the Department of Economic Development issues rules and prepares its processes and the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available. The Missouri State Energy plan reports that Missouri currently has 111 MW of installed solar PV capacity. The plan also reports that there is 42.8 MW of installed net-metered PV solar developed over the years largely as a result of rebates from large utility companies in Missouri.

The proposal being analyzed establishes a statutory program of clean energy tax credits that will sunset after the Department of Economic Development certifies that 1,000 MW of capacity has been added as a result of the tax credits but no later than June 30, 2022. The 1,000 MW target represents a dramatic increase in current capacity.

The Missouri State Energy plan provides a wealth of information about the current state of "green jobs" and the solar industry in Missouri. The report includes the following along with other findings about the industry.

- Missouri had over 100,000 "green jobs" according to a 2009 study.[9]
- Missouri was identified as 10th in the nation for growth in clean energy and clean transportation jobs in 2013.[10]

- $187 million was invested by Missouri's solar industry in 2014 to install solar photovoltaic systems for residential, commercial, and utility use.[11]
- There are more than 97 solar companies at work throughout the supply chain in Missouri, employing 2,500 people including manufacturers, contractors, installers, project developers, distributors.[12]
- Missouri could create 8,500 new jobs to design, install, and operate energy efficiency measures by 2025 according to a 2011 study.[13]
- In 2010 Missouri ranked 6th in the nation in photovoltaic jobs.[14]

The clean energy tax credit does not sunset until the 1,000 MW target of additional capacity is met but no later than June 30, 2022. The size and the long-term nature of the 1,000 MW target should encourage the development of the Missouri solar industry even after it sunsets. It should also result in long-term planning and the build out of a native Missouri solar industry. The target also provides an incentive for the industry to meet the growth potential described in the Missouri State Energy Plan.

In the long-term the impact of the 1,000 MW target will grow and build the industry. In addition, investment in solar will allow longer term benefits in reduced fuel usage, cleaner air, better health and the resulting lower costs among other things. The Missouri State Energy Plan identifies the public health impacts of various energy sources with clean energy sources providing significant positive benefits over other sources.[15] A 2013 study of Hawaii's solar tax credit program found that the State recovered the full cost of the tax credit in 9 to 11 years - a rate of return on its investment ranging from 8.9% to 10.3%.[16] In addition, the study found that for each dollar spent by Hawaii on tax credits the amount of additional sales stimulated was $34.69 for residential solar PV and $55.03 for commercial PV.

However, the fiscal note format required for initiative petitions focuses on the short-term revenue and costs. Thus, the longer-term benefits are not included in this fiscal analysis. As explained elsewhere in this fiscal analysis the impact of the availability of tax credits is somewhat dependent upon the speed with which the Department of Economic Development issues the necessary rules and regulations, develops and makes available the application forms, and the industry's reaction to voter approval and the department's actions. Thus, two alternatives are calculated to create a possible range for the likely outcome in the short-term.

The first alternative assumes that construction will be sufficient to use half of the $79 million in possible tax credits. The first alternative assumes that the program is not implemented until July 2017 thus reducing its effect by half in CY 2017. The second alternative assumes that construction will be sufficient to use all of the $79 million in possible tax credits. The second alternative assumes that the industry is energized by the tax credit and pushes forward with construction under the assumption that the Department of Economic Development will recognize all projects that have been started after voter approval of the proposal.

Table 10 takes that information and shows two possible alternatives for CY 2017.

- Construction leading to use of **half** the available tax credits ($39.5 million) - A total of $112.8 million in construction would be required to generate $39.5 million in tax credits. Residential construction of $45.1 million (assuming 40% of construction) would result in $15.8 million in tax credits. Commercial construction of $67.7 million (assuming 60% share of construction) would result in $23.7 million in tax credits.

- Construction leading to use of **all** the available tax credits ($79 million) - **A total of $225.7 million in construction would be required to generate $79 million in tax credits**. Residential construction of $90.3 million (assuming 40% of construction) would result in $31.6 million in tax credits. Commercial construction of $135.4 million (assuming 60% share of construction) would result in $47.4 million in tax credits.

In addition, using the average cost and size of projects it is possible to compute the number of residential and commercial projects that will be constructed. A total of 2,608 projects would be constructed with half

the tax credits (2,466 residential, 142 commercial). A total of 5,216 projects would be constructed with all the tax credits (4,933 residential, 283 commercial).

**Table 10**
**Number of Projects using Half or All of Tax Credit Cap**

| | CY 2017 construction needed for half of tax credits to be used in FY 2018 | CY 2017 construction needed for all of tax credits to be used in FY 2018 |
|---|---|---|
| Tax credits estimate from CY 2017 construction | $39,494,829 | $78,989,658 |
| Amount of construction value needed to generate value of 35% tax credits | $112,842,369 | $225,684,737 |
| | | |
| % of residential per year of credits issued | 40.0% | 40.0% |
| % of commercial per year of credits issued | 60.0% | 60.0% |
| | | |
| Tax credits by type of construction | | |
| Residential | $15,797,932 | $31,595,863 |
| Commercial | $23,696,897 | $47,393,795 |
| Total amount by type | $39,494,829 | $78,989,658 |
| | | |
| Construction value by type of construction | | |
| Residential | $45,136,948 | $90,273,895 |
| Commercial | $67,705,421 | $135,410,842 |
| Total amount by type | $112,842,369 | $225,684,737 |
| | | |
| Cost of solar projects per project | | |
| Residential (6.1 kW/project) | $18,300 | $18,300 |
| Commercial (200 kW/project) | $478,400 | $478,400 |
| | | |
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |

Table 10 shows a significant number of projects that would be completed throughout the state as a result of the clean energy tax credit. These numbers are possible for a variety of reasons identified in the Missouri State Energy Plan.

- Missouri households use about 12% more than the average U.S. household, thus projects would put real dollars into Missourians pockets for other uses and spending.[17]
- Nationally about ten percent of small business owners state that energy is their single biggest cost according to the National Federation of Independent Business. The same report indicates that an additional 25% of small business owners claim that energy is one of their top three business costs.[18] Thus, clean energy projects that reduce energy usage make businesses more profitable, allow for expansion, and could lead to higher wages for employees.
- Businesses can lower costs through on-site generation while also achieving other benefits.[19]
- Significant operational savings are possible through energy efficiency projects with rates of return as high as 25%.[20]

- A wealth of financing alternatives now exist for clean energy projects.[21]
- "Approximately 60% of the largest U.S. businesses have set public climate and energy goals to increase their use of renewable energy."[22]

Table 11 calculates the amount of application deposit revenue that the Department of Economic Development would receive given the number of projects identified in Table 10. If applications are submitted for projects equivalent to half the available tax credits then the department would receive $0.9 million in application deposit revenue. If applications are submitted for projects equivalent to all the available tax credits then the department would receive $1.7 million in application deposit revenue. The proposal allows the department to keep some of the revenue for its operational purposes. Table 11 shows that it can keep up to $61 for residential applications (half of the anticipated deposit in this analysis) and up to $250 for all other applications. The net non-refunded revenue that the department will have available for its operations is $185,926 or $371,663.

**Table 11**
**Application Deposit Revenue**

| | Application Deposit Estimate for half of tax credits for applications FY 2018 | Application Deposit Estimate for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |
| | | |
| Application deposit required per project | | |
| Residential | $122 | $122 |
| Commercial | $4,000 | $4,000 |
| | | |
| Application deposit revenue | | |
| Residential | $300,852 | $601,826 |
| Commercial | $568,000 | $1,132,000 |
| Total revenue by type | $868,852 | $1,733,826 |
| | | |
| | | |
| Application revenue kept per project for Department Operations | | |
| Residential | $61 | $61 |
| Commercial | $250 | $250 |
| | | |
| Application deposit revenue available for Department Operations | | |
| Residential | $150,426 | $300,913 |
| Commercial | $35,500 | $70,750 |
| Total amount by type | $185,926 | $371,663 |

Table 12 shows the amount of solar capacity added by the number of projects identified in the previous tables given the given size of residential and commercial projects. A total of 43.4 MW would be added in solar capacity as a result of projects equivalent to half the available tax credits which would be 4.3% of the 1,000 MW goal that when achieved will sunset the tax credits. A total of 86.7 MW would be added in

solar capacity as a result of projects equivalent to all the available tax credits which would be 8.7% of the 1,000 MW goal that when achieved will sunset the tax credits.

**Table 12 Amount of Solar Capacity Added**

| | Capacity added for half of tax credits for applications FY 2018 | Capacity added for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |
| | | |
| kW generated by construction | | |
| Residential (6.1 kW/project) | 15,043 | 30,091 |
| Commercial (200 kW/project) | 28,400 | 56,600 |
| Total amount by type | 43,443 | 86,691 |
| | | |
| MW generated by construction | | |
| Residential | 15.0 | 30.1 |
| Commercial | 28.4 | 56.6 |
| Total amount by type | 43.4 | 86.7 |
| | | |
| % of 1,000 MW goal achieved | 4.3% | 8.7% |

**Taxes**

As noted on pages 10-11 of this fiscal analysis, the Missouri State Energy Plan published in October 2015 describes the current capacity, industry size, and investments being made in Missouri. The plan also describes the potential for jobs and economic development in the state. The 1,000 MW target represents a dramatic increase in current capacity. The following analysis assumes that due to the dramatic size of the 1,000 MW target that the investments driven by the clean energy tax credits will result in new jobs and industry expansion.

Table 13 shows the cost components of a solar construction project. Labor is assumed to be 35% of the project costs, materials 40%, and Profit 10%. It is assumed that 15% of the project cost is overhead and it is assumed that no taxes would be applied. Since Missouri already has a base of manufacturers and distributors it is assumed that all materials will be Missouri taxed.

**Table 13**
**Construction Project Components, Tax Type, and Tax Rate**

| Project components | % of job | Missouri tax rate | Type tax |
|---|---|---|---|
| Labor | 35.0% | 6.00% | Income tax |
| Materials and local materials | 40.0% | 4.225% | Sales |
| Profit | 10.0% | 6.25% | Corporate |
| Overhead | 15.0% | 0.00% | N/A |
| subtotal by taxable type | 100.0% | | |

Table 14 computes the state and local taxes based on the value of construction and the project components and tax rates shown in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $4.4 million to $8.9 million in FY 2018. The other three state funds

(Prop C, Conservation, Parks/Soils) are estimated to receive between $0.6 million to $1.1 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $1.75 million to $3.5 million in local sales tax revenue in FY 2018.

**Table 14**
**State and Local Taxes Generated by Construction**

| | Half of tax credits used - CY 2017 | All of tax credits used - CY 2017 |
|---|---|---|
| Amount of construction value needed to generate value of 35% tax credits | $112,842,369 | $225,684,737 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $39,494,829 | $78,989,658 |
| Materials and local materials | $45,136,947 | $90,273,895 |
| Profit | $11,284,237 | $22,568,474 |
| subtotal by taxable type | $95,916,013 | $191,832,027 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $2,369,690 | $4,739,379 |
| Materials and local materials - Sales/Use Tax | $1,354,108 | $2,708,217 |
| Profit - General Revenue Corporate Tax | $705,265 | $1,410,530 |
| subtotal GR | $4,429,063 | $8,858,126 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $451,369 | $902,739 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $56,421 | $112,842 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $45,137 | $90,274 |
| subtotal State Taxes | $4,981,991 | $9,963,981 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $1,751,314 | $3,502,627 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $6,733,304 | $13,466,608 |

The taxes generated from the construction activity shown in Table 14 likely underestimate the state revenue that will be generated by the construction of clean energy projects even within the short time period allowed in the fiscal note. As noted earlier there are multiplier effects that ripple through the economy. The Department of Economic Development through MERIC has a sophisticated model that it uses to evaluate the impact of tax credits and other business investments made in the State of Missouri. Using the information in this fiscal analysis MERIC should be able to provide supplementary information regarding the extra economic activity and increased revenues.

Similarly, generating additional clean energy within the State of Missouri will result in a decrease in the importation of power and energy producing raw materials from other states. Such money leakage from the state, businesses and citizens, decreases the amount of purchasing could be done for other purposes such as increased jobs within the state and thus the tax revenues that would be generated. For example, the Missouri State Energy Plan notes that Missouri is the sixth largest consumer of coal in the country and 92.5% of the coal used in 2013 was imported from Wyoming.[23] The plan reports that the state sends billions of dollars out of state for purchases of imported coal, natural gas, and transportation fuels.[24]

**Community Solar Act** - Applies to Versions 28, 30, 31, 32, 34, and 36
The Community Solar Act, section 386.910 of the proposal, directs the Missouri Public Service Commission to establish rules allowing customers to participate in a “community solar facility.” Community solar facilities allow participants to benefit from solar energy and receive electric bill credits substantially similar to net metering.

Paragraph 3 of that section states that the "aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous fiscal year." Table 15 shows the total peak demand data compiled by the Public Service Commission for the four utilities affected by this section. The report shows that using peak demand leads to a cap of 504.5 MW on the amount of aggregated capacity of community solar facilities statewide.

**Table 15 - Peak Demand for Community Solar**

| Utility Name | Peak Demand |
|---|---|
| Union Electric Co - (MO) | 7,713.0 |
| Kansas City Power & Light Co | 1,878.0 |
| KCP&L Greater Missouri Operations Co. | 1,860.0 |
| Empire District Electric Co | 1,162.0 |
| Total | 12,613.0 |
| 4% overall cap | 504.5 |

Paragraph 2 of that section defines a community solar facility as a photovoltaic electric generation facility with a capacity of between 100 and 1,000 kW. For purposes of this fiscal note it is assumed that all community solar projects will be the same as the 200 kW project limit established in the clean energy tax credit language of 386.1000. In Table 12 above a low and high range was calculated for the percentage of solar capacity added through the tax credits based on the expectations of the phase-in necessary for the Department of Economic Development's implementation of the clean energy tax credits. The same percentage is used - 4.3% low range and 8.7% higher range. Similarly, for the purposes of this fiscal note the cost per kW will be $2,392 for a total project cost of $478,400 as shown in Table 9.

Table 16 shows the data and calculations needed to identify the number of projects. At the low end of the range 21.7 MW of added community solar capacity would be created which would require 108 projects of 200 kW. At the higher range 43.9 MW of added community solar capacity would be created which would require 219 projects of 200 kW.

Table 16 also shows that at an average project cost of $478,400 the low range results in $51.7 million in construction spending. The higher range results in $104.8 million in construction spending.

**Table 16**
**Community Solar Capacity and Projects**

| | Low Range | Higher Range |
|---|---|---|
| Assumed % of aggregate capacity | 4.3% | 8.7% |
| Added capacity - MW | 21.69 | 43.89 |
| Added capacity - kW | 21,694.36 | 43,893.24 |
| # projects at commercial 200 kW per project | 108 | 219 |
| Construction cost - commercial project per 200 kW project | $478,400 | $478,400 |
| Construction value | $51,667,200 | $104,769,600 |

Table 17 computes the state and local taxes based on the value of construction and the project components and tax rates shown earlier in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $2.0 million to $4.1 million in FY 2018. The other three state funds (Prop C, Conservation, Parks/Soils) are estimated to receive between $0.2 million to $0.5 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $0.8 million to $1.6 million in local sales tax revenue in FY 2018.

**Table 17**
**State and Local Taxes Generated by Construction of Community Solar Projects**

| | Low range | Higher range |
|---|---|---|
| Amount of construction value needed to generate estimated MW | $51,667,200 | $104,769,600 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $18,083,520 | $36,669,360 |
| Materials and local materials | $20,666,880 | $41,907,840 |
| Profit | $5,166,720 | $10,476,960 |
| subtotal by taxable type | $43,917,120 | $89,054,160 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $1,085,011 | $2,200,162 |
| Materials and local materials - Sales/Use Tax | $620,006 | $1,257,235 |
| Profit - General Revenue Corporate Tax | $322,920 | $654,810 |
| subtotal GR | $2,027,938 | $4,112,207 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $206,669 | $419,078 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $25,834 | $52,385 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $20,667 | $41,908 |
| subtotal State Taxes | $2,281,107 | $4,625,578 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $801,875 | $1,626,024 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $3,082,982 | $6,251,602 |

**Net metering bills** - Applies to Versions 28, 29, 30, 31, 32, 35, and 36
The Missouri General Assembly has considered six net metering bills over the past three legislative sessions. Table 18 below identifies the bills and provides links to the fiscal note and bill summary prepared for each bill. All of the fiscal notes prepared and available indicated that there was no state impact from the net metering bills.

**Table 18**
**NET METERING**
**2013, 2014, AND 2015 LEGISLATIVE SESSIONS**

| Session | Bill | Sponsor | Fiscal Note Impact | Fiscal Note Summary Link | Bill Summary Link |
|---|---|---|---|---|---|
| 2015 | SB 75 | Holsman | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0622-01N.ORG.pdf | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=82&BillID=174 |
| 2015 | SB 509 | Holsman | No impact | N/A | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=664&BillID=4599469 |
| 2015 | HB 481 | Berry (38) | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0502-01N.ORG.pdf | http://house.mo.gov/billtracking/bills151/sumpdf/HB0481C.pdf |
| 2014 | HB 1795 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER14/fishtm/5552-02N.ORG.htm | http://house.mo.gov/billtracking/bills141/sumpdf/HB1795I.pdf |
| 2013 | HB 119 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/0794-02N.ORG.htm | http://house.mo.gov/billtracking/bills131/sumpdf/HB0119I.pdf |
| 2013 | SB 396 | Holsman | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/1078-07N.ORG.htm | http://www.senate.mo.gov/13info/BTS_Web/Bill.aspx?SessionType=R&BillID=19218703 |

**Electric Vehicle Charging Stations** - Applies to Versions 30, 31, 32, 34, and 35
The petition authorizes investor-owned utilities to recover costs for infrastructure investments in electric vehicle charging stations, provided the energy output from the stations is offset in part by clean energy. There should be no fiscal impact to the state. Utility investment in electric charging stations will result in positive economic activity similar to other capital investments. However, the range of the benefits is unknown at this time.

ENDNOTES

[1] U.S. Energy Information Administration: *Table 10: All Sectors - Class of ownership, number of consumers, sales, revenue, and average retail price by State and utility*
http://www.eia.gov/electricity/sales_revenue_price/

[2] U.S. Energy Information Administration: *Supplemental Data: 1990 - 2013 Revenue from Retail Sales of Electricity by State by Sector by Provider (EIA-861)*
http://www.eia.gov/electricity/sales_revenue_price/

[3] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25
https://energy.mo.gov/energy/docs/MCSEP.pdf

[4] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25-26
https://energy.mo.gov/energy/docs/MCSEP.pdf

[5] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[6] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 200
https://energy.mo.gov/energy/docs/MCSEP.pdf

[7] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 5
http://www.nrel.gov/docs/fy15osti/64898.pdf

[8] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 4
http://www.nrel.gov/docs/fy15osti/64898.pdf

[9] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 172
https://energy.mo.gov/energy/docs/MCSEP.pdf

[10] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 173
https://energy.mo.gov/energy/docs/MCSEP.pdf

[11] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[12] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[13] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 174
https://energy.mo.gov/energy/docs/MCSEP.pdf

[14] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 175
https://energy.mo.gov/energy/docs/MCSEP.pdf

[15] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 190-191, 193, 195-199, 201, 203
https://energy.mo.gov/energy/docs/MCSEP.pdf

[16] Thomas A Loudat, Blue Planet Foundation. "*The Economic and Fiscal Effects of Hawaii's Solar Tax Credit*" - January 2013.
http://blueplanetfoundation.org/renewable-energy-tax-credit-2013.html?highlight=WyJsb3VkYXQiXQ==

[17] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 154
https://energy.mo.gov/energy/docs/MCSEP.pdf

[18] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 165 for both sentences in this bullet point
https://energy.mo.gov/energy/docs/MCSEP.pdf

[19] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[20] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[21] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[22] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 178
https://energy.mo.gov/energy/docs/MCSEP.pdf

[23] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 20-21
https://energy.mo.gov/energy/docs/MCSEP.pdf

[24] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 42
https://energy.mo.gov/energy/docs/MCSEP.pdf

**Edward D. Greim** provided the following information as an opponent of this initiative petition.

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February 1, 2016

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Re: *Fiscal Note in Initiative Petition 2016-217*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petition 217:

> Lost revenue to state government is $3.04 billion over the tax credit period, with annual losses of $9.5 million to $11.5 million thereafter. Lost revenue to local government is $189.1 million over the tax credit period, with annual losses of $31.5 million to $33.9 million thereafter.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments; taxes that do not apply whenever electricity is never sold due to customer-generator production encouraged by the initiative petition. Petition signers and voters must be informed that any positive fiscal impact of the initiative petition is speculative. Likewise, petition signers and voters must be informed that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume.

Graves Garrett LLC

**Description of Policy**

Initiative Petition 217 contains three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of the "Community Solar Act"; and (3) A state tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, or certain natural gas technologies.

1. Changes to Net Metering for Investor-owned electric utilities and municipal electric utilities
    A. Raise net metering cap to 7% (is currently 5%);
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);
    D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.
2. Community Solar Act
    A. PSC adopts rules and regulations allowing groups of 5 or more electrical corporation customers to offset energy usage with solar located in the service territory of the electrical corporation where they have an account;
    B. Facilities are 100 kilowatts to 1 megawatt;
    C. Community solar facilities may, in total, generate electricity of 4% or less of single-hour peak load, but that amount does not count toward net metering; Electrical corporations can own half (max of 2%), which may be included in the rate base. Others may own the other half (max of 2%);
    D. Community Solar facilities are not eligible for tax credits provided in the petition;
    E. Commission sets a community solar rate, not less than electrical corporation's average retail rate;
    F. Value of allocated solar bill credits reduces customer's total bill;
    G. The current value-of-community-solar rate may be locked in for 20 years beginning when a community solar facility is put in operation.
3. Tax credit
    A. 35% tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, etc.
    B. Total value of eligible credits shall not exceed 1% of the value of electricity used in Missouri[1] – defined as revenue from sale of electricity in Missouri. Unused credits carryover year to year until June 30, 2022

[1] The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. See U.S. Energy Information Administration – Independent Statistics and Analysis.



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C. No tax credits after June 30, 2022, or after 1000 megawatts of new generation have been installed using the tax credits.

**Burdens on State Government**

In determining the fiscal impact of the petition it is generally reasonable to assume that the various statutory changes in the petition will have independent fiscal impacts. The reasonableness of this assumption is buoyed by the various iterations of the petitions submitted by the proponent, some of which propose tax credits with no proposed changes to the Net Metering and Easy Connection Act. See Initiative Petitions 207 and 208.

*i. Decreased tax collection due to changes to net metering*

Raising the net metering cap from the current 5% of peak hour demand to 7% of peak hour demand will, conservatively, result in a 2% decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase from 5% to 7%. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in the petition provides a strong financial incentive to solar or wind energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[2], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, the net-metering cap applies to single-hour peak load, determined yearly, which means that the cap is a higher percentage of the single hour average load. This fact means that the total increase in generation is higher than it appears. Fourth, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[3] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by approximately $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid

[2] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[3] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.



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in 2014 by investor-owned electric utilities. The additional decreases in sales tax revenues from municipal electric utilities are unknown but substantial.[4]

*ii. Decreased tax collections due to Community Solar Act*

Community solar facilities are in addition to net metering and represent an additional capacity amounting to 4% of each electrical corporation's single-hour peak load. Energy generated from the community solar facility is allocated pro rata by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. There is the potential for such bill credits to decrease overall electrical bills by more than 4% because the "bill credits" are calculated using a "value of solar rate" which is at least as high as the retail rate for electricity, but may be higher. If, for example, solar energy received a 50% rate premium due to its benefits, the amount of bill credits would increase and sales would decrease by more than the 6%, rather than 4% figure. Half of these community solar facilities—the half not owned by electrical corporations—may be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoid property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership model, similar to net metering, because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%).

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by approximately $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities.

*iii. Tax credits*

*a. Decreased tax collections due to tax credits – Credits capped at 1% of value of electricity sold in Missouri, annually ($76 million based on 2014 figures)*

According to 2014 figures, Missouri retail customers bought 7.6 billion dollars' worth of electricity in 2014. It is very conservative to estimate that Missouri retail customers will continue to buy the same value of electricity. Accordingly, the 35% tax credits in the petition will, conservatively, directly result in a loss of state income of up to $76 million, annually. However, electricity rates are volatile, and rates may react violently given market changes and legal changes proposed by the initiative petition. As stated by the Department of Economic Development, the total loss to state revenue in a single year could be $429.3 million, annually, and $3 billion in total.

[4] Assuming $7.6 billion in electricity is sold in Missouri per year (the actual 2014 figure), a 2% decrease will decrease overall state sales tax revenues by 6.4 million annually.



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*b. Cost of eroding tax base due to new energy generation*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer-generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in Missouri. Accordingly, if the tax credits were phased out due to reaching the 1000 MWh/1,000,000 kWh maximum on new electricity generation, new production from such tax credits would produce approximately 1,825,000 MWh per year, also expressed as 1,825,000,000 KWh, or 1,825 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour [5], this new production is valued at $182,500,000.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

In practice, the 1 gigawatt limit on new customer-generated energy production may never be met. Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[6] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for renewable energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology. The petition itself limits tax credits to a maximum of $3.00 per watt, but market forces should make rates in Missouri similar to those in other states, at or around $1.77.

The total, annual loss to state governments *due to the tax credits* is 76.9 million to 435 million over the tax credit period. There is an annual loss in perpetuity after the tax credit period of 5.7 to 7.7 million, depending on how much new customer-generation is developed. See attached table.

[5] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.

[6] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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**Burdens on Local Governments**

Local governments face similar losses in revenue from the various petition provisions as state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*ii. Decreased tax collections due to Community Solar Act*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*iii. Tax credits – Cost of eroding tax base due to new energy generation*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petition may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to local governments, all of which may be reduced or discontinued if the initiative petition is enacted.

The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[7] Based on this estimate, the population-weighted combined average local

[7] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.



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sales tax is 3.585%. Assuming the tax credits sunset due to reaching the 1 Gigawatt production cap, the yearly loss to local governments from lost sales tax from the tax credit is $6,541,578. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,123,540.

The loss to local governments due to the tax credits is $40.4 million over the tax credit period, then $11.5 to $15.7 million annually.

**In Conclusion**

The initiative petition will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petition, such as increases in net metering and community solar. The total tax burden on state government imposed by the petition is approximately $498.6 million over the tax credit period,[8] with $9.5 million to 11.5 million in lost revenues in perpetuity thereafter.

Sincerely,

Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

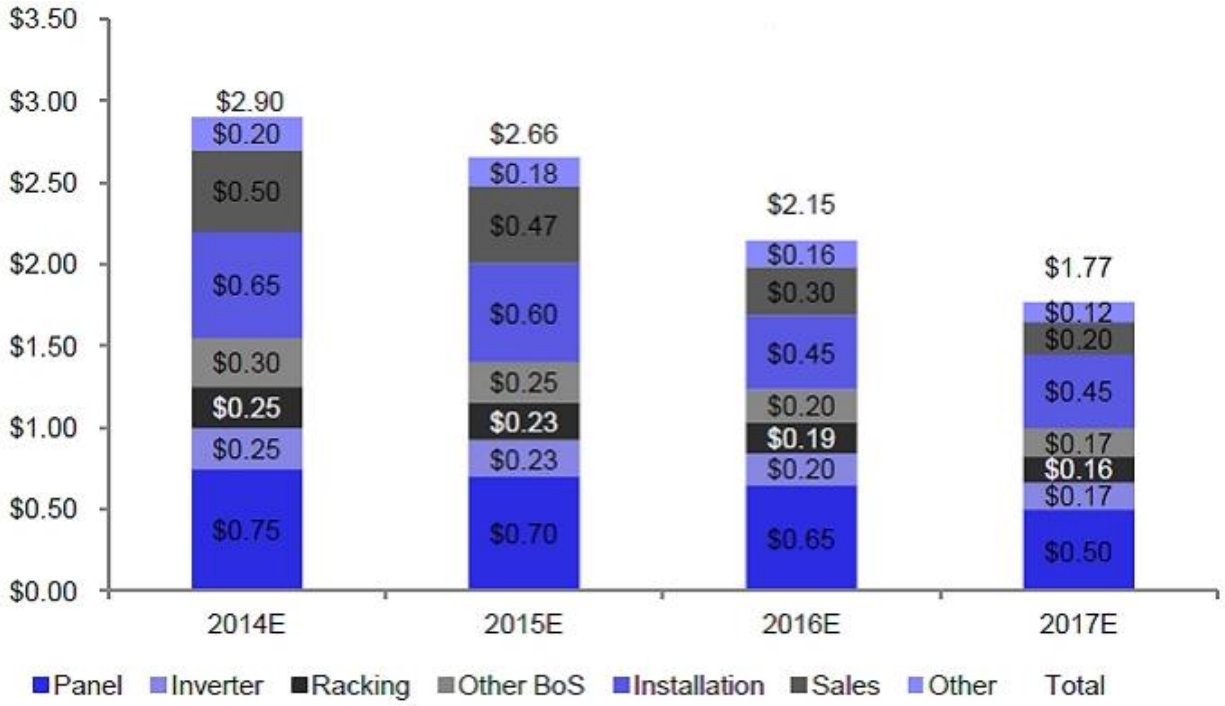
**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0

[8] $475.8 million + [(1.9 million + 1.9 million)*6 years]

Graves Garrett LLC

Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017
https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm



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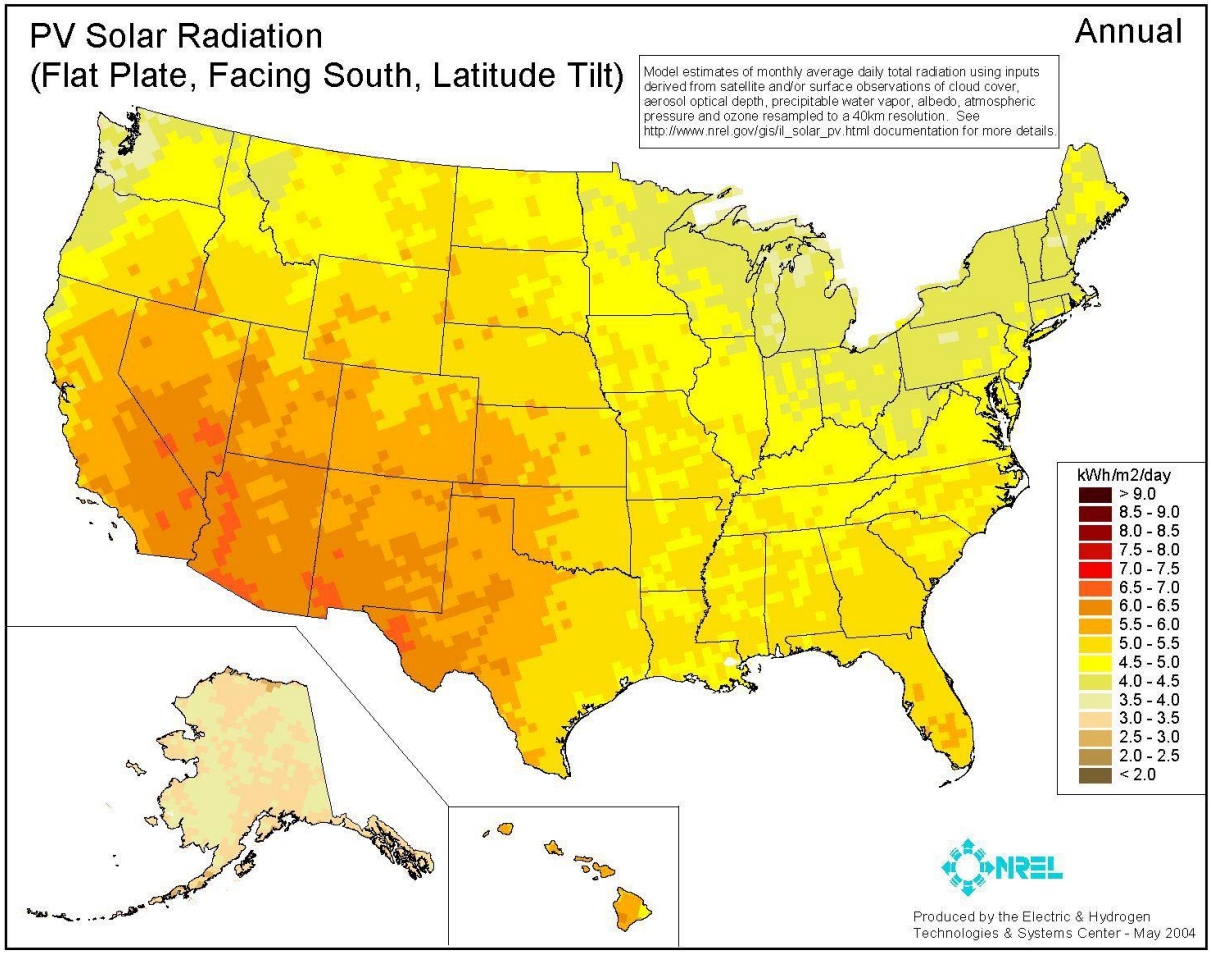
National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Brightergy Renewable Tax Credit Fiscal Analysis (1% Value of Electricity Cap) - Initiative Petition 217**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 122.68 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $76,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 223,854 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $76,000,000 | 122.68 | 122.68 | 223,854 | $100 | $22,385,441 | 4.225% | $945,785 | $76,945,785 | 3.585% | $802,518 | 5.000% | $1,119,272 | $1,921,790 |
| 2018 | $76,000,000 | 122.68 | 245.36 | 447,709 | $100 | $44,770,882 | 4.225% | $1,891,570 | $77,891,570 | 3.585% | $1,605,036 | 5.000% | $2,238,544 | $3,843,580 |
| 2019 | $76,000,000 | 122.68 | 368.04 | 671,563 | $100 | $67,156,323 | 4.225% | $2,837,355 | $78,837,355 | 3.585% | $2,407,554 | 5.000% | $3,357,816 | $5,765,370 |
| 2020 | $76,000,000 | 122.68 | 490.72 | 895,418 | $100 | $89,541,765 | 4.225% | $3,783,140 | $79,783,140 | 3.585% | $3,210,072 | 5.000% | $4,477,088 | $7,687,160 |
| 2021 | $76,000,000 | 122.68 | 613.40 | 1,119,272 | $100 | $111,927,206 | 4.225% | $4,728,924 | $80,728,924 | 3.585% | $4,012,590 | 5.000% | $5,596,360 | $9,608,951 |
| 2022 | $76,000,000 | 122.68 | 736.08 | 1,343,126 | $100 | $134,312,647 | 4.225% | $5,674,709 | $81,674,709 | 3.585% | $4,815,108 | 5.000% | $6,715,632 | $11,530,741 |
| | | | | | | | | **Total State Tax Burden** | **$475,861,483** | | **Total Local Tax Burden (Sales + Franchise)** | | **$40,357,593** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State government revenue may decrease up to $76 million annually until June 30, 2022 with approximately $920,000 net annual increased operating costs. Local government electric revenue may decrease $23.9 million annually with $1.5 million increased operating costs. Other resulting economic activity will have an unknown impact on state and local governments.

RECEIVED
JAN 14 2016
STATE AUDITORS OFFICE

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

16-216

January 14, 2016

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Theodis Brown regarding a proposed statutory amendment to Chapter 451 (2016-216)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Theodis Brown on January 14, 2016.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

A NATION WIDE: [illegible] STATE OF [illegible]

. PETITION TO CONSOLIDATE THE BALLOT BOX VOTERS RIGHTS TO DEMAND SEPERATION OF CHURCH STATE TO BE KNOWN AS THE MISSOURI BALLOT BOX VOTE TO AFFIRM THE HOLY BIBLE OPPOSITION TO SAME SEX MARRIAGES RELIGION GROUND

Page ... County ...

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter

INITIATIVE PETITION IN RE Chapter 451RSMO:

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

16-216

We, the undersigned, registered voters of the state of Missouri and ... County (or city of St. Louis), respectfully order that the following amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and ... County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED 2014 JUL 24 AM 10:

BE IT ENACTED BY THE PEOPLES RELIGION BELIEF SHALL THE HOLY BIBLE POSITION ON CREATION OF MAN & WOMAN ADAM & EVE GOD LAW BE CONSOLIDATED INTO ONE CONSTITUTIONAL SEPERATION THEREOF INVOKING GOD'S LAWS & STATE LAW TO BE KNOWN AS THE (US CONST. SEPARATION OF CHURCH & STATE)

? YES OR NO ?

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF ...

I, ..., being first duly sworn, say (print or type names of signers)

| | NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and ... County.

Signature of Affiant (Person obtaining signatures) ... Address of Affiant

Subscribed and sworn to before me this ... day of ..., A.D. 2016

Signature of Notary ... Address of Notary

Notary Public (Seal) My commission expires ...

RECEIVED
JAN 11 2016
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-215

January 11, 2016

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andrew Linhares regarding a proposed statutory amendment to Chapter 386, version 12 (2016-215)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andrew Linhares on January 8, 2016.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-215 County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2016 JAN -8 PM 3:34
SEC. OF STATE

(Official Ballot Title)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ___(check one) expect to be paid for circulating this petition. If paid, list the payer _____.

_____ _____ _____
Signature of Affiant (Person obtaining signatures) (Printed Name of Affiant) Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201_.

_____ _____
Signature of Notary Address of Notary

Notary Public (Seal) My commission expires _____

Be it enacted by the people of the state of Missouri:

Section 386.890 is amended and five new sections are enacted, to be known as sections 386.900, 386.910, 386.920, 386.930, and 386.940, to read as follows:

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act". 16-215

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal electric utility, rural electric cooperative as provided in chapter 394, or electrical corporation as provided in this chapter;

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of, or retail customer that is entitled by contract to receive the electric energy generated by, a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than [one hundred] two thousand kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of [natural resources] economic development;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any municipal utility, electrical corporation regulated under this chapter, or rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for other electric utilities may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and [shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period] all net excess kilowatt-hours generated shall be recorded as net excess energy credits per kilowatt-hour and those credits shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent billing periods;

(4) Any net excess energy credits granted by this subsection shall expire without any compensation at the earlier of either [twelve months after their issuance] March 1 or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) For any rural electric cooperative under chapter 394, or municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule or equivalent formal action by each respective governing body:

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(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10. The governing body of a rural electric cooperative or municipal utility shall, within nine months of January 1, 2008, adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.900. Sections 386.900 through 386.940 shall be known as the "Missouri Energy Freedom Act". These sections reflect both the critical role that abundant, affordable, sustainable, and secure supplies of renewable energy have in advancing the economy of the state and the security, health and welfare of its citizens, and the intent of the people to promote the long term sustainability, security, and affordability of energy supply by encouraging the development and utilization of renewable energy by the people of this state. The right of citizens to directly invest in renewable energy sources to meet their own energy needs, while also connecting to the electric grid, shall not be limited more than is necessary to protect the safety and security of the electric grid.

386.910. As used in sections 386.900 through 386.940, the following terms shall mean:

(1) "Aggregated renewable facility metering", a rate and metering arrangement that allows a property owner with multiple utility accounts on one property or adjacent properties or contiguous properties, all of which are served by the same retail electric supplier, such as but not limited to, a group of university or hospital buildings, municipal or other publicly owned premises, a military base, public housing, shopping mall, or farm properties, to install and operate renewable energy facilities that together do not exceed 5 MW in capacity, on such property or on the adjacent or contiguous property, for the primary purpose of offsetting part or all of the electrical energy requirements associated with the utility accounts on such properties, and allocate the related community renewable energy credits among the utility accounts on such property or adjacent or contiguous property;

(2) "Community based renewable facility access", a rate and metering arrangement that allows for multiple retail customers who are located in a community such as, but not limited to, a condominium complex, industrial park, town, or city, to contract, over a minimum 15 year term for energy produced by a renewable energy facility that does not exceed 5 MW in capacity and that is interconnected to the same public utility distribution system that serves the premises of such retail customers, and allocates related community renewable energy credits among such retail customers, provided however that the 5MW limit in capacity shall not prevent multiple renewable energy facilities serving different retail customers from co-locating;

(3) "Community renewable access arrangements", aggregated renewable facility metering, and community-based renewable facility access;

(4) "Community renewable energy credits", either the per kilowatt-hour deduction in the metered usage used by the retail electric supplier to calculate the utility bill of a retail customer that is participating in a community renewable access arrangement, or a financial amount credited to the utility bill of such a retail customer, which shall be calculated by applying a specified amount per kilowatt-hour, determined as set forth in rules adopted by the commission or in the

policies of the governing body of a municipal utility or retail electric supplier, to the energy generated by a renewable energy facility on behalf of such customers;

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(5) "Renewable energy resources", the same meaning as set forth in subdivision (6) of subsection 2 of section 386.890;

(6) "Renewable energy facility", a facility that produces renewable energy resources;

(7) "Retail electric supplier", the same meaning as set forth in subdivision (7) of subsection 2 of section 386.890;

(8) "Utility account" or "retail customer" means a specific customer account that is receiving service and billed for such service by a retail electric supplier.

386.920 Notwithstanding any provision in this chapter or chapters 393 or 394 to the contrary, the owner or operator of a qualified electric generation unit serving a customer-generator as defined in section 386.890, or of a renewable energy facility that is used in a community renewable access arrangement as defined in section 386.910, that provides renewable energy resources to a retail customer through a power purchase agreement, a sale and leaseback of equipment, or other form of contract between the retail customer and the owner or operator of such qualified electric generation unit or renewable energy facility, shall not be determined by reason of such ownership, operation, contract, or provision of energy, to be an electrical corporation or public utility as those terms are defined in section 386.020, nor shall such owner or operator be precluded from installing, owning or operating the qualified electric unit or renewable energy facility as allowed by section 386.910 or section 386.930 and providing the related renewable energy resources to a customer that is receiving utility service from a retail electric supplier. Nothing in this subsection shall be construed as amending or superseding the commission's authority to ensure safe operation of any electric plant as granted in and pursuant to subsection 1 of section 386.310.

386.930. 1. Each retail electric supplier shall offer the interconnection and metering arrangements and community renewable energy credits necessary to facilitate and support the community renewable access arrangements defined in section 386.920.

2. Within 60 days of the effective date of this section, the commission shall promulgate initial rules to establish the terms and conditions under which the retail electric suppliers regulated under chapter 393, shall be required to interconnect with and support each of the community renewable access arrangements defined in section 386.910, including the determination of community renewable energy credits to be applied in such arrangements, and shall conclude such proceeding by adopting a proposed rule within 180 days of promulgating the initial rules. Within twelve months of the effective date of this section, the governing body of a municipal utility or rural electric cooperative shall also adopt policies establishing the terms and conditions under which such municipal utilities or rural electric cooperatives shall be required to interconnect with and support each of the community renewable access arrangements, including the determination of community renewable energy credits. Such rules or policies shall provide that retail electric suppliers shall recover the costs of any additional distribution equipment that the retail electric supplier is required to install to accommodate the installation of the renewable energy facility that is part of a community renewable access arrangement from the owner or operator of such facility or from the customers participating in the community renewable access arrangement. The provisions of subsections 11, 13, 16, and 17 of section 386.890 shall also apply to renewable energy facilities used in community renewable access arrangements to the same extent they apply to the generation units of customer-generators under section 386.890.

3. In any rulemaking or other proceeding required by subsection 2 of this section, provisions equivalent to the interconnection provisions set forth in subsections 6, 7, and 15 of Section 386.890, and provisions equivalent to those in subsection 5 of section 386.890 for the calculation of a net electrical energy measurement and application of credits for net excess energy generated, shall be presumed reasonable and shall apply to the utility bills of the retail customers in community renewable access arrangements unless alternate terms and conditions are shown by clear and convincing evidence to be necessary either to protect the safety and security of the electric grid or to better meet the criteria set forth in subsection 4 of this section. In no circumstance, however, shall the commission or governing body of a municipal utility or rural electric cooperative approve an alternate means of calculating community renewable energy credits that results in an amount less than the sum of the retail electric supplier's avoided energy and capacity costs, and any avoided transmission and distribution costs that result from the installation and operation of such facility, and other avoided costs identified by the commission or governing body of a municipal utility or rural electric cooperative.

4. In adopting the rules or policies provided for in this section, and when reviewing tariffs, contracts for service, interconnection agreements or rates, or deciding complaints relating to community renewable access arrangements, the commission or governing body of a municipal utility or retail electric supplier shall balance each of the following objectives: maximizing the use of in-state renewable energy resources by citizens of the state and removing or reducing existing barriers including, but not limited to, requirements for costly studies and other preconditions to interconnection or the lack of standardized terms, to the direct investment by individuals, businesses, and other entities in renewable energy resources; promoting private investment in renewable capacity in the state; promoting the diversification of the state's supply portfolio and reducing the state's dependence on fossil fuel energy sources; mitigating more costly transmission and distribution investments otherwise needed for system reliability; encouraging the growth of jobs and other economic development within the state; minimizing the long term costs associated with future additions of capacity needed to meet the state's energy requirements; and furthering the long term affordability, reliability, and security of energy supply.

386.940. 1. Any taxpayer that owns a solar powered electric energy generation unit that meets the requirements for net metering under section 386.890, or solar powered electric energy generation unit that is part of a community renewable access arrangement, and that has incurred costs and expenses related to the construction, design, and installation of that generation unit on or after the effective date of this section, shall, subject to the provisions of subsections 2 through 7 of this section, be allowed a state tax credit against the income taxes imposed pursuant to chapter 143 (except withholding imposed by sections 143.191 to 143.265), if the director of the department of revenue issues an eligibility statement for that project. The tax credit provided for in this section shall be known as the "Missouri Solar Energy Tax Credit".

2. The state tax credit allowed under this section shall not exceed thirty-five percent of the total costs and expenses incurred for the construction, design, and installation of that generation unit, up to a total of seventy-five thousand dollars per utility metered account; provided, however, that beginning in calendar years 2022 through 2031, the thirty-five percent limit on total costs and expenses shall be reduced by an amount of two percent per year, and the seventy-five thousand dollar limit shall be reduced by two thousand five hundred dollars per year, and such reduced limits shall apply to the tax credits allowed under this section during calendar years 2022 through 2031.

3. In no event shall the aggregate amount of all tax credits allowed under this section exceed fifty million dollars in any given calendar year for the period beginning with the effective date of this section through June 30, 2021. During the calendar years 2022 through 2031, this fifty million dollar limit for the calendar year shall be reduced each year by an amount equal to $2.5 million dollars. No new tax credits provided for under this section shall be authorized after June 30, 2031. The department of revenue shall promulgate rules and regulations for the administration of tax credits issued pursuant to this section, and establish the procedure by which such tax credits may be claimed.

4. Any eligible applicant desiring to claim a tax credit under this section shall first request an eligibility statement from the department of revenue. The applicant shall identify: the generation unit for which a tax credit is claimed; the costs and expenses expected to be incurred by the applicant related to the construction, design, and installation of the unit; the nameplate capacity of the unit; and the ownership for the unit. The director of the department of revenue shall issue an eligibility statement within thirty (30) days of the request if it finds that the applicant qualifies for a credit under this section. Tax credits shall be awarded on a first-come, first-serve basis, until the limits as provided in subsection 3 of this section are reached. The department of revenue may promulgate rules and regulations relating to this certification process.

5. The credit authorized by this section shall not be refundable. Any amount of credit which exceeds the tax due for a taxpayer's taxable year may be carried forward to any of the taxpayer's five subsequent taxable years.

6. All or any portion of the tax credits issued in accordance with this section may be transferred, sold, or assigned to a third party. Certification of transfer, sale or assignment and other appropriate forms must be filed with the department of revenue.

7. The reporting provisions of the Tax Credit Accountability Act of 2004 apply to the tax credits issued under this section.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-215)**

**Subject**

Initiative petition from Andrew Linhares regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received January 11, 2016)

**Date**

February 1, 2016

**Description**

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **Public Service Commission,** and the **Missouri Joint Municipal Electric Utility Commission**.

**Edward D. Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** (DED) indicated this proposal would reduce state revenues by $50 million for fiscal year 2017, $50 million for fiscal year 2018, and $50 million for fiscal year 2019.

**Summarize how this bill would affect the agency**

Section 386.890 – Net Metering and Easy Connection Act
The Division of Energy (DE) assumes it would be involved in the implementation of this provision that modifies the existing net metering and interconnection requirements for regulated electric utilities. It is assumed there would be a rulemaking docket to set the process and details associated with this proposal. Rulemaking cases before the Public Service Commission (PSC) may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where net metering provisions are considered.

Section 386.930 – Community Renewable Energy
This section requires retail electric suppliers to offer interconnection and metering arrangements and community renewable energy credits for community renewable facilities up to 5 megawatts (MW). This provision requires the PSC to promulgate rules. Similar to above, DE assumes it would be involved in the implementation of this provision by participating in a rulemaking docket to set the process and details associated with this proposal and by monitoring and participating in tariff and other related cases.

Section 386.895 – Missouri Solar Energy Tax Credit
The Department of Revenue (DOR) is required to implement the Missouri Solar Energy Tax Credit. The proposal requires DOR to promulgate rules to establish a process for claiming of the credit and may promulgate rules related to a certification of eligibility process.

The existing Missouri Renewable Energy Standard (RES) requires investor-owned utilities in Missouri to either produce green power or purchase Renewable Energy Certificates (RECs) for compliance. DE has statutory authority to certify that eligible renewable energy resources do not cause undue environmental impacts before RECs associated with those renewable energy resources can be used for RES compliance. There are no certification fees associated with this review. DE anticipates that enactment of a

solar tax credit, expansion of the net- metering/interconnection size from 100 kilowatts (kW) to 2 MW and other provisions, and the inclusion of aggregated renewable facility metering and community based renewable facility access up to 5 MW will result in an increase in renewable energy installations in Missouri which may be used for RES compliance.

**Long-range implications**

Fiscal impacts associated with the Missouri Solar Energy Tax Credits could continue until June 30, 2031. Economic benefits associated with construction of solar facilities would also have long-range implications.

**Assumptions and methodology used in arriving at state fiscal impact**

Section 386.890 –Net Metering and Easy Connection Act
Section 386.930– Community Renewable Energy
For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

386.895- Missouri Solar Energy Tax Credit
The proposal's estimated impact to General Revenue could be up to $50 million per year from the effective date through June 30, 2021 depending on the schedule of implementation and applications submitted and approved. The potential impact would decrease by $2.5 million per year from 2022 through 2031.

DE assumes that DOR may consult with DE in development of rules associated with implementation of this proposal but that DE would not be involved in reviews of applications to DOR requesting certification of eligibility of solar facilities for the Missouri Solar Energy Tax Credit. For purposes of this fiscal note, DE assumes such consultation could be performed with existing resources.

DE anticipates that enactment of a tax credit will result in an increase in solar energy installations in Missouri which may be used for RES compliance. DE also anticipates that the increase in the capacity size of net metered renewable energy systems from 100 kW to 2 MW and the inclusion of community renewable facilities would result in an increase in other renewable energy installations in Missouri which may be used for RES compliance.

If all tax credits were used up to the cap of $50 million per year, and with consideration to the estimated cost and size of the solar projects, it is estimated there would be 4,718 residential project applications and 271 commercial project applications submitted for tax credit reviews (Source: Mark Reading analysis for similar Initiative Petitions).

For purposes of this fiscal note, DE assumes all applications for RES certification of no undue adverse environmental impacts are for solar projects and that only small numbers of these projects would submit applications for RES certification to DE. DE's review primarily focuses on environmental impacts of renewable electric generation facilities on air, water or land use. The actual staff time spent on each application varies. Solar photovoltaic and other renewable energy facilities with a larger capacity typically require more staff time for reviewing their third-party environmental impact assessments in addition to verifying applicable environmental permits, for data requests and discussion, data collection, database management, report production and website maintenance. For purposes of this fiscal note, DE assumes it could complete the additional RES environmental reviews/certifications anticipated from this proposal using existing resources.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** estimate this petition will result in increased operating expenses of $243,282 for fiscal year 2017, $181,985 for fiscal year 2018, and $183,470 for fiscal year 2019.

The legislation creates a negative impact of up to $50 million per fiscal year to total state revenue by creating a new tax credit.

This petition creates the Missouri Solar Energy Tax Credit which allows up to 35 percent of the costs and expenses for construction, design, and installation of a generation unit. The provisions of subsection 3 cap the tax credit at $50 million and beginning in calendar year 2022, the total cap is reduced by $2.5 million each year. The provisions expire June 30, 2031, allowing for no new tax credits after that date.

Their department suggests the provisions regarding the certification process be administered by the DED and the DE as they would be more familiar with the subject matter.

**Administrative Impact:**

**Personal Tax:**

Personal Tax requires one (1) Revenue Processing Technician I (Range 10, Step L) for every 6,000 credits claimed.

**Corporate Tax:**

Corporate Tax requires three (3) Revenue Processing Technicians I (Range 10, Step L) for every 4,000 credits redeemed, 4,000 credits transferred, and for every 520 SB 1099 compliance mailings and correspondence.

**Integrated Tax System:**

The integrated tax system incurs additional costs of $43,680 to implement the provisions of this petition.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this proposal this proposal amends Section 386.890, RSMo, and adds five new sections to Chapter 386, RSMo.

Section 386.890, RSMo, assigns the DED, rather than the Department of Natural Resources, as the party responsible for certifying an energy source as renewable, along with other changes related to customer-generators and net excess energy credits.

Sections 386.900-386.930, RSMo, enact the Missouri Energy Freedom Act to enable interconnection and metering arrangements and community renewable energy credits necessary to support a community renewable access arrangement.

Section 386.940, RSMo, establishes the "Missouri Solar Energy Tax Credit Act". This Act establishes a state income tax credit for up to 35% of the total costs and expenses incurred for the construction, design, and installation of a solar powered electric energy generation unit, with a cap of $75,000 per utility metered account. The aggregate cap for all tax credits allowed under this section is $50 million. No new tax credits under this section shall be authorized after June 30, 2031. The DOR will promulgate rules and administer this tax credit program.

The caps are gradually reduced as shown below:

| Year | % | Amt | Cap |
|---|---|---|---|
| 2021 | 35% | $ 75,000 | $50.0 M |
| 2022 | 33% | $ 72,500 | $47.5 M |
| 2023 | 31% | $ 70,000 | $45.0 M |
| 2024 | 29% | $ 67,500 | $42.5 M |
| 2025 | 27% | $ 65,000 | $40.0 M |
| 2026 | 25% | $ 62,500 | $37.5 M |
| 2027 | 23% | $ 60,000 | $35.0 M |
| 2028 | 21% | $ 57,500 | $32.5 M |
| 2029 | 19% | $ 55,000 | $30.0 M |
| 2030 | 17% | $ 52,500 | $27.5 M |
| 2031 | 15% | $ 50,000 | $25.0 M |

Assuming the total amount allowed is issued, this proposal will have a cost of $50 million until 2022 and then lower costs until 2031, as shown above. This will impact the calculation under Article X, Section 18(e), of the Missouri Constitution.

This proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5

statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson** indicated they expect no fiscal impact should this petition become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from **University of Missouri** indicated their electric suppliers have not indicated the impact this legislation would have on utility rates so they do not know the impact on their university.

Officials from the **Public Service Commission** (PSC) indicated:

Proposed Section 386.890.18 states “Notwithstanding any provision in this chapter or chapter 393 and 394 to the contrary, the owner or operator of a qualified electric generation unit that provides renewable energy resources to a customer-generator through a power purchase agreement…, shall not be determined by reason of such ownership, operation, contract, or provision of energy to be an electrical corporation or public utility as those terms are defined by section 386.020….” This language suggests that any electrical corporation providing service to a customer-generator could be exempt from Section 386.020 and potentially somehow exempt from commission regulation even if already regulated. To alleviate any possible confusion delete the words “the owner or operator of a qualified electric generation unit that provides renewable energy resources to” before ‘a customer-generator’ (which is already limited by its definition of generators

producing currently 1,000 kW or proposed change 2,000 kW and the limits under the definition of 'community based renewable facility access' of 5 MW). Further, the language "Notwithstanding any provision in this chapter or chapter 393 and 394 to the contrary," should also be removed to not potentially conflict with regulation of electrical corporations.

"Qualified electric generation unit" and "qualified electric energy generation unit" are used throughout the proposal. It is recommended that one term be used consistently and be defined.

Proposed Section 386.895 discusses a "Missouri Solar Energy Tax Credit". It is not clear why the tax credit is in the PSC statute and not in a tax-related statute.

Officials from the **Missouri Joint Municipal Electric Utility Commission** (MJMEUC) indicated:

Missouri Public Utility Alliance (MJMEUC is part of the alliance) through its electric division represents 65 of the 86 cities with municipal electric utilities.

They believe that implementation of this petition would reduce municipal electric utility revenues of approximately $17,000,000 annually based on:

1. Varying changes to the state's net metering law.
2. Greater penetration of solar panels throughout the state because of a state funded tax rebate for their purchase and installation.

Other proposed changes would increase the cost of city operations by approximately $1,520,000.

Several of these proposals modify the state's net metering law to require cities to carry forward to subsequent months excess customer generation. Current software is not designed to provide this functionality and each city would have to contract with their own vendor to modify their billing software.

This petition authorizes private corporations to implement solar generation facilities of up to 5 MW and sell their power to selected groups of residential and commercial customers. For purposes of evaluating the financial impact on cities, they estimated one facility per city, and calculated lost revenues at $52,450,000 per year.

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art X Sec 16) that reduces income or increases costs without "full state financing", they anticipate that the costs would be reflected in the final state cost when the fiscal note is completed. They have no idea what litigation costs might be necessary.

**Edward D. Greim** provided the following information as an opponent of this initiative petition.

Graves Garrett LLC

Edward D. Greim
Graves Garrett, LLC
1100 Main Street, Suite 2700
Kansas City, Missouri 64105
Direct Dial: (816) 256-4144
edgreim@gravesgarrett.com

January 14, 2016

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: *Fiscal Note in Initiative Petitions 2016-213 through 2016-215*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petitions 213, 214, and 215

> Lost revenue to state government is $680.3 million over the tax credit period, with annual losses of $7.6 million thereafter. Lost revenue to local government is $137.8 million over the tax credit period, with annual losses of $15.5 million thereafter. Other, substantial lost revenues of an unknown amount are likely.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments. These taxes, however, will no longer be collected for electricity that is never sold due to the customer-generator production and community solar encouraged by the initiative petitions. Petition signers and voters must be informed of the certainty that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume. On the other hand, any positive fiscal impacts of the initiative petitions are speculative.

**Description of Policy**

Initiative Petitions 213-215 contain one or more of three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of community solar facilities/arrangements; and (3) A state tax credit for solar powered electric energy generation units and arrangements.

1. Changes to Net Metering for Investor-owned electric utilities, municipal electric utilities, and rural electric cooperatives
    A. Redefine customer generator to include retail customers entitled by contract to receive the electrical energy generated by a qualified energy generation unit;
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);
    D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.
2. 5 Megawatt Community Solar Facilities
    A. Electric Customers may participate in community based solar arrangements up to with generation capacity up to 5 megawatts. There is no limit on the number of community solar facilities that may be developed.
    B. Bill credits are one to one against electric utility bills for customers who participate in the community solar facility.
    C. Excess bill credits are sold back to municipal utilities, investor-owned utilities, and electric cooperatives, by kilowatt hour (at rate to be set by commission, that is at least as great as all avoided costs, but up to the retail electric supply rate).
3. Tax credit
    A. 35% tax credit for solar powered energy generation units eligible for net metering, or in some petitions, community solar facilities up to 5 megawatt.
    B. Total value of eligible credits shall not exceed $50 million each year until 2022, with credits decreasing after that date. Unused credits carryover year to year.
    C. No tax credits after June 30, 2031.

**Burdens on State Government**

In determining the fiscal impact of each petition, it is generally reasonable to assume that the various statutory changes in the petitions will have independent fiscal impacts. The reasonableness of this assumption is demonstrated by the various iterations of the petitions themselves. *See* Petitions 213-215.



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*i. Decreased tax collection due to changes to net metering – Initiative Petitions 213-215*

Raising the net metering cap from 100 kilowatt units to 2 megawatt units will result in a decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase due to economies of scale. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in some of the petitions provides a strong financial incentive to solar energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[1], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[2] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. *See* U.S. Energy Information Administration – Independent Statistics and Analysis. Accordingly, a 1% decrease in electricity sales volume will reduce Missouri state sales tax revenues from electric providers by at least 3.2 million dollars. Based on the change from 100 kilowatt units to 2 megawatt units, individual net metering units may significantly impact tax revenues. Every megawatt of installed solar decreases state sales tax revenue by $7,700 annually.

*ii. Decreased tax collections due to community solar facilities – Initiative Petition 215*

Community solar facilities are in addition to net metering and represent an additional capacity of an unlimited amount. Energy generated from the community solar facility is allocated by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. These community solar facilities will be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoids property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership

[1] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[2] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.



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model, similar to net metering,[3] because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%). There is no cap on the amount of community solar facilities that may be constructed, and there are strong financial incentives to create excess production, given declining prices of solar electricity and a mandatory obligation of the interconnected utility to buy electricity at generous, retail rates.

A 1% decrease in electricity sales volume will reduce Missouri state sales tax revenues from electric providers by 3.2 million dollars. Every 5MW "renewable energy facility" will reduce state sales tax revenues by $38,500, annually. Up to $321.1 million in state sales tax revenue is at risk ($7.6 billion * 4.225%).

*iii. Tax credits – Initiative Petitions 213-215*

*a. Decreased tax collections due to tax credits – Credits capped at $50 million annually*

The 35% tax credits in these petitions will directly result in a loss of state income of $25 million to $50 million, annually. The total loss to state government over the tax credit effective period is $612.5 million.

*b. Cost of eroding tax base due to new energy generation*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in Missouri. According to the attached table, the tax credits will result in 988.7 MWh/988,700 kWh of new electricity generation. New production from such tax credits would produce approximately 1,804,090 MWh per year, also expressed as 1,804,090,000 KWh, or 1,804 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour,[4] this new production is valued at $180,408,983.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

[3] The petitions use the terms "facility access", "arrangements", and "bill credits" all of which indicate that the electricity generated and allocated will not be subject to sales tax.
[4] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.



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Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[5] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for solar energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology.

For Initiative Petitions 213-215, the total, annual loss to state governments *due to the tax credits* is 32.6 million to 53.1 million over the tax credit period. The total loss during the tax credit period is $680.3 million. There is an annual loss in perpetuity after the tax credit period of $7.6 million, based on expected customer-generation resourced developed. *See* attached table.

**Burdens on Local Governments**

Local governments face losses in revenue from the various petition provisions that are similar to those faced by state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 213-215*

A 1% decrease in electricity sales volume will reduce Missouri local tax revenues from electric providers by $6.5 million, annually.

*ii. Decreased tax collections due to community solar facilities – Initiative Petition 215*

A 1% decrease in electricity sales volume will reduce Missouri local tax revenues from electric providers by 6.5 million dollars. Every 5MW "renewable energy facility" will reduce local government tax revenues by $78,300, annually. Up to $652.5 million in local sales and license/franchise tax revenue is at risk ($7.6 billion * [3.585% + 5%]).

[5] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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*iii. Tax credits – Initiative Petitions 213-215 – Cost of eroding tax base due to new energy generation*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petitions may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to local governments, all of which may be reduced or discontinued if the initiative petitions are enacted.

The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[6] Based on this estimate, the population-weighted combined average local sales tax is 3.585%. The tax credits will result in 988.70 megawatts of new electricity production that will be net metered or otherwise result in the allocation of bill credits and, as a result, decrease electric revenues. The corresponding annual loss to local governments from lost sales tax from the tax credit is $6,467,662. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,020,449.

The overall annual loss to local governments due to the tax credits is $15.5 million. The total loss to local government revenues during the tax credit period is $137.8 million.

**In Conclusion**

The initiative petitions will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petitions, such as increases in net metering and community solar. The total tax burden on state government imposed by the petitions with tax credits is at least $680 million over the tax credit period, with at least $7.6 million in lost revenues in perpetuity. The total tax burden on state government imposed by the petitions without tax credits is substantial, with up to $321.1 million at risk. The total tax burden on local governments imposed by the petitions with tax credits is at least $137.8 million over the tax credit period, with at least $15.5 million in lost revenues in perpetuity. The total tax burden on local government imposed by the petitions without tax credits is substantial, with up to $652.5 million at risk.

[6] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.



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Graves Garrett LLC

Sincerely,

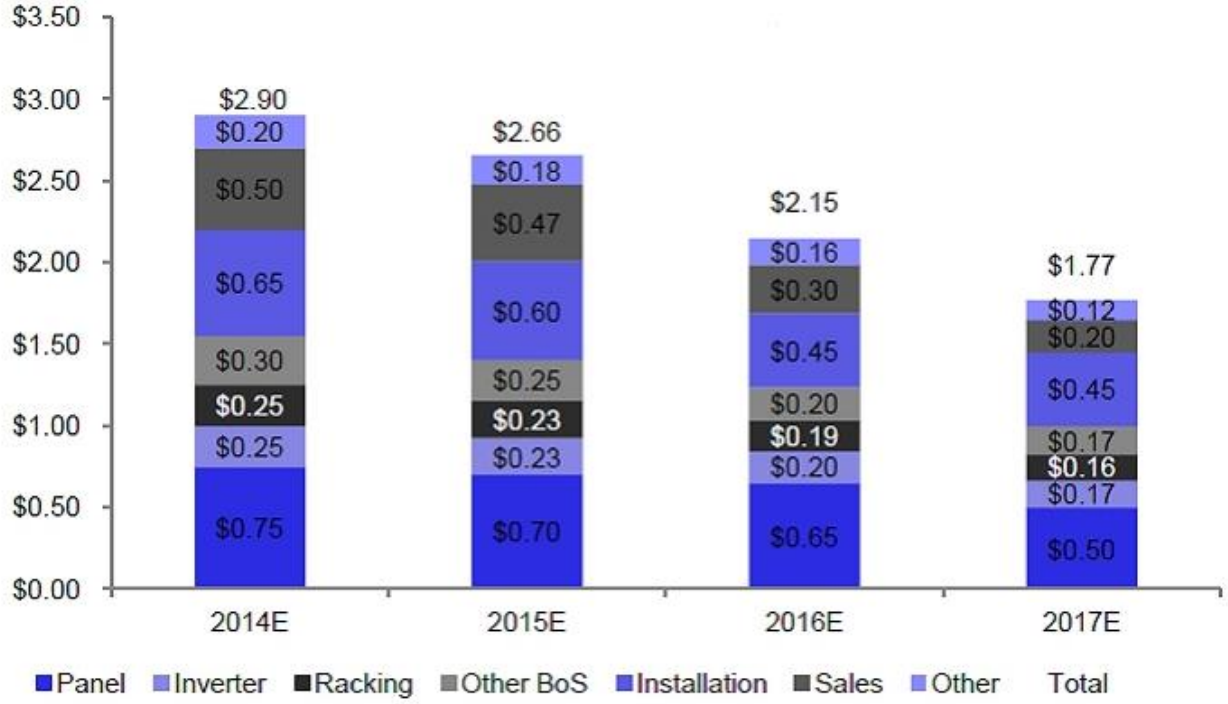
Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0

Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017
https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm



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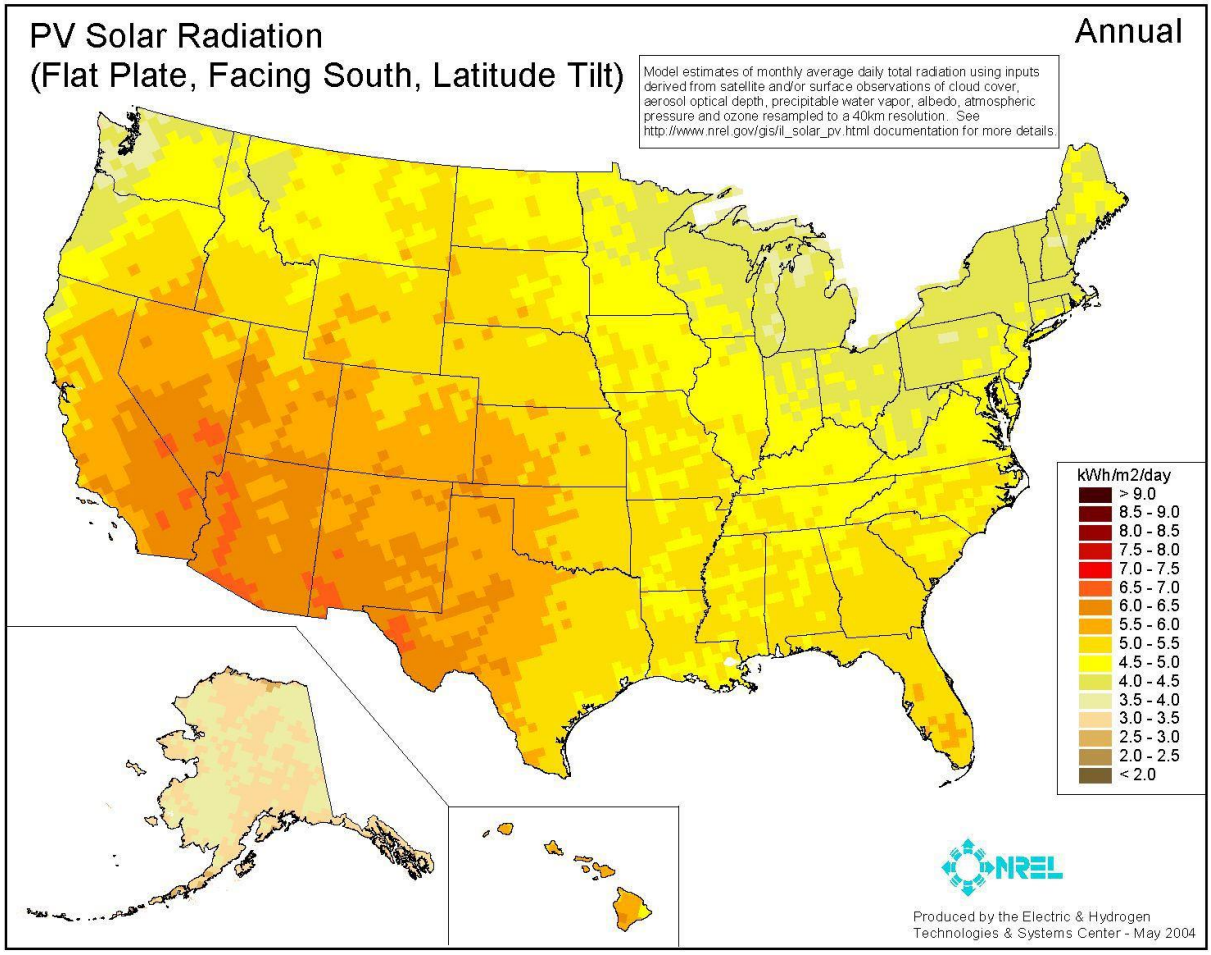
National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Renew Mo Solar Tax Credit Fiscal Analysis - Petitions 213-215**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 80.71 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $50,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 147,273 | |
| $/MWh Retail Rate | $100 | |

| | Solar Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $50,000,000 | 80.71 | 80.71 | 147,273 | $100 | $14,727,264 | 4.225% | $622,227 | $50,622,227 | 3.585% | $527,972 | 5.000% | $736,363 | $1,264,336 |
| 2018 | $50,000,000 | 80.71 | 161.42 | 294,545 | $100 | $29,454,528 | 4.225% | $1,244,454 | $51,244,454 | 3.585% | $1,055,945 | 5.000% | $1,472,726 | $2,528,671 |
| 2019 | $50,000,000 | 80.71 | 242.13 | 441,818 | $100 | $44,181,792 | 4.225% | $1,866,681 | $51,866,681 | 3.585% | $1,583,917 | 5.000% | $2,209,090 | $3,793,007 |
| 2020 | $50,000,000 | 80.71 | 322.84 | 589,091 | $100 | $58,909,056 | 4.225% | $2,488,908 | $52,488,908 | 3.585% | $2,111,890 | 5.000% | $2,945,453 | $5,057,342 |
| 2021 | $50,000,000 | 80.71 | 403.55 | 736,363 | $100 | $73,636,320 | 4.225% | $3,111,135 | $53,111,135 | 3.585% | $2,639,862 | 5.000% | $3,681,816 | $6,321,678 |
| 2022 | $47,500,000 | 76.67 | 480.23 | 876,272 | $100 | $87,627,220 | 4.225% | $3,702,250 | $51,202,250 | 3.585% | $3,141,436 | 5.000% | $4,381,361 | $7,522,797 |
| 2023 | $45,000,000 | 72.64 | 552.87 | 1,008,818 | $100 | $100,881,758 | 4.225% | $4,262,254 | $49,262,254 | 3.585% | $3,616,611 | 5.000% | $5,044,088 | $8,660,699 |
| 2024 | $42,500,000 | 68.60 | 621.47 | 1,133,999 | $100 | $113,399,932 | 4.225% | $4,791,147 | $47,291,147 | 3.585% | $4,065,388 | 5.000% | $5,669,997 | $9,735,384 |
| 2025 | $40,000,000 | 64.57 | 686.04 | 1,251,817 | $100 | $125,181,743 | 4.225% | $5,288,929 | $45,288,929 | 3.585% | $4,487,765 | 5.000% | $6,259,087 | $10,746,853 |
| 2026 | $37,500,000 | 60.53 | 746.57 | 1,362,272 | $100 | $136,227,191 | 4.225% | $5,755,599 | $43,255,599 | 3.585% | $4,883,745 | 5.000% | $6,811,360 | $11,695,104 |
| 2027 | $35,000,000 | 56.50 | 803.07 | 1,465,363 | $100 | $146,536,276 | 4.225% | $6,191,158 | $41,191,158 | 3.585% | $5,253,325 | 5.000% | $7,326,814 | $12,580,139 |
| 2028 | $32,500,000 | 52.46 | 855.53 | 1,561,090 | $100 | $156,108,998 | 4.225% | $6,595,605 | $39,095,605 | 3.585% | $5,596,508 | 5.000% | $7,805,450 | $13,401,957 |
| 2029 | $30,000,000 | 48.43 | 903.95 | 1,649,454 | $100 | $164,945,356 | 4.225% | $6,968,941 | $36,968,941 | 3.585% | $5,913,291 | 5.000% | $8,247,268 | $14,160,559 |
| 2030 | $27,500,000 | 44.39 | 948.35 | 1,730,454 | $100 | $173,045,351 | 4.225% | $7,311,166 | $34,811,166 | 3.585% | $6,203,676 | 5.000% | $8,652,268 | $14,855,943 |
| 2031 | $25,000,000 | 40.36 | 988.70 | 1,804,090 | $100 | $180,408,983 | 4.225% | $7,622,280 | $32,622,280 | 3.585% | $6,467,662 | 5.000% | $9,020,449 | $15,488,111 |
| | | | | | | | | **Total State Tax Burden** | **$680,322,732** | | **Total Local Tax Burden (Sales + Franchise)** | | **$137,812,581** | |

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State government revenue may decrease $25 million to $50 million annually until June 30, 2031, with approximately $200,000 annual increased operating costs. Local government electric revenue may decrease $69.5 million annually with $1.5 million increased operating costs. Other resulting economic activity will have an unknown impact on state and local governments.

RECEIVED
JAN 11 2016
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-2K

January 11, 2016

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andrew Linhares regarding a proposed statutory amendment to Chapter 386, version 11 (2016-214)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andrew Linhares on January 8, 2016.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-214 County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2016 JAN -8 PM 3:33
SEC. OF STATE

(Official Ballot Title)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
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| 14. | | | | | |
| 15. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ___(check one) expect to be paid for circulating this petition. If paid, list the payer _____.

| _____ | _____ | _____ |
|---|---|---|
| Signature of Affiant (Person obtaining signatures) | (Printed Name of Affiant) | Address of Affiant |

Subscribed and sworn to before me this _____ day of _____, A.D. 201_.

| _____ | _____ |
|---|---|
| Signature of Notary | Address of Notary |

Notary Public (Seal) My commission expires _____

Be it enacted by the people of the state of Missouri: 16-2H

Section 386.890 is amended and one new section is added, to be known as section 386.895, to read as follows:

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal electric utility, rural electric cooperative as provided in chapter 394, or electrical corporation as provided in this chapter;

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of, or retail customer that is entitled by contract to receive the electric energy generated by, a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than [one hundred] two thousand kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of [natural resources] economic development;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any municipal utility, electrical corporation regulated under this chapter, or rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for other electric utilities may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

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(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and [shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period] all net excess kilowatt-hours generated shall be recorded as net excess energy credits per kilowatt-hour and those credits shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent billing periods;

(4) Any net excess energy credits granted by this subsection shall expire without any compensation at the earlier of either [twelve months after their issuance] March 1 or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) For any rural electric cooperative under chapter 394, or municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule or equivalent formal action by each respective governing body:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10. The governing body of a rural electric cooperative or municipal utility shall, within nine months of January 1, 2008, adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

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11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

18. Notwithstanding any provision in this chapter or chapters 393 and 394 to the contrary, the owner or operator of a qualified electric generation unit that provides renewable energy resources to a customer-generator through a power purchase agreement, a sale and leaseback of equipment, or other form of contract between the customer-generator and the owner or operator of the qualified electric generation unit, shall not be determined by reason of such ownership, operation, contract, or provision of energy to be an electrical corporation or public utility as those terms are defined in section 386.020, nor shall it be precluded from installing, owning or operating the qualified electric unit and providing the related renewable energy resources to a customer that is being served by a retail electric supplier.

386.895. 1. Any taxpayer that owns a solar powered electric energy generation unit or solar facility that meets the requirements for net metering under section 386.890, and that has incurred costs and expenses related to the construction, design, and installation of that facility on or after the effective date of this section, shall, subject to the provisions of subsections 2 through 7 of this section, be allowed a state tax credit against the income taxes imposed pursuant to chapter 143 (except withholding imposed by sections 143.191 to 143.265), if the director of the department of revenue issues an eligibility statement for that project. The tax credit provided for in this section shall be known as the "Missouri Solar Energy Tax Credit".

2. The state tax credit allowed under this section shall not exceed thirty-five percent of the total costs and expenses incurred for the construction, design, and installation of that facility, up to a total of seventy-five thousand dollars per utility metered account; provided however that beginning in calendar years 2022 through 2031, the thirty-five percent limit on total costs and expenses shall be reduced by an amount of two percent per year, and the seventy-five thousand dollar limit shall be reduced by two thousand five hundred dollars per year, and such reduced limits shall apply to the tax credits allowed under this section during calendar years 2022 through 2031.

3. In no event shall the aggregate amount of all tax credits allowed under this section exceed fifty million dollars in any given calendar year for the period beginning with the effective date of this section through June 30, 2021. During the calendar years 2022 through 2031, this fifty million dollar limit for the calendar year shall be reduced each year by an amount equal to $2.5 million dollars. No new tax credits provided for under this section shall be authorized after June 30, 2031. The department of revenue shall promulgate rules and regulations for the administration of tax credits issued pursuant to this section, and establish the procedure by which such tax credits may be claimed.

4. Any eligible applicant desiring to claim a tax credit under this section shall first request an eligibility statement from the department of revenue. The applicant shall identify: the facility for which a tax credit is claimed; the costs and expenses expected to be incurred by the applicant related to the construction, design, and installation of the facility; the nameplate capacity of the facility; and the ownership for the facility. The director of the department of revenue shall issue an eligibility statement within thirty (30) days of the request if it finds that the applicant qualifies for a credit under this section. Tax credits shall be awarded on a first-come, first-serve basis, until the limits as provided in subsection 3 of this section are reached. The department of revenue may promulgate rules and regulations relating to this certification process.

5. The credit authorized by this section shall not be refundable. Any amount of credit which exceeds the tax due for a taxpayer's taxable year may be carried forward to any of the taxpayer's five subsequent taxable years.

6. All or any portion of the tax credits issued in accordance with this section may be transferred, sold, or assigned to a third party. Certification of transfer, sale or assignment and other appropriate forms must be filed with the department of revenue.

7. The reporting provisions of the Tax Credit Accountability Act of 2004 apply to the tax credits issued under this section.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-214)**

## Subject

Initiative petition from Andrew Linhares regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received January 11, 2016)

## Date

February 1, 2016

## Description

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **Public Service Commission,** and the **Missouri Joint Municipal Electric Utility Commission**.

**Edward D. Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** (DED) indicated this proposal would reduce state revenues by $50 million for fiscal year 2017, $50 million for fiscal year 2018, and $50 million for fiscal year 2019.

**Summarize how this bill would affect the agency**

Section 386.890 – Net Metering and Easy Connection Act
The Division of Energy (DE) assumes it would be involved in the implementation of this provision that modifies the existing net metering and interconnection requirements for regulated electric utilities. It is assumed there would be a rulemaking docket to set the process and details associated with this proposal. Rulemaking cases before the Public Service Commission (PSC) may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where net metering provisions are considered.

Section 386.895 – Missouri Solar Energy Tax Credit
The Department of Revenue (DOR) is required to implement the Missouri Solar Energy Tax Credit. The proposal requires DOR to promulgate rules to establish a process for claiming of the credit and may promulgate rules related to a certification of eligibility process.

The existing Missouri Renewable Energy Standard (RES) requires investor-owned utilities in Missouri to either produce green power or purchase Renewable Energy Certificates (RECs) for compliance. DE has statutory authority to certify that eligible renewable energy resources do not cause undue environmental impacts before RECs associated with those renewable energy resources can be used for RES compliance. There are no certification fees associated with this review. DE anticipates that enactment of a tax credit and expansion of the net- metering/interconnection size from 100 kilowatts (kW) to 2 megawatts (MW) will result in an increase in net-metered renewable energy installations (as modified by Section 386.890, RSMo, of this proposal) in Missouri which may be used for RES compliance.

**Long-range implications**

Fiscal impacts associated with the Missouri Solar Energy Tax Credits could continue until June 30, 2031. Economic benefits associated with construction of solar facilities would also have long-range implications.

**Assumptions and methodology used in arriving at state fiscal impact**

Section 386.890 –Net Metering and Easy Connection Act
For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

386.895- Missouri Solar Energy Tax Credit
The proposal's estimated impact to General Revenue could be up to $50 million per year from the effective date through June 30, 2021 depending on the schedule of implementation and applications submitted and approved. The potential impact would decrease by $2.5 million per year from 2022 through 2031.

DE assumes that DOR may consult with DE in development of rules associated with implementation of this proposal but that DE would not be involved in reviews of applications to DOR requesting certification of eligibility for net-metered solar facilities for the Missouri Solar Energy Tax Credit. For purposes of this fiscal note, DE assumes such consultation could be performed with existing resources.

DE anticipates that enactment of a tax credit will result in an increase in net-metered solar energy installations in Missouri which may be used for RES compliance. DE also anticipates that the increase in the capacity size of net metered renewable energy systems from 100 kW to 2 MW would result in an increase in other net-metered renewable energy installations in Missouri which may be used for RES compliance.

If all tax credits were used up to the cap of $50 million per year, and with consideration to the estimated cost and size of the solar projects, it is estimated there would be 4,718 residential project applications and 271 commercial project applications submitted for tax credit reviews (Source: Mark Reading analysis for similar Initiative Petitions).

For purposes of this fiscal note, DE assumes all applications for RES certification of no undue adverse environmental impacts are for solar projects and that only small numbers of these projects would submit applications for RES certification to DE. DE's review primarily focuses on environmental impacts of renewable electric generation facilities on air, water or land use. The actual staff time spent on each application varies. Solar photovoltaic and other renewable energy facilities with a larger capacity typically require more staff time for reviewing their third-party environmental impact assessments in addition to verifying applicable environmental permits, for data requests and discussion, data collection, database management, report production and website maintenance. For

purposes of this fiscal note, DE assumes it could complete the additional RES environmental reviews/certifications anticipated from this proposal using existing resources.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** estimate this petition will result in increased operating expenses of $243,282 for fiscal year 2017, $181,985 for fiscal year 2018, and $183,470 for fiscal year 2019.

The legislation creates a negative impact of up to $50 million per fiscal year to total state revenue by creating a new tax credit.

This petition creates the Missouri Solar Energy Tax Credit which allows up to 35 percent of the costs and expenses for construction, design, and installation of a generation unit. The provisions of subsection 3 cap the tax credit at $50 million and beginning in calendar year 2022, the total cap is reduced by $2.5 million each year. The provisions expire June 30, 2031, allowing for no new tax credits after that date.

Their department suggests the provisions regarding the certification process be administered by the DED and the DE as they would be more familiar with the subject matter.

**Administrative Impact:**

**Personal Tax:**

Personal Tax requires one (1) Revenue Processing Technician I (Range 10, Step L) for every 6,000 credits claimed.

**Corporate Tax:**
Corporate Tax requires three (3) Revenue Processing Technicians I (Range 10, Step L) for every 4,000 credits redeemed, 4,000 credits transferred, and for every 520 SB 1099 compliance mailings and correspondence.

**Integrated Tax System:**
The integrated tax system incurs additional costs of $43,680 to implement the provisions of this petition.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this proposal this proposal amends Section 386.890, RSMo, and adds Section 386.895, RSMo, entitled “Missouri Solar Energy Tax Credit”.

Section 386.890, RSMo, assigns the DED, rather than the Department of Natural Resources, as the party responsible for certifying an energy source as renewable and makes other changes related to customer-generators and net excess energy credits.

Section 386.895, RSMo, establishes the “Missouri Solar Energy Tax Credit Act”. This Act establishes a state income tax credit for up to 35% of the total costs and expenses incurred for the construction, design, and installation of a solar powered electric energy generation unit, with a cap of $75,000 per utility metered account. The aggregate cap for all tax credits allowed under this section is $50 million. No new tax credits under this section shall be authorized after June 30, 2031. The DOR will promulgate rules and administer this tax credit program.

The caps are gradually reduced as shown below:

| Year | % | Amt | Cap |
|---|---|---|---|
| 2021 | 35% | $ 75,000 | $50.0 M |
| 2022 | 33% | $ 72,500 | $47.5 M |
| 2023 | 31% | $ 70,000 | $45.0 M |
| 2024 | 29% | $ 67,500 | $42.5 M |
| 2025 | 27% | $ 65,000 | $40.0 M |
| 2026 | 25% | $ 62,500 | $37.5 M |
| 2027 | 23% | $ 60,000 | $35.0 M |
| 2028 | 21% | $ 57,500 | $32.5 M |
| 2029 | 19% | $ 55,000 | $30.0 M |
| 2030 | 17% | $ 52,500 | $27.5 M |
| 2031 | 15% | $ 50,000 | $25.0 M |

Assuming the total amount allowed is issued, this proposal will have a cost of $50 million until 2022 and then lower costs until 2031, as shown above. This will impact the calculation under Article X, Section 18(e), of the Missouri Constitution.

This proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume,

for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson** indicated they expect no fiscal impact should this petition become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from **University of Missouri** indicated their electric suppliers have not indicated the impact this legislation would have on utility rates so they do not know the impact on their university.

Officials from the **Public Service Commission** (PSC) indicated:

Proposed Section 386.890.18 states "Notwithstanding any provision in this chapter or chapter 393 and 394 to the contrary, the owner or operator of a qualified electric generation unit that provides renewable energy resources to a customer-generator through a power purchase agreement…, shall not be determined by reason of such ownership, operation, contract, or provision of energy to be an electrical corporation or public utility as those terms are defined by section 386.020…." This language suggests that any electrical corporation providing service to a customer-generator could be exempt from Section 386.020 and potentially somehow exempt from commission regulation even if already regulated. To alleviate any possible confusion delete the words "the owner or operator of a qualified electric generation unit that provides renewable energy resources to" before 'a customer-generator' (which is already limited by its definition of generators producing currently 1,000 kW or proposed change 2,000 kW). Further, the language "Notwithstanding any provision in this chapter or chapter 393 and 394 to the contrary," should also be removed to not potentially conflict.

Also absent from this proposal is an additional sentence clearly delineating that this does not diminish or supersede the commission's authority to ensure safe operation of any electric plant. The PSC respectfully suggests that this sentence should be added in for clarity.

"Qualified electric generation unit" and "qualified electric energy generation unit" are used throughout the proposal. It is recommended that one term be used consistently and be defined.

Proposed Section 386.895 discusses a "Missouri Solar Energy Tax Credit". It is not clear why the tax credit is in the PSC statute and not in a tax-related statute.

Officials from the **Missouri Joint Municipal Electric Utility Commission** (MJMEUC) indicated:

Missouri Public Utility Alliance (MJMEUC is part of the alliance) through its electric division represents 65 of the 86 cities with municipal electric utilities.

They believe that implementation of this petition would reduce municipal electric utility revenues of approximately $17,000,000 annually based on:

1. Varying changes to the state's net metering law.
2. Greater penetration of solar panels throughout the state because of a state funded tax rebate for their purchase and installation.

Other proposed changes would increase the cost of city operations by approximately $1,520,000.

Several of these proposals modify the state's net metering law to require cities to carry forward to subsequent months excess customer generation. Current software is not designed to provide this functionality and each city would have to contract with their own vendor to modify their billing software.

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art X Sec 16) that reduces income or increases costs without "full state financing", they anticipate that the costs would be reflected in the final state cost when the fiscal note is completed. They have no idea what litigation costs might be necessary.

**Edward D. Greim** provided the following information as an opponent of this initiative petition.

Graves Garrett LLC

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January 14, 2016

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Re: *Fiscal Note in Initiative Petitions 2016-213 through 2016-215*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petitions 213, 214, and 215

> Lost revenue to state government is $680.3 million over the tax credit period, with annual losses of $7.6 million thereafter. Lost revenue to local government is $137.8 million over the tax credit period, with annual losses of $15.5 million thereafter. Other, substantial lost revenues of an unknown amount are likely.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments. These taxes, however, will no longer be collected for electricity that is never sold due to the customer-generator production and community solar encouraged by the initiative petitions. Petition signers and voters must be informed of the certainty that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume. On the other hand, any positive fiscal impacts of the initiative petitions are speculative.

**Description of Policy**

Initiative Petitions 213-215 contain one or more of three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of community solar facilities/arrangements; and (3) A state tax credit for solar powered electric energy generation units and arrangements.

1. Changes to Net Metering for Investor-owned electric utilities, municipal electric utilities, and rural electric cooperatives
    A. Redefine customer generator to include retail customers entitled by contract to receive the electrical energy generated by a qualified energy generation unit;
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);
    D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.
2. 5 Megawatt Community Solar Facilities
    A. Electric Customers may participate in community based solar arrangements up to with generation capacity up to 5 megawatts. There is no limit on the number of community solar facilities that may be developed.
    B. Bill credits are one to one against electric utility bills for customers who participate in the community solar facility.
    C. Excess bill credits are sold back to municipal utilities, investor-owned utilities, and electric cooperatives, by kilowatt hour (at rate to be set by commission, that is at least as great as all avoided costs, but up to the retail electric supply rate).
3. Tax credit
    A. 35% tax credit for solar powered energy generation units eligible for net metering, or in some petitions, community solar facilities up to 5 megawatt.
    B. Total value of eligible credits shall not exceed $50 million each year until 2022, with credits decreasing after that date. Unused credits carryover year to year.
    C. No tax credits after June 30, 2031.

**Burdens on State Government**

In determining the fiscal impact of each petition, it is generally reasonable to assume that the various statutory changes in the petitions will have independent fiscal impacts. The reasonableness of this assumption is demonstrated by the various iterations of the petitions themselves. *See* Petitions 213-215.



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*i. Decreased tax collection due to changes to net metering – Initiative Petitions 213-215*

Raising the net metering cap from 100 kilowatt units to 2 megawatt units will result in a decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase due to economies of scale. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in some of the petitions provides a strong financial incentive to solar energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[1], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[2] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. *See* U.S. Energy Information Administration – Independent Statistics and Analysis. Accordingly, a 1% decrease in electricity sales volume will reduce Missouri state sales tax revenues from electric providers by at least 3.2 million dollars. Based on the change from 100 kilowatt units to 2 megawatt units, individual net metering units may significantly impact tax revenues. Every megawatt of installed solar decreases state sales tax revenue by $7,700 annually.

*ii. Decreased tax collections due to community solar facilities – Initiative Petition 215*

Community solar facilities are in addition to net metering and represent an additional capacity of an unlimited amount. Energy generated from the community solar facility is allocated by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. These community solar facilities will be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoids property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership

[1] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[2] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.



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model, similar to net metering,[3] because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%). There is no cap on the amount of community solar facilities that may be constructed, and there are strong financial incentives to create excess production, given declining prices of solar electricity and a mandatory obligation of the interconnected utility to buy electricity at generous, retail rates.

A 1% decrease in electricity sales volume will reduce Missouri state sales tax revenues from electric providers by 3.2 million dollars. Every 5MW "renewable energy facility" will reduce state sales tax revenues by $38,500, annually. Up to $321.1 million in state sales tax revenue is at risk ($7.6 billion * 4.225%).

*iii. Tax credits – Initiative Petitions 213-215*

*a. Decreased tax collections due to tax credits – Credits capped at $50 million annually*

The 35% tax credits in these petitions will directly result in a loss of state income of $25 million to $50 million, annually. The total loss to state government over the tax credit effective period is $612.5 million.

*b. Cost of eroding tax base due to new energy generation*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in Missouri. According to the attached table, the tax credits will result in 988.7 MWh/988,700 kWh of new electricity generation. New production from such tax credits would produce approximately 1,804,090 MWh per year, also expressed as 1,804,090,000 KWh, or 1,804 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour,[4] this new production is valued at $180,408,983.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

[3] The petitions use the terms "facility access", "arrangements", and "bill credits" all of which indicate that the electricity generated and allocated will not be subject to sales tax.
[4] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.



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Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[5] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for solar energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology.

For Initiative Petitions 213-215, the total, annual loss to state governments *due to the tax credits* is 32.6 million to 53.1 million over the tax credit period. The total loss during the tax credit period is $680.3 million. There is an annual loss in perpetuity after the tax credit period of $7.6 million, based on expected customer-generation resourced developed. *See* attached table.

**Burdens on Local Governments**

Local governments face losses in revenue from the various petition provisions that are similar to those faced by state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 213-215*

A 1% decrease in electricity sales volume will reduce Missouri local tax revenues from electric providers by $6.5 million, annually.

*ii. Decreased tax collections due to community solar facilities – Initiative Petition 215*

A 1% decrease in electricity sales volume will reduce Missouri local tax revenues from electric providers by 6.5 million dollars. Every 5MW "renewable energy facility" will reduce local government tax revenues by $78,300, annually. Up to $652.5 million in local sales and license/franchise tax revenue is at risk ($7.6 billion * [3.585% + 5%]).

[5] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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*iii. Tax credits – Initiative Petitions 213-215 – Cost of eroding tax base due to new energy generation*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petitions may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to local governments, all of which may be reduced or discontinued if the initiative petitions are enacted.

The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[6] Based on this estimate, the population-weighted combined average local sales tax is 3.585%. The tax credits will result in 988.70 megawatts of new electricity production that will be net metered or otherwise result in the allocation of bill credits and, as a result, decrease electric revenues. The corresponding annual loss to local governments from lost sales tax from the tax credit is $6,467,662. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,020,449.

The overall annual loss to local governments due to the tax credits is $15.5 million. The total loss to local government revenues during the tax credit period is $137.8 million.

**In Conclusion**

The initiative petitions will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petitions, such as increases in net metering and community solar. The total tax burden on state government imposed by the petitions with tax credits is at least $680 million over the tax credit period, with at least $7.6 million in lost revenues in perpetuity. The total tax burden on state government imposed by the petitions without tax credits is substantial, with up to $321.1 million at risk. The total tax burden on local governments imposed by the petitions with tax credits is at least $137.8 million over the tax credit period, with at least $15.5 million in lost revenues in perpetuity. The total tax burden on local government imposed by the petitions without tax credits is substantial, with up to $652.5 million at risk.

[6] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.



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Graves Garrett LLC

Sincerely,

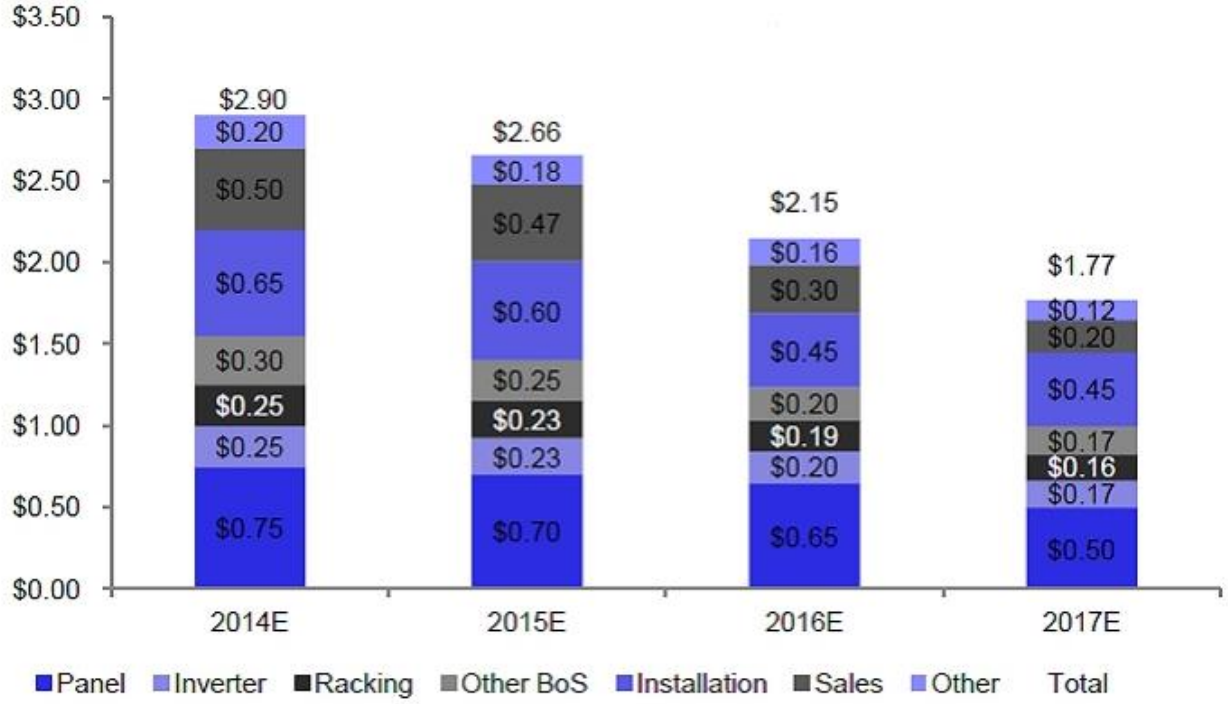
Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0

Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017
https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm



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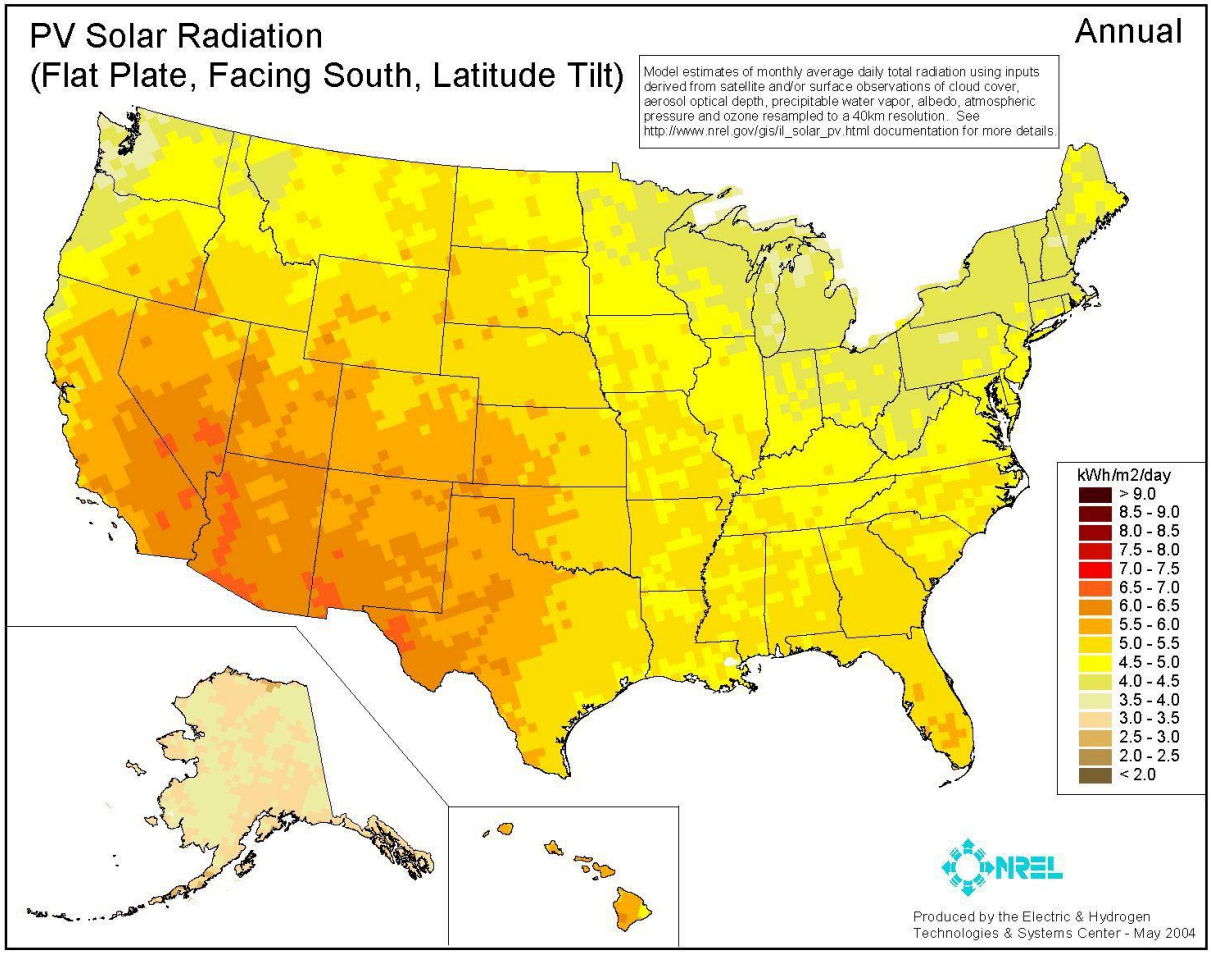
National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Renew Mo Solar Tax Credit Fiscal Analysis - Petitions 213-215**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 80.71 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $50,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 147,273 | |
| $/MWh Retail Rate | $100 | |

| | Solar Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $50,000,000 | 80.71 | 80.71 | 147,273 | $100 | $14,727,264 | 4.225% | $622,227 | $50,622,227 | 3.585% | $527,972 | 5.000% | $736,363 | $1,264,336 |
| 2018 | $50,000,000 | 80.71 | 161.42 | 294,545 | $100 | $29,454,528 | 4.225% | $1,244,454 | $51,244,454 | 3.585% | $1,055,945 | 5.000% | $1,472,726 | $2,528,671 |
| 2019 | $50,000,000 | 80.71 | 242.13 | 441,818 | $100 | $44,181,792 | 4.225% | $1,866,681 | $51,866,681 | 3.585% | $1,583,917 | 5.000% | $2,209,090 | $3,793,007 |
| 2020 | $50,000,000 | 80.71 | 322.84 | 589,091 | $100 | $58,909,056 | 4.225% | $2,488,908 | $52,488,908 | 3.585% | $2,111,890 | 5.000% | $2,945,453 | $5,057,342 |
| 2021 | $50,000,000 | 80.71 | 403.55 | 736,363 | $100 | $73,636,320 | 4.225% | $3,111,135 | $53,111,135 | 3.585% | $2,639,862 | 5.000% | $3,681,816 | $6,321,678 |
| 2022 | $47,500,000 | 76.67 | 480.23 | 876,272 | $100 | $87,627,220 | 4.225% | $3,702,250 | $51,202,250 | 3.585% | $3,141,436 | 5.000% | $4,381,361 | $7,522,797 |
| 2023 | $45,000,000 | 72.64 | 552.87 | 1,008,818 | $100 | $100,881,758 | 4.225% | $4,262,254 | $49,262,254 | 3.585% | $3,616,611 | 5.000% | $5,044,088 | $8,660,699 |
| 2024 | $42,500,000 | 68.60 | 621.47 | 1,133,999 | $100 | $113,399,932 | 4.225% | $4,791,147 | $47,291,147 | 3.585% | $4,065,388 | 5.000% | $5,669,997 | $9,735,384 |
| 2025 | $40,000,000 | 64.57 | 686.04 | 1,251,817 | $100 | $125,181,743 | 4.225% | $5,288,929 | $45,288,929 | 3.585% | $4,487,765 | 5.000% | $6,259,087 | $10,746,853 |
| 2026 | $37,500,000 | 60.53 | 746.57 | 1,362,272 | $100 | $136,227,191 | 4.225% | $5,755,599 | $43,255,599 | 3.585% | $4,883,745 | 5.000% | $6,811,360 | $11,695,104 |
| 2027 | $35,000,000 | 56.50 | 803.07 | 1,465,363 | $100 | $146,536,276 | 4.225% | $6,191,158 | $41,191,158 | 3.585% | $5,253,325 | 5.000% | $7,326,814 | $12,580,139 |
| 2028 | $32,500,000 | 52.46 | 855.53 | 1,561,090 | $100 | $156,108,998 | 4.225% | $6,595,605 | $39,095,605 | 3.585% | $5,596,508 | 5.000% | $7,805,450 | $13,401,957 |
| 2029 | $30,000,000 | 48.43 | 903.95 | 1,649,454 | $100 | $164,945,356 | 4.225% | $6,968,941 | $36,968,941 | 3.585% | $5,913,291 | 5.000% | $8,247,268 | $14,160,559 |
| 2030 | $27,500,000 | 44.39 | 948.35 | 1,730,454 | $100 | $173,045,351 | 4.225% | $7,311,166 | $34,811,166 | 3.585% | $6,203,676 | 5.000% | $8,652,268 | $14,855,943 |
| 2031 | $25,000,000 | 40.36 | 988.70 | 1,804,090 | $100 | $180,408,983 | 4.225% | $7,622,280 | $32,622,280 | 3.585% | $6,467,662 | 5.000% | $9,020,449 | $15,488,111 |
| | | | | | | | | **Total State Tax Burden** | **$680,322,732** | | **Total Local Tax Burden (Sales + Franchise)** | | **$137,812,581** | |

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State government revenue may decrease $25 million to $50 million annually until June 30, 2031, with approximately $200,000 annual increased operating costs. Local government electric revenue may decrease $17 million annually with $1.5 million increased operating costs. Other resulting economic activity will have an unknown impact on state and local governments.

RECEIVED
JAN 11 2016
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-213

January 11, 2016

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andrew Linhares regarding a proposed statutory amendment to Chapter 386, version 10 (2016-213)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andrew Linhares on January 8, 2016.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-213 County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2016 JAN -8 PM 3:32
MO SEC. OF STATE

(Official Ballot Title)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
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| 15. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ___(check one) expect to be paid for circulating this petition. If paid, list the payer _____.

_____ Signature of Affiant (Person obtaining signatures)

_____ (Printed Name of Affiant)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201_.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

Be it enacted by the people of the state of Missouri:

16-213

Section 386.890 is amended and one new section is added, to be known as section 386.895, to read as follows:

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal electric utility, rural electric cooperative as provided in chapter 394, or electrical corporation as provided in this chapter;

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than [one hundred] two thousand kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of [natural resources] economic development;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any municipal utility, electrical corporation regulated under this chapter, or rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for other electric utilities may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional

meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

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(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and [shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period] all net excess kilowatt-hours generated shall be recorded as net excess energy credits per kilowatt-hour and those credits shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent billing periods;

(4) Any net excess energy credits granted by this subsection shall expire without any compensation at the earlier of either [twelve months after their issuance] March 1 or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) For any rural electric cooperative under chapter 394, or municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule or equivalent formal action by each respective governing body:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10. The governing body of a rural electric cooperative or municipal utility shall, within nine months of January 1, 2008, adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application

process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

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11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.895. 1. Any taxpayer that owns a solar powered electric energy generation unit that meets the requirements for net metering under section 386.890, and that has incurred costs and expenses related to the construction, design, and installation of that generation unit on or after the effective date of this section, shall, subject to the provisions of subsections 2 through 7 of this section, be allowed a state tax credit against the income taxes imposed pursuant to chapter 143 (except withholding imposed by sections 143.191 to 143.265), if the director of the department of revenue issues an eligibility statement for that project. The tax credit provided for in this section shall be known as the "Missouri Solar Energy Tax Credit".

2. The state tax credit allowed under this section shall not exceed thirty-five percent of the total costs and expenses incurred for the construction, design, and installation of that generation unit, up to a total of seventy-five thousand dollars per utility metered account; provided however that beginning in calendar years 2022 through 2031, the thirty-five percent limit on total costs and expenses shall be reduced by an amount of two percent per year, and the seventy-five thousand dollar limit shall be reduced by two thousand five hundred dollars per year, and such reduced limits shall apply to the tax credits allowed under this section during calendar years 2022 through 2031.

3. In no event shall the aggregate amount of all tax credits allowed under this section exceed fifty million dollars in any given calendar year for the period beginning with the effective date of this section through June 30, 2021. During the calendar years 2022 through 2031, this fifty million dollar limit for the calendar year shall be reduced each year by an amount equal to $2.5 million dollars. No new tax credits provided for under this section shall be authorized after June 30, 2031. The department of revenue shall promulgate rules and regulations for the administration of tax credits issued pursuant to this section, and establish the procedure by which such tax credits may be claimed.

4. Any eligible applicant desiring to claim a tax credit under this section shall first request an eligibility statement from the department of revenue. The applicant shall identify: the generation unit for which a tax credit is claimed; the costs and expenses expected to be incurred by the applicant related to the construction, design, and installation of the unit; the nameplate capacity of the unit; and the ownership for the unit. The director of the department of revenue shall issue an eligibility statement within thirty (30) days of the request if it finds that the applicant qualifies for a credit under this section. Tax credits shall be awarded on a first-come, first-serve basis, until the limits as provided in subsection 3 of this section are reached. The department of revenue may promulgate rules and regulations relating to this certification process.

5. The credit authorized by this section shall not be refundable. Any amount of credit which exceeds the tax due for a taxpayer's taxable year may be carried forward to any of the taxpayer's five subsequent taxable years.

6. All or any portion of the tax credits issued in accordance with this section may be transferred, sold, or assigned to a third party. Certification of transfer, sale or assignment and other appropriate forms must be filed with the department of revenue.

7. The reporting provisions of the Tax Credit Accountability Act of 2004 apply to the tax credits issued under this section.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-213)**

**Subject**

Initiative petition from Andrew Linhares regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received January 11, 2016)

**Date**

February 1, 2016

**Description**

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **Public Service Commission,** and the **Missouri Joint Municipal Electric Utility Commission**.

**Edward D. Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** (DED) indicated this proposal would reduce state revenues by $50 million for fiscal year 2017, $50 million for fiscal year 2018, and $50 million for fiscal year 2019.

**Summarize how this bill would affect the agency**

Section 386.890 – Net Metering and Easy Connection Act
The Division of Energy (DE) assumes it would be involved in the implementation of this provision that modifies the existing net metering and interconnection requirements for regulated electric utilities. It is assumed there would be a rulemaking docket to set the process and details associated with this proposal. Rulemaking cases before the Public Service Commission (PSC) may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where net metering provisions are considered.

Section 386.895 – Missouri Solar Energy Tax Credit
The Department of Revenue (DOR) is required to implement the Missouri Solar Energy Tax Credit. The proposal requires DOR to promulgate rules to establish a process for claiming of the credit and may promulgate rules related to a certification of eligibility process.

The existing Missouri Renewable Energy Standard (RES) requires investor-owned utilities in Missouri to either produce green power or purchase Renewable Energy Certificates (RECs) for compliance. DE has statutory authority to certify that eligible renewable energy resources do not cause undue environmental impacts before RECs associated with those renewable energy resources can be used for RES compliance. There are no certification fees associated with this review. DE anticipates that enactment of a tax credit and expansion of the net- metering/interconnection size from 100 kilowatts (kW) to 2 megawatts (MW) will result in an increase in net-metered renewable energy installations (as modified by Section 386.890, RSMo, of this proposal) in Missouri which may be used for RES compliance.

**Long-range implications**

Fiscal impacts associated with the Missouri Solar Energy Tax Credits could continue until June 30, 2031. Economic benefits associated with construction of solar facilities would also have long-range implications.

**Assumptions and methodology used in arriving at state fiscal impact**

Section 386.890 –Net Metering and Easy Connection Act
For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

386.895- Missouri Solar Energy Tax Credit
The proposal's estimated impact to General Revenue could be up to $50 million per year from the effective date through June 30, 2021 depending on the schedule of implementation and applications submitted and approved. The potential impact would decrease by $2.5 million per year from 2022 through 2031.

DE assumes that DOR may consult with DE in development of rules associated with implementation of this proposal but that DE would not be involved in reviews of applications to DOR requesting certification of eligibility for net-metered solar facilities for the Missouri Solar Energy Tax Credit. For purposes of this fiscal note, DE assumes such consultation could be performed with existing resources.

DE anticipates that enactment of a tax credit will result in an increase in net-metered solar energy installations in Missouri which may be used for RES compliance. DE also anticipates that the increase in the capacity size of net metered renewable energy systems from 100 kW to 2 MW would result in an increase in other net-metered renewable energy installations in Missouri which may be used for RES compliance.

If all tax credits were used up to the cap of $50 million per year, and with consideration to the estimated cost and size of the solar projects, it is estimated there would be 4,718 residential project applications and 271 commercial project applications submitted for tax credit reviews (Source: Mark Reading analysis for similar Initiative Petitions).

For purposes of this fiscal note, DE assumes all applications for RES certification of no undue adverse environmental impacts are for solar projects and that only small numbers of these projects would submit applications for RES certification to DE. DE's review primarily focuses on environmental impacts of renewable electric generation facilities on air, water or land use. The actual staff time spent on each application varies. Solar photovoltaic and other renewable energy facilities with a larger capacity typically require more staff time for reviewing their third-party environmental impact assessments in addition to verifying applicable environmental permits, for data requests and discussion, data collection, database management, report production and website maintenance. For

purposes of this fiscal note, DE assumes it could complete the additional RES environmental reviews/certifications anticipated from this proposal using existing resources.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** estimate this petition will result in increased operating expenses of $243,282 for fiscal year 2017, $181,985 for fiscal year 2018, and $183,470 for fiscal year 2019.

The legislation creates a negative impact of up to $50 million per fiscal year to total state revenue by creating a new tax credit.

This petition creates the Missouri Solar Energy Tax Credit which allows up to 35 percent of the costs and expenses for construction, design, and installation of a generation unit. The provisions of subsection 3 cap the tax credit at $50 million and beginning in calendar year 2022, the total cap is reduced by $2.5 million each year. The provisions expire June 30, 2031, allowing for no new tax credits after that date.

Their department suggests the provisions regarding the certification process be administered by the DED and the DE as they would be more familiar with the subject matter.

**Administrative Impact:**

**Personal Tax:**

Personal Tax requires one (1) Revenue Processing Technician I (Range 10, Step L) for every 6,000 credits claimed.

**Corporate Tax:**
Corporate Tax requires three (3) Revenue Processing Technicians I (Range 10, Step L) for every 4,000 credits redeemed, 4,000 credits transferred, and for every 520 SB 1099 compliance mailings and correspondence.

**Integrated Tax System:**
The integrated tax system incurs additional costs of $43,680 to implement the provisions of this petition.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this proposal this proposal amends Section 386.890, RSMo, and adds Section 386.895, RSMo, entitled “Missouri Solar Energy Tax Credit”.

Section 386.890, RSMo, assigns the DED, rather than the Department of Natural Resources, as the party responsible for certifying an energy source as renewable and makes other changes related to customer-generators and net excess energy credits.

Section 386.895, RSMo, establishes the “Missouri Solar Energy Tax Credit Act”. This Act establishes a state income tax credit for up to 35% of the total costs and expenses incurred for the construction, design, and installation of a solar powered electric energy generation unit, with a cap of $75,000 per utility metered account. The aggregate cap for all tax credits allowed under this section is $50 million. No new tax credits under this section shall be authorized after June 30, 2031. The DOR will promulgate rules and administer this tax credit program.

The caps are gradually reduced as shown below:

| Year | % | Amt | Cap |
|---|---|---|---|
| 2021 | 35% | $ 75,000 | $50.0 M |
| 2022 | 33% | $ 72,500 | $47.5 M |
| 2023 | 31% | $ 70,000 | $45.0 M |
| 2024 | 29% | $ 67,500 | $42.5 M |
| 2025 | 27% | $ 65,000 | $40.0 M |
| 2026 | 25% | $ 62,500 | $37.5 M |
| 2027 | 23% | $ 60,000 | $35.0 M |
| 2028 | 21% | $ 57,500 | $32.5 M |
| 2029 | 19% | $ 55,000 | $30.0 M |
| 2030 | 17% | $ 52,500 | $27.5 M |
| 2031 | 15% | $ 50,000 | $25.0 M |

Assuming the total amount allowed is issued, this proposal will have a cost of $50 million until 2022 and then lower costs until 2031, as shown above. This will impact the calculation under Article X, Section 18(e), of the Missouri Constitution.

This proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume,

for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson** indicated they expect no fiscal impact should this petition become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from **University of Missouri** indicated their electric suppliers have not indicated the impact this legislation would have on utility rates so they do not know the impact on their university.

Officials from the **Public Service Commission** (PSC) indicated "qualified electric generation unit" and "qualified electric energy generation unit" are used throughout the proposal. It is recommended that one term be used consistently and be defined.

Section 386.895 discusses a "Missouri Solar Energy Tax Credit". It is not clear why the tax credit is in the PSC statute and not in a tax-related statute.

Officials from the **Missouri Joint Municipal Electric Utility Commission** (MJMEUC) indicated:

Missouri Public Utility Alliance (MJMEUC is part of the alliance) through its electric division represents 65 of the 86 cities with municipal electric utilities.

They believe that implementation of this petition would reduce municipal electric utility revenues of approximately $17,000,000 annually based on:

1. Varying changes to the state’s net metering law.
2. Greater penetration of solar panels throughout the state because of a state funded tax rebate for their purchase and installation.

Other proposed changes would increase the cost of city operations by approximately $1,520,000.

Several of these proposals modify the state's net metering law to require cities to carry forward to subsequent months excess customer generation. Current software is not designed to provide this functionality and each city would have to contract with their own vendor to modify their billing software.

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art X Sec 16) that reduces income or increases costs without "full state financing", they anticipate that the costs would be reflected in the final state cost when the fiscal note is completed. They have no idea what litigation costs might be necessary.

**Edward D. Greim** provided the following information as an opponent of this initiative petition.

Graves Garrett LLC

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January 14, 2016

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Re: *Fiscal Note in Initiative Petitions 2016-213 through 2016-215*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petitions 213, 214, and 215

> Lost revenue to state government is $680.3 million over the tax credit period, with annual losses of $7.6 million thereafter. Lost revenue to local government is $137.8 million over the tax credit period, with annual losses of $15.5 million thereafter. Other, substantial lost revenues of an unknown amount are likely.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments. These taxes, however, will no longer be collected for electricity that is never sold due to the customer-generator production and community solar encouraged by the initiative petitions. Petition signers and voters must be informed of the certainty that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume. On the other hand, any positive fiscal impacts of the initiative petitions are speculative.

**Description of Policy**

Initiative Petitions 213-215 contain one or more of three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of community solar facilities/arrangements; and (3) A state tax credit for solar powered electric energy generation units and arrangements.

1. Changes to Net Metering for Investor-owned electric utilities, municipal electric utilities, and rural electric cooperatives
    A. Redefine customer generator to include retail customers entitled by contract to receive the electrical energy generated by a qualified energy generation unit;
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);
    D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.
2. 5 Megawatt Community Solar Facilities
    A. Electric Customers may participate in community based solar arrangements up to with generation capacity up to 5 megawatts. There is no limit on the number of community solar facilities that may be developed.
    B. Bill credits are one to one against electric utility bills for customers who participate in the community solar facility.
    C. Excess bill credits are sold back to municipal utilities, investor-owned utilities, and electric cooperatives, by kilowatt hour (at rate to be set by commission, that is at least as great as all avoided costs, but up to the retail electric supply rate).
3. Tax credit
    A. 35% tax credit for solar powered energy generation units eligible for net metering, or in some petitions, community solar facilities up to 5 megawatt.
    B. Total value of eligible credits shall not exceed $50 million each year until 2022, with credits decreasing after that date. Unused credits carryover year to year.
    C. No tax credits after June 30, 2031.

**Burdens on State Government**

In determining the fiscal impact of each petition, it is generally reasonable to assume that the various statutory changes in the petitions will have independent fiscal impacts. The reasonableness of this assumption is demonstrated by the various iterations of the petitions themselves. *See* Petitions 213-215.



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*i. Decreased tax collection due to changes to net metering – Initiative Petitions 213-215*

Raising the net metering cap from 100 kilowatt units to 2 megawatt units will result in a decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase due to economies of scale. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in some of the petitions provides a strong financial incentive to solar energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[1], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[2] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. *See* U.S. Energy Information Administration – Independent Statistics and Analysis. Accordingly, a 1% decrease in electricity sales volume will reduce Missouri state sales tax revenues from electric providers by at least 3.2 million dollars. Based on the change from 100 kilowatt units to 2 megawatt units, individual net metering units may significantly impact tax revenues. Every megawatt of installed solar decreases state sales tax revenue by $7,700 annually.

*ii. Decreased tax collections due to community solar facilities – Initiative Petition 215*

Community solar facilities are in addition to net metering and represent an additional capacity of an unlimited amount. Energy generated from the community solar facility is allocated by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. These community solar facilities will be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoids property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership

[1] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[2] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.



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model, similar to net metering,[3] because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%). There is no cap on the amount of community solar facilities that may be constructed, and there are strong financial incentives to create excess production, given declining prices of solar electricity and a mandatory obligation of the interconnected utility to buy electricity at generous, retail rates.

A 1% decrease in electricity sales volume will reduce Missouri state sales tax revenues from electric providers by 3.2 million dollars. Every 5MW "renewable energy facility" will reduce state sales tax revenues by $38,500, annually. Up to $321.1 million in state sales tax revenue is at risk ($7.6 billion * 4.225%).

*iii. Tax credits – Initiative Petitions 213-215*

*a. Decreased tax collections due to tax credits – Credits capped at $50 million annually*

The 35% tax credits in these petitions will directly result in a loss of state income of $25 million to $50 million, annually. The total loss to state government over the tax credit effective period is $612.5 million.

*b. Cost of eroding tax base due to new energy generation*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in Missouri. According to the attached table, the tax credits will result in 988.7 MWh/988,700 kWh of new electricity generation. New production from such tax credits would produce approximately 1,804,090 MWh per year, also expressed as 1,804,090,000 KWh, or 1,804 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour,[4] this new production is valued at $180,408,983.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

[3] The petitions use the terms "facility access", "arrangements", and "bill credits" all of which indicate that the electricity generated and allocated will not be subject to sales tax.
[4] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.



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Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[5] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for solar energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology.

For Initiative Petitions 213-215, the total, annual loss to state governments *due to the tax credits* is 32.6 million to 53.1 million over the tax credit period. The total loss during the tax credit period is $680.3 million. There is an annual loss in perpetuity after the tax credit period of $7.6 million, based on expected customer-generation resourced developed. *See* attached table.

**Burdens on Local Governments**

Local governments face losses in revenue from the various petition provisions that are similar to those faced by state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 213-215*

A 1% decrease in electricity sales volume will reduce Missouri local tax revenues from electric providers by $6.5 million, annually.

*ii. Decreased tax collections due to community solar facilities – Initiative Petition 215*

A 1% decrease in electricity sales volume will reduce Missouri local tax revenues from electric providers by 6.5 million dollars. Every 5MW "renewable energy facility" will reduce local government tax revenues by $78,300, annually. Up to $652.5 million in local sales and license/franchise tax revenue is at risk ($7.6 billion * [3.585% + 5%]).

[5] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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*iii. Tax credits – Initiative Petitions 213-215 – Cost of eroding tax base due to new energy generation*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petitions may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to local governments, all of which may be reduced or discontinued if the initiative petitions are enacted.

The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[6] Based on this estimate, the population-weighted combined average local sales tax is 3.585%. The tax credits will result in 988.70 megawatts of new electricity production that will be net metered or otherwise result in the allocation of bill credits and, as a result, decrease electric revenues. The corresponding annual loss to local governments from lost sales tax from the tax credit is $6,467,662. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,020,449.

The overall annual loss to local governments due to the tax credits is $15.5 million. The total loss to local government revenues during the tax credit period is $137.8 million.

**In Conclusion**

The initiative petitions will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petitions, such as increases in net metering and community solar. The total tax burden on state government imposed by the petitions with tax credits is at least $680 million over the tax credit period, with at least $7.6 million in lost revenues in perpetuity. The total tax burden on state government imposed by the petitions without tax credits is substantial, with up to $321.1 million at risk. The total tax burden on local governments imposed by the petitions with tax credits is at least $137.8 million over the tax credit period, with at least $15.5 million in lost revenues in perpetuity. The total tax burden on local government imposed by the petitions without tax credits is substantial, with up to $652.5 million at risk.

[6] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.



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Graves Garrett LLC

Sincerely,

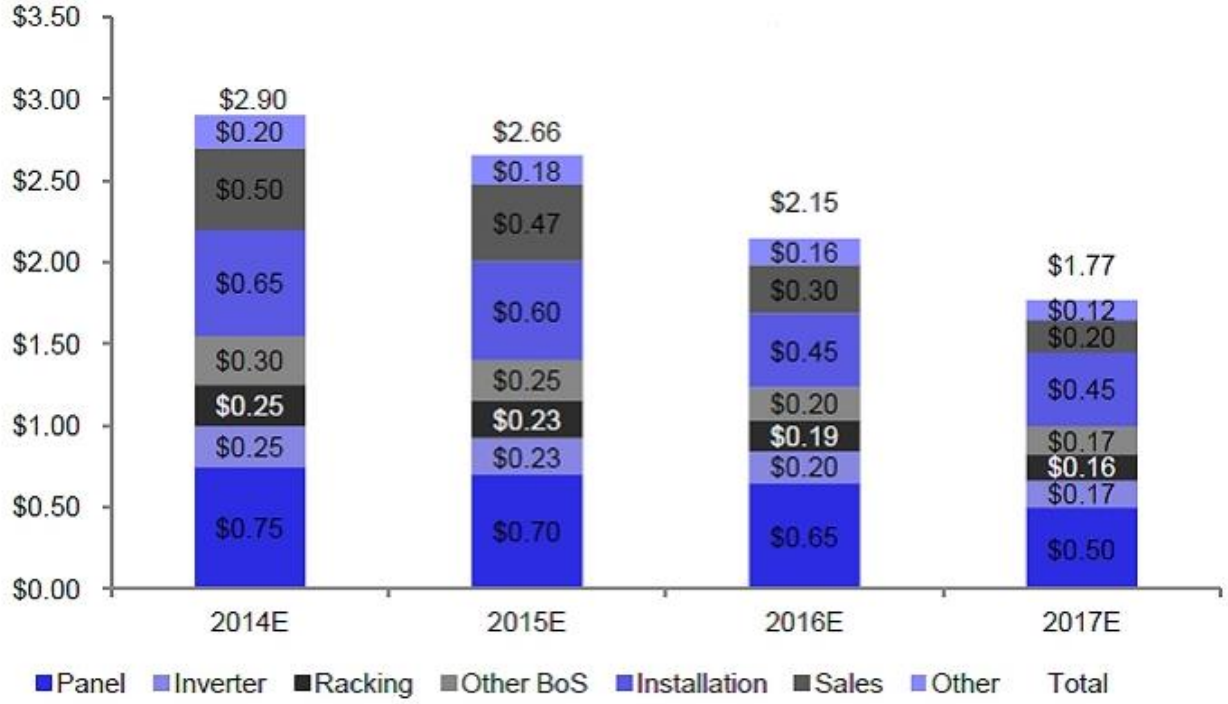
Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0

Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017
https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm



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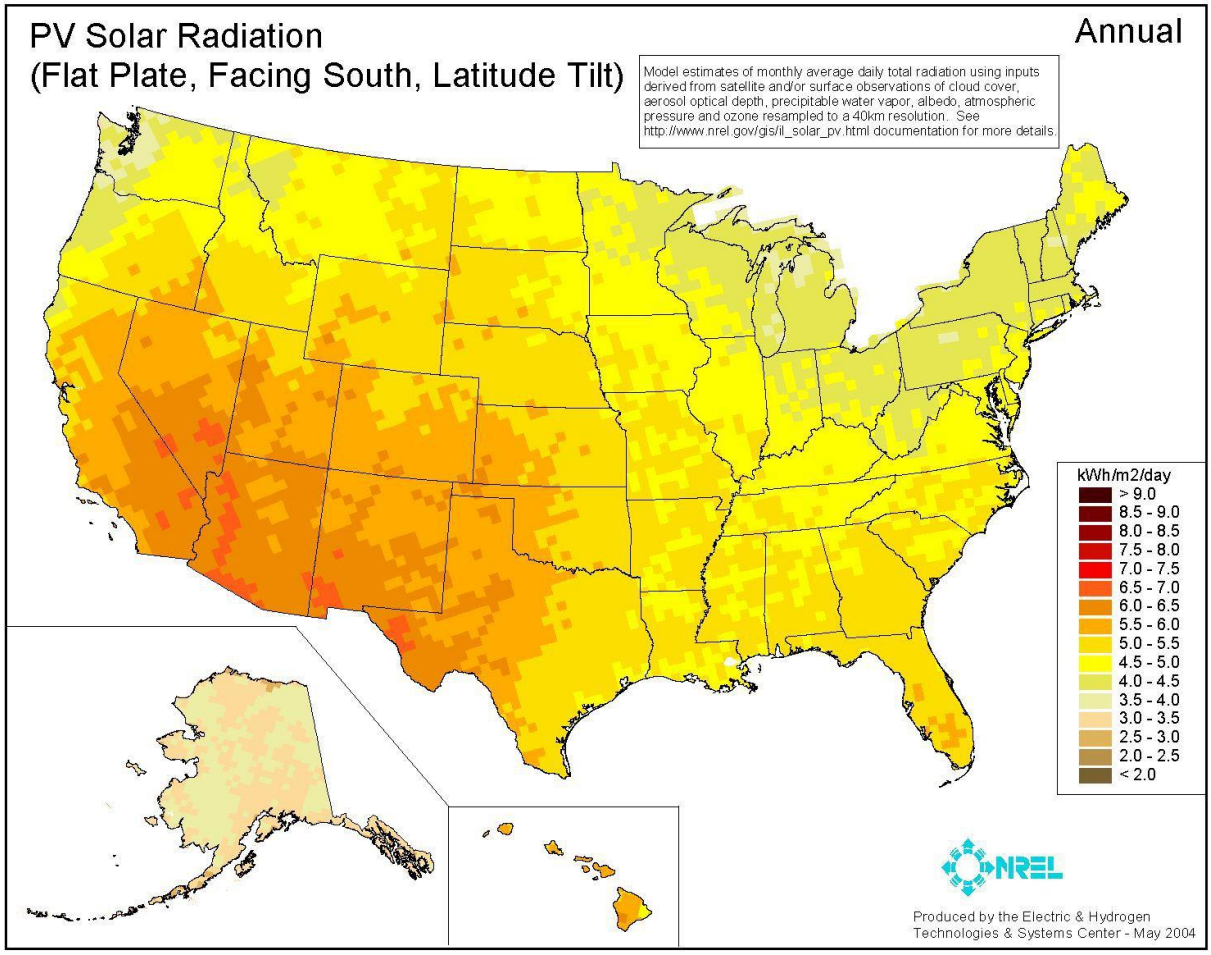
National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Renew Mo Solar Tax Credit Fiscal Analysis - Petitions 213-215**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 80.71 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $50,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 147,273 | |
| $/MWh Retail Rate | $100 | |

| | Solar Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $50,000,000 | 80.71 | 80.71 | 147,273 | $100 | $14,727,264 | 4.225% | $622,227 | $50,622,227 | 3.585% | $527,972 | 5.000% | $736,363 | $1,264,336 |
| 2018 | $50,000,000 | 80.71 | 161.42 | 294,545 | $100 | $29,454,528 | 4.225% | $1,244,454 | $51,244,454 | 3.585% | $1,055,945 | 5.000% | $1,472,726 | $2,528,671 |
| 2019 | $50,000,000 | 80.71 | 242.13 | 441,818 | $100 | $44,181,792 | 4.225% | $1,866,681 | $51,866,681 | 3.585% | $1,583,917 | 5.000% | $2,209,090 | $3,793,007 |
| 2020 | $50,000,000 | 80.71 | 322.84 | 589,091 | $100 | $58,909,056 | 4.225% | $2,488,908 | $52,488,908 | 3.585% | $2,111,890 | 5.000% | $2,945,453 | $5,057,342 |
| 2021 | $50,000,000 | 80.71 | 403.55 | 736,363 | $100 | $73,636,320 | 4.225% | $3,111,135 | $53,111,135 | 3.585% | $2,639,862 | 5.000% | $3,681,816 | $6,321,678 |
| 2022 | $47,500,000 | 76.67 | 480.23 | 876,272 | $100 | $87,627,220 | 4.225% | $3,702,250 | $51,202,250 | 3.585% | $3,141,436 | 5.000% | $4,381,361 | $7,522,797 |
| 2023 | $45,000,000 | 72.64 | 552.87 | 1,008,818 | $100 | $100,881,758 | 4.225% | $4,262,254 | $49,262,254 | 3.585% | $3,616,611 | 5.000% | $5,044,088 | $8,660,699 |
| 2024 | $42,500,000 | 68.60 | 621.47 | 1,133,999 | $100 | $113,399,932 | 4.225% | $4,791,147 | $47,291,147 | 3.585% | $4,065,388 | 5.000% | $5,669,997 | $9,735,384 |
| 2025 | $40,000,000 | 64.57 | 686.04 | 1,251,817 | $100 | $125,181,743 | 4.225% | $5,288,929 | $45,288,929 | 3.585% | $4,487,765 | 5.000% | $6,259,087 | $10,746,853 |
| 2026 | $37,500,000 | 60.53 | 746.57 | 1,362,272 | $100 | $136,227,191 | 4.225% | $5,755,599 | $43,255,599 | 3.585% | $4,883,745 | 5.000% | $6,811,360 | $11,695,104 |
| 2027 | $35,000,000 | 56.50 | 803.07 | 1,465,363 | $100 | $146,536,276 | 4.225% | $6,191,158 | $41,191,158 | 3.585% | $5,253,325 | 5.000% | $7,326,814 | $12,580,139 |
| 2028 | $32,500,000 | 52.46 | 855.53 | 1,561,090 | $100 | $156,108,998 | 4.225% | $6,595,605 | $39,095,605 | 3.585% | $5,596,508 | 5.000% | $7,805,450 | $13,401,957 |
| 2029 | $30,000,000 | 48.43 | 903.95 | 1,649,454 | $100 | $164,945,356 | 4.225% | $6,968,941 | $36,968,941 | 3.585% | $5,913,291 | 5.000% | $8,247,268 | $14,160,559 |
| 2030 | $27,500,000 | 44.39 | 948.35 | 1,730,454 | $100 | $173,045,351 | 4.225% | $7,311,166 | $34,811,166 | 3.585% | $6,203,676 | 5.000% | $8,652,268 | $14,855,943 |
| 2031 | $25,000,000 | 40.36 | 988.70 | 1,804,090 | $100 | $180,408,983 | 4.225% | $7,622,280 | $32,622,280 | 3.585% | $6,467,662 | 5.000% | $9,020,449 | $15,488,111 |
| | | | | | | | | **Total State Tax Burden** | **$680,322,732** | | **Total Local Tax Burden (Sales + Franchise)** | | **$137,812,581** | |

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State government revenue may decrease $25 million to $50 million annually until June 30, 2031, with approximately $200,000 annual increased operating costs. Local government electric revenue may decrease $17 million annually with $1.5 million increased operating costs. Other resulting economic activity will have an unknown impact on state and local governments.

RECEIVED
JAN 05 2016
STATE AUDITOR'S

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 5, 2016

16-212

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed statutory amendment to Chapters 196 & 210, version 5 (2016-212)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Bradley Ketcher on January 5, 2016.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-212 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2016 JAN -5 AM 8:54
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

My commission expires _____

_____
Address of Notary (Street, City, State & Zip Code)

16-212

*Be it enacted by the people of the State of Missouri:*

Section 196.1131 is enacted and Sections 210.170, 210.171 and 210.172 of the Revised Statues of Missouri are amended to read as follows:

196.1131. 1. For the sole and exclusive purpose of providing funding for treatment and prevention of childhood cancer, on and after January 1, 2017, a tax equal to ten cents before discounts and deals shall be levied and imposed upon the sale of each package of twenty cigarettes, or lesser portion thereof. The tax imposed by this section shall be in addition to other taxes imposed by law on the sale of cigarette packages and shall be collected in the same manner and at the same time as the taxes imposed by law upon the sale of packages of cigarettes.

2. The Childhood Cancer Treatment and Prevention Fund is hereby created within the state treasury which shall consist of funds from the taxes established in subsection 1 of this section, appropriated moneys, gifts, contributions, grants, or bequests.

3. Beginning January 1, 2017, the state treasurer without legislative action shall credit to and place in the Childhood Cancer Treatment and Prevention Fund all moneys collected as a result of the tax imposed by subsection 1 of this section as said moneys are received. All of the moneys from the tax imposed by this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Childhood Cancer Treatment and Prevention Fund and the accounts created within the Childhood Cancer Treatment and Prevention Fund. Any moneys credited to and placed in the Childhood Cancer Treatment and Prevention Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Childhood Cancer Treatment and Prevention Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Childhood Cancer Treatment and Prevention Fund shall be added to such account and shall not be credited to the general revenue fund. Except as otherwise provided in this section, generally applicable laws concerning use of public funds shall apply to the Childhood Cancer Treatment and Prevention Fund.

4. The Children's Trust Fund Board shall administer the fund. The fund shall be used exclusively for the treatment and prevention of childhood cancers, including through grants and contracts with the Childrens Health Insurance Program, other state agencies, political subdivisions and health care services providers.

5. No funding from the Childhood Cancer Treatment and Prevention Fund shall be used to fund abortion or any similar procedures. No funding from the Childhood Cancer Treatment and Prevention Fund shall be used to pay for research which is banned by Missouri law.

6. (1) The actual costs of collecting the tax imposed by this section shall be paid from the moneys in the Childhood Cancer Treatment and Prevention Fund as may be provided by law, not to exceed five percent of the total moneys collected;

(2) The department of revenue shall refund moneys overpaid or erroneously paid pursuant to this section as may be provided by law; and

(3) On a fiscal year basis, the director of the department of revenue shall determine by estimate whether the tax imposed by this section has caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to chapter 149, RSMo. If an estimated reduction in the amount of moneys collected and deposited into any of those funds pursuant to chapter 149, RSMo has been caused by the tax imposed by this section, an amount equal to the estimated amount of moneys that were not collected and deposited into that fund or funds because of the tax imposed by this section shall be transferred from the Childhood Cancer Treatment and Prevention Fund to the appropriate fund or funds. The aggregate amount transferred to the fair share fund, the health initiatives fund, and the state school moneys fund from the Childhood Cancer Treatment and Prevention Fund for any fiscal year shall not exceed three percent of the total moneys collected pursuant to this section during that same fiscal year.

7. The state auditor shall perform an annual audit of the funds and initiatives undertaken pursuant to this section, which shall include an evaluation of whether pre-existing funding for programs or initiatives has been reduced because of the new funding for such purposes provided through the Childhood Cancer Treatment and Prevention Fund or any of its accounts. Such audit shall be performed on a fiscal year basis. The state auditor shall make copies of each audit available to the public. Every three years the state auditor shall prepare a comprehensive report assessing the

16-212

work and progress of initiatives undertaken pursuant to this section. Such assessment report shall analyze the impact of the programs, grants, and contracts performed, shall be provided to the governor and the general assembly, and shall be available to the public.

8. The tax imposed by this section shall be imposed on all cigarettes in the possession or under the control of any dealer or distributor on and after 12:01 a.m. on January 1, 2017, as determined by department of revenue rule. The initiatives and programs authorized under this section shall be implemented as soon as reasonably practicable, but at least by July 1, 2017.

9. The net proceeds from the tax imposed by this section shall constitute new and additional funding for the initiatives and programs described in this section and shall not be used to replace existing funding as of July 1, 2016 for the same or similar initiatives and programs.

10. All of the provisions of this section shall be self-enforcing. All of the provisions of this section are severable. If any provision of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this section shall be and remain valid.

210.170. 1. There is hereby created within the office of administration of the state of Missouri the "Children's Trust Fund Board", which shall be composed of twenty-one members as follows:

(1) Twelve public members to be appointed by the governor by and with the advice and consent of the senate. As a group, the public members appointed pursuant to this subdivision shall demonstrate knowledge in the areas of prevention programs and children's health care, shall be representative of the demographic composition of this state, and, to the extent practicable, shall be representative of all of the following categories:

(a) Organized labor;

(b) The business community;

(c) The educational community;

(d) The religious community;

(e) The legal community;

(f) Professional providers of prevention services to families and children;

(g) Volunteers in prevention services;

(h) Social services;

(i) Health care services; and

(j) Mental health services;

(2) A physician licensed pursuant to chapter 334;

(3) Two members of the Missouri house of representatives, who shall be appointed by the speaker of the house of representatives and shall be members of two different political parties;

(4) Two members of the Missouri senate, who shall be appointed by the president pro tem of the senate and who shall be members of two different political parties; and

(5) Four members chosen and appointed by the governor.

2. All members of the board appointed by the speaker of the house or the president pro tem of the senate shall serve until their term in the house or senate during which they were appointed to the board expires. All public members of the board shall serve for terms of three years; except, that of the public members first appointed, four shall serve for terms of three years, four shall serve for terms of two years, and three shall serve for terms of one year. No public members may serve more than two consecutive terms, regardless of whether such terms were full or partial terms. Each member shall serve until his successor is appointed. All vacancies on the board shall be filled for the balance of the unexpired term in the same manner in which the board membership which is vacant was originally filled.

3. Any public member of the board may be removed by the governor for misconduct, incompetency, or neglect of duty after first being given the opportunity to be heard in his or her own behalf.

4. The board may employ an executive director who shall be charged with carrying out the duties and responsibilities assigned to him or her by the board. The executive director may obtain all necessary office space, facilities, and equipment, and may hire and set the compensation of such staff as is approved by the board and within the limitations of appropriations for the purpose. All staff members, except the executive director, shall be employed pursuant to chapter 36.

5. Each member of the board may be reimbursed for all actual and necessary expenses incurred by the member in the performance of his or her official duties. All reimbursements made pursuant to this subsection shall be made from funds in the children's trust fund or the Childhood Cancer Treatment and Prevention Fund appropriated for that purpose.

6. All business transactions of the board shall be conducted in public meetings in accordance with sections 610.010 to 610.030.

7. The board may accept federal funds for the purposes of sections 210.170 to 210.173 and section 143.1000 as well as gifts and donations from individuals, private organizations, and foundations. The acceptance and use of federal funds shall not commit any state funds nor place any obligation upon the general assembly to continue the programs or activities for which the federal funds are made available. All funds received in the manner described in this subsection shall be transmitted to the state treasurer for deposit in the state treasury to the credit of the children's trust fund or the Childhood Cancer Treatment and Prevention Fund, as appropriate.

8. The board shall elect a chairperson from among the public members, who shall serve for a term of two years. The board may elect such other officers and establish such committees as it deems appropriate.

9. The board shall exercise its powers and duties independently of the office of administration except that budgetary, procurement, accounting, and other related management functions shall be performed by the office of administration.

210.171. As used in sections 210.170 to 210.173 and section 143.1000, the following terms shall mean:

(1) "Board", the children's trust fund board created in section 210.170;

(2) "Prevention program", any community-based educational or service program designed to prevent or alleviate child abuse or neglect.

(3) "Childhood cancer treatment and prevention," the treatment and prevention of childhood cancer.

210.172. The board shall have the following powers and duties:

(1) To meet not less than twice annually at the call of the chairperson to conduct its official business;

(2) To require that at least eight of the board members authorize the disbursement of funds from the children's trust fund;

(3) To, one year after the appointment of the original board and annually thereafter, develop a state plan for the distribution and disbursement of funds in the children's trust fund. The plan developed under this subdivision shall assure that an equal opportunity exists for the establishment of prevention programs and the receipt of moneys from the children's trust fund in all geographic areas of this state. Such plan shall be transmitted to the governor, the president pro tem of the senate, the speaker of the Missouri house of representatives, and the appropriation committees of the Missouri senate and Missouri house of representatives, and shall be made available to the general public. In carrying out a plan developed under this subdivision, the board shall establish procedures to:

(a) Enter into contracts with public or private agencies, schools, or qualified individuals to establish community-based educational and service prevention programs with or without using the procurement procedures of the office of administration. Such prevention programs shall focus on the prevention of child abuse and neglect. Community-based service prevention programs shall include programs such as crisis care, parent aides, counseling, and support groups. Participation by individuals in any community-based educational or service prevention program shall be strictly voluntary. In awarding contracts under this paragraph, consideration shall be given by the board to factors such as need, geographic location diversity, coordination with or improvement of existing services, and extensive use of volunteers;

16-212

(b) Develop and publicize criteria for the awarding of contracts for programs to be supported with money from the children's trust fund within the limits of appropriations made for that purpose;

(c) Review and monitor expenditures of moneys from the children's trust fund on a periodic basis;

(d) Consult with applicable state agencies, commissions, and boards to help determine probable effectiveness, fiscal soundness, and need for proposed community-based educational and service prevention programs;

(e) Facilitate information exchange between groups concerned with prevention programs;

(f) Provide for statewide educational and public informational conferences and workshops for the purpose of developing appropriate public awareness regarding the problems of families and children, of encouraging professional persons and groups to recognize and deal with problems of families and children, of making information regarding the problems of families and children and their prevention available to the general public in order to encourage citizens to become involved in the prevention of such problems, and of encouraging the development of community prevention programs; and

(g) Establish a procedure for an annual internal evaluation of the functions, responsibilities, and performance of the board, which evaluation shall be coordinated with the annual state plan of the board.

(h) Using only monies appropriated from the Childhood Cancer Treatment and Prevention Fund and not from the Children's Trust Fund, carry out grants and contracts for childhood cancer treatment and prevention consistent with section 196.1131, RSMo. The Board and its staff may consult with other public entities in carrying out its childhood cancer treatment and prevention responsibilities.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-212)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed amendment to Chapters 196 and 210 of the Revised Statutes of Missouri. (Received January 5, 2016)

## Date

January 25, 2016

## Description

This proposal would amend Chapters 196 and 210 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College, Children's Trust Fund,** and the **State Auditor's office.**

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** (DOR) indicated this petition will increase revenues to the Childhood Cancer Treatment and Prevention Fund by $49.7 million per year.

**Section 196.1131**
Effective January 1, 2017, this section imposes an additional tax of 10 cents per pack of cigarettes before discounts and deals. Their department collects the tax in the same manner and at same time as the current taxes. Their department will have approximately 45 days to implement the petition which may be insufficient time to design and purchase new stamps.

Based on 496.5 million packs of cigarettes stamped in Tax Year 2014, the DOR estimates total revenues of $49.7 million.

Their department must refund moneys overpaid or erroneously paid pursuant to this section as provided by law. Each month, their department director must determine whether the tax imposed by this section caused a reduction in the amount of money collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to Chapter 149, RSMo. If a reduction exists, the legislation requires the transfer of a like amount not collected and deposited into that fund or funds from the Childhood Cancer Treatment and Prevention Fund to the appropriate fund or funds. This may be extremely difficult to administer as there is not a consistent pattern for ordering stamps.

**Administrative Impact:**

**Business Tax:**

Business Tax requires a new floor stock tax form and cigarette stamp order forms be updated. Additionally, the SAGE 50 accounting system and cashiering records require change. Their department must update web pages and notify licensed wholesalers of the tax increase and the floor stock tax.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** (OA) indicated the proposal amends Sections 210.170, 210.171, and 210.172, RSMo, and Chapter 196 by adding Section 196.113, RSMo.

Section 196.1131 – enacts an additional $0.10/pack tax increase on cigarettes. The monies collected from this new tax would be deposited in the Childhood Cancer Treatment and Prevention Fund to be administered by the Children's Trust Fund Board. These funds will be used for the treatment and prevention of childhood cancers. The proposal allows up to 5% of the collections to be used for collection costs. On a fiscal year basis, the Director of the Department of Revenue shall determine if the new tax has caused a reduction in the amount of moneys collected and deposited in to the Fair Share, Health Initiatives or State School Moneys Funds. If so, up to three percent of the total moneys collected from the new tax shall be transferred to these funds.

The State Auditor shall perform an annual audit of the fund, which shall include an evaluation of whether preexisting funding for programs or initiatives has been reduced because of the new funding. Every three years, the auditor shall prepare a comprehensive report assessing work and progress of initiatives undertaken pursuant to the proposed new sections.

Section 210.170-210.172 – authorizes the Children's Trust Fund Board to administer the Childhood Cancer Treatment and Prevention Fund.

FISCAL IMPACT:
In fiscal year (FY) 2015, there was $81.7 million in cigarette excise taxes collected. OA assumes that the average pack of cigarettes retails for $4.50, translating to roughly 480.9 million packs sold in Missouri. OA further assumes that cigarette sales have a (0.8) elasticity. Therefore, OA estimates a tax increase of $0.10 in January 2017 will increase the "Childhood Cancer Treatment and Prevention Fund" by $22.9 million in FY 2017 and $45.8 million once fully implemented in FY 2018.

There is no way to truly know what impact these tax increases will have on demand due to smoking cessation efforts, other state and federal regulations, and the increase in sales of e-cigarettes. However, OA estimates that the tax increase will decrease the Fair Share Fund by $0.1 million in FY 2017 and $0.3 million in FY 2018 and thereafter, the Health Initiatives fund by $0.2 million in FY 2017 and $0.3 million in FY 2018 and thereafter, and the State School Moneys Fund by $0.4 million in FY 2017 and $0.8 million in FY 2018 and thereafter.

Further, since cigarette sales will decrease slightly, General Revenue will be reduced by $1.1 million, the School District Trust Fund will be reduced by $0.4 million, and local sales tax will be reduced by $1.5 million once fully implemented in FY 2018, from the loss of sales tax.

There will be no impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to

publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated the initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no impact to their office.

Officials from **Greene County** indicated that there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson City** indicated they expect no fiscal impact should this petition become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **University of Missouri** indicated the University of Missouri Health Care has reviewed the proposed legislation and has determined that as written it should not create additional expenses in excess of $100,000.

Officials from the **Children's Trust Fund** indicated costs to the Children's Trust Fund is estimated at $198,000 - $235,000 annually to implement and manage the Childhood Cancer Treatment and Prevention Fund. Included in this estimate is:

A minimum of 2-2.5 additional full-time employees (FTE's) totaling $110,000 - $135,000 needed (includes salary and benefits package). FTE's include Program Grants Manager and assistant with fiscal/accounting background/skills, as well as a Public Information Officer (.5). FTE positions and salaries are based upon existing positions that perform like functions for child abuse and neglect prevention fund. These are only estimates and could be higher depending upon necessary qualifications and expertise required as a result of the technical medical nature of the proposed fund.

Additional costs estimated at $40,000 annually for existing personnel – Executive Director and Executive Assistant for fund/program oversight estimated at .33 % of current salary rate.

Additional expenses/costs for grant selection and review process, program implementation, grant evaluation, ongoing monitoring, and other necessary expenses directly related to implementation of this new fund, required office space & equipment for new FTE's, and to Office of Administration for procurement, budgetary and other functions estimated at $50,000 - $60,000 annually.

Monies to implement and operate the Childhood Cancer Treatment and Prevention Fund including cost of added FTE's would need to come directly from monies deposited by the State Treasurer into the specific fund proposed or from another source other than existing funds from the Children's Trust Fund which are dedicated solely for the purpose of child abuse/neglect prevention.

Officials from the **State Auditor's office** (SAO) indicated they believe that the audit required under the petition would require approximately 1 FTE. However, given the SAO has consistently lapsed funds in recent years, the SAO believes it could absorb these costs within its current appropriation authority.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation,** the **Missouri Senate, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College**.

**Fiscal Note Summary**

Estimated additional revenue to state government is $42 million to $50 million annually with up to $100,000 in additional annual costs. The revenue will fund only programs and services allowed by the proposal. Local government revenues could decrease $1.5 million annually due to decreased cigarette sales.

RECEIVED
JAN 05 2016
STATE AUDITOR'S OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 5, 2016

16-211

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed statutory amendment to Chapters 196 & 210, version 4 (2016-211)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Bradley Ketcher on January 5, 2016.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-211

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

RECEIVED
2016 JAN -5 AM 8:53
SEC. OF STATE

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-211

*Be it enacted by the people of the State of Missouri:*

Section 196.1131 is enacted and Sections 210.170, 210.171 and 210.172 of the Revised Statues of Missouri are amended to read as follows:

196.1131. 1. For the sole and exclusive purpose of providing funding for treatment and prevention of childhood cancer, on and after January 1, 2017, a tax equal to five cents before discounts and deals shall be levied and imposed upon the sale of each package of twenty cigarettes, or lesser portion thereof. The tax imposed by this section shall be in addition to other taxes imposed by law on the sale of cigarette packages and shall be collected in the same manner and at the same time as the taxes imposed by law upon the sale of packages of cigarettes.

2. The Childhood Cancer Treatment and Prevention Fund is hereby created within the state treasury which shall consist of funds from the taxes established in subsection 1 of this section, appropriated moneys, gifts, contributions, grants, or bequests.

3. Beginning January 1, 2017, the state treasurer without legislative action shall credit to and place in the Childhood Cancer Treatment and Prevention Fund all moneys collected as a result of the tax imposed by subsection 1 of this section as said moneys are received. All of the moneys from the tax imposed by this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Childhood Cancer Treatment and Prevention Fund and the accounts created within the Childhood Cancer Treatment and Prevention Fund. Any moneys credited to and placed in the Childhood Cancer Treatment and Prevention Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Childhood Cancer Treatment and Prevention Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Childhood Cancer Treatment and Prevention Fund shall be added to such account and shall not be credited to the general revenue fund. Except as otherwise provided in this section, generally applicable laws concerning use of public funds shall apply to the Childhood Cancer Treatment and Prevention Fund.

4. The Children's Trust Fund Board shall administer the fund. The fund shall be used exclusively for the treatment and prevention of childhood cancers, including through grants and contracts with the Childrens Health Insurance Program, other state agencies, political subdivisions and health care services providers.

5. No funding from the Childhood Cancer Treatment and Prevention Fund shall be used to fund abortion or any similar procedures. No funding from the Childhood Cancer Treatment and Prevention Fund shall be used to pay for research which is banned by Missouri law.

6. (1) The actual costs of collecting the tax imposed by this section shall be paid from the moneys in the Childhood Cancer Treatment and Prevention Fund as may be provided by law, not to exceed five percent of the total moneys collected;

(2) The department of revenue shall refund moneys overpaid or erroneously paid pursuant to this section as may be provided by law; and

(3) On a fiscal year basis, the director of the department of revenue shall determine by estimate whether the tax imposed by this section has caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to chapter 149, RSMo. If an estimated reduction in the amount of moneys collected and deposited into any of those funds pursuant to chapter 149, RSMo has been caused by the tax imposed by this section, an amount equal to the estimated amount of moneys that were not collected and deposited into that fund or funds because of the tax imposed by this section shall be transferred from the Childhood Cancer Treatment and Prevention Fund to the appropriate fund or funds. The aggregate amount transferred to the fair share fund, the health initiatives fund, and the state school moneys fund from the Childhood Cancer Treatment and Prevention Fund for any fiscal year shall not exceed three percent of the total moneys collected pursuant to this section during that same fiscal year.

7. The state auditor shall perform an annual audit of the funds and initiatives undertaken pursuant to this section, which shall include an evaluation of whether pre-existing funding for programs or initiatives has been reduced because of the new funding for such purposes provided through the Childhood Cancer Treatment and Prevention Fund or any of its accounts. Such audit shall be performed on a fiscal year basis. The state auditor shall make copies of each audit available to the public. Every three years the state auditor shall prepare a comprehensive report assessing the

16-211

work and progress of initiatives undertaken pursuant to this section. Such assessment report shall analyze the impact of the programs, grants, and contracts performed, shall be provided to the governor and the general assembly, and shall be available to the public.

8. The tax imposed by this section shall be imposed on all cigarettes in the possession or under the control of any dealer or distributor on and after 12:01 a.m. on January 1, 2017, as determined by department of revenue rule. The initiatives and programs authorized under this section shall be implemented as soon as reasonably practicable, but at least by July 1, 2017.

9. The net proceeds from the tax imposed by this section shall constitute new and additional funding for the initiatives and programs described in this section and shall not be used to replace existing funding as of July 1, 2016 for the same or similar initiatives and programs.

10. All of the provisions of this section shall be self-enforcing. All of the provisions of this section are severable. If any provision of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this section shall be and remain valid.

210.170. 1. There is hereby created within the office of administration of the state of Missouri the "Children's Trust Fund Board", which shall be composed of twenty-one members as follows:

(1) Twelve public members to be appointed by the governor by and with the advice and consent of the senate. As a group, the public members appointed pursuant to this subdivision shall demonstrate knowledge in the areas of prevention programs and children's health care, shall be representative of the demographic composition of this state, and, to the extent practicable, shall be representative of all of the following categories:

(a) Organized labor;

(b) The business community;

(c) The educational community;

(d) The religious community;

(e) The legal community;

(f) Professional providers of prevention services to families and children;

(g) Volunteers in prevention services;

(h) Social services;

(i) Health care services; and

(j) Mental health services;

(2) A physician licensed pursuant to chapter 334;

(3) Two members of the Missouri house of representatives, who shall be appointed by the speaker of the house of representatives and shall be members of two different political parties;

(4) Two members of the Missouri senate, who shall be appointed by the president pro tem of the senate and who shall be members of two different political parties; and

(5) Four members chosen and appointed by the governor.

2. All members of the board appointed by the speaker of the house or the president pro tem of the senate shall serve until their term in the house or senate during which they were appointed to the board expires. All public members of the board shall serve for terms of three years; except, that of the public members first appointed, four shall serve for terms of three years, four shall serve for terms of two years, and three shall serve for terms of one year. No public members may serve more than two consecutive terms, regardless of whether such terms were full or partial terms. Each member shall serve until his successor is appointed. All vacancies on the board shall be filled for the balance of the unexpired term in the same manner in which the board membership which is vacant was originally filled.

3. Any public member of the board may be removed by the governor for misconduct, incompetency, or neglect of duty after first being given the opportunity to be heard in his or her own behalf.

4. The board may employ an executive director who shall be charged with carrying out the duties and responsibilities assigned to him or her by the board. The executive director may obtain all necessary office space, facilities, and equipment, and may hire and set the compensation of such staff as is approved by the board and within the limitations of appropriations for the purpose. All staff members, except the executive director, shall be employed pursuant to chapter 36.

5. Each member of the board may be reimbursed for all actual and necessary expenses incurred by the member in the performance of his or her official duties. All reimbursements made pursuant to this subsection shall be made from funds in the children's trust fund or the Childhood Cancer Treatment and Prevention Fund appropriated for that purpose.

6. All business transactions of the board shall be conducted in public meetings in accordance with sections 610.010 to 610.030.

7. The board may accept federal funds for the purposes of sections 210.170 to 210.173 and section 143.1000 as well as gifts and donations from individuals, private organizations, and foundations. The acceptance and use of federal funds shall not commit any state funds nor place any obligation upon the general assembly to continue the programs or activities for which the federal funds are made available. All funds received in the manner described in this subsection shall be transmitted to the state treasurer for deposit in the state treasury to the credit of the children's trust fund or the Childhood Cancer Treatment and Prevention Fund, as appropriate.

8. The board shall elect a chairperson from among the public members, who shall serve for a term of two years. The board may elect such other officers and establish such committees as it deems appropriate.

9. The board shall exercise its powers and duties independently of the office of administration except that budgetary, procurement, accounting, and other related management functions shall be performed by the office of administration.

210.171. As used in sections 210.170 to 210.173 and section 143.1000, the following terms shall mean:

(1) "Board", the children's trust fund board created in section 210.170;

(2) "Prevention program", any community-based educational or service program designed to prevent or alleviate child abuse or neglect.

(3) "Childhood cancer treatment and prevention," the treatment and prevention of childhood cancer.

210.172. The board shall have the following powers and duties:

(1) To meet not less than twice annually at the call of the chairperson to conduct its official business;

(2) To require that at least eight of the board members authorize the disbursement of funds from the children's trust fund;

(3) To, one year after the appointment of the original board and annually thereafter, develop a state plan for the distribution and disbursement of funds in the children's trust fund. The plan developed under this subdivision shall assure that an equal opportunity exists for the establishment of prevention programs and the receipt of moneys from the children's trust fund in all geographic areas of this state. Such plan shall be transmitted to the governor, the president pro tem of the senate, the speaker of the Missouri house of representatives, and the appropriation committees of the Missouri senate and Missouri house of representatives, and shall be made available to the general public. In carrying out a plan developed under this subdivision, the board shall establish procedures to:

(a) Enter into contracts with public or private agencies, schools, or qualified individuals to establish community-based educational and service prevention programs with or without using the procurement procedures of the office of administration. Such prevention programs shall focus on the prevention of child abuse and neglect. Community-based service prevention programs shall include programs such as crisis care, parent aides, counseling, and support groups. Participation by individuals in any community-based educational or service prevention program shall be strictly voluntary. In awarding contracts under this paragraph, consideration shall be given by the board to factors such as need, geographic location diversity, coordination with or improvement of existing services, and extensive use of volunteers;

16-211

(b) Develop and publicize criteria for the awarding of contracts for programs to be supported with money from the children's trust fund within the limits of appropriations made for that purpose;

(c) Review and monitor expenditures of moneys from the children's trust fund on a periodic basis;

(d) Consult with applicable state agencies, commissions, and boards to help determine probable effectiveness, fiscal soundness, and need for proposed community-based educational and service prevention programs;

(e) Facilitate information exchange between groups concerned with prevention programs;

(f) Provide for statewide educational and public informational conferences and workshops for the purpose of developing appropriate public awareness regarding the problems of families and children, of encouraging professional persons and groups to recognize and deal with problems of families and children, of making information regarding the problems of families and children and their prevention available to the general public in order to encourage citizens to become involved in the prevention of such problems, and of encouraging the development of community prevention programs; and

(g) Establish a procedure for an annual internal evaluation of the functions, responsibilities, and performance of the board, which evaluation shall be coordinated with the annual state plan of the board.

(h) Using only monies appropriated from the Childhood Cancer Treatment and Prevention Fund and not from the Children's Trust Fund, carry out grants and contracts for childhood cancer treatment and prevention consistent with section 196.1131, RSMo. The Board and its staff may consult with other public entities in carrying out its childhood cancer treatment and prevention responsibilities.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-211)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed amendment to Chapters 196 and 210 of the Revised Statutes of Missouri. (Received January 5, 2016)

## Date

January 25, 2016

## Description

This proposal would amend Chapters 196 and 210 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College, Children's Trust Fund,** and the **State Auditor's office.**

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** (DOR) indicated this petition will increase revenues to the Childhood Cancer Treatment and Prevention Fund by $24.8 million per year.

**Section 196.1131**
Effective January 1, 2017, this section imposes an additional tax of five cents per pack of cigarettes before discounts and deals. Their department collects the tax in the same manner and at same time as the current taxes. Their department will have approximately 45 days to implement the petition which may be insufficient time to design and purchase new stamps.

Based on 496.5 million packs of cigarettes stamped in Tax Year 2014, the DOR estimates total revenues of $24.8 million.

Their department must refund moneys overpaid or erroneously paid pursuant to this section as provided by law. Each month, their department director must determine whether the tax imposed by this section caused a reduction in the amount of money collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to Chapter 149, RSMo. If a reduction exists, the legislation requires the transfer of a like amount not collected and deposited into that fund or funds from the Childhood Cancer Treatment and Prevention Fund to the appropriate fund or funds. This may be extremely difficult to administer as there is not a consistent pattern for ordering stamps.

**Administrative Impact:**

**Business Tax:**

Business Tax requires a new floor stock tax form and cigarette stamp order forms be updated. Additionally, the SAGE 50 accounting system and cashiering records require change. Their department must update web pages and notify licensed wholesalers of the tax increase and the floor stock tax.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** (OA) indicated the proposal amends Sections 210.170, 210.171, and 210.172, RSMo, and Chapter 196 by adding Section 196.113, RSMo.

Section 196.1131 – enacts an additional $0.05/pack tax increase on cigarettes. The monies collected from this new tax would be deposited in the Childhood Cancer Treatment and Prevention Fund to be administered by the Children's Trust Fund Board. These funds will be used for the treatment and prevention of childhood cancers. The proposal allows up to 5% of the collections to be used for collection costs. On a fiscal year basis, the Director of the Department of Revenue shall determine if the new tax has caused a reduction in the amount of moneys collected and deposited in to the Fair Share, Health Initiatives or State School Moneys Funds. If so, up to three percent of the total moneys collected from the new tax shall be transferred to these funds.

The State Auditor shall perform an annual audit of the fund, which shall include an evaluation of whether preexisting funding for programs or initiatives has been reduced because of the new funding. Every three years, the auditor shall prepare a comprehensive report assessing work and progress of initiatives undertaken pursuant to the proposed new sections.

Section 210.170-210.172 – authorizes the Children's Trust Fund Board to administer the Childhood Cancer Treatment and Prevention Fund.

FISCAL IMPACT:
In fiscal year (FY) 2015, there was $81.7 million in cigarette excise taxes collected. OA assumes that the average pack of cigarettes retails for $4.50, translating to roughly 480.9 million packs sold in Missouri. OA further assumes that cigarette sales have a (0.8) elasticity. Therefore, OA estimates a tax increase of $0.05 in January 2017 will increase the "Childhood Cancer Treatment and Prevention Fund" by $11.6 million in FY 2017 and $23.1 million once fully implemented in FY 2018.

There is no way to truly know what impact these tax increases will have on demand due to smoking cessation efforts, other state and federal regulations, and the increase in sales of e-cigarettes. However, OA estimates that the tax increase will decrease the Fair Share Fund by $0.1 million in FY 2017 and $0.2 million in FY 2018 and thereafter, the Health Initiatives fund by $0.1 million in FY 2017 and $0.2 million in FY 2018 and thereafter, and the State School Moneys Fund by $0.2 million in FY 2017 and $0.4 million in FY 2018 and thereafter.

Further, since cigarette sales will decrease slightly, General Revenue will be reduced by $0.5 million, the School District Trust Fund will be reduced by $0.2 million, and local sales tax will be reduced by $0.8 million once fully implemented in FY 2018, from the loss of sales tax.

There will be no impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to

publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated the initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no impact to their office.

Officials from **Greene County** indicated that there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson City** indicated they expect no fiscal impact should this petition become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **University of Missouri** indicated the University of Missouri Health Care has reviewed the proposed legislation and has determined that as written it should not create additional expenses in excess of $100,000.

Officials from the **Children's Trust Fund** indicated costs to the Children's Trust Fund is estimated at $198,000 - $235,000 annually to implement and manage the Childhood Cancer Treatment and Prevention Fund. Included in this estimate is:

A minimum of 2-2.5 additional full-time employees (FTE's) totaling $110,000 - $135,000 needed (includes salary and benefits package). FTE's include Program Grants Manager and assistant with fiscal/accounting background/skills, as well as a Public Information Officer (.5). FTE positions and salaries are based upon existing positions that perform like functions for child abuse and neglect prevention fund. These are only estimates and could be higher depending upon necessary qualifications and expertise required as a result of the technical medical nature of the proposed fund.

Additional costs estimated at $40,000 annually for existing personnel – Executive Director and Executive Assistant for fund/program oversight estimated at .33 % of current salary rate.

Additional expenses/costs for grant selection and review process, program implementation, grant evaluation, ongoing monitoring, and other necessary expenses directly related to implementation of this new fund, required office space & equipment for new FTE's, and to Office of Administration for procurement, budgetary and other functions estimated at $50,000 - $60,000 annually.

Monies to implement and operate the Childhood Cancer Treatment and Prevention Fund including cost of added FTE's would need to come directly from monies deposited by the State Treasurer into the specific fund proposed or from another source other than existing funds from the Children's Trust Fund which are dedicated solely for the purpose of child abuse/neglect prevention.

Officials from the **State Auditor's office** (SAO) indicated they believe that the audit required under the petition would require approximately 1 FTE. However, given the SAO has consistently lapsed funds in recent years, the SAO believes it could absorb these costs within its current appropriation authority.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation,** the **Missouri Senate, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College**.

**Fiscal Note Summary**

Estimated additional revenue to state government is $21 million to $25 million annually with up to $100,000 in additional annual costs. The revenue will fund only programs and services allowed by the proposal. Local government revenues could decrease $800,000 annually due to decreased cigarette sales.

STATE AUDITOR'S OFFICE
RECEIVED
JAN 04 2016

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

16-210

January 4, 2016

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 45 (2016-210)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 31, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-210 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 31 AM 8:56
SECRETARY OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this _____day of _____, A.D. 201_____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-210

*Be it enacted by the people of the state of Missouri:*

Section A: Section 386.890 is amended and sections 386.860, 386.900, 386.910 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.900 to 386.1000 shall be known and may be cited as the "Clean Energy Independence and Investment Act of 2016".

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any [municipal electric utility,] rural electric cooperative as provided in chapter 394[, or electrical corporation as provided in this chapter];

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of natural resources;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical

energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any [municipal utility, electrical corporation regulated under this chapter, or] rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which [the commission for a public utility or] the governing body for the supplier[other electric utilities] may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices

for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) [For any rural electric cooperative under chapter 394, or municipal utility, u]Upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, [the commission for public utilities and] the governing body for the supplier[other utilities] shall, by rule or equivalent formal action[ by each respective governing body]:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. [Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated s]Suppliers shall submit [the same] an annual net metering report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. [The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10.] The governing body of a supplier [rural electric cooperative or municipal utility] shall[, within nine months of January 1, 2008,] adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process

shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

[11.] 10. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

[12.] 11. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

[13.] 12. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

[14.] 13. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

[15.] 14. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

[16.] 15. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

[17.] 16. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.900. 1. This section shall be known and may be cited as the "Enhanced Net Metering and Easy Connection Act". It shall be the policy of the state to facilitate the use of customer-sited or controlled clean energy resources.

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal utility or electrical corporation as provided in this chapter;

(2) "Clean energy resource", electrical energy produced from:

(a) Wind;

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(b) Solar thermal sources;

(c) Hydroelectric sources;

(d) Photovoltaic cells and panels;

(e) Fuel cells using hydrogen produced by a source listed in paragraphs (a) through (d) of this subdivision; or

(f) Other sources of energy that become available after January 1, 2017, and are certified as clean by the department.

(3) "Commission", the public service commission of the state of Missouri;

(4) "Customer-generator", the owner, lessee or operator of a qualified electric energy generation unit which:

(a) Is powered by a clean energy resource or micro CHP;

(b) Has an electrical generating system with a capacity of not more than five hundred kilowatts, measured in alternating current;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(5) "Department", the department of economic development;

(6) "Micro CHP", combined heat and power or cogeneration systems that simultaneously generate electricity and thermal energy in a single integrated system with a nameplate rated capacity equal to or lower than 130 kilowatts, measured in alternating current;

(7) "Net excess energy", the amount of energy expressed in kilowatt hours delivered by a customer-generator to a supplier that exceeds the amount of energy delivered by the supplier to the customer-generator over a single billing period;

(8) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

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(9) "Retail electric supplier" or "supplier", any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals seven percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for a municipal utility may increase the total rated generating capacity of net metering systems to an amount above seven percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds two percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the retail electric supplier shall pay for the costs to purchase and install the necessary additional equipment, unless the commission or governing body makes a determination that the customer-generator is the only customer benefiting from the additional distribution equipment. If the commission or governing body determines the customer-generator is the only customer benefiting, such customer-generator shall reimburse the electric supplier for reasonably incurred equipment expenses. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subdivision (2) of subsection 3 of this section and all net excess energy shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent months;

(4) Any net excess energy credits carried forward under subdivision (3) of this subsection shall expire without any compensation at the earlier of either the next subsequent March billing period or when the customer-generator disconnects service or otherwise terminates the net metering relationship with the supplier;

(5) For any municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (4) of subsection 2 of this section to the

distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems one hundred kilowatts or less and within sixty days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application. Retail electric suppliers shall interconnect qualified energy generation units within thirty days of being notified the generation unit is installed and meets the requirements of this section.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for notifying the retail electric supplier.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other suppliers shall submit the same report to their respective governing body and make said report available to a customer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall by June 1, 2017 promulgate any rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after June 1, 2017, shall be invalid and void.

10. The governing body of a municipal utility shall by June 1, 2017 adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

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12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs, including lost revenues and lost earnings opportunities associated with reduced demand or kilowatt hours sales, incurred under this section by a retail electric supplier shall be recovered in a timely manner in that utility's rate structure in the form of a tracker or other appropriate rate recovery mechanism. At the time of any general change in a supplier's rates, any over-recovery or under-recovery balance shall be included in the supplier's revenue requirement used to set rates as amortized over a period not exceeding three years, and shall be recovered from each rate class pursuant to the supplier's approved rate design. At the time any general change in prospective rates is proposed, the commission shall permit the supplier to estimate the total generation output from all customer-owned generation for each rate class for the twelve-month period following the effective date of any change in rates, and rates shall be set using energy and demand billing units that reflect the estimated reduction of energy and demand likely to occur due to customer-owned generation. When considering costs, the commission may evaluate the value of distributed generation and clean energy resources. To the extent any costs, lost revenues, or lost earnings are recovered under this section, they shall not raise the retail rates charged to the customers of any such electrical corporation by an average of more than one percent in any year. Any limitation on cost recovery shall not limit the availability of net metering except as provided in subsection 3 of this section.

15. No customer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a customer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said customer and terminate said customer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

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386.910. 1. This section shall be known and may be cited as the "Community Solar Act."

2. Within thirty days of enactment of this section, the commission shall open a docket and by August 1, 2017, the commission shall adopt rules and regulations allowing customers to participate in community solar facilities and set a value-of-community-solar rate as described in subsection 5 of this section. For purposes of this section, a "community solar facility" is a photovoltaic electric generation facility with a capacity of between one hundred and one thousand kilowatts, measured in alternating current, that allows five or more customers of an electrical corporation to offset their energy usage with solar energy and such facility is located within the Missouri service territory of the electrical corporation where such customers have one or more electrical accounts. For the purposes of this section, an electrical corporation is as defined in 386.020.

3. The aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous calendar year, and such capacity of community solar facilities shall not count towards the system-wide net metering cap defined in subsection 3 of section 386.900. Electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. Entities or individuals that are not electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of an electrical corporation's single-hour peak load during the previous year. The commission shall allow prudently incurred costs and expenses for community solar facilities owned by an electrical corporation to be included in such electrical corporation's rate base. Once the four percent aggregate cap is reached for community solar facilities, the commission shall open a docket to determine whether or not the community solar program shall be expanded, and the commission may increase the aggregate capacity cap above four percent. The commission shall consider benefits and costs of such an expansion when making its decision. Community solar facilities shall not be eligible for tax credits under section 386.1000.

4. For any community solar facility that is owned or operated by an entity other than an electrical corporation, the energy generated by such community solar facility shall be provided to the electrical corporation to which it is interconnected in exchange for the allocation and facilitation of bill credits as provided in subsection 5 of this section.

5. Kilowatt hours generated from community solar facilities shall be allocated, on a pro rata basis, to the designated subscribers of the community solar facility at the direction of the community solar facility owner or operator. Allocated bill credits shall be set at a value-of-community-solar rate per kilowatt hour determined by the commission. The commission shall determine the value of bill credits per kilowatt hour taking into consideration costs and benefits of solar energy including but not limited to energy value, generation value, environmental value, transmission and distribution system value, disaster recovery value, reactive power value and

other grid benefit value, but such bill credits shall not be less than the electrical corporation's average retail rate. The value of allocated community solar bill credits shall be used to reduce the customer's total bill. When a community solar facility is placed in service it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years.

6. Owners and operators of community solar facilities shall not be considered a public utility as defined in section 386.020, except that this provision shall not apply to any owner or operator who is an electrical corporation.

7. The commission shall promulgate rules and regulations it deems necessary to carry out the provisions of this section. The commission's rules shall: allow electrical corporations to recover costs; provide earning opportunities for electrical corporations; provide an orderly process, including a reservation system, to allow potential community solar facility owners and operators to develop projects within the capacity limits in subsection 3 of this section; and provide options, which may include financial incentives, to encourage low-income participation.

8. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section, shall be invalid and void.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall be eligible to receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. The total amount of clean energy tax credits offered annually shall not exceed one percent of the value of electricity used in Missouri as determined in subsection 4 of this section.

2. The department of economic development shall certify when the tax credits provided in this section have cumulatively resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the clean

energy tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.890 and 386.900, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on available reports, including FERC Form Number 1 as allowed by 18 CFR § 141, or an equivalent as determined by the commission, of megawatt hours sales of retail electricity and corresponding revenues for the preceding year or most current reporting period as determined by the commission. The commission shall publish the value of electricity used in Missouri to the public and department of economic development within sixty days of the enactment of this section and at least forty-five days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may apply for and receive the credit authorized by this section only for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

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The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

7. To obtain initial approval for tax credits allowed under this section, a taxpayer shall submit an application for tax credits to the department of economic development. Each application shall be reviewed in the order of the date on which the application was received, with the oldest received date receiving highest priority in the queue. Applications received on the same day, that are not time-stamped, shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. The department may retain, for the purposes of administering this section, up to half of each application deposit, which shall not be subject to refund and shall not exceed one hundred dollars for residential taxpayers and two hundred and fifty dollars for all other taxpayers. Such application deposit, except the portion retained for administration purposes by the department, shall be refunded at completion of the project or in the event the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. The taxpayer may request a refund of the application deposit; however, any refunds of the deposit for an application shall cause such application to lose its spot in the application queue. If the taxpayer wants to maintain its position in the application queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

9. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision of its intent to disapprove, including the reasons for intending to disapprove, and to remove such application from the application queue. The taxpayer shall have one opportunity, not to exceed fifteen days of notification of intent to disapprove, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

10. If the department of economic development deems the initial application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the date the department received the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for approval shall be notified by the department of economic development that the maximum amount of credits authorized for the program have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available.

12. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial approval for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available, then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development, to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be

notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1, 3 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by postal or electronic letter and shall issue, to the taxpayer, a tax credit certificate within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

15. If the amount of the credit under subsection 14 of this section exceeds the taxpayer's total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

16. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsections 10 or 11 of this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

17. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created

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under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536. Such rules may include repayment provisions necessary to recover tax credit benefits from taxpayers found to have used fraud or misrepresentations of fact on applications, and other anti-fraud and compliance measures as may be required by the department and the provisions of sections 135.800 to 135.830.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-210)**

## Subject

Initiative petition from Andy Zellers regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received January 04, 2016)

## Date

January 25, 2016

## Description

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **Public Service Commission,** and the **Missouri Joint Municipal Electric Utility Commission**.

**Mark R. Reading** provided information to the State Auditor's Office as a proponent of this initiative petition.

**Edward D. Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Assumptions**

Officials from the **Attorney General's office** indicated Section 386.900.13, RSMo, of the proposal assigns new rulemaking responsibility to their office regarding mandatory disclosures of information by sellers of qualified electric generation units, as well as new investigatory and litigation duties. They assume they would need 1/4 full-time employee (FTE) to handle the complaints, enforcement and the rulemaking responsibilities assigned to their office, resulting in increased operating expenses of $13,890 for fiscal year 2017, $16,810 for fiscal year 2018, and $16,952 for fiscal year 2019.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** (DED) provided the following information:

The Division of Energy (DE) indicated this petition will result in increased operating expenses of $759,071 for fiscal year 2017, $827,781 for fiscal year 2018, and $835,826 for fiscal year 2019. These costs will be offset by additional revenues to the Clean Energy Fund of $0 for fiscal year 2017, $370,943 for fiscal year 2018, and $370,943 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Section 386.900 – Enhanced Net Metering and Easy Connection Act

DE assumes it would be involved in the implementation of this provision that modifies the existing net metering and interconnection requirements for regulated electric utilities. It is assumed there would be a rulemaking docket to set the process and details associated with this proposal. Rulemaking cases before the Public Service Commission (PSC) may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where enhanced net metering provisions are considered.

Section 386.910 – Community Solar Act

DE assumes it would be involved in the implementation of the Community Solar Act provisions including participating in the rulemaking docket to set the process and details associated with this section. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related

cases where community solar facilities are established for purposes of determination of eligibility and certification under the Renewable Energy Standard (RES). DE assumes this provision would result in additional RES certifications that would need to be performed.

Section 386.1000 – Clean Energy Tax Credit
DE is required to administer the Clean Energy Fund created by this section and promulgate rules to implement the Clean Energy Tax Credit. The proposal requires DE to receive applications and deposits, review and initially approve applications and required information within 30 days, review final approval applications, issue certificates and provide notifications, refund deposits for completed and disapproved projects, at least quarterly publish a list of the amount of tax credits initially and finally approved for each fiscal year and amounts reserved for future years, notify individual applicants of disapproved applications and approval within specified timeframes, notify applicants if the maximum amount of credits authorized have been allocated for the fiscal year and grant three-month extensions if needed for project completion with additional deposit payments.

**Long-range implications**

Fiscal impacts associated with the Clean Energy Tax Credits could continue until June 30, 2022. The authorization for the tax credit would sunset sooner if the 1,000 megawatt limit is reached. Economic benefits associated with construction of solar facilities would also have long-range implications.

**Assumptions and methodology used in arriving at state fiscal impact**

Section 386.900 – Enhanced Net Metering and Easy Connection Act
For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

386.910-Community Solar Act
For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

The RES requires investor-owned utilities in Missouri to either produce green power or purchase Renewable Energy Certificates (RECs) for compliance. One REC represents 1 megawatt-hour of electricity generated from an eligible renewable energy resource. The in-state renewable energy generation can receive a multiplier of 1.25 for RES compliance purpose. DE has statutory authority to certify eligible renewable energy resources before RECs associated with those renewable energy resources can be used for RES compliance. DE does not charge any certification fees.

A community solar facility is defined as a solar photovoltaics facility with a capacity of 100-1000 kilowatts (kW) under this section. DE anticipates that in-state community solar facilities will request DE to certify their renewable energy resources/projects for the purpose of generating additional revenue from REC sales. DE's review primarily focuses on environmental impacts of renewable electric generation facilities on air, water or land use. The actual staff time spent on each application varies from one project to another. Solar photovoltaics facilities with a larger capacity typically require more staff time for reviewing their third-party environmental impact assessments in addition to verifying applicable environmental permits. Staff time will be also needed for data requests and discussion, data collection, database management, report production and website maintenance.

Current average staff time to review and certify renewable energy facilities ranges from 2 hours for small projects of a few hundred kW and 8-10 hours for larger projects of a few hundred kW to 1000 kW. It is assumed that small projects will account for two-thirds of the total community solar facilities and one-third will be larger projects. The weighted average of staff time (based on 2 hours for smaller projects and 8 hours for larger projects) is 4 hours (calculation: 2*{2/3}+8*{1/3)}). The number of projects at the assumed 200 kW ranges from 71 to 209 if the full amount of tax credits are used (Source: Mark Reading). By multiplying the average staff time of 4 hours, the annual staff time will range from 284 to 836 hours. For purposes of this fiscal note, DE assumes it could implement the provisions of this section related to RES environmental certifications with staff requested to implement the clean energy tax credit in Section 386.1000, RSMo (see below).

<u>Section 386.1000 – Clean Energy Tax Credit</u>
Retail sales of Missouri's utilities totaled $7.6 billion in 2014 (Source: Mark Reading; U.S. DOE/EIA). If all tax credits were used each year up to the cap of 1% of the annual statewide Missouri revenue of Missouri's retail electric suppliers, the decrease in the state's general revenues would be approximately $76 million/year from the effective date through June 30, 2022, depending on the schedule of implementation and applications submitted and approved. If the tax credits cumulatively result in installations of 1,000 megawatts prior to June 30, 2022, the tax credits would sunset. Note the actual tax credit cap would be based on revenues as determined by the Public Service Commission pursuant to Section 386.1000.4, RSMo, of this proposal. The tax credits would have unknown economic benefits from the construction and installation of solar energy systems.

If the full amount of tax credits were used each year and with consideration to the estimated cost and size of the projects, it is estimated there would be 4,933 residential project applications and 283 commercial project applications submitted for tax credit reviews (Source: Mark Reading). DE assumes that it would take approximately 2 hours each to do the initial review/approval of each application and another 2 hours to do the review and issuance of a certification after a project is completed for residential projects. Each of these would include clerical time for input/issuing letters/filing, etc. For larger

commercial projects, an estimated 8 hours is anticipated for each of these two steps. See response above for detailed tasks required by the proposal.

19,732 hours for residential applications
4,528 hours for commercial applications
24,260 hours total

To implement this provision, DE assumes it will need a total of 12 FTE (including a portion of an FTE to implement Community Solar provisions, Section 386.910, RSMo, above) as follows:
8 – Energy Specialist I/II
2 – Energy Engineer II
2 – Administrative Office Support Assistant (AOSA)

- Energy Specialist I/II - Professional level staff to review the renewable energy project applications and to complete project evaluation activities.
- Energy Engineer II - Professional staff with expertise in engineering aspects of renewable energy projects to review the technical aspects of the projects, review of projects related to the Renewable Energy Standard and Renewable Energy Certificates and familiar with environmental impacts of renewable electric generation.
- AOSA - Staff to assist with the administrative requirements of the reviews such as drafting and sending communication to applicants, maintaining the database of applicants, and tracking status of applications.

An application deposit of 2 cents/watt is required to be paid to DE and deposited in the Clean Energy Fund. The proposal provides that DE may retain, for the purposes of administering this section, up to half of each application deposit to administer the provisions of this proposal but would not exceed one hundred dollars for residential taxpayers and two hundred and fifty dollars for all other taxpayers. Using the assumption above, if the full amount of tax credits were used each year and with consideration to the estimated cost and size of the projects, it is estimated there would be 4,933 residential project applications (at an average size of 6.1 kW) and 283 commercial project applications (at an average size of 200 kW) submitted for tax credit reviews. The application deposit for a residential project would be $122 and DE could retain 50% or $61 for a total of $300,913. The application deposit for a commercial project would be $4,000 and DE could retain a maximum of $250/application for a total of $70,750.

For purposes of this fiscal note, DE assumes there could be up to $370,943 per year available from the Clean Energy Fund to administer the provisions of this proposal. As this is less than the estimated costs to implement the provisions of the proposal, DE assumes the shortfall would be from General Revenue funds. It is also assumed that General Revenue funds would be necessary to cover all DE's costs in FY 2017 until such time as sufficient application deposits are received.

DE also assumes that the Department of Economic Development's existing tax credit database will be used to track the applications. Some IT costs to generate the necessary reports are estimated.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated the responsibilities of this proposal appear to fall under the Division of Energy. With Executive Order 13-03 the Division of Energy was transferred from their department to the Missouri Department of Economic Development, by Type I transfer. Therefore, they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** estimate this petition will result in increased operating expenses of $243,282 for fiscal year 2017, $181,985 for fiscal year 2018, and $183,470 for fiscal year 2019.

The legislation creates an unknown, negative impact to total state revenue by creating a new tax credit.

**Section 386.1000**
The provisions of this section authorize the issuance of a clean energy tax credit to taxpayers incurring costs for the installation of a clean energy resource project. The taxpayer may claim 35 percent (35%) of the total cost of the project. The legislation caps the amount of tax credits at not more than one percent (1%) of the value of the electricity used in Missouri.

**Section 386.1000.15**
The department suggests changing the provisions pertaining to the transfer of the tax credit to the Department of Revenue because this is currently the department's responsibility based on a previously issued executive order.

**Administrative Impact:**

**Personal Tax:**

Personal Tax requires one (1) Revenue Processing Technician I (Range 10, Step L) for every 6,000 credits claimed.

**Corporate Tax:**

Corporate Tax requires three (3) Revenue Processing Technicians I (Range 10, Step L) for every 4,000 credits redeemed, 4,000 credits transferred, and for every 520 SB 1099 compliance mailings and correspondence.

**Integrated Tax System:**

The integrated tax system incurs additional costs of $43,680 to implement the provisions of this petition.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** (OA) indicated the proposal:

- Authorizes the use of net-metering, with certain limits to facilitate the use of customer-sited or controlled clean energy resources.
- Allows retail electric suppliers to recover any costs incurred in this act in that utility's rate structure. To the extent any such costs, lost revenues or lost earning are recovered, they shall not raise the customer retail rates by an average of more than 1% in any year. This could impact total state revenue. OA defers to the PSC for the specific impact.
- Enacts a "Clean Energy" income tax credit for an amount equal to 35% of the total cost of the clean energy project. The annual cap on the credits is 1% of the value of electricity used in Missouri as determined by the PSC. This could result in a significant total state revenue reduction. This would also impact the calculation under Article X, Section 18(e), of the Missouri Constitution. OA understands that the DED and the PSC may have the data to estimate the impact, therefore OA defers to DED and the PSC.
- Establishes the Clean Energy Fund, which is to be used to advance clean energy through the efficient administration of the Clean Energy Tax Credit Program. This

will result in an increase to total state revenue. The revenue in the fund will come from various application deposits, but could also come from appropriated moneys, gifts, contributions, grants or bequests. The DED will administer this fund. OA defers to the DED and the PSC for the estimated impact of the application deposits.

This proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson** indicated because their city does not own any utility except for wastewater, there would be no fiscal impact should this petition become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from **Metropolitan Community College** indicated there is no anticipated impact for their college.

Officials from **University of Missouri** indicated they have not seen cost impact studies on this initiative from their electric utility suppliers, but they do not believe this will have a significant impact on their university.

Officials from the **Public Service Commission** (PSC) indicated:

Section 386.890 defines "department" as the department of natural resources. Since other changes are being made to this section, "department" should be defined as the department of economic development, division of energy.

Sections 386.890 and 386.900 both use the terms "Retail electric supplier" or "supplier", but in Section 386.890 a "retail electric supplier" or "supplier" is any rural electric cooperative under Chapter 394 that provides retail electric service in this state and in Section 386.900 a "retail electric supplier" or "supplier" is any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state. Although the terms are in different statutes, it may be confusing to define the same term in a different manner. It may be clearer to use different terms applicable to the respective intent. Further since Section 386.890 is only applicable to rural electric cooperatives, it may make sense to move the entire provision to Chapter 394.

Sections 386.890 and 386.900 use the term "wholesale generator". The PSC respectfully suggests this term be defined.

Section 386.900 uses terms such as "commission-regulated supplier" and "public utilities" to describe suppliers that are subject to PSC jurisdiction. The PSC respectfully suggests the terms be used consistently.

Section 386.900 requires the PSC to promulgate rules by June 1, 2017 and Section 386.910 requires the PSC to adopt rules by August 1, 2017. The PSC respectfully suggests these dates may be aggressive for final rules to be effective.

Section 386.900.6.(2) references "subsection 4 of this section". This appears to be an inaccurate cross-reference as there is no subsection 4 of the section.

Section 386.900.12 says the estimated generating capacity of all net metering systems shall count towards the respective retail electric supplier's accomplishment of any

renewable energy portfolio target or mandate, but the renewable energy portfolio deals with "energy" not "capacity".

Section 386.900.14 says any costs, including lost revenues and lost earnings opportunities. The PSC respectfully suggests "lost revenues" and "lost earnings opportunities" be clearly defined as to how to calculate those amounts. The interpretation and calculation of these terms has been the subject of on-going disagreement as they relate to the Missouri Energy Efficiency Investment Act.

Section 386.900.14 states the commission may evaluate the value of distributed generation and clean energy resources, but it is not clear how to determine those values.

Section 386.900.14 states any costs, lost revenues or lost earnings recovered under this section shall not raise the retail rates charged to customers by an average of more than one percent in any year. The PSC suggests this requirement be clarified. A similar cap is placed on the renewable mandate of Section 393.1045. It has been over seven years since the enactment of this provision and parties continue to argue over its meaning before the commission.

Section 386.910.5 states that when a community solar facility is placed in service, it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years. It appears this provision would require the utility ratepayers to fund the facility at the current rate for 20 years without adjustment for changes in the utility's costs or revenues that would occur over the 20 year period. It is also not clear if the cost-of-solar value contemplates an earnings opportunity for the Commission-regulated utility.

Section 386.1000 discusses a "clean energy tax credit". It is not clear why the tax credit is in the PSC statute and not in a tax-related statute.

Officials from the **Missouri Joint Municipal Electric Utility Commission** (MJMEUC) indicated:

Missouri Public Utility Alliance (MJMEUC is part of the alliance) through its electric division represents 65 of the 86 cities with municipal electric utilities.

After careful review and analysis, they believe that implementation would reduce municipal electric utility revenues somewhere between $17,000,000 and $23,900,000 annually based on:

1. Varying changes to the state’s net metering law.
2. Greater penetration of solar panels throughout the state because of a state funded tax rebate for their purchase and installation.

Other proposed changes would increase the cost of city operations by approximately $3,435,000.

Several of these proposals modify the state's net metering law to require cities to carry forward to subsequent months excess customer generation. Current software is not designed to provide this functionality and each city would have to contract with their own vendor to modify their billing software. In addition several petition versions require the PSC to approve municipal rate increases by class based on actual expenses. This will necessitate regular cost of service studies and for cities to hire attorneys with experience before the PSC to present their cases for rate increases. In order to calculate costs they have contacted firms in both disciplines to provide estimated costs for these services.

Total estimated costs are as follows:

| | |
|---|---|
| Lost Revenues: | $23,900,000 |
| Service Study: | 1,505,000 |
| Attorney, PSC Experience: | 410,000 |
| Billing Modification: | 1,520,000 |
| TOTAL | $27,335,000 |

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art X Sec 16) that reduces income or increases costs without "full state financing", they anticipate that the costs would be reflected in the final state cost when the fiscal note is completed. They have no idea what litigation costs might be necessary.

They would offer the following for potential utilization in the final fiscal note:

"….. *reduce revenues for municipal electric utilities by (fill in the blank), increase operational costs by approximately (fill in the blank) and create unknown litigation costs at both the state and local level over Mo. Const. Art. X Sec. 16."*

**Mark R. Reading** provided the following information as a proponent of this initiative petition.

Submitted by:

_____

Mark R. Reading
2604 Lakeland Drive
Jefferson City, MO 65109
(573) 694-6828
*Primary Contact Person*

**Clean Energy Independence and Investment Act of 2016 - Versions 37, 39, 41, 43, and 45**
**Sec. of State # 202, 204, 206, 208, 210**

**Proposed Statement of Fiscal Impact**
**for Clean Energy Independence and Investment Act of 2016 - Versions 37, 39, 41, 43, and 45**
**Sec. of State # 202, 204, 206, 208, 210**

**Fiscal Impact Information Submitted Pursuant to Section 23.140.2**

The amendment's estimated impact decreases state revenue between $32 to $64 million depending upon the speed of up to $225 million in additional clean energy project construction and implementation by the Department of Economic Development, residential homeowners, and businesses. Local revenue is estimated to grow between $2.6 to $5.1 million.

| ESTIMATED NET EFFECT ON STATE FUNDS | | |
|---|---|---|
| **Fund Affected** | **FY 2017** | **FY 2018** |
| **General Revenue** | $0 | From ($33,037,828) to ($66,019,325) |
| | | |
| **Total Estimated Net Effect on All State Funds** | $0 | From ($32,045,806) to ($64,028,436) |
| **ESTIMATED NET EFFECT ON LOCAL FUNDS** | | |
| Local Funds | $0 | From $2,553,188 to $5,128,651 |
| | | |
| **Total Estimated Net Effect on All Local Funds** | $0 | From $2,553,188 to $5,128,651 |

**SUMMARY OF VERSIONS OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT**

Nine additional versions of the Clean Energy Independence and Investment Act of 2016 have been submitted for review. A summary of which topics are in each version is provided below.

Two additional versions of the Clean Energy Independence and Investment Act of 2016 have been submitted for review. A summary of which topics are in each version is provided below.

**CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT OF 2016**
**SUMMARY OF VERSIONS**

| Petition version | 386.870 - Electric vehicle | 386.890 - Net metering | 386.900 - Enhanced net metering | 386.910 - Community Solar | 386.1000 - Tax credits |
|---|---|---|---|---|---|
| | | | | | |
| **1% Electric Versions** | | | | | |
| Version 37 | N/A | X | X | X | X |
| Version 39 | X | X | X | X | X |
| Version 41 | X | Deletes | X | X | X |
| Version 42 | N/A | N/A | N/A | N/A | X |
| Version 43 | X | N/A | N/A | X | X |
| Version 44 | X | X | X | N/A | X |
| Version 45 | N/A | X | X | X | X |
| | | | | | |
| **$50 million cap Versions** | | | | | |
| Version 38 | N/A | X | X | N/A | X |
| Version 40 | X | X | X | X | X |

## ANALYSIS OF FISCAL IMPACT OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT

The fiscal impact analysis contained herein focuses on estimating the fee and tax revenue resulting from the statutory changes proposed in the initiative petition. Table 1 summarizes the revenue estimated by source and by fiscal year. Page and Table numbers are provided to help readers find specific subjects.

**Table 1 - Summary of Fiscal Impact by Fund**

| Page # | Table # | Purpose | FY 2017 | FY 2018 - low range | FY 2018 - high range | Revenue Type |
|---|---|---|---|---|---|---|
| 4-12 | Table 10 | Tax credit | $0 | ($39,494,829) | ($78,989,658) | Income |
| 14-15 | Table 14 | Taxes from clean energy tax credit construction | $0 | $4,429,063 | $8,858,126 | Various |
| 16-18 | Table 17 | Taxes from community solar construction | $0 | $2,027,938 | $4,112,207 | Various |
| | | subtotal General Revenue Fund | $0 | ($33,037,828) | ($66,019,325) | |
| | | | | | | |
| 8-13 | Table 11 | Clean Energy Fund | $0 | $185,926 | $371,663 | Application deposit |
| | | | | | | |
| 14-15 | Table 14 | Prop C sales tax - clean energy | $0 | $451,369 | $902,739 | Sales tax |
| 16-18 | Table 17 | Prop C sales tax - community solar | $0 | $206,669 | $419,078 | Sales tax |
| | | subtotal Prop C | $0 | $658,038 | $1,321,817 | |
| | | | | | | |
| 14-15 | Table 14 | Conservation sales tax - clean energy | $0 | $56,421 | $112,842 | Sales tax |
| 16-18 | Table 17 | Conservation sales tax - community solar | $0 | $25,834 | $52,385 | Sales tax |
| | | subtotal Conservation | $0 | $82,255 | $165,227 | |
| | | | | | | |
| 14-15 | Table 14 | Parks and Soils sales tax - clean energy | $0 | $45,137 | $90,274 | Sales tax |
| 16-18 | Table 17 | Parks and Soils sales tax - community solar | $0 | $20,667 | $41,908 | Sales tax |
| | | subtotal Parks and Soils | $0 | $65,804 | $132,182 | |
| | | | | | | |
| | | subtotal Other State Funds | $0 | $992,023 | $1,990,889 | |
| | | | | | | |
| | | subtotal all state funds | $0 | ($32,045,806) | ($64,028,436) | |
| | | | | | | |
| 14-15 | Table 14 | Local Sales Tax - clean energy | $0 | $1,751,314 | $3,502,627 | Sales tax |
| 16-18 | Table 17 | Local Sales Tax - community solar | $0 | $801,875 | $1,626,024 | Sales tax |
| | | subtotal Local Funds | $0 | $2,553,188 | $5,128,651 | |
| | | | | | | |
| | | Grand Total State and Local | $0 | ($29,492,617) | ($58,899,785) | |

**Clean Energy tax credits**

The proposal creates a clean energy tax credit in Chapter 386 RSMo. The annual level of tax credits for each calendar year shall not exceed one percent of the annual statewide Missouri revenue of Missouri retail electric suppliers. The Public Service Commission (PSC) is required to determine the revenue for retail electric suppliers using available reports, including FERC Form Number 1 as allowed by 18 CFR § 141 or an equivalent determined by the PSC.

The data for this calculation is gathered and published by the U.S. Energy Information Administration on its website.[1] Table 2 shows the revenues reported by each Missouri entity in 2014. Retail sales totaled $7.6 billion in 2014 for the 74 entities.

**Table 2**
**2014 Utility Bundled Retail Sales - Total**
(Data from forms EIA-861- schedules 4A & 4D and EIA-861S)

| Entity | Ownership | Revenues (Thousands Dollars) |
|---|---|---|
| Atchison-Holt Electric Coop | Cooperative | $6,727 |
| Barry Electric Coop | Cooperative | $16,654 |
| Barton County Elec Coop, Inc | Cooperative | $16,262 |
| Black River Electric Coop - (MO) | Cooperative | $42,554 |
| Boone Electric Coop | Cooperative | $55,335 |
| Callaway Electric Cooperative | Cooperative | $24,618 |
| Carroll Electric Coop Corp - (AR) | Cooperative | $14,104 |
| Central Missouri Elec Coop Inc | Cooperative | $25,350 |
| Chillicothe Municipal Utils | Municipal | $10,035 |
| Citizens Electric Corporation - (MO) | Cooperative | $123,087 |
| City Utilities of Springfield - (MO) | Municipal | $249,286 |
| City of Ava - (MO) | Municipal | $2,894 |
| City of Cameron | Municipal | $7,728 |
| City of Carthage - (MO) | Municipal | $24,493 |
| City of Columbia - (MO) | Municipal | $109,927 |
| City of Farmington - (MO) | Municipal | $18,390 |
| City of Fulton - (MO) | Municipal | $14,228 |
| City of Hannibal - (MO) | Municipal | $25,785 |
| City of Harrisonville - (MO) | Municipal | $12,072 |
| City of Independence - (MO) | Municipal | $135,338 |
| City of Jackson - (MO) | Municipal | $16,281 |
| City of Kennett - (MO) | Municipal | $10,988 |
| City of Kirkwood - (MO) | Municipal | $21,547 |
| City of Lamar - (MO) | Municipal | $6,961 |
| City of Lebanon - (MO) | Municipal | $22,949 |
| City of Macon - (MO) | Municipal | $9,740 |
| City of Marshall - (MO) | Municipal | $17,390 |
| City of Monett - (MO) | Municipal | $20,534 |
| City of Mount Vernon - (MO) | Municipal | $6,790 |
| City of Nixa - (MO) | Municipal | $14,132 |
| City of Poplar Bluff - (MO) | Municipal | $31,686 |
| City of Rolla - (MO) | Municipal | $27,694 |
| City of Sikeston - (MO) | Municipal | $17,528 |

| | | |
|---|---|---|
| City of Sullivan - (MO) | Municipal | $9,645 |
| City of West Plains - (MO) | Municipal | $15,208 |
| Clay County Electric Coop Corp | Cooperative | $96 |
| Co-Mo Electric Coop Inc | Cooperative | $46,302 |
| Consolidated Electric Coop | Cooperative | $21,936 |
| Crawford Electric Coop, Inc | Cooperative | $30,705 |
| Cuivre River Electric Coop Inc | Cooperative | $105,621 |
| Empire District Electric Co | Investor Owned | $456,324 |
| Farmers Electric Coop, Inc - (MO) | Cooperative | $28,697 |
| Gascosage Electric Coop | Cooperative | $17,074 |
| Grundy Electric Coop, Inc | Cooperative | $12,214 |
| Howard Electric Coop | Cooperative | $6,057 |
| Howell-Oregon Elec Coop, Inc | Cooperative | $38,226 |
| Intercounty Electric Coop Assn | Cooperative | $53,855 |
| KCP&L Greater Missouri Operations Co. | Investor Owned | $802,845 |
| Kansas City Power & Light Co | Investor Owned | $824,706 |
| Laclede Electric Coop, Inc | Cooperative | $63,330 |
| Lewis County Rural E C A | Cooperative | $13,534 |
| Macon Electric Coop | Cooperative | $23,795 |
| Missouri Rural Electric Coop | Cooperative | $17,812 |
| New-Mac Electric Coop, Inc | Cooperative | $38,876 |
| North Central MO Elec Coop Inc | Cooperative | $14,098 |
| Osage Valley Elec Coop Assn | Cooperative | $28,034 |
| Ozark Border Electric Coop | Cooperative | $68,293 |
| Ozark Electric Coop Inc - (MO) | Cooperative | $52,354 |
| Pemiscot-Dunklin Elec Coop Inc | Cooperative | $19,856 |
| Platte-Clay Electric Coop, Inc | Cooperative | $51,737 |
| Ralls County Electric Coop | Cooperative | $12,711 |
| SE-MA-NO Electric Coop | Cooperative | $9,438 |
| SEMO Electric Cooperative | Cooperative | $33,195 |
| Sac-Osage Electric Coop Inc | Cooperative | $16,676 |
| Southwest Electric Coop, Inc | Cooperative | $58,853 |
| Sunnova | Behind the Meter | $1 |
| Three Rivers Electric Coop | Cooperative | $36,751 |
| Trenton Municipal Utilities - (MO) | Municipal | $8,647 |
| Tri-County Electric Coop Assn | Cooperative | $12,512 |
| Union Electric Co - (MO) | Investor Owned | $3,112,534 |
| United Electric Coop, Inc - (MO) | Cooperative | $21,579 |
| Webster Electric Coop | Cooperative | $28,828 |
| West Central Electric Coop Inc - (MO) | Cooperative | $25,967 |
| White River Valley El Coop Inc | Cooperative | $86,488 |
| Adjustment 2014 | Other | $159,914 |
| Total | | $7,644,407 |

Source: http://www.eia.gov/electricity/sales_revenue_price/
Table 10: All Sectors - Class of ownership, number of consumers, sales, revenue, and average retail price by State and utility:

Table 3 shows the data series by year from 1990 through 2014 reported by the U.S. Energy Information Administration.[2] The average annual increase in these revenues is 3.33 percent.

**Table 3**
**Revenue from Sales to Ultimate Customers**
**(Thousand Dollars) for Missouri, 1990-2014**

| Year | Total Revenue | $ Growth over previous year | % Growth over previous year |
|---|---|---|---|
| 1990 | $3,484,572,000 | | |
| 1991 | $3,653,391,000 | $1,688,190 | 4.8% |
| 1992 | $3,489,099,000 | ($1,642,920) | (4.5%) |
| 1993 | $3,709,661,000 | $2,205,620 | 6.3% |
| 1994 | $3,749,115,000 | $394,540 | 1.1% |
| 1995 | $3,891,751,000 | $1,426,360 | 3.8% |
| 1996 | $3,961,895,000 | $701,440 | 1.8% |
| 1997 | $4,005,066,000 | $431,710 | 1.1% |
| 1998 | $4,196,674,000 | $1,916,080 | 4.8% |
| 1999 | $4,185,713,000 | ($109,610) | (0.3%) |
| 2000 | $4,370,246,000 | $1,845,330 | 4.4% |
| 2001 | $4,414,434,000 | $441,880 | 1.0% |
| 2002 | $4,565,227,000 | $1,507,930 | 3.4% |
| 2003 | $4,470,188,000 | ($950,390) | (2.1%) |
| 2004 | $4,494,108,000 | $239,200 | 0.5% |
| 2005 | $4,959,849,000 | $4,657,410 | 10.4% |
| 2006 | $5,169,747,000 | $2,098,980 | 4.2% |
| 2007 | $5,614,317,000 | $4,445,700 | 8.6% |
| 2008 | $5,768,459,000 | $1,541,420 | 2.7% |
| 2009 | $5,871,973,000 | $1,035,140 | 1.8% |
| 2010 | $6,698,608,000 | $8,266,350 | 14.1% |
| 2011 | $7,008,476,000 | $3,098,680 | 4.6% |
| 2012 | $7,029,475,000 | $209,990 | 0.3% |
| 2013 | $7,538,092,000 | $5,086,170 | 7.2% |
| 2014 | $7,644,407,000 | $1,063,150 | 1.4% |
| | | Avg. annual growth | 3.33% |

Source: http://www.eia.gov/electricity/sales_revenue_price/
Supplemental Data: 1990 - 2013 Revenue from Retail Sales of Electricity by State by Sector by Provider (EIA-861)

For purposes of this fiscal analysis it is assumed that the Public Service Commission will use the most recent available data for establishing the annual cap. The state is currently in FY 2016 and the most recent available data is from 2014. Thus, for the fiscal periods included for consideration by the State Auditor's Office the FY 2017 cap will be established using 2015 data published by the U.S. Energy Information Administration. Similarly, the FY 2018 cap will be established using 2016 data. In this manner the cap for each calendar year will be established eight months before it begins instead of four months after it starts.

**Table 4**
**Data and Timeline for Establishing Annual Tax Credit Cap**

| Data available | Time period of data | CY year for the cap |
|---|---|---|
| April 2015 | 2014 actual data | CY 2016 |
| April 2016 | 2015 actual data | CY 2017 |
| April 2017 | 2016 actual data | CY 2018 |

As shown in Table 3 the average annual growth rate from 1990 to 2014 was 3.33 percent. Table 5 assumes that the average annual growth rate will carry forward for the next several years. The clean energy tax credits cap is estimated at $76.4 million for CY 2016, $79 million for CY 2017 and $81.6 million for CY 2018.

**Table 5**
**Clean Energy Tax Credit Estimate of Cap**

| Calendar Year for cap | Fiscal Year for likely redemption of credits | Revenue data | Total Revenue | Tax credit at 1.0% |
|---|---|---|---|---|
| CY 2016 | FY 2017 | 2014 actual data | $7,644,407,000 | $76,444,070 |
| CY 2017 | FY 2018 | 2015 projection | $7,898,965,753 | $78,989,658 |
| CY 2018 | FY 2019 | 2016 projection | $8,162,001,313 | $81,620,013 |

For purposes of the fiscal note the State Auditor's office asks that estimates be provided for the first two fiscal years of implementation which are FY 2017 and FY 2018 since the provisions of the proposal would go into effect in December 2016. Almost all taxpayers file their taxes on the April 15th deadline. Therefore, CY 2016 taxes would be due on April 15, 2017 which is in FY 2017 as shown in Table 5.

The proposal establishes a cap beginning for CY 2016. However, the provisions of the act will go into effect in December 2016. Paragraph 13 of the proposed section 386.1000 states that any taxpayer verified by the Department of Economic Development to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with the provisions shall be deemed eligible for the tax credit. This allows for the Department of Economic Development to include projects in 2016 before its processes are in place. Paragraph 17 of the proposed section 386.1000 provides that the Department of Economic Development shall issue rules necessary to administer the act. In addition, paragraph 10 gives the Department of Economic Development 45 days to notify an applicant of approval after the application is submitted.

Issuing rules is at best a months long process. The 45 day processing time allowed for any completed application filed after the rules are adopted makes it very unlikely that the Department of Economic Development will issue any CY 2016 tax credits before April 15, 2017 that would affect the taxpayers initial tax filing and reduce taxes paid during FY 2017. Tax credits issued between April 15 and June 30, 2017 would require an amended filing which also would be unlikely to be completed by June 30, 2017. Thus, this fiscal analysis assumes a de minimis or no impact on FY 2017 general revenue tax collections. Any CY 2016 tax credit impact would at most impact the FY 2018 tax collections through amended returns or through CY 2017 taxes.

**Application Deposit revenue**

The proposed Section 386.1000 RSMo requires that taxpayers submit an application to the Department of Economic Development to receive approval for tax credits (paragraph 7). Each application must include a two cent per watt application deposit. The total revenue from application deposits is dependent upon:

- the number of projects that will be submitted;
- the number of watts generated from all of those projects

Each of these is affected by the:

- percentage of residential v commercial projects
- number of kW generated by residential v commercial projects
- cost of residential and commercial projects
- total construction completed
- any phase-in period as the Department of Economic Development institutes rules and prepares the program
- any phase-in period as the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available

All of these factors must be estimated and evaluated in order to calculate the amount of application deposit revenue that will be received by the Department of Economic Development.

Tax credits are available to both residential and commercial projects. Paragraph 5 of the proposed Section 386.1000 RSMo provides that no electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit.

The Missouri Department of Economic Development, Division of Energy published a Missouri Comprehensive State Energy Plan in October 2015. The report states that half of the installed net-metered PV solar is residential and the other half commercial customers.[3] However, the report also indicates that there are challenges that face residential customers making it more difficult and expensive to install solar projects. These challenges include local ordinances or homeowner's association rules the may prohibit installation or require design changes that decrease efficiency or add to the cost.[4] In addition, over the past decade an industry has developed to assist with the financing of solar projects. Such financing alternatives are easier to obtain by commercial projects because of their size, scope, and estimated return on investment.[5] Commercial projects can have a longer-term outlook than homeowners who may not know how long they may live in their current house. The Missouri State Energy Plan indicates that residential rooftop solar is a relatively expensive energy option due to these and other factors.[6]

For all of the reasons identified in the preceding paragraph, for purposes of this fiscal analysis residential solar installation is assumed to be 40% of the total solar construction. Commercial solar installation is assumed to be 60% of the total solar construction. This fiscal analysis has already indicated that 2016 solar construction will likely not be affected by the approval of the petition by voters in November 2016. Thus, CY 2017 is the first full year of impact. Tax credits resulting from such construction will first affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office.

The next factor to consider is the number of kW generated by residential and commercial projects. A recent report on photovoltaic system pricing trends published by the U.S. Department of Energy indicates that the median residential project is 6.1 kW while the modeled commercial system is 200 kW. Paragraph 5 of the proposed section 386.1000 establishes a 200 kW limit on installations that are authorized for tax credits.[7] For purposes of this fiscal analysis it is assumed that all commercial projects will be at the 200 kW size and that residential projects will be 6.1 kW. Paragraph 7 of the proposed section 386.1000 requires a two cent per watt application deposit fee. Table 6 shows that there would be a $122 application deposit required for the median residential project. There would be a $4,000 application

deposit required for the 200 kW commercial project. A portion of this revenue will be available to the department for operational purposes as shown later in Table 11.

**Table 6**
**Application Deposit Required for Projects**

| Construction type | Project size in kW | Project size in watts | Application deposit for project at 2 cents per watt |
|---|---|---|---|
| Residential | 6.1 | 6,100 | $122 |
| Commercial | 200.0 | 200,000 | $4,000 |

The recent report on photovoltaic system pricing trends published by the U.S. Department of Energy also discusses the historical, recent, and near-term pricing of solar projects.[8] Project cost information was obtained on more than 400,000 systems in 42 states. The modeled system prices identified in the report showed a Q1 2015 residential system price of $3.12/watt and a commercial 200 kW system cost of $2.17/watt. These were reductions in price of from Q4 2013 of 7% and 19% respectively. The report also indicates that prices for residential and commercial PV systems have decreased by 6-12% per year, on average, from 1998-2014. In addition, the report indicates that analysts project the system prices will fall 16-33% for residential systems between 2014-2020.

Table 7 projects residential solar project costs. Projections are made to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 7 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $3,000/kW for residential solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 6.1 kW residential project is estimated at $18,300.

**Table 7**
**Residential Solar Project Estimate**

| | Cost of Residential project per kW | Cost of Residential project at 6.1 kW project size |
|---|---|---|
| CY 2015 | $3,120 | $19,032 |
| CY 2016 | $3,039 | $18,538 |
| CY 2017 | $2,960 | $18,056 |
| average cost of CY16 and CY17 estimates | $3,000 | $18,300 |

The modeled commercial system price identified in the report showed a Q1 2015 commercial 200 kW system cost of $2.17/watt. However, the national average cost of commercial projects is affected by states with more mature solar markets and industries and large companies, like Wal-Mart and Ikea, that have moved to install significant solar projects on their facilities. The first Missouri commercial systems are less likely to meet the $2.17/watt cost projections. Table 8 uses other data in the report to amend the estimate of commercial solar project costs. The report shows that the price of the modeled 200 kW commercial system has fallen from $2.68/watt to $2.17 between 2013 Q4 and 2015 Q1. The mid-point of that decrease is $2.425/watt. Further, it is assumed that the cost of Missouri projects will be higher by 2.6%, or one-year's worth of the low end of the price declines found in the report. The result is that this analysis will assume that the Missouri 2015 Q1 price is $2.488/watt.

**Table 8**
**Commercial Solar Project Cost Estimate per kW**

| | |
|---|---|
| 2013 Q4 | $2,680 |
| 2015 Q5 | $2,170 |
| Mid-point | $2,425 |
| One-year behind (2.6%) | $2,488 |

Table 9 then projects the $2,488/kW 2015 Q1 cost to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 9 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $2,392/kW for commercial solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 200 kW commercial project is estimated at $478,400.

**Table 9**
**Commercial Solar Project Estimate**

| | Cost of Commercial project per kW | Cost of Commercial project at 200 kW project size |
|---|---|---|
| CY 2015 | $2,488 | $497,600 |
| CY 2016 | $2,423 | $484,600 |
| CY 2017 | $2,360 | $472,000 |
| average cost of CY16 and CY17 estimates | $2,392 | $478,400 |

The analysis so far has identified:

- a $79 million estimate of the maximum clean energy tax credits using one percent of the annual statewide Missouri revenue of Missouri retail electric suppliers as directed by paragraph 1 of the proposed section 386.1000.
- an estimate that 40% of total solar construction would be residential and 60% commercial
- project cost estimates of $18,300 for 6.1 kW residential projects and $478,400 for 200 kW commercial projects

The final factor to calculate before arriving at the amount of application deposit revenue is any phase-in period as the Department of Economic Development issues rules and prepares its processes and the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available. The Missouri State Energy plan reports that Missouri currently has 111 MW of installed solar PV capacity. The plan also reports that there is 42.8 MW of installed net-metered PV solar developed over the years largely as a result of rebates from large utility companies in Missouri.

The proposal being analyzed establishes a statutory program of clean energy tax credits that will sunset after the Department of Economic Development certifies that 1,000 MW of capacity has been added as a result of the tax credits but no later than June 30, 2022. The 1,000 MW target represents a dramatic increase in current capacity.

The Missouri State Energy plan provides a wealth of information about the current state of "green jobs" and the solar industry in Missouri. The report includes the following along with other findings about the industry.

- Missouri had over 100,000 "green jobs" according to a 2009 study.[9]
- Missouri was identified as 10th in the nation for growth in clean energy and clean transportation jobs in 2013.[10]

- $187 million was invested by Missouri's solar industry in 2014 to install solar photovoltaic systems for residential, commercial, and utility use.[11]
- There are more than 97 solar companies at work throughout the supply chain in Missouri, employing 2,500 people including manufacturers, contractors, installers, project developers, distributors.[12]
- Missouri could create 8,500 new jobs to design, install, and operate energy efficiency measures by 2025 according to a 2011 study.[13]
- In 2010 Missouri ranked 6th in the nation in photovoltaic jobs.[14]

The clean energy tax credit does not sunset until the 1,000 MW target of additional capacity is met but no later than June 30, 2022. The size and the long-term nature of the 1,000 MW target should encourage the development of the Missouri solar industry even after it sunsets. It should also result in long-term planning and the build out of a native Missouri solar industry. The target also provides an incentive for the industry to meet the growth potential described in the Missouri State Energy Plan.

In the long-term the impact of the 1,000 MW target will grow and build the industry. In addition, investment in solar will allow longer term benefits in reduced fuel usage, cleaner air, better health and the resulting lower costs among other things. The Missouri State Energy Plan identifies the public health impacts of various energy sources with clean energy sources providing significant positive benefits over other sources.[15] A 2013 study of Hawaii's solar tax credit program found that the State recovered the full cost of the tax credit in 9 to 11 years - a rate of return on its investment ranging from 8.9% to 10.3%.[16] In addition, the study found that for each dollar spent by Hawaii on tax credits the amount of additional sales stimulated was $34.69 for residential solar PV and $55.03 for commercial PV.

However, the fiscal note format required for initiative petitions focuses on the short-term revenue and costs. Thus, the longer-term benefits are not included in this fiscal analysis. As explained elsewhere in this fiscal analysis the impact of the availability of tax credits is somewhat dependent upon the speed with which the Department of Economic Development issues the necessary rules and regulations, develops and makes available the application forms, and the industry's reaction to voter approval and the department's actions. Thus, two alternatives are calculated to create a possible range for the likely outcome in the short-term.

The first alternative assumes that construction will be sufficient to use half of the $79 million in possible tax credits. The first alternative assumes that the program is not implemented until July 2017 thus reducing its effect by half in CY 2017. The second alternative assumes that construction will be sufficient to use all of the $79 million in possible tax credits. The second alternative assumes that the industry is energized by the tax credit and pushes forward with construction under the assumption that the Department of Economic Development will recognize all projects that have been started after voter approval of the proposal.

Table 10 takes that information and shows two possible alternatives for CY 2017.

- Construction leading to use of **half** the available tax credits ($39.5 million) - A total of $112.8 million in construction would be required to generate $39.5 million in tax credits. Residential construction of $45.1 million (assuming 40% of construction) would result in $15.8 million in tax credits. Commercial construction of $67.7 million (assuming 60% share of construction) would result in $23.7 million in tax credits.

- Construction leading to use of **all** the available tax credits ($79 million) - **A total of $225.7 million in construction would be required to generate $79 million in tax credits**. Residential construction of $90.3 million (assuming 40% of construction) would result in $31.6 million in tax credits. Commercial construction of $135.4 million (assuming 60% share of construction) would result in $47.4 million in tax credits.

In addition, using the average cost and size of projects it is possible to compute the number of residential and commercial projects that will be constructed. A total of 2,608 projects would be constructed with half

the tax credits (2,466 residential, 142 commercial). A total of 5,216 projects would be constructed with all the tax credits (4,933 residential, 283 commercial).

**Table 10**
**Number of Projects using Half or All of Tax Credit Cap**

| | CY 2017 construction needed for half of tax credits to be used in FY 2018 | CY 2017 construction needed for all of tax credits to be used in FY 2018 |
|---|---|---|
| Tax credits estimate from CY 2017 construction | $39,494,829 | $78,989,658 |
| Amount of construction value needed to generate value of 35% tax credits | $112,842,369 | $225,684,737 |
| | | |
| % of residential per year of credits issued | 40.0% | 40.0% |
| % of commercial per year of credits issued | 60.0% | 60.0% |
| | | |
| Tax credits by type of construction | | |
| Residential | $15,797,932 | $31,595,863 |
| Commercial | $23,696,897 | $47,393,795 |
| Total amount by type | $39,494,829 | $78,989,658 |
| | | |
| Construction value by type of construction | | |
| Residential | $45,136,948 | $90,273,895 |
| Commercial | $67,705,421 | $135,410,842 |
| Total amount by type | $112,842,369 | $225,684,737 |
| | | |
| Cost of solar projects per project | | |
| Residential (6.1 kW/project) | $18,300 | $18,300 |
| Commercial (200 kW/project) | $478,400 | $478,400 |
| | | |
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |

Table 10 shows a significant number of projects that would be completed throughout the state as a result of the clean energy tax credit. These numbers are possible for a variety of reasons identified in the Missouri State Energy Plan.

- Missouri households use about 12% more than the average U.S. household, thus projects would put real dollars into Missourians pockets for other uses and spending.[17]
- Nationally about ten percent of small business owners state that energy is their single biggest cost according to the National Federation of Independent Business. The same report indicates that an additional 25% of small business owners claim that energy is one of their top three business costs.[18] Thus, clean energy projects that reduce energy usage make businesses more profitable, allow for expansion, and could lead to higher wages for employees.
- Businesses can lower costs through on-site generation while also achieving other benefits.[19]
- Significant operational savings are possible through energy efficiency projects with rates of return as high as 25%.[20]

- A wealth of financing alternatives now exist for clean energy projects.[21]
- "Approximately 60% of the largest U.S. businesses have set public climate and energy goals to increase their use of renewable energy."[22]

Table 11 calculates the amount of application deposit revenue that the Department of Economic Development would receive given the number of projects identified in Table 10. If applications are submitted for projects equivalent to half the available tax credits then the department would receive $0.9 million in application deposit revenue. If applications are submitted for projects equivalent to all the available tax credits then the department would receive $1.7 million in application deposit revenue. The proposal allows the department to keep some of the revenue for its operational purposes. Table 11 shows that it can keep up to $61 for residential applications (half of the anticipated deposit in this analysis) and up to $250 for all other applications. The net non-refunded revenue that the department will have available for its operations is $185,926 or $371,663.

**Table 11**
**Application Deposit Revenue**

| | Application Deposit Estimate for half of tax credits for applications FY 2018 | Application Deposit Estimate for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |
| | | |
| Application deposit required per project | | |
| Residential | $122 | $122 |
| Commercial | $4,000 | $4,000 |
| | | |
| Application deposit revenue | | |
| Residential | $300,852 | $601,826 |
| Commercial | $568,000 | $1,132,000 |
| Total revenue by type | $868,852 | $1,733,826 |
| | | |
| | | |
| Application revenue kept per project for Department Operations | | |
| Residential | $61 | $61 |
| Commercial | $250 | $250 |
| | | |
| Application deposit revenue available for Department Operations | | |
| Residential | $150,426 | $300,913 |
| Commercial | $35,500 | $70,750 |
| Total amount by type | $185,926 | $371,663 |

Table 12 shows the amount of solar capacity added by the number of projects identified in the previous tables given the given size of residential and commercial projects. A total of 43.4 MW would be added in solar capacity as a result of projects equivalent to half the available tax credits which would be 4.3% of the 1,000 MW goal that when achieved will sunset the tax credits. A total of 86.7 MW would be added in

solar capacity as a result of projects equivalent to all the available tax credits which would be 8.7% of the 1,000 MW goal that when achieved will sunset the tax credits.

**Table 12 Amount of Solar Capacity Added**

| | Capacity added for half of tax credits for applications FY 2018 | Capacity added for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |
| | | |
| kW generated by construction | | |
| Residential (6.1 kW/project) | 15,043 | 30,091 |
| Commercial (200 kW/project) | 28,400 | 56,600 |
| Total amount by type | 43,443 | 86,691 |
| | | |
| MW generated by construction | | |
| Residential | 15.0 | 30.1 |
| Commercial | 28.4 | 56.6 |
| Total amount by type | 43.4 | 86.7 |
| | | |
| % of 1,000 MW goal achieved | 4.3% | 8.7% |

**Taxes**

As noted on pages 10-11 of this fiscal analysis, the Missouri State Energy Plan published in October 2015 describes the current capacity, industry size, and investments being made in Missouri. The plan also describes the potential for jobs and economic development in the state. The 1,000 MW target represents a dramatic increase in current capacity. The following analysis assumes that due to the dramatic size of the 1,000 MW target that the investments driven by the clean energy tax credits will result in new jobs and industry expansion.

Table 13 shows the cost components of a solar construction project. Labor is assumed to be 35% of the project costs, materials 40%, and Profit 10%. It is assumed that 15% of the project cost is overhead and it is assumed that no taxes would be applied. Since Missouri already has a base of manufacturers and distributors it is assumed that all materials will be Missouri taxed.

**Table 13**
**Construction Project Components, Tax Type, and Tax Rate**

| Project components | % of job | Missouri tax rate | Type tax |
|---|---|---|---|
| Labor | 35.0% | 6.00% | Income tax |
| Materials and local materials | 40.0% | 4.225% | Sales |
| Profit | 10.0% | 6.25% | Corporate |
| Overhead | 15.0% | 0.00% | N/A |
| subtotal by taxable type | 100.0% | | |

Table 14 computes the state and local taxes based on the value of construction and the project components and tax rates shown in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $4.4 million to $8.9 million in FY 2018. The other three state funds

(Prop C, Conservation, Parks/Soils) are estimated to receive between $0.6 million to $1.1 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $1.75 million to $3.5 million in local sales tax revenue in FY 2018.

**Table 14**
**State and Local Taxes Generated by Construction**

| | Half of tax credits used - CY 2017 | All of tax credits used - CY 2017 |
|---|---|---|
| Amount of construction value needed to generate value of 35% tax credits | $112,842,369 | $225,684,737 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $39,494,829 | $78,989,658 |
| Materials and local materials | $45,136,947 | $90,273,895 |
| Profit | $11,284,237 | $22,568,474 |
| subtotal by taxable type | $95,916,013 | $191,832,027 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $2,369,690 | $4,739,379 |
| Materials and local materials - Sales/Use Tax | $1,354,108 | $2,708,217 |
| Profit - General Revenue Corporate Tax | $705,265 | $1,410,530 |
| subtotal GR | $4,429,063 | $8,858,126 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $451,369 | $902,739 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $56,421 | $112,842 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $45,137 | $90,274 |
| subtotal State Taxes | $4,981,991 | $9,963,981 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $1,751,314 | $3,502,627 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $6,733,304 | $13,466,608 |

The taxes generated from the construction activity shown in Table 14 likely underestimate the state revenue that will be generated by the construction of clean energy projects even within the short time period allowed in the fiscal note. As noted earlier there are multiplier effects that ripple through the economy. The Department of Economic Development through MERIC has a sophisticated model that it uses to evaluate the impact of tax credits and other business investments made in the State of Missouri. Using the information in this fiscal analysis MERIC should be able to provide supplementary information regarding the extra economic activity and increased revenues.

Similarly, generating additional clean energy within the State of Missouri will result in a decrease in the importation of power and energy producing raw materials from other states. Such money leakage from the state, businesses and citizens, decreases the amount of purchasing could be done for other purposes such as increased jobs within the state and thus the tax revenues that would be generated. For example, the Missouri State Energy Plan notes that Missouri is the sixth largest consumer of coal in the country and 92.5% of the coal used in 2013 was imported from Wyoming.[23] The plan reports that the state sends billions of dollars out of state for purchases of imported coal, natural gas, and transportation fuels.[24]

**Community Solar Act** - Applies to Versions 28, 30, 31, 32, 34, and 36
The Community Solar Act, section 386.910 of the proposal, directs the Missouri Public Service Commission to establish rules allowing customers to participate in a "community solar facility." Community solar facilities allow participants to benefit from solar energy and receive electric bill credits substantially similar to net metering.

Paragraph 3 of that section states that the "aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous fiscal year." Table 15 shows the total peak demand data compiled by the Public Service Commission for the four utilities affected by this section. The report shows that using peak demand leads to a cap of 504.5 MW on the amount of aggregated capacity of community solar facilities statewide.

**Table 15 - Peak Demand for Community Solar**

| Utility Name | Peak Demand |
|---|---|
| Union Electric Co - (MO) | 7,713.0 |
| Kansas City Power & Light Co | 1,878.0 |
| KCP&L Greater Missouri Operations Co. | 1,860.0 |
| Empire District Electric Co | 1,162.0 |
| Total | 12,613.0 |
| 4% overall cap | 504.5 |

Paragraph 2 of that section defines a community solar facility as a photovoltaic electric generation facility with a capacity of between 100 and 1,000 kW. For purposes of this fiscal note it is assumed that all community solar projects will be the same as the 200 kW project limit established in the clean energy tax credit language of 386.1000. In Table 12 above a low and high range was calculated for the percentage of solar capacity added through the tax credits based on the expectations of the phase-in necessary for the Department of Economic Development's implementation of the clean energy tax credits. The same percentage is used - 4.3% low range and 8.7% higher range. Similarly, for the purposes of this fiscal note the cost per kW will be $2,392 for a total project cost of $478,400 as shown in Table 9.

Table 16 shows the data and calculations needed to identify the number of projects. At the low end of the range 21.7 MW of added community solar capacity would be created which would require 108 projects of 200 kW. At the higher range 43.9 MW of added community solar capacity would be created which would require 219 projects of 200 kW.

Table 16 also shows that at an average project cost of $478,400 the low range results in $51.7 million in construction spending. The higher range results in $104.8 million in construction spending.

**Table 16**
**Community Solar Capacity and Projects**

| | Low Range | Higher Range |
|---|---|---|
| Assumed % of aggregate capacity | 4.3% | 8.7% |
| Added capacity - MW | 21.69 | 43.89 |
| Added capacity - kW | 21,694.36 | 43,893.24 |
| # projects at commercial 200 kW per project | 108 | 219 |
| Construction cost - commercial project per 200 kW project | $478,400 | $478,400 |
| Construction value | $51,667,200 | $104,769,600 |

Table 17 computes the state and local taxes based on the value of construction and the project components and tax rates shown earlier in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $2.0 million to $4.1 million in FY 2018. The other three state funds (Prop C, Conservation, Parks/Soils) are estimated to receive between $0.2 million to $0.5 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $0.8 million to $1.6 million in local sales tax revenue in FY 2018.

**Table 17**
**State and Local Taxes Generated by Construction of Community Solar Projects**

| | Low range | Higher range |
|---|---|---|
| Amount of construction value needed to generate estimated MW | $51,667,200 | $104,769,600 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $18,083,520 | $36,669,360 |
| Materials and local materials | $20,666,880 | $41,907,840 |
| Profit | $5,166,720 | $10,476,960 |
| subtotal by taxable type | $43,917,120 | $89,054,160 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $1,085,011 | $2,200,162 |
| Materials and local materials - Sales/Use Tax | $620,006 | $1,257,235 |
| Profit - General Revenue Corporate Tax | $322,920 | $654,810 |
| subtotal GR | $2,027,938 | $4,112,207 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $206,669 | $419,078 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $25,834 | $52,385 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $20,667 | $41,908 |
| subtotal State Taxes | $2,281,107 | $4,625,578 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $801,875 | $1,626,024 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $3,082,982 | $6,251,602 |

**Net metering bills** - Applies to Versions 28, 29, 30, 31, 32, 35, and 36
The Missouri General Assembly has considered six net metering bills over the past three legislative sessions. Table 18 below identifies the bills and provides links to the fiscal note and bill summary prepared for each bill. All of the fiscal notes prepared and available indicated that there was no state impact from the net metering bills.

**Table 18**
**NET METERING**
**2013, 2014, AND 2015 LEGISLATIVE SESSIONS**

| Session | Bill | Sponsor | Fiscal Note Impact | Fiscal Note Summary Link | Bill Summary Link |
|---|---|---|---|---|---|
| 2015 | SB 75 | Holsman | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0622-01N.ORG.pdf | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=82&BillID=174 |
| 2015 | SB 509 | Holsman | No impact | N/A | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=664&BillID=4599469 |
| 2015 | HB 481 | Berry (38) | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0502-01N.ORG.pdf | http://house.mo.gov/billtracking/bills151/sumpdf/HB0481C.pdf |
| 2014 | HB 1795 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER14/fishtm/5552-02N.ORG.htm | http://house.mo.gov/billtracking/bills141/sumpdf/HB1795I.pdf |
| 2013 | HB 119 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/0794-02N.ORG.htm | http://house.mo.gov/billtracking/bills131/sumpdf/HB0119I.pdf |
| 2013 | SB 396 | Holsman | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/1078-07N.ORG.htm | http://www.senate.mo.gov/13info/BTS_Web/Bill.aspx?SessionType=R&BillID=19218703 |

**Electric Vehicle Charging Stations** - Applies to Versions 30, 31, 32, 34, and 35
The petition authorizes investor-owned utilities to recover costs for infrastructure investments in electric vehicle charging stations, provided the energy output from the stations is offset in part by clean energy. There should be no fiscal impact to the state. Utility investment in electric charging stations will result in positive economic activity similar to other capital investments. However, the range of the benefits is unknown at this time.

ENDNOTES

[1] U.S. Energy Information Administration: *Table 10: All Sectors - Class of ownership, number of consumers, sales, revenue, and average retail price by State and utility*
http://www.eia.gov/electricity/sales_revenue_price/

[2] U.S. Energy Information Administration: *Supplemental Data: 1990 - 2013 Revenue from Retail Sales of Electricity by State by Sector by Provider (EIA-861)*
http://www.eia.gov/electricity/sales_revenue_price/

[3] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25
https://energy.mo.gov/energy/docs/MCSEP.pdf

[4] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25-26
https://energy.mo.gov/energy/docs/MCSEP.pdf

[5] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[6] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 200
https://energy.mo.gov/energy/docs/MCSEP.pdf

[7] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 5
http://www.nrel.gov/docs/fy15osti/64898.pdf

[8] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 4
http://www.nrel.gov/docs/fy15osti/64898.pdf

[9] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 172
https://energy.mo.gov/energy/docs/MCSEP.pdf

[10] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 173
https://energy.mo.gov/energy/docs/MCSEP.pdf

[11] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[12] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[13] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 174
https://energy.mo.gov/energy/docs/MCSEP.pdf

[14] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 175
https://energy.mo.gov/energy/docs/MCSEP.pdf

[15] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 190-191, 193, 195-199, 201, 203
https://energy.mo.gov/energy/docs/MCSEP.pdf

[16] Thomas A Loudat, Blue Planet Foundation. "*The Economic and Fiscal Effects of Hawaii's Solar Tax Credit*" - January 2013.
http://blueplanetfoundation.org/renewable-energy-tax-credit-2013.html?highlight=WyJsb3VkYXQiXQ==

[17] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 154
https://energy.mo.gov/energy/docs/MCSEP.pdf

[18] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 165 for both sentences in this bullet point
https://energy.mo.gov/energy/docs/MCSEP.pdf

[19] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[20] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[21] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[22] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 178
https://energy.mo.gov/energy/docs/MCSEP.pdf

[23] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 20-21
https://energy.mo.gov/energy/docs/MCSEP.pdf

[24] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 42
https://energy.mo.gov/energy/docs/MCSEP.pdf

**Edward D. Greim** provided the following information as an opponent of this initiative petition.

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January 11, 2016

Missouri State Auditor's Office
301 West High Street
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P.O. Box 869
Jefferson City, Missouri 65102

Re: *Fiscal Note in Initiative Petitions 2016-202 through 210*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petitions 202, 204, 206, and 210:

> Lost revenue to state government is $3.04 billion over the tax credit period, with annual losses of $9.5 million to $11.5 million thereafter. Lost revenue to local government is $189.1 million over the tax credit period, with annual losses of $31.5 million to $33.9 million thereafter.

We propose the following fiscal note summary for petition 203:

> Lost revenue to state government is $320.9 million over the tax credit period, with annual losses of $5.6 million to $9.6 million thereafter. Lost revenue to local government is $100.9 million over the tax credit period, with annual losses of $20 million to $28.1 million thereafter.

We propose the following fiscal note summary for petition 205:

> Lost revenue to state government is $328.8 million over the tax credit period, with annual losses of $7.5 million to $11.5 million thereafter. Lost revenue to local government is $175.3 million over the tax credit period, with annual losses of $32.4 million to $40.5 million thereafter.

We propose the following fiscal note summary for petition 207:

> Lost revenue to state government is $3.02 billion over the tax credit period, with annual losses of $5.7 million to $7.7 million thereafter. Lost revenue to local government is $40.4 million over the tax credit period, with annual losses of $11.5 million to $15.7 million thereafter.

We propose the following fiscal note summary for petitions 208 and 209:

> Lost revenue to state government is $3.03 billion over the tax credit period, with annual losses of $7.6 million to $9.6 million thereafter. Lost revenue to local government is $114.8 million over the tax credit period, with annual losses of $23.9 million to $28.1 million thereafter.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments; taxes that do not apply whenever electricity is never sold due to customer-generator production encouraged by the initiative petitions. Petition signers and voters must be informed that any positive fiscal impacts of the initiative petitions are speculative. Likewise, petition signers and voters must be informed that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume.

**Description of Policy**

Initiative Petitions 202 – 210 contain one or more of three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of the "Community Solar Act"; and (3) A state tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, or certain natural gas technologies.

1. Changes to Net Metering for Investor-owned electric utilities and municipal electric utilities, and, in 206, rural electric cooperatives
    A. Raise net metering cap to 7% (is currently 5%);
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);



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   D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.
2. Community Solar Act
   A. PSC adopts rules and regulations allowing groups of 5 or more electrical corporation customers to offset energy usage with solar located in the service territory of the electrical corporation where they have an account;
   B. Facilities are 100 kilowatts to 1 megawatt;
   C. Community solar facilities may, in total, generate electricity of 4% or less of single-hour peak load, but that amount does not count toward net metering; Electrical corporations can own half (max of 2%), which may be included in the rate base. Others may own the other half (max of 2%);
   D. Community Solar facilities are not eligible for tax credits provided in the petition;
   E. Commission sets a community solar rate, not less than electrical corporation's average retail rate;
   F. Value of allocated solar bill credits reduces customer's total bill;
   G. The current value-of-community-solar rate may be locked in for 20 years beginning when a community solar facility is put in operation.
3. Tax credit
   A. 35% tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, etc.
   B. Total value of eligible credits shall not exceed 1% of the value of electricity used in Missouri[1] – defined as revenue from sale of electricity in Missouri; or tax credits are capped at$50 million each year. Unused credits carryover year to year until June 30, 2022
   C. No tax credits after June 30, 2022, or after 1000 megawatts of new generation have been installed using the tax credits.

**Burdens on State Government**

In determining the fiscal impact of each petition it is generally reasonable to assume that the various statutory changes in the petitions will have independent fiscal impacts. The reasonableness of this assumption is buoyed by the various iterations of the petitions themselves, some of which propose tax credits with no proposed changes to the Net Metering and Easy Connection Act. See Petitions 207 and 208.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 202-207 and 209-210*

[1] The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. See U.S. Energy Information Administration – Independent Statistics and Analysis.



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Raising the net metering cap from the current 5% of peak hour demand to 7% of peak hour demand will, conservatively, result in a 2% decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase from 5% to 7%. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in the petition provides a strong financial incentive to solar or wind energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[2], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, the net-metering cap applies to single-hour peak load, determined yearly, which means that the cap is a higher percentage of the single hour average load. This fact means that the total increase in generation is higher than it appears. Fourth, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[3] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by approximately $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities. The additional decreases in sales tax revenues from municipal electric utilities and, in petition 206, from electric cooperatives, are unknown but substantial.[4]

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 202, 204-206, 208, and 210*

Community solar facilities are in addition to net metering and represent an additional capacity amounting to 4% of each electrical corporation's single-hour peak load. Energy generated from the community solar facility is allocated pro rata by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. There is the potential for such bill

[2] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[3] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.
[4] Assuming $7.6 billion in electricity is sold in Missouri per year (the actual 2014 figure), a 2% decrease will decrease overall state sales tax revenues by 6.4 million annually, but some petitions enact net metering changes on rural electric cooperatives, and some do not.



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credits to decrease overall electrical bills by more than 4% because the "bill credits" are calculated using a "value of solar rate" which is at least as high as the retail rate for electricity, but may be higher. If, for example, solar energy received a 50% rate premium due to its benefits, the amount of bill credits would increase and sales would decrease by more than the 6%, rather than 4% figure. Half of these community solar facilities—the half not owned by electrical corporations—may be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoid property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership model, similar to net metering, because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%).

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by approximately $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities.

*iii. Tax credits – Initiative Petitions 202-210*

*a. Decreased tax collections due to tax credits – Credits capped at 1% of value of electricity sold in Missouri, annually ($76 million based on 2014 figures) – Initiative Petitions 202, 204, 206-210*

According to 2014 figures, Missouri retail customers bought 7.6 billion dollars' worth of electricity in 2014. It is very conservative to estimate that Missouri retail customers will continue to buy the same value of electricity. Accordingly, the 35% tax credits in these petitions will, conservatively, directly result in a loss of state income of up to $76 million, annually. However, electricity rates are volatile, and rates may react violently given market changes and legal changes proposed by the initiative petitions. As stated by the Department of Economic Development, the total loss to state revenue in a single year could be $429.3 million, annually, and $3 billion in total.

*b. Decreased tax collections due to tax credits – Credits capped at $50 million annually – Initiative Petitions 203 and 205*

Similar to the loss described in subpart a, the 35% tax credits in these petitions will directly result in a loss of state income of up to $50 million, annually.

*c. Cost of eroding tax base due to new energy generation – Initiative Petitions 202-210*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer-generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in



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Missouri. Accordingly, if the tax credits were phased out due to reaching the 1000 MWh/1,000,000 kWh maximum on new electricity generation, new production from such tax credits would produce approximately 1,825,000 MWh per year, also expressed as 1,825,000,000 KWh, or 1,825 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour [5], this new production is valued at $182,500,000.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

In practice, the 1 gigawatt limit on new customer-generated energy production may never be met. Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[6] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for renewable energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology. The petition itself limits tax credits to a maximum of $3.00 per watt, but market forces should make rates in Missouri similar to those in other states, at or around $1.77.

For Initiative Petitions 202, 204, and 206-210, the total, annual loss to state governments *due to the tax credits* is 76.9 million to 435 million over the tax credit period. There is an annual loss in perpetuity after the tax credit period of 5.7 to 7.7 million, depending on how much new customer-generation is developed. See attached table.

For Initiative Petitions 203 and 205, the total, annual loss to state governments *due to the tax credits* is 50.6 million to 53.7 million over the tax credit period. There is an annual loss in perpetuity after the tax credit period of 3.7 to 7.7 million, depending on how much new customer-generation is developed. See attached table.

**Burdens on Local Governments**

[5] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.

[6] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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Local governments face similar losses in revenue from the various petition provisions as state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 202-206 and 209-210*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 202, 204-206, 208, and 210*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*iii. Tax credits – Cost of eroding tax base due to new energy generation – Initiative Petitions 202-210*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petitions may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to local governments, all of which may be reduced or discontinued if the initiative petitions are enacted.



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The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[7] Based on this estimate, the population-weighted combined average local sales tax is 3.585%. Assuming the tax credits sunset due to reaching the 1 Gigawatt production cap, the yearly loss to local governments from lost sales tax from the tax credit is $6,541,578. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,123,540.

For petitions 202, 204, and 206-210, the loss to local governments due to the tax credits is $40.4 million over the tax credit period, then $11.5 to $15.7 million annually. For initiative petitions 203 and 205, the loss to local governments due to the tax credits is $26.6 million over the tax credit period, then $7.5 to $15.7 million annually.

**In Conclusion**

The initiative petitions will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petitions, such as increases in net metering and community solar. The total tax burden on state government imposed by the petitions range from $313 million over the tax credit period, with $3.7 to $7.7 million in lost revenues in perpetuity, to approximately $498.6 million over the tax credit period,[8] with $9.5 million to 11.5 million in lost revenues in perpetuity thereafter.

Sincerely,

Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0

[7] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.
[8] $475.8 million + [(1.9 million + 1.9 million)*6 years]



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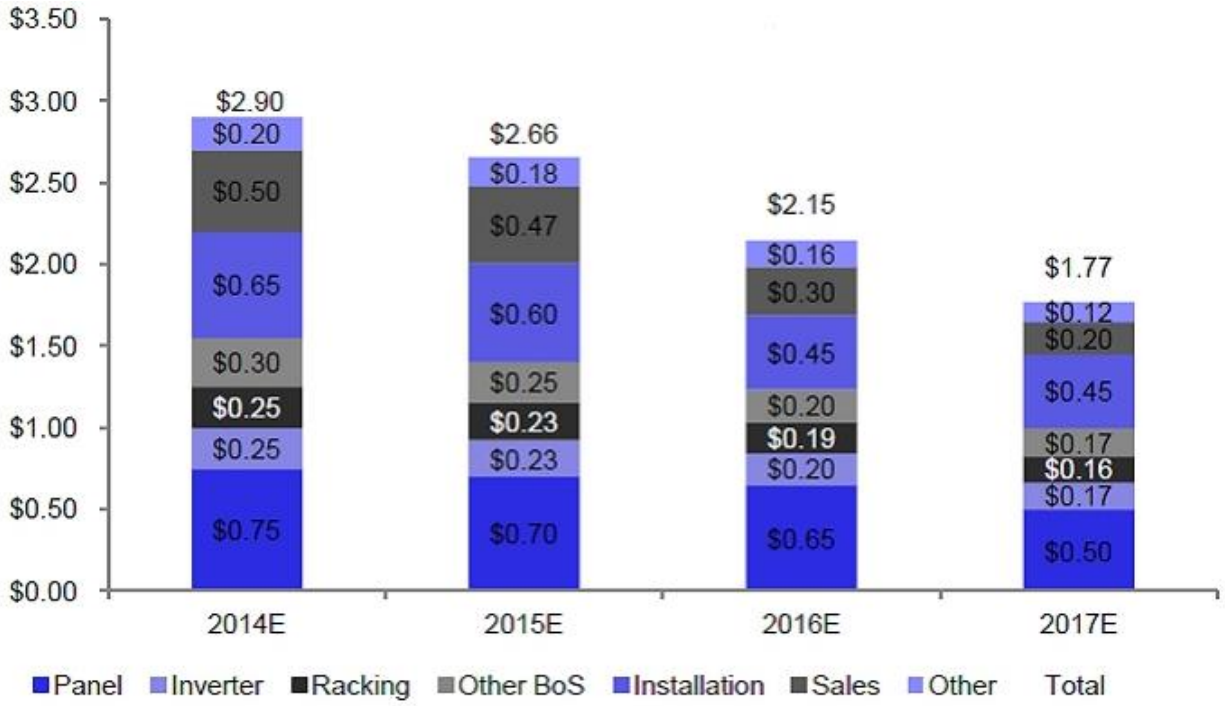
Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017
https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm



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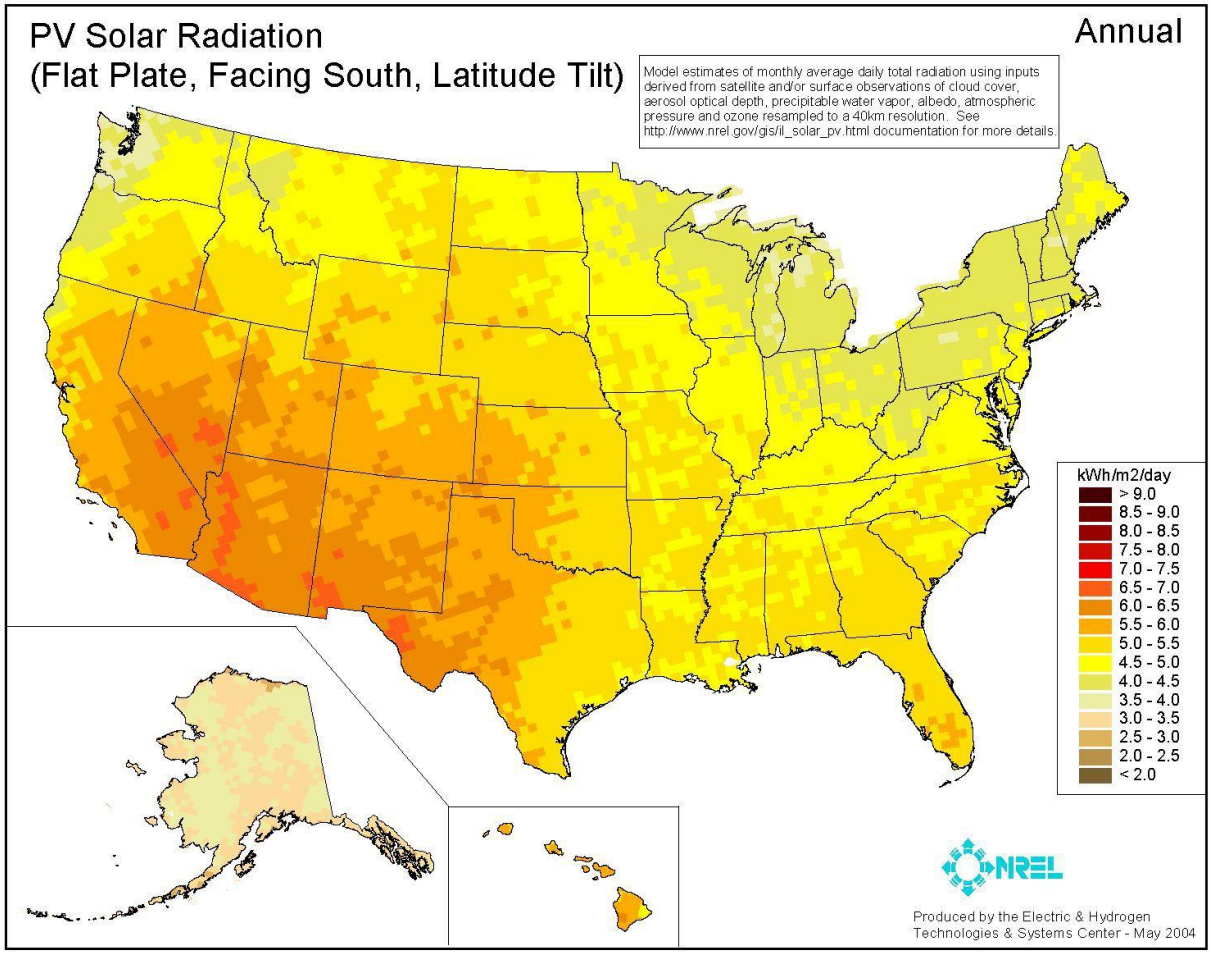
National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Brightergy Renewable Tax Credit Fiscal Analysis (1% Value of Electricity Cap) - Initiative Petitions 202, 204, and 206-210**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 122.68 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $76,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 223,854 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $76,000,000 | 122.68 | 122.68 | 223,854 | $100 | $22,385,441 | 4.225% | $945,785 | $76,945,785 | 3.585% | $802,518 | 5.000% | $1,119,272 | $1,921,790 |
| 2018 | $76,000,000 | 122.68 | 245.36 | 447,709 | $100 | $44,770,882 | 4.225% | $1,891,570 | $77,891,570 | 3.585% | $1,605,036 | 5.000% | $2,238,544 | $3,843,580 |
| 2019 | $76,000,000 | 122.68 | 368.04 | 671,563 | $100 | $67,156,323 | 4.225% | $2,837,355 | $78,837,355 | 3.585% | $2,407,554 | 5.000% | $3,357,816 | $5,765,370 |
| 2020 | $76,000,000 | 122.68 | 490.72 | 895,418 | $100 | $89,541,765 | 4.225% | $3,783,140 | $79,783,140 | 3.585% | $3,210,072 | 5.000% | $4,477,088 | $7,687,160 |
| 2021 | $76,000,000 | 122.68 | 613.40 | 1,119,272 | $100 | $111,927,206 | 4.225% | $4,728,924 | $80,728,924 | 3.585% | $4,012,590 | 5.000% | $5,596,360 | $9,608,951 |
| 2022 | $76,000,000 | 122.68 | 736.08 | 1,343,126 | $100 | $134,312,647 | 4.225% | $5,674,709 | $81,674,709 | 3.585% | $4,815,108 | 5.000% | $6,715,632 | $11,530,741 |
| | | | | | | | | **Total State Tax Burden** | **$475,861,483** | | **Total Local Tax Burden (Sales + Franchise)** | | **$40,357,593** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

**Brightergy Renewable Tax Credit Fiscal Analysis (50 Million Tax Credit Cap) - Initiative Petitions 203 and 205**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 80.71 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $50,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 147,273 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $50,000,000 | 80.71 | 80.71 | 147,273 | $100 | $14,727,264 | 4.225% | $622,227 | $50,622,227 | 3.585% | $527,972 | 5.000% | $736,363 | $1,264,336 |
| 2018 | $50,000,000 | 80.71 | 161.42 | 294,545 | $100 | $29,454,528 | 4.225% | $1,244,454 | $51,244,454 | 3.585% | $1,055,945 | 5.000% | $1,472,726 | $2,528,671 |
| 2019 | $50,000,000 | 80.71 | 242.13 | 441,818 | $100 | $44,181,792 | 4.225% | $1,866,681 | $51,866,681 | 3.585% | $1,583,917 | 5.000% | $2,209,090 | $3,793,007 |
| 2020 | $50,000,000 | 80.71 | 322.84 | 589,091 | $100 | $58,909,056 | 4.225% | $2,488,908 | $52,488,908 | 3.585% | $2,111,890 | 5.000% | $2,945,453 | $5,057,342 |
| 2021 | $50,000,000 | 80.71 | 403.55 | 736,363 | $100 | $73,636,320 | 4.225% | $3,111,135 | $53,111,135 | 3.585% | $2,639,862 | 5.000% | $3,681,816 | $6,321,678 |
| 2022 | $50,000,000 | 80.71 | 484.26 | 883,636 | $100 | $88,363,584 | 4.225% | $3,733,361 | $53,733,361 | 3.585% | $3,167,834 | 5.000% | $4,418,179 | $7,586,014 |
| | | | | | | | | **Total State Tax Burden** | **$313,066,765** | | **Total Local Tax Burden (Sales + Franchise)** | | **$26,551,048** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri,** and **St. Louis Community College.**

**Fiscal Note Summary**

State government revenue may decrease up to $76 million annually until June 30, 2022 with approximately $660,000 net annual increased operating costs. Local government electric revenue may decrease $23.9 million annually with $3.4 million increased operating costs. Other resulting economic activity will have an unknown impact on state and local governments.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
JAN 04 2016

16-209

January 4, 2016

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 44 (2016-209)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 31, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-209 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 31 AM 8:55
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-209

*Be it enacted by the people of the state of Missouri:*

Section A: Section 386.890 is amended and sections 386.860, 386.870, 386.900 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.900 to 386.1000 shall be known and may be cited as the "Clean Energy Independence and Investment Act of 2016".

386.870. An electrical corporation shall be allowed to recover its costs and add in its rate base prudently incurred costs to purchase and install electric vehicle charging stations intended to recharge electric motor vehicles, provided the electricity consumed at such stations is partially powered by a clean energy resource, as defined in 386.900, or offset with renewable energy credits, as defined in 393.1025. Investments made pursuant to this section shall not raise the retail rates charged to the customers of any such electrical corporation by more than one-half of one percent in any year.

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any [municipal electric utility,] rural electric cooperative as provided in chapter 394[, or electrical corporation as provided in this chapter];

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

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(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of natural resources;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any [municipal utility, electrical corporation regulated under this chapter, or] rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which [the commission for a public utility or] the governing body for the supplier[other electric utilities] may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing,

maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) [For any rural electric cooperative under chapter 394, or municipal utility, u]Upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional

liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, [the commission for public utilities and] the governing body for the supplier[other utilities] shall, by rule or equivalent formal action[ by each respective governing body]:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. [Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated s]Suppliers shall submit [the same] an annual net metering report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. [The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section

and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10.] The governing body of a supplier [rural electric cooperative or municipal utility] shall[, within nine months of January 1, 2008,] adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

[11.] 10. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

[12.] 11. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

[13.] 12. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

[14.] 13. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

[15.] 14. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

[16.] 15. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

[17.] 16. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.900. 1. This section shall be known and may be cited as the "Enhanced Net Metering and Easy Connection Act". It shall be the policy of the state to facilitate the use of customer-sited or controlled clean energy resources.

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2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal utility or electrical corporation as provided in this chapter;

(2) "Clean energy resource", electrical energy produced from:

(a) Wind;
(b) Solar thermal sources;
(c) Hydroelectric sources;
(d) Photovoltaic cells and panels;
(e) Fuel cells using hydrogen produced by a source listed in paragraphs (a) through (d) of this subdivision; or
(f) Other sources of energy that become available after January 1, 2017, and are certified as clean by the department.

(3) "Commission", the public service commission of the state of Missouri;

(4) "Customer-generator", the owner, lessee or operator of a qualified electric energy generation unit which:

(a) Is powered by a clean energy resource or micro CHP;

(b) Has an electrical generating system with a capacity of not more than five hundred kilowatts, measured in alternating current;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(5) "Department", the department of economic development;

(6) "Micro CHP", combined heat and power or cogeneration systems that simultaneously generate electricity and thermal energy in a single integrated system with a nameplate rated capacity equal to or lower than 130 kilowatts, measured in alternating current;

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(7) "Net excess energy", the amount of energy expressed in kilowatt hours delivered by a customer-generator to a supplier that exceeds the amount of energy delivered by the supplier to the customer-generator over a single billing period;

(8) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(9) "Retail electric supplier" or "supplier", any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals seven percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for a municipal utility may increase the total rated generating capacity of net metering systems to an amount above seven percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds two percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the retail electric supplier shall pay for the costs to purchase and install the necessary additional equipment, unless the commission or governing body makes a determination that the customer-generator is the only customer benefiting from the additional distribution equipment. If the commission or governing body determines the customer-generator is the only customer benefiting, such customer-generator shall reimburse the electric supplier for reasonably incurred equipment expenses. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

16-209

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subdivision (2) of subsection 3 of this section and all net excess energy shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent months;

(4) Any net excess energy credits carried forward under subdivision (3) of this subsection shall expire without any compensation at the earlier of either the next subsequent March billing period or when the customer-generator disconnects service or otherwise terminates the net metering relationship with the supplier;

(5) For any municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (4) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems one hundred kilowatts or less and within sixty days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application. Retail electric suppliers shall interconnect qualified energy generation units within thirty days of being notified the generation unit is installed and meets the requirements of this section.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for notifying the retail electric supplier.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other suppliers shall submit the same report to their respective governing body and make said report available to a customer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall by June 1, 2017 promulgate any rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after June 1, 2017, shall be invalid and void.

10. The governing body of a municipal utility shall by June 1, 2017 adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs, including lost revenues and lost earnings opportunities associated with reduced demand or kilowatt hours sales, incurred under this section by a retail electric supplier shall be recovered in a timely manner in that utility's rate structure in the form of a tracker or other appropriate rate recovery mechanism. At the time of any general change in a supplier's rates, any over-recovery or under-recovery balance shall be included in the supplier's revenue requirement used to set rates as amortized over a period not exceeding three years, and shall be recovered from each rate class pursuant to the supplier's approved rate design. At the time any general change in prospective rates is proposed, the commission shall permit the supplier to estimate the total generation output from all customer-owned generation for each rate class for the twelve-month period following the effective date of any change in rates, and rates shall be set using energy and demand billing units that reflect the estimated reduction of energy and demand likely to occur due to customer-owned generation. When considering costs, the commission may evaluate the value of distributed generation and clean energy resources. To the extent any costs, lost revenues, or lost earnings are recovered under this section, they shall not raise the retail rates charged to the customers of any such electrical corporation by an average of more than one percent in any year. Any limitation on cost recovery shall not limit the availability of net metering except as provided in subsection 3 of this section.

15. No customer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a customer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said customer and terminate said customer's electric service.

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16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall be eligible to receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. The total amount of clean energy tax credits offered annually shall not exceed one percent of the value of electricity used in Missouri as determined in subsection 4 of this section.

2. The department of economic development shall certify when the tax credits provided in this section have cumulatively resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the clean energy tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.890 and 386.900, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on available reports, including FERC Form Number 1 as allowed by 18 CFR § 141, or an equivalent as determined by the commission, of megawatt hours sales of retail electricity and corresponding revenues for the preceding year or most current

reporting period as determined by the commission. The commission shall publish the value of electricity used in Missouri to the public and department of economic development within sixty days of the enactment of this section and at least forty-five days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may apply for and receive the credit authorized by this section only for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

7. To obtain initial approval for tax credits allowed under this section, a taxpayer shall submit an application for tax credits to the department of economic development. Each application shall be reviewed in the order of the date on which the application was received, with the oldest received date receiving highest priority in the queue. Applications received on the same day, that are not time-stamped, shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. The department may retain, for the purposes of administering this section, up to half of each application deposit, which shall not be subject to refund and shall not exceed one hundred dollars for residential taxpayers and two hundred and fifty dollars for all other taxpayers. Such application deposit, except the portion retained for administration purposes by the department, shall be refunded at completion of the project or in the event the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed

within the time specified under this section. The taxpayer may request a refund of the application deposit; however, any refunds of the deposit for an application shall cause such application to lose its spot in the application queue. If the taxpayer wants to maintain its position in the application queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

9. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision of its intent to disapprove, including the reasons for intending to disapprove, and to remove such application from the application queue. The taxpayer shall have one opportunity, not to exceed fifteen days of notification of intent to disapprove, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

10. If the department of economic development deems the initial application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the date the department received the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications

for initial approval then awaiting review or thereafter submitted for approval shall be notified by the department of economic development that the maximum amount of credits authorized for the program have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available.

12. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial approval for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available, then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development, to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1, 3 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by postal or electronic letter and shall issue, to the taxpayer, a tax credit certificate within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

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15. If the amount of the credit under subsection 14 of this section exceeds the taxpayer's total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

16. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsections 10 or 11 of this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

17. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536. Such rules may include repayment provisions necessary to recover tax credit benefits from taxpayers found to have used fraud or misrepresentations of fact on applications, and other anti-fraud and compliance measures as may be required by the department and the provisions of sections 135.800 to 135.830.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-209)**

## Subject

Initiative petition from Andy Zellers regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received January 04, 2016)

## Date

January 25, 2016

## Description

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **Public Service Commission,** and the **Missouri Joint Municipal Electric Utility Commission**.

**Mark R. Reading** provided information to the State Auditor's Office as a proponent of this initiative petition.

**Edward D. Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Assumptions**

Officials from the **Attorney General's office** indicated Section 386.900.13, RSMo, of the proposal assigns new rulemaking responsibility to their office regarding mandatory disclosures of information by sellers of qualified electric generation units, as well as new investigatory and litigation duties. They assume they would need 1/4 full-time employee (FTE) to handle the complaints, enforcement and the rulemaking responsibilities assigned to their office, resulting in increased operating expenses of $13,890 for fiscal year 2017, $16,810 for fiscal year 2018, and $16,952 for fiscal year 2019.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** (DED) provided the following information:

The Division of Energy (DE) indicated this petition will result in increased operating expenses of $759,071 for fiscal year 2017, $827,781 for fiscal year 2018, and $835,826 for fiscal year 2019. These costs will be offset by additional revenues to the Clean Energy Fund of $0 for fiscal year 2017, $370,943 for fiscal year 2018, and $370,943 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Section 386.870 – Electric Vehicle Charging Stations

The DE participates in Public Service Commission (PSC) regulatory cases to evaluate issues from a formal state policy and planning perspective consistent with its interests in clean, affordable, abundant energy, and its efficient use. DE is active in cases before the PSC related to energy efficiency and renewable energy and has responsibilities associated with certifying clean energy sources under Missouri's Renewable Energy Standard (RES) and net metering statutes. As such, DE assumes it would be involved in the implementation of this provision by monitoring and participating in cases that allow regulated electric utilities to install and recover costs associated with electric vehicle recharging stations that are partially powered by a clean energy source or offset with renewable energy credits.

Section 386.900 – Enhanced Net Metering and Easy Connection Act

DE assumes it would be involved in the implementation of this provision that modifies the existing net metering and interconnection requirements for regulated electric utilities. It is assumed there would be a rulemaking docket to set the process and details associated with this proposal. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop

proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where enhanced net metering provisions are considered.

Section 386.1000 – Clean Energy Tax Credit
DE is required to administer the Clean Energy Fund created by this section and promulgate rules to implement the Clean Energy Tax Credit. The proposal requires DE to receive applications and deposits, review and initially approve applications and required information within 30 days, review final approval applications, issue certificates and provide notifications, refund deposits for completed and disapproved projects, at least quarterly publish a list of the amount of tax credits initially and finally approved for each fiscal year and amounts reserved for future years, notify individual applicants of disapproved applications and approval within specified timeframes, notify applicants if the maximum amount of credits authorized have been allocated for the fiscal year and grant three-month extensions if needed for project completion with additional deposit payments.

**Long-range implications**

Fiscal impacts associated with the Clean Energy Tax Credits could continue until June 30, 2022. The authorization for the tax credit would sunset sooner if the 1,000 megawatt limit is reached. Economic benefits associated with construction of solar facilities would also have long-range implications.

**Assumptions and methodology used in arriving at state fiscal impact**

Section 386.870 – Electric Vehicle Charging Stations
For purposes of this fiscal note, DE assumes it would be involved in cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

Section 386.900 – Enhanced Net Metering and Easy Connection Act
For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

Section 386.1000 – Clean Energy Tax Credit
Retail sales of Missouri's utilities totaled $7.6 billion in 2014 (Source: Mark Reading; U.S. DOE/EIA). If all tax credits were used each year up to the cap of 1% of the annual statewide Missouri revenue of Missouri's retail electric suppliers, the decrease in the state's general revenues would be approximately $76 million/year from the effective date through June 30, 2022, depending on the schedule of implementation and applications submitted and approved. If the tax credits cumulatively result in installations of 1,000 megawatts prior to June 30, 2022, the tax credits would sunset. Note the actual tax credit

cap would be based on revenues as determined by the Public Service Commission pursuant to Section 386.1000.4, RSMo, of this proposal. The tax credits would have unknown economic benefits from the construction and installation of solar energy systems.

If the full amount of tax credits were used each year and with consideration to the estimated cost and size of the projects, it is estimated there would be 4,933 residential project applications and 283 commercial project applications submitted for tax credit reviews (Source: Mark Reading). DE assumes that it would take approximately 2 hours each to do the initial review/approval of each application and another 2 hours to do the review and issuance of a certification after a project is completed for residential projects. Each of these would include clerical time for input/issuing letters/filing, etc. For larger commercial projects, an estimated 8 hours is anticipated for each of these two steps. See response above for detailed tasks required by the proposal.

19,732 hours for residential applications
4,528 hours for commercial applications
24,260 hours total

To implement this provision, DE assumes it will need a total of 12 FTE as follows:
8 – Energy Specialist I/II
2 – Energy Engineer II
2 – Administrative Office Support Assistant (AOSA)

- Energy Specialist I/II - Professional level staff to review the renewable energy project applications and to complete project evaluation activities.
- Energy Engineer II - Professional staff with expertise in engineering aspects of renewable energy projects to review the technical aspects of the projects, review of projects related to the Renewable Energy Standard and Renewable Energy Certificates and familiar with environmental impacts of renewable electric generation.
- AOSA - Staff to assist with the administrative requirements of the reviews such as drafting and sending communication to applicants, maintaining the database of applicants, and tracking status of applications.

An application deposit of 2 cents/watt is required to be paid to DE and deposited in the Clean Energy Fund. The proposal provides that DE may retain, for the purposes of administering this section, up to half of each application deposit to administer the provisions of this proposal but would not exceed one hundred dollars for residential taxpayers and two hundred and fifty dollars for all other taxpayers. Using the assumption above, if the full amount of tax credits were used each year and with consideration to the estimated cost and size of the projects, it is estimated there would be 4,933 residential project applications (at an average size of 6.1 kW) and 283 commercial project applications (at an average size of 200 kW) submitted for tax credit reviews. The application deposit for a residential project would be $122 and DE could retain 50% or $61 for a total of $300,913. The application deposit for a commercial project would be $4,000 and DE could retain a maximum of $250/application for a total of $70,750.

For purposes of this fiscal note, DE assumes there could be up to $370,943 per year available from the Clean Energy Fund to administer the provisions of this proposal. As this is less than the estimated costs to implement the provisions of the proposal, DE assumes the shortfall would be from General Revenue funds. It is also assumed that General Revenue funds would be necessary to cover all DE's costs in FY 2017 until such time as sufficient application deposits are received.

DE also assumes that the Department of Economic Development's existing tax credit database will be used to track the applications. Some IT costs to generate the necessary reports are estimated.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated the responsibilities of this proposal appear to fall under the Division of Energy. With Executive Order 13-03 the Division of Energy was transferred from their department to the Missouri Department of Economic Development, by Type I transfer. Therefore, they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** estimate this petition will result in increased operating expenses of $243,282 for fiscal year 2017, $181,985 for fiscal year 2018, and $183,470 for fiscal year 2019.

The legislation creates an unknown, negative impact to total state revenue by creating a new tax credit.

**Section 386.1000**
The provisions of this section authorize the issuance of a clean energy tax credit to taxpayers incurring costs for the installation of a clean energy resource project. The taxpayer may claim 35 percent (35%) of the total cost of the project. The legislation caps

the amount of tax credits at not more than one percent (1%) of the value of the electricity used in Missouri.

**Section 386.1000.15**
The department suggests changing the provisions pertaining to the transfer of the tax credit to the Department of Revenue because this is currently the department's responsibility based on a previously issued executive order.

**Administrative Impact:**
**Personal Tax:**
Personal Tax requires one (1) Revenue Processing Technician I (Range 10, Step L) for every 6,000 credits claimed.

**Corporate Tax:**
Corporate Tax requires three (3) Revenue Processing Technicians I (Range 10, Step L) for every 4,000 credits redeemed, 4,000 credits transferred, and for every 520 SB 1099 compliance mailings and correspondence.

**Integrated Tax System:**
The integrated tax system incurs additional costs of $43,680 to implement the provisions of this petition.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** (OA) indicated the proposal:

- Allows utilities to recover costs and add in its rate base costs to install electric vehicle charging stations intended to recharge electric motor vehicles, provided the energy consumed at each station is partially powered by a clean energy resource. This could result in a total state revenue reduction. OA defers to the DED for the estimated impact.
- Authorizes the use of net-metering, with certain limits to facilitate the use of customer-sited or controlled clean energy resources.

- Allows retail electric suppliers to recover any costs incurred in this act in that utility's rate structure. To the extent any such costs, lost revenues or lost earning are recovered, they shall not raise the customer retail rates by an average of more than 1% in any year. This could impact total state revenue. OA defers to the PSC for the specific impact.
- Enacts a "Clean Energy" income tax credit for an amount equal to 35% of the total cost of the clean energy project. The annual cap on the credits is 1% of the value of electricity used in Missouri as determined by the PSC. This could result in a significant total state revenue reduction. This would also impact the calculation under Article X, Section 18(e), of the Missouri Constitution. OA understands that the DED and the PSC may have the data to estimate the impact, therefore OA defers to DED and the PSC.
- Establishes the Clean Energy Fund, which is to be used to advance clean energy through the efficient administration of the Clean Energy Tax Credit Program. This will result in an increase to total state revenue. The revenue in the fund will come from various application deposits, but could also come from appropriated moneys, gifts, contributions, grants or bequests. The DED will administer this fund. OA defers to the DED and the PSC for the estimated impact of the application deposits.

This proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it

needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson** indicated because their city does not own any utility except for wastewater, there would be no fiscal impact should this petition become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from **University of Missouri** indicated they have not seen cost impact studies on this initiative from their electric utility suppliers, but they do not believe this will have a significant impact on their university.

Officials from the **Public Service Commission** (PSC) indicated:

Section 386.870 allows an electrical corporation to recover its costs and add in its rate base prudently incurred costs to install electric vehicle charging stations provided the energy consumed is partially powered by a clean energy resource or offset with renewable energy credits. It is not clear if the renewable energy credits can be used to meet Section 386.870 and also used to meet the utility's renewable portfolio standard in Section 393.1030.

Section 386.870 also states investments made pursuant to this section shall not raise the retail rates charged to customers of electrical corporations by more than one half of one percent in any year. The PSC suggests this requirement be clarified. A similar cap is placed on the renewable mandate of Section 393.1045. It has been over 7 years since the enactment of this provision and parties continue to argue its meaning before the PSC.

Section 386.890 defines "department" as the department of natural resources. Since other changes are being made to this section, "department" should be defined as the department of economic development, division of energy.

Sections 386.890 and 386.900 both use the terms "Retail electric supplier" or "supplier", but in Section 386.890 a "retail electric supplier" or "supplier" is any rural electric cooperative under Chapter 394 that provides retail electric service in this state and in

Section 386.900 a "retail electric supplier" or "supplier" is any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state. Although the terms are in different statutes, it may be confusing to define the same term in a different manner. It may be clearer to use different terms applicable to the respective intent. Further since Section 386.890 is only applicable to rural electric cooperatives, it may make sense to move the entire provision to Chapter 394.

Sections 386.890 and 386.900 use the term "wholesale generator". The PSC respectfully suggests this term be defined.

Section 386.900 uses terms such as "commission-regulated supplier" and "public utilities" to describe suppliers that are subject to PSC jurisdiction. The PSC respectfully suggests the terms be used consistently.

Section 386.900 requires the PSC to promulgate rules by June 1, 2017. The PSC respectfully suggests this date may be aggressive for final rules to be effective.

Section 386.900.6.(2) references "subsection 4 of this section". This appears to be an inaccurate cross-reference as there is no subsection 4 of the section.

Section 386.900.12 says the estimated generating capacity of all net metering systems shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate, but the renewable energy portfolio deals with "energy" not "capacity".

Section 386.900.14 says any costs, including lost revenues and lost earnings opportunities. The PSC respectfully suggests "lost revenues" and "lost earnings opportunities" be clearly defined as to how to calculate those amounts. The interpretation and calculation of these terms has been the subject of on-going disagreement as they relate to the Missouri Energy Efficiency Investment Act.

Section 386.900.14 states the commission may evaluate the value of distributed generation and clean energy resources, but it is not clear how to determine those values.

Section 386.900.14 states any costs, lost revenues or lost earnings recovered under this section shall not raise the retail rates charged to customers by an average of more than one percent in any year. The PSC suggests this requirement be clarified. A similar cap is placed on the renewable mandate of Section 393.1045. It has been over seven years since the enactment of this provision and parties continue to argue over its meaning before the commission.

Section 386.1000 discusses a "clean energy tax credit". It is not clear why the tax credit is in the PSC statute and not in a tax-related statute.

Officials from the **Missouri Joint Municipal Electric Utility Commission** (MJMEUC) indicated:

Missouri Public Utility Alliance (MJMEUC is part of the alliance) through its electric division represents 65 of the 86 cities with municipal electric utilities.

After careful review and analysis, they believe that implementation would reduce municipal electric utility revenues somewhere between $17,000,000 and $23,900,000 annually based on:

1. Varying changes to the state's net metering law.
2. Greater penetration of solar panels throughout the state because of a state funded tax rebate for their purchase and installation.

Other proposed changes would increase the cost of city operations by approximately $3,435,000.

Several of these proposals modify the state's net metering law to require cities to carry forward to subsequent months excess customer generation. Current software is not designed to provide this functionality and each city would have to contract with their own vendor to modify their billing software. In addition several petition versions require the PSC to approve municipal rate increases by class based on actual expenses. This will necessitate regular cost of service studies and for cities to hire attorneys with experience before the PSC to present their cases for rate increases. In order to calculate costs they have contacted firms in both disciplines to provide estimated costs for these services.

Total estimated costs are as follows:

| | |
|---|---|
| Lost Revenues: | $23,900,000 |
| Service Study: | 1,505,000 |
| Attorney, PSC Experience: | 410,000 |
| Billing Modification: | 1,520,000 |
| TOTAL | $27,335,000 |

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art X Sec 16) that reduces income or increases costs without "full state financing", they anticipate that the costs would be reflected in the final state cost when the fiscal note is completed. They have no idea what litigation costs might be necessary.

They would offer the following for potential utilization in the final fiscal note:

"….. *reduce revenues for municipal electric utilities by (fill in the blank), increase operational costs by approximately (fill in the blank) and create unknown litigation costs at both the state and local level over Mo. Const. Art. X Sec. 16."*

**Mark R. Reading** provided the following information as a proponent of this initiative petition.

Submitted by:

_____

Mark R. Reading
2604 Lakeland Drive
Jefferson City, MO 65109
(573) 694-6828
*Primary Contact Person*

**Clean Energy Independence and Investment Act of 2016 - Versions 37, 39, 41, 43, and 45**
**Sec. of State # 202, 204, 206, 208, 210**

**Proposed Statement of Fiscal Impact**
**for Clean Energy Independence and Investment Act of 2016 - Versions 37, 39, 41, 43, and 45**
**Sec. of State # 202, 204, 206, 208, 210**

**Fiscal Impact Information Submitted Pursuant to Section 23.140.2**

The amendment's estimated impact decreases state revenue between $32 to $64 million depending upon the speed of up to $225 million in additional clean energy project construction and implementation by the Department of Economic Development, residential homeowners, and businesses. Local revenue is estimated to grow between $2.6 to $5.1 million.

| ESTIMATED NET EFFECT ON STATE FUNDS | | |
|---|---|---|
| **Fund Affected** | **FY 2017** | **FY 2018** |
| **General Revenue** | $0 | From ($33,037,828) to ($66,019,325) |
| | | |
| **Total Estimated Net Effect on All State Funds** | $0 | From ($32,045,806) to ($64,028,436) |
| **ESTIMATED NET EFFECT ON LOCAL FUNDS** | | |
| Local Funds | $0 | From $2,553,188 to $5,128,651 |
| | | |
| **Total Estimated Net Effect on All Local Funds** | $0 | From $2,553,188 to $5,128,651 |

**SUMMARY OF VERSIONS OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT**

Nine additional versions of the Clean Energy Independence and Investment Act of 2016 have been submitted for review. A summary of which topics are in each version is provided below.

Two additional versions of the Clean Energy Independence and Investment Act of 2016 have been submitted for review. A summary of which topics are in each version is provided below.

**CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT OF 2016**
**SUMMARY OF VERSIONS**

| Petition version | 386.870 - Electric vehicle | 386.890 - Net metering | 386.900 - Enhanced net metering | 386.910 - Community Solar | 386.1000 - Tax credits |
|---|---|---|---|---|---|
| | | | | | |
| **1% Electric Versions** | | | | | |
| Version 37 | N/A | X | X | X | X |
| Version 39 | X | X | X | X | X |
| Version 41 | X | Deletes | X | X | X |
| Version 42 | N/A | N/A | N/A | N/A | X |
| Version 43 | X | N/A | N/A | X | X |
| Version 44 | X | X | X | N/A | X |
| Version 45 | N/A | X | X | X | X |
| | | | | | |
| **$50 million cap Versions** | | | | | |
| Version 38 | N/A | X | X | N/A | X |
| Version 40 | X | X | X | X | X |

## ANALYSIS OF FISCAL IMPACT OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT

The fiscal impact analysis contained herein focuses on estimating the fee and tax revenue resulting from the statutory changes proposed in the initiative petition. Table 1 summarizes the revenue estimated by source and by fiscal year. Page and Table numbers are provided to help readers find specific subjects.

**Table 1 - Summary of Fiscal Impact by Fund**

| Page # | Table # | Purpose | FY 2017 | FY 2018 - low range | FY 2018 - high range | Revenue Type |
|---|---|---|---|---|---|---|
| 4-12 | Table 10 | Tax credit | $0 | ($39,494,829) | ($78,989,658) | Income |
| 14-15 | Table 14 | Taxes from clean energy tax credit construction | $0 | $4,429,063 | $8,858,126 | Various |
| 16-18 | Table 17 | Taxes from community solar construction | $0 | $2,027,938 | $4,112,207 | Various |
| | | subtotal General Revenue Fund | $0 | ($33,037,828) | ($66,019,325) | |
| | | | | | | |
| 8-13 | Table 11 | Clean Energy Fund | $0 | $185,926 | $371,663 | Application deposit |
| | | | | | | |
| 14-15 | Table 14 | Prop C sales tax - clean energy | $0 | $451,369 | $902,739 | Sales tax |
| 16-18 | Table 17 | Prop C sales tax - community solar | $0 | $206,669 | $419,078 | Sales tax |
| | | subtotal Prop C | $0 | $658,038 | $1,321,817 | |
| | | | | | | |
| 14-15 | Table 14 | Conservation sales tax - clean energy | $0 | $56,421 | $112,842 | Sales tax |
| 16-18 | Table 17 | Conservation sales tax - community solar | $0 | $25,834 | $52,385 | Sales tax |
| | | subtotal Conservation | $0 | $82,255 | $165,227 | |
| | | | | | | |
| 14-15 | Table 14 | Parks and Soils sales tax - clean energy | $0 | $45,137 | $90,274 | Sales tax |
| 16-18 | Table 17 | Parks and Soils sales tax - community solar | $0 | $20,667 | $41,908 | Sales tax |
| | | subtotal Parks and Soils | $0 | $65,804 | $132,182 | |
| | | | | | | |
| | | subtotal Other State Funds | $0 | $992,023 | $1,990,889 | |
| | | | | | | |
| | | subtotal all state funds | $0 | ($32,045,806) | ($64,028,436) | |
| | | | | | | |
| 14-15 | Table 14 | Local Sales Tax - clean energy | $0 | $1,751,314 | $3,502,627 | Sales tax |
| 16-18 | Table 17 | Local Sales Tax - community solar | $0 | $801,875 | $1,626,024 | Sales tax |
| | | subtotal Local Funds | $0 | $2,553,188 | $5,128,651 | |
| | | | | | | |
| | | Grand Total State and Local | $0 | ($29,492,617) | ($58,899,785) | |

**Clean Energy tax credits**

The proposal creates a clean energy tax credit in Chapter 386 RSMo. The annual level of tax credits for each calendar year shall not exceed one percent of the annual statewide Missouri revenue of Missouri retail electric suppliers. The Public Service Commission (PSC) is required to determine the revenue for retail electric suppliers using available reports, including FERC Form Number 1 as allowed by 18 CFR § 141 or an equivalent determined by the PSC.

The data for this calculation is gathered and published by the U.S. Energy Information Administration on its website.[1] Table 2 shows the revenues reported by each Missouri entity in 2014. Retail sales totaled $7.6 billion in 2014 for the 74 entities.

**Table 2**
**2014 Utility Bundled Retail Sales - Total**
(Data from forms EIA-861- schedules 4A & 4D and EIA-861S)

| Entity | Ownership | Revenues (Thousands Dollars) |
|---|---|---|
| Atchison-Holt Electric Coop | Cooperative | $6,727 |
| Barry Electric Coop | Cooperative | $16,654 |
| Barton County Elec Coop, Inc | Cooperative | $16,262 |
| Black River Electric Coop - (MO) | Cooperative | $42,554 |
| Boone Electric Coop | Cooperative | $55,335 |
| Callaway Electric Cooperative | Cooperative | $24,618 |
| Carroll Electric Coop Corp - (AR) | Cooperative | $14,104 |
| Central Missouri Elec Coop Inc | Cooperative | $25,350 |
| Chillicothe Municipal Utils | Municipal | $10,035 |
| Citizens Electric Corporation - (MO) | Cooperative | $123,087 |
| City Utilities of Springfield - (MO) | Municipal | $249,286 |
| City of Ava - (MO) | Municipal | $2,894 |
| City of Cameron | Municipal | $7,728 |
| City of Carthage - (MO) | Municipal | $24,493 |
| City of Columbia - (MO) | Municipal | $109,927 |
| City of Farmington - (MO) | Municipal | $18,390 |
| City of Fulton - (MO) | Municipal | $14,228 |
| City of Hannibal - (MO) | Municipal | $25,785 |
| City of Harrisonville - (MO) | Municipal | $12,072 |
| City of Independence - (MO) | Municipal | $135,338 |
| City of Jackson - (MO) | Municipal | $16,281 |
| City of Kennett - (MO) | Municipal | $10,988 |
| City of Kirkwood - (MO) | Municipal | $21,547 |
| City of Lamar - (MO) | Municipal | $6,961 |
| City of Lebanon - (MO) | Municipal | $22,949 |
| City of Macon - (MO) | Municipal | $9,740 |
| City of Marshall - (MO) | Municipal | $17,390 |
| City of Monett - (MO) | Municipal | $20,534 |
| City of Mount Vernon - (MO) | Municipal | $6,790 |
| City of Nixa - (MO) | Municipal | $14,132 |
| City of Poplar Bluff - (MO) | Municipal | $31,686 |
| City of Rolla - (MO) | Municipal | $27,694 |
| City of Sikeston - (MO) | Municipal | $17,528 |

| | | |
|---|---|---|
| City of Sullivan - (MO) | Municipal | $9,645 |
| City of West Plains - (MO) | Municipal | $15,208 |
| Clay County Electric Coop Corp | Cooperative | $96 |
| Co-Mo Electric Coop Inc | Cooperative | $46,302 |
| Consolidated Electric Coop | Cooperative | $21,936 |
| Crawford Electric Coop, Inc | Cooperative | $30,705 |
| Cuivre River Electric Coop Inc | Cooperative | $105,621 |
| Empire District Electric Co | Investor Owned | $456,324 |
| Farmers Electric Coop, Inc - (MO) | Cooperative | $28,697 |
| Gascosage Electric Coop | Cooperative | $17,074 |
| Grundy Electric Coop, Inc | Cooperative | $12,214 |
| Howard Electric Coop | Cooperative | $6,057 |
| Howell-Oregon Elec Coop, Inc | Cooperative | $38,226 |
| Intercounty Electric Coop Assn | Cooperative | $53,855 |
| KCP&L Greater Missouri Operations Co. | Investor Owned | $802,845 |
| Kansas City Power & Light Co | Investor Owned | $824,706 |
| Laclede Electric Coop, Inc | Cooperative | $63,330 |
| Lewis County Rural E C A | Cooperative | $13,534 |
| Macon Electric Coop | Cooperative | $23,795 |
| Missouri Rural Electric Coop | Cooperative | $17,812 |
| New-Mac Electric Coop, Inc | Cooperative | $38,876 |
| North Central MO Elec Coop Inc | Cooperative | $14,098 |
| Osage Valley Elec Coop Assn | Cooperative | $28,034 |
| Ozark Border Electric Coop | Cooperative | $68,293 |
| Ozark Electric Coop Inc - (MO) | Cooperative | $52,354 |
| Pemiscot-Dunklin Elec Coop Inc | Cooperative | $19,856 |
| Platte-Clay Electric Coop, Inc | Cooperative | $51,737 |
| Ralls County Electric Coop | Cooperative | $12,711 |
| SE-MA-NO Electric Coop | Cooperative | $9,438 |
| SEMO Electric Cooperative | Cooperative | $33,195 |
| Sac-Osage Electric Coop Inc | Cooperative | $16,676 |
| Southwest Electric Coop, Inc | Cooperative | $58,853 |
| Sunnova | Behind the Meter | $1 |
| Three Rivers Electric Coop | Cooperative | $36,751 |
| Trenton Municipal Utilities - (MO) | Municipal | $8,647 |
| Tri-County Electric Coop Assn | Cooperative | $12,512 |
| Union Electric Co - (MO) | Investor Owned | $3,112,534 |
| United Electric Coop, Inc - (MO) | Cooperative | $21,579 |
| Webster Electric Coop | Cooperative | $28,828 |
| West Central Electric Coop Inc - (MO) | Cooperative | $25,967 |
| White River Valley El Coop Inc | Cooperative | $86,488 |
| Adjustment 2014 | Other | $159,914 |
| Total | | $7,644,407 |

Source: http://www.eia.gov/electricity/sales_revenue_price/
Table 10: All Sectors - Class of ownership, number of consumers, sales, revenue, and average retail price by State and utility:

Table 3 shows the data series by year from 1990 through 2014 reported by the U.S. Energy Information Administration.[2] The average annual increase in these revenues is 3.33 percent.

**Table 3**
**Revenue from Sales to Ultimate Customers**
**(Thousand Dollars) for Missouri, 1990-2014**

| Year | Total Revenue | $ Growth over previous year | % Growth over previous year |
|---|---|---|---|
| 1990 | $3,484,572,000 | | |
| 1991 | $3,653,391,000 | $1,688,190 | 4.8% |
| 1992 | $3,489,099,000 | ($1,642,920) | (4.5%) |
| 1993 | $3,709,661,000 | $2,205,620 | 6.3% |
| 1994 | $3,749,115,000 | $394,540 | 1.1% |
| 1995 | $3,891,751,000 | $1,426,360 | 3.8% |
| 1996 | $3,961,895,000 | $701,440 | 1.8% |
| 1997 | $4,005,066,000 | $431,710 | 1.1% |
| 1998 | $4,196,674,000 | $1,916,080 | 4.8% |
| 1999 | $4,185,713,000 | ($109,610) | (0.3%) |
| 2000 | $4,370,246,000 | $1,845,330 | 4.4% |
| 2001 | $4,414,434,000 | $441,880 | 1.0% |
| 2002 | $4,565,227,000 | $1,507,930 | 3.4% |
| 2003 | $4,470,188,000 | ($950,390) | (2.1%) |
| 2004 | $4,494,108,000 | $239,200 | 0.5% |
| 2005 | $4,959,849,000 | $4,657,410 | 10.4% |
| 2006 | $5,169,747,000 | $2,098,980 | 4.2% |
| 2007 | $5,614,317,000 | $4,445,700 | 8.6% |
| 2008 | $5,768,459,000 | $1,541,420 | 2.7% |
| 2009 | $5,871,973,000 | $1,035,140 | 1.8% |
| 2010 | $6,698,608,000 | $8,266,350 | 14.1% |
| 2011 | $7,008,476,000 | $3,098,680 | 4.6% |
| 2012 | $7,029,475,000 | $209,990 | 0.3% |
| 2013 | $7,538,092,000 | $5,086,170 | 7.2% |
| 2014 | $7,644,407,000 | $1,063,150 | 1.4% |
| | | Avg. annual growth | 3.33% |

Source: http://www.eia.gov/electricity/sales_revenue_price/
Supplemental Data: 1990 - 2013 Revenue from Retail Sales of Electricity by State by Sector by Provider (EIA-861)

For purposes of this fiscal analysis it is assumed that the Public Service Commission will use the most recent available data for establishing the annual cap. The state is currently in FY 2016 and the most recent available data is from 2014. Thus, for the fiscal periods included for consideration by the State Auditor's Office the FY 2017 cap will be established using 2015 data published by the U.S. Energy Information Administration. Similarly, the FY 2018 cap will be established using 2016 data. In this manner the cap for each calendar year will be established eight months before it begins instead of four months after it starts.

**Table 4**
**Data and Timeline for Establishing Annual Tax Credit Cap**

| Data available | Time period of data | CY year for the cap |
|---|---|---|
| April 2015 | 2014 actual data | CY 2016 |
| April 2016 | 2015 actual data | CY 2017 |
| April 2017 | 2016 actual data | CY 2018 |

As shown in Table 3 the average annual growth rate from 1990 to 2014 was 3.33 percent. Table 5 assumes that the average annual growth rate will carry forward for the next several years. The clean energy tax credits cap is estimated at $76.4 million for CY 2016, $79 million for CY 2017 and $81.6 million for CY 2018.

**Table 5**
**Clean Energy Tax Credit Estimate of Cap**

| Calendar Year for cap | Fiscal Year for likely redemption of credits | Revenue data | Total Revenue | Tax credit at 1.0% |
|---|---|---|---|---|
| CY 2016 | FY 2017 | 2014 actual data | $7,644,407,000 | $76,444,070 |
| CY 2017 | FY 2018 | 2015 projection | $7,898,965,753 | $78,989,658 |
| CY 2018 | FY 2019 | 2016 projection | $8,162,001,313 | $81,620,013 |

For purposes of the fiscal note the State Auditor's office asks that estimates be provided for the first two fiscal years of implementation which are FY 2017 and FY 2018 since the provisions of the proposal would go into effect in December 2016. Almost all taxpayers file their taxes on the April 15th deadline. Therefore, CY 2016 taxes would be due on April 15, 2017 which is in FY 2017 as shown in Table 5.

The proposal establishes a cap beginning for CY 2016. However, the provisions of the act will go into effect in December 2016. Paragraph 13 of the proposed section 386.1000 states that any taxpayer verified by the Department of Economic Development to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with the provisions shall be deemed eligible for the tax credit. This allows for the Department of Economic Development to include projects in 2016 before its processes are in place. Paragraph 17 of the proposed section 386.1000 provides that the Department of Economic Development shall issue rules necessary to administer the act. In addition, paragraph 10 gives the Department of Economic Development 45 days to notify an applicant of approval after the application is submitted.

Issuing rules is at best a months long process. The 45 day processing time allowed for any completed application filed after the rules are adopted makes it very unlikely that the Department of Economic Development will issue any CY 2016 tax credits before April 15, 2017 that would affect the taxpayers initial tax filing and reduce taxes paid during FY 2017. Tax credits issued between April 15 and June 30, 2017 would require an amended filing which also would be unlikely to be completed by June 30, 2017. Thus, this fiscal analysis assumes a de minimis or no impact on FY 2017 general revenue tax collections. Any CY 2016 tax credit impact would at most impact the FY 2018 tax collections through amended returns or through CY 2017 taxes.

**Application Deposit revenue**

The proposed Section 386.1000 RSMo requires that taxpayers submit an application to the Department of Economic Development to receive approval for tax credits (paragraph 7). Each application must include a two cent per watt application deposit. The total revenue from application deposits is dependent upon:

- the number of projects that will be submitted;
- the number of watts generated from all of those projects

Each of these is affected by the:

- percentage of residential v commercial projects
- number of kW generated by residential v commercial projects
- cost of residential and commercial projects
- total construction completed
- any phase-in period as the Department of Economic Development institutes rules and prepares the program
- any phase-in period as the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available

All of these factors must be estimated and evaluated in order to calculate the amount of application deposit revenue that will be received by the Department of Economic Development.

Tax credits are available to both residential and commercial projects. Paragraph 5 of the proposed Section 386.1000 RSMo provides that no electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit.

The Missouri Department of Economic Development, Division of Energy published a Missouri Comprehensive State Energy Plan in October 2015. The report states that half of the installed net-metered PV solar is residential and the other half commercial customers.[3] However, the report also indicates that there are challenges that face residential customers making it more difficult and expensive to install solar projects. These challenges include local ordinances or homeowner's association rules the may prohibit installation or require design changes that decrease efficiency or add to the cost.[4] In addition, over the past decade an industry has developed to assist with the financing of solar projects. Such financing alternatives are easier to obtain by commercial projects because of their size, scope, and estimated return on investment.[5] Commercial projects can have a longer-term outlook than homeowners who may not know how long they may live in their current house. The Missouri State Energy Plan indicates that residential rooftop solar is a relatively expensive energy option due to these and other factors.[6]

For all of the reasons identified in the preceding paragraph, for purposes of this fiscal analysis residential solar installation is assumed to be 40% of the total solar construction. Commercial solar installation is assumed to be 60% of the total solar construction. This fiscal analysis has already indicated that 2016 solar construction will likely not be affected by the approval of the petition by voters in November 2016. Thus, CY 2017 is the first full year of impact. Tax credits resulting from such construction will first affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office.

The next factor to consider is the number of kW generated by residential and commercial projects. A recent report on photovoltaic system pricing trends published by the U.S. Department of Energy indicates that the median residential project is 6.1 kW while the modeled commercial system is 200 kW. Paragraph 5 of the proposed section 386.1000 establishes a 200 kW limit on installations that are authorized for tax credits.[7] For purposes of this fiscal analysis it is assumed that all commercial projects will be at the 200 kW size and that residential projects will be 6.1 kW. Paragraph 7 of the proposed section 386.1000 requires a two cent per watt application deposit fee. Table 6 shows that there would be a $122 application deposit required for the median residential project. There would be a $4,000 application

deposit required for the 200 kW commercial project. A portion of this revenue will be available to the department for operational purposes as shown later in Table 11.

**Table 6**
**Application Deposit Required for Projects**

| Construction type | Project size in kW | Project size in watts | Application deposit for project at 2 cents per watt |
|---|---|---|---|
| Residential | 6.1 | 6,100 | $122 |
| Commercial | 200.0 | 200,000 | $4,000 |

The recent report on photovoltaic system pricing trends published by the U.S. Department of Energy also discusses the historical, recent, and near-term pricing of solar projects.[8] Project cost information was obtained on more than 400,000 systems in 42 states. The modeled system prices identified in the report showed a Q1 2015 residential system price of $3.12/watt and a commercial 200 kW system cost of $2.17/watt. These were reductions in price of from Q4 2013 of 7% and 19% respectively. The report also indicates that prices for residential and commercial PV systems have decreased by 6-12% per year, on average, from 1998-2014. In addition, the report indicates that analysts project the system prices will fall 16-33% for residential systems between 2014-2020.

Table 7 projects residential solar project costs. Projections are made to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 7 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $3,000/kW for residential solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 6.1 kW residential project is estimated at $18,300.

**Table 7**
**Residential Solar Project Estimate**

| | Cost of Residential project per kW | Cost of Residential project at 6.1 kW project size |
|---|---|---|
| CY 2015 | $3,120 | $19,032 |
| CY 2016 | $3,039 | $18,538 |
| CY 2017 | $2,960 | $18,056 |
| average cost of CY16 and CY17 estimates | $3,000 | $18,300 |

The modeled commercial system price identified in the report showed a Q1 2015 commercial 200 kW system cost of $2.17/watt. However, the national average cost of commercial projects is affected by states with more mature solar markets and industries and large companies, like Wal-Mart and Ikea, that have moved to install significant solar projects on their facilities. The first Missouri commercial systems are less likely to meet the $2.17/watt cost projections. Table 8 uses other data in the report to amend the estimate of commercial solar project costs. The report shows that the price of the modeled 200 kW commercial system has fallen from $2.68/watt to $2.17 between 2013 Q4 and 2015 Q1. The mid-point of that decrease is $2.425/watt. Further, it is assumed that the cost of Missouri projects will be higher by 2.6%, or one-year's worth of the low end of the price declines found in the report. The result is that this analysis will assume that the Missouri 2015 Q1 price is $2.488/watt.

**Table 8**
**Commercial Solar Project Cost Estimate per kW**

| | |
|---|---|
| 2013 Q4 | $2,680 |
| 2015 Q5 | $2,170 |
| Mid-point | $2,425 |
| One-year behind (2.6%) | $2,488 |

Table 9 then projects the $2,488/kW 2015 Q1 cost to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 9 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $2,392/kW for commercial solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 200 kW commercial project is estimated at $478,400.

**Table 9**
**Commercial Solar Project Estimate**

| | Cost of Commercial project per kW | Cost of Commercial project at 200 kW project size |
|---|---|---|
| CY 2015 | $2,488 | $497,600 |
| CY 2016 | $2,423 | $484,600 |
| CY 2017 | $2,360 | $472,000 |
| average cost of CY16 and CY17 estimates | $2,392 | $478,400 |

The analysis so far has identified:

- a $79 million estimate of the maximum clean energy tax credits using one percent of the annual statewide Missouri revenue of Missouri retail electric suppliers as directed by paragraph 1 of the proposed section 386.1000.
- an estimate that 40% of total solar construction would be residential and 60% commercial
- project cost estimates of $18,300 for 6.1 kW residential projects and $478,400 for 200 kW commercial projects

The final factor to calculate before arriving at the amount of application deposit revenue is any phase-in period as the Department of Economic Development issues rules and prepares its processes and the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available. The Missouri State Energy plan reports that Missouri currently has 111 MW of installed solar PV capacity. The plan also reports that there is 42.8 MW of installed net-metered PV solar developed over the years largely as a result of rebates from large utility companies in Missouri.

The proposal being analyzed establishes a statutory program of clean energy tax credits that will sunset after the Department of Economic Development certifies that 1,000 MW of capacity has been added as a result of the tax credits but no later than June 30, 2022. The 1,000 MW target represents a dramatic increase in current capacity.

The Missouri State Energy plan provides a wealth of information about the current state of "green jobs" and the solar industry in Missouri. The report includes the following along with other findings about the industry.

- Missouri had over 100,000 "green jobs" according to a 2009 study.[9]
- Missouri was identified as 10th in the nation for growth in clean energy and clean transportation jobs in 2013.[10]

- $187 million was invested by Missouri's solar industry in 2014 to install solar photovoltaic systems for residential, commercial, and utility use.[11]
- There are more than 97 solar companies at work throughout the supply chain in Missouri, employing 2,500 people including manufacturers, contractors, installers, project developers, distributors.[12]
- Missouri could create 8,500 new jobs to design, install, and operate energy efficiency measures by 2025 according to a 2011 study.[13]
- In 2010 Missouri ranked 6th in the nation in photovoltaic jobs.[14]

The clean energy tax credit does not sunset until the 1,000 MW target of additional capacity is met but no later than June 30, 2022. The size and the long-term nature of the 1,000 MW target should encourage the development of the Missouri solar industry even after it sunsets. It should also result in long-term planning and the build out of a native Missouri solar industry. The target also provides an incentive for the industry to meet the growth potential described in the Missouri State Energy Plan.

In the long-term the impact of the 1,000 MW target will grow and build the industry. In addition, investment in solar will allow longer term benefits in reduced fuel usage, cleaner air, better health and the resulting lower costs among other things. The Missouri State Energy Plan identifies the public health impacts of various energy sources with clean energy sources providing significant positive benefits over other sources.[15] A 2013 study of Hawaii's solar tax credit program found that the State recovered the full cost of the tax credit in 9 to 11 years - a rate of return on its investment ranging from 8.9% to 10.3%.[16] In addition, the study found that for each dollar spent by Hawaii on tax credits the amount of additional sales stimulated was $34.69 for residential solar PV and $55.03 for commercial PV.

However, the fiscal note format required for initiative petitions focuses on the short-term revenue and costs. Thus, the longer-term benefits are not included in this fiscal analysis. As explained elsewhere in this fiscal analysis the impact of the availability of tax credits is somewhat dependent upon the speed with which the Department of Economic Development issues the necessary rules and regulations, develops and makes available the application forms, and the industry's reaction to voter approval and the department's actions. Thus, two alternatives are calculated to create a possible range for the likely outcome in the short-term.

The first alternative assumes that construction will be sufficient to use half of the $79 million in possible tax credits. The first alternative assumes that the program is not implemented until July 2017 thus reducing its effect by half in CY 2017. The second alternative assumes that construction will be sufficient to use all of the $79 million in possible tax credits. The second alternative assumes that the industry is energized by the tax credit and pushes forward with construction under the assumption that the Department of Economic Development will recognize all projects that have been started after voter approval of the proposal.

Table 10 takes that information and shows two possible alternatives for CY 2017.

- Construction leading to use of **half** the available tax credits ($39.5 million) - A total of $112.8 million in construction would be required to generate $39.5 million in tax credits. Residential construction of $45.1 million (assuming 40% of construction) would result in $15.8 million in tax credits. Commercial construction of $67.7 million (assuming 60% share of construction) would result in $23.7 million in tax credits.

- Construction leading to use of **all** the available tax credits ($79 million) - **A total of $225.7 million in construction would be required to generate $79 million in tax credits**. Residential construction of $90.3 million (assuming 40% of construction) would result in $31.6 million in tax credits. Commercial construction of $135.4 million (assuming 60% share of construction) would result in $47.4 million in tax credits.

In addition, using the average cost and size of projects it is possible to compute the number of residential and commercial projects that will be constructed. A total of 2,608 projects would be constructed with half

the tax credits (2,466 residential, 142 commercial). A total of 5,216 projects would be constructed with all the tax credits (4,933 residential, 283 commercial).

**Table 10**
**Number of Projects using Half or All of Tax Credit Cap**

| | CY 2017 construction needed for half of tax credits to be used in FY 2018 | CY 2017 construction needed for all of tax credits to be used in FY 2018 |
|---|---|---|
| Tax credits estimate from CY 2017 construction | $39,494,829 | $78,989,658 |
| Amount of construction value needed to generate value of 35% tax credits | $112,842,369 | $225,684,737 |
| | | |
| % of residential per year of credits issued | 40.0% | 40.0% |
| % of commercial per year of credits issued | 60.0% | 60.0% |
| | | |
| Tax credits by type of construction | | |
| Residential | $15,797,932 | $31,595,863 |
| Commercial | $23,696,897 | $47,393,795 |
| Total amount by type | $39,494,829 | $78,989,658 |
| | | |
| Construction value by type of construction | | |
| Residential | $45,136,948 | $90,273,895 |
| Commercial | $67,705,421 | $135,410,842 |
| Total amount by type | $112,842,369 | $225,684,737 |
| | | |
| Cost of solar projects per project | | |
| Residential (6.1 kW/project) | $18,300 | $18,300 |
| Commercial (200 kW/project) | $478,400 | $478,400 |
| | | |
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |

Table 10 shows a significant number of projects that would be completed throughout the state as a result of the clean energy tax credit. These numbers are possible for a variety of reasons identified in the Missouri State Energy Plan.

- Missouri households use about 12% more than the average U.S. household, thus projects would put real dollars into Missourians pockets for other uses and spending.[17]
- Nationally about ten percent of small business owners state that energy is their single biggest cost according to the National Federation of Independent Business. The same report indicates that an additional 25% of small business owners claim that energy is one of their top three business costs.[18] Thus, clean energy projects that reduce energy usage make businesses more profitable, allow for expansion, and could lead to higher wages for employees.
- Businesses can lower costs through on-site generation while also achieving other benefits.[19]
- Significant operational savings are possible through energy efficiency projects with rates of return as high as 25%.[20]

- A wealth of financing alternatives now exist for clean energy projects.[21]
- "Approximately 60% of the largest U.S. businesses have set public climate and energy goals to increase their use of renewable energy."[22]

Table 11 calculates the amount of application deposit revenue that the Department of Economic Development would receive given the number of projects identified in Table 10. If applications are submitted for projects equivalent to half the available tax credits then the department would receive $0.9 million in application deposit revenue. If applications are submitted for projects equivalent to all the available tax credits then the department would receive $1.7 million in application deposit revenue. The proposal allows the department to keep some of the revenue for its operational purposes. Table 11 shows that it can keep up to $61 for residential applications (half of the anticipated deposit in this analysis) and up to $250 for all other applications. The net non-refunded revenue that the department will have available for its operations is $185,926 or $371,663.

**Table 11**
**Application Deposit Revenue**

| | Application Deposit Estimate for half of tax credits for applications FY 2018 | Application Deposit Estimate for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |
| | | |
| Application deposit required per project | | |
| Residential | $122 | $122 |
| Commercial | $4,000 | $4,000 |
| | | |
| Application deposit revenue | | |
| Residential | $300,852 | $601,826 |
| Commercial | $568,000 | $1,132,000 |
| Total revenue by type | $868,852 | $1,733,826 |
| | | |
| | | |
| Application revenue kept per project for Department Operations | | |
| Residential | $61 | $61 |
| Commercial | $250 | $250 |
| | | |
| Application deposit revenue available for Department Operations | | |
| Residential | $150,426 | $300,913 |
| Commercial | $35,500 | $70,750 |
| Total amount by type | $185,926 | $371,663 |

Table 12 shows the amount of solar capacity added by the number of projects identified in the previous tables given the given size of residential and commercial projects. A total of 43.4 MW would be added in solar capacity as a result of projects equivalent to half the available tax credits which would be 4.3% of the 1,000 MW goal that when achieved will sunset the tax credits. A total of 86.7 MW would be added in

solar capacity as a result of projects equivalent to all the available tax credits which would be 8.7% of the 1,000 MW goal that when achieved will sunset the tax credits.

**Table 12 Amount of Solar Capacity Added**

| | Capacity added for half of tax credits for applications FY 2018 | Capacity added for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |
| | | |
| kW generated by construction | | |
| Residential (6.1 kW/project) | 15,043 | 30,091 |
| Commercial (200 kW/project) | 28,400 | 56,600 |
| Total amount by type | 43,443 | 86,691 |
| | | |
| MW generated by construction | | |
| Residential | 15.0 | 30.1 |
| Commercial | 28.4 | 56.6 |
| Total amount by type | 43.4 | 86.7 |
| | | |
| % of 1,000 MW goal achieved | 4.3% | 8.7% |

**Taxes**

As noted on pages 10-11 of this fiscal analysis, the Missouri State Energy Plan published in October 2015 describes the current capacity, industry size, and investments being made in Missouri. The plan also describes the potential for jobs and economic development in the state. The 1,000 MW target represents a dramatic increase in current capacity. The following analysis assumes that due to the dramatic size of the 1,000 MW target that the investments driven by the clean energy tax credits will result in new jobs and industry expansion.

Table 13 shows the cost components of a solar construction project. Labor is assumed to be 35% of the project costs, materials 40%, and Profit 10%. It is assumed that 15% of the project cost is overhead and it is assumed that no taxes would be applied. Since Missouri already has a base of manufacturers and distributors it is assumed that all materials will be Missouri taxed.

**Table 13**
**Construction Project Components, Tax Type, and Tax Rate**

| Project components | % of job | Missouri tax rate | Type tax |
|---|---|---|---|
| Labor | 35.0% | 6.00% | Income tax |
| Materials and local materials | 40.0% | 4.225% | Sales |
| Profit | 10.0% | 6.25% | Corporate |
| Overhead | 15.0% | 0.00% | N/A |
| subtotal by taxable type | 100.0% | | |

Table 14 computes the state and local taxes based on the value of construction and the project components and tax rates shown in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $4.4 million to $8.9 million in FY 2018. The other three state funds

(Prop C, Conservation, Parks/Soils) are estimated to receive between $0.6 million to $1.1 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $1.75 million to $3.5 million in local sales tax revenue in FY 2018.

**Table 14**
**State and Local Taxes Generated by Construction**

| | Half of tax credits used - CY 2017 | All of tax credits used - CY 2017 |
|---|---|---|
| Amount of construction value needed to generate value of 35% tax credits | $112,842,369 | $225,684,737 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $39,494,829 | $78,989,658 |
| Materials and local materials | $45,136,947 | $90,273,895 |
| Profit | $11,284,237 | $22,568,474 |
| subtotal by taxable type | $95,916,013 | $191,832,027 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $2,369,690 | $4,739,379 |
| Materials and local materials - Sales/Use Tax | $1,354,108 | $2,708,217 |
| Profit - General Revenue Corporate Tax | $705,265 | $1,410,530 |
| subtotal GR | $4,429,063 | $8,858,126 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $451,369 | $902,739 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $56,421 | $112,842 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $45,137 | $90,274 |
| subtotal State Taxes | $4,981,991 | $9,963,981 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $1,751,314 | $3,502,627 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $6,733,304 | $13,466,608 |

The taxes generated from the construction activity shown in Table 14 likely underestimate the state revenue that will be generated by the construction of clean energy projects even within the short time period allowed in the fiscal note. As noted earlier there are multiplier effects that ripple through the economy. The Department of Economic Development through MERIC has a sophisticated model that it uses to evaluate the impact of tax credits and other business investments made in the State of Missouri. Using the information in this fiscal analysis MERIC should be able to provide supplementary information regarding the extra economic activity and increased revenues.

Similarly, generating additional clean energy within the State of Missouri will result in a decrease in the importation of power and energy producing raw materials from other states. Such money leakage from the state, businesses and citizens, decreases the amount of purchasing could be done for other purposes such as increased jobs within the state and thus the tax revenues that would be generated. For example, the Missouri State Energy Plan notes that Missouri is the sixth largest consumer of coal in the country and 92.5% of the coal used in 2013 was imported from Wyoming.[23] The plan reports that the state sends billions of dollars out of state for purchases of imported coal, natural gas, and transportation fuels.[24]

**Community Solar Act** - Applies to Versions 28, 30, 31, 32, 34, and 36
The Community Solar Act, section 386.910 of the proposal, directs the Missouri Public Service Commission to establish rules allowing customers to participate in a "community solar facility." Community solar facilities allow participants to benefit from solar energy and receive electric bill credits substantially similar to net metering.

Paragraph 3 of that section states that the "aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous fiscal year." Table 15 shows the total peak demand data compiled by the Public Service Commission for the four utilities affected by this section. The report shows that using peak demand leads to a cap of 504.5 MW on the amount of aggregated capacity of community solar facilities statewide.

**Table 15 - Peak Demand for Community Solar**

| Utility Name | Peak Demand |
|---|---|
| Union Electric Co - (MO) | 7,713.0 |
| Kansas City Power & Light Co | 1,878.0 |
| KCP&L Greater Missouri Operations Co. | 1,860.0 |
| Empire District Electric Co | 1,162.0 |
| Total | 12,613.0 |
| 4% overall cap | 504.5 |

Paragraph 2 of that section defines a community solar facility as a photovoltaic electric generation facility with a capacity of between 100 and 1,000 kW. For purposes of this fiscal note it is assumed that all community solar projects will be the same as the 200 kW project limit established in the clean energy tax credit language of 386.1000. In Table 12 above a low and high range was calculated for the percentage of solar capacity added through the tax credits based on the expectations of the phase-in necessary for the Department of Economic Development's implementation of the clean energy tax credits. The same percentage is used - 4.3% low range and 8.7% higher range. Similarly, for the purposes of this fiscal note the cost per kW will be $2,392 for a total project cost of $478,400 as shown in Table 9.

Table 16 shows the data and calculations needed to identify the number of projects. At the low end of the range 21.7 MW of added community solar capacity would be created which would require 108 projects of 200 kW. At the higher range 43.9 MW of added community solar capacity would be created which would require 219 projects of 200 kW.

Table 16 also shows that at an average project cost of $478,400 the low range results in $51.7 million in construction spending. The higher range results in $104.8 million in construction spending.

**Table 16**
**Community Solar Capacity and Projects**

| | Low Range | Higher Range |
|---|---|---|
| Assumed % of aggregate capacity | 4.3% | 8.7% |
| Added capacity - MW | 21.69 | 43.89 |
| Added capacity - kW | 21,694.36 | 43,893.24 |
| # projects at commercial 200 kW per project | 108 | 219 |
| Construction cost - commercial project per 200 kW project | $478,400 | $478,400 |
| Construction value | $51,667,200 | $104,769,600 |

Table 17 computes the state and local taxes based on the value of construction and the project components and tax rates shown earlier in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $2.0 million to $4.1 million in FY 2018. The other three state funds (Prop C, Conservation, Parks/Soils) are estimated to receive between $0.2 million to $0.5 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $0.8 million to $1.6 million in local sales tax revenue in FY 2018.

**Table 17**
**State and Local Taxes Generated by Construction of Community Solar Projects**

| | Low range | Higher range |
|---|---|---|
| Amount of construction value needed to generate estimated MW | $51,667,200 | $104,769,600 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $18,083,520 | $36,669,360 |
| Materials and local materials | $20,666,880 | $41,907,840 |
| Profit | $5,166,720 | $10,476,960 |
| subtotal by taxable type | $43,917,120 | $89,054,160 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $1,085,011 | $2,200,162 |
| Materials and local materials - Sales/Use Tax | $620,006 | $1,257,235 |
| Profit - General Revenue Corporate Tax | $322,920 | $654,810 |
| subtotal GR | $2,027,938 | $4,112,207 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $206,669 | $419,078 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $25,834 | $52,385 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $20,667 | $41,908 |
| subtotal State Taxes | $2,281,107 | $4,625,578 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $801,875 | $1,626,024 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $3,082,982 | $6,251,602 |

**Net metering bills** - Applies to Versions 28, 29, 30, 31, 32, 35, and 36
The Missouri General Assembly has considered six net metering bills over the past three legislative sessions. Table 18 below identifies the bills and provides links to the fiscal note and bill summary prepared for each bill. All of the fiscal notes prepared and available indicated that there was no state impact from the net metering bills.

**Table 18**
**NET METERING**
**2013, 2014, AND 2015 LEGISLATIVE SESSIONS**

| Session | Bill | Sponsor | Fiscal Note Impact | Fiscal Note Summary Link | Bill Summary Link |
|---|---|---|---|---|---|
| 2015 | SB 75 | Holsman | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0622-01N.ORG.pdf | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=82&BillID=174 |
| 2015 | SB 509 | Holsman | No impact | N/A | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=664&BillID=4599469 |
| 2015 | HB 481 | Berry (38) | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0502-01N.ORG.pdf | http://house.mo.gov/billtracking/bills151/sumpdf/HB0481C.pdf |
| 2014 | HB 1795 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER14/fishtm/5552-02N.ORG.htm | http://house.mo.gov/billtracking/bills141/sumpdf/HB1795I.pdf |
| 2013 | HB 119 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/0794-02N.ORG.htm | http://house.mo.gov/billtracking/bills131/sumpdf/HB0119I.pdf |
| 2013 | SB 396 | Holsman | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/1078-07N.ORG.htm | http://www.senate.mo.gov/13info/BTS_Web/Bill.aspx?SessionType=R&BillID=19218703 |

**Electric Vehicle Charging Stations** - Applies to Versions 30, 31, 32, 34, and 35
The petition authorizes investor-owned utilities to recover costs for infrastructure investments in electric vehicle charging stations, provided the energy output from the stations is offset in part by clean energy. There should be no fiscal impact to the state. Utility investment in electric charging stations will result in positive economic activity similar to other capital investments. However, the range of the benefits is unknown at this time.

ENDNOTES

[1] U.S. Energy Information Administration: *Table 10: All Sectors - Class of ownership, number of consumers, sales, revenue, and average retail price by State and utility*
http://www.eia.gov/electricity/sales_revenue_price/

[2] U.S. Energy Information Administration: *Supplemental Data: 1990 - 2013 Revenue from Retail Sales of Electricity by State by Sector by Provider (EIA-861)*
http://www.eia.gov/electricity/sales_revenue_price/

[3] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25
https://energy.mo.gov/energy/docs/MCSEP.pdf

[4] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25-26
https://energy.mo.gov/energy/docs/MCSEP.pdf

[5] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[6] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 200
https://energy.mo.gov/energy/docs/MCSEP.pdf

[7] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 5
http://www.nrel.gov/docs/fy15osti/64898.pdf

[8] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 4
http://www.nrel.gov/docs/fy15osti/64898.pdf

[9] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 172
https://energy.mo.gov/energy/docs/MCSEP.pdf

[10] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 173
https://energy.mo.gov/energy/docs/MCSEP.pdf

[11] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[12] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[13] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 174
https://energy.mo.gov/energy/docs/MCSEP.pdf

[14] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 175
https://energy.mo.gov/energy/docs/MCSEP.pdf

[15] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 190-191, 193, 195-199, 201, 203
https://energy.mo.gov/energy/docs/MCSEP.pdf

[16] Thomas A Loudat, Blue Planet Foundation. "*The Economic and Fiscal Effects of Hawaii's Solar Tax Credit*" - January 2013.
http://blueplanetfoundation.org/renewable-energy-tax-credit-2013.html?highlight=WyJsb3VkYXQiXQ==

[17] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 154
https://energy.mo.gov/energy/docs/MCSEP.pdf

[18] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 165 for both sentences in this bullet point
https://energy.mo.gov/energy/docs/MCSEP.pdf

[19] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[20] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[21] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[22] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 178
https://energy.mo.gov/energy/docs/MCSEP.pdf

[23] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 20-21
https://energy.mo.gov/energy/docs/MCSEP.pdf

[24] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 42
https://energy.mo.gov/energy/docs/MCSEP.pdf

**Edward D. Greim** provided the following information as an opponent of this initiative petition.

Graves Garrett LLC

Edward D. Greim
Graves Garrett, LLC
1100 Main Street, Suite 2700
Kansas City, Missouri 64105
Direct Dial: (816) 256-4144
edgreim@gravesgarrett.com

January 11, 2016

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: *Fiscal Note in Initiative Petitions 2016-202 through 210*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petitions 202, 204, 206, and 210:

> Lost revenue to state government is $3.04 billion over the tax credit period, with annual losses of $9.5 million to $11.5 million thereafter. Lost revenue to local government is $189.1 million over the tax credit period, with annual losses of $31.5 million to $33.9 million thereafter.

We propose the following fiscal note summary for petition 203:

> Lost revenue to state government is $320.9 million over the tax credit period, with annual losses of $5.6 million to $9.6 million thereafter. Lost revenue to local government is $100.9 million over the tax credit period, with annual losses of $20 million to $28.1 million thereafter.

We propose the following fiscal note summary for petition 205:

> Lost revenue to state government is $328.8 million over the tax credit period, with annual losses of $7.5 million to $11.5 million thereafter. Lost revenue to local government is $175.3 million over the tax credit period, with annual losses of $32.4 million to $40.5 million thereafter.

We propose the following fiscal note summary for petition 207:

> Lost revenue to state government is $3.02 billion over the tax credit period, with annual losses of $5.7 million to $7.7 million thereafter. Lost revenue to local government is $40.4 million over the tax credit period, with annual losses of $11.5 million to $15.7 million thereafter.

We propose the following fiscal note summary for petitions 208 and 209:

> Lost revenue to state government is $3.03 billion over the tax credit period, with annual losses of $7.6 million to $9.6 million thereafter. Lost revenue to local government is $114.8 million over the tax credit period, with annual losses of $23.9 million to $28.1 million thereafter.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments; taxes that do not apply whenever electricity is never sold due to customer-generator production encouraged by the initiative petitions. Petition signers and voters must be informed that any positive fiscal impacts of the initiative petitions are speculative. Likewise, petition signers and voters must be informed that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume.

**Description of Policy**

Initiative Petitions 202 – 210 contain one or more of three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of the "Community Solar Act"; and (3) A state tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, or certain natural gas technologies.

1. Changes to Net Metering for Investor-owned electric utilities and municipal electric utilities, and, in 206, rural electric cooperatives
    A. Raise net metering cap to 7% (is currently 5%);
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);



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   D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.
2. Community Solar Act
   A. PSC adopts rules and regulations allowing groups of 5 or more electrical corporation customers to offset energy usage with solar located in the service territory of the electrical corporation where they have an account;
   B. Facilities are 100 kilowatts to 1 megawatt;
   C. Community solar facilities may, in total, generate electricity of 4% or less of single-hour peak load, but that amount does not count toward net metering; Electrical corporations can own half (max of 2%), which may be included in the rate base. Others may own the other half (max of 2%);
   D. Community Solar facilities are not eligible for tax credits provided in the petition;
   E. Commission sets a community solar rate, not less than electrical corporation's average retail rate;
   F. Value of allocated solar bill credits reduces customer's total bill;
   G. The current value-of-community-solar rate may be locked in for 20 years beginning when a community solar facility is put in operation.
3. Tax credit
   A. 35% tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, etc.
   B. Total value of eligible credits shall not exceed 1% of the value of electricity used in Missouri[1] – defined as revenue from sale of electricity in Missouri; or tax credits are capped at$50 million each year. Unused credits carryover year to year until June 30, 2022
   C. No tax credits after June 30, 2022, or after 1000 megawatts of new generation have been installed using the tax credits.

**Burdens on State Government**

In determining the fiscal impact of each petition it is generally reasonable to assume that the various statutory changes in the petitions will have independent fiscal impacts. The reasonableness of this assumption is buoyed by the various iterations of the petitions themselves, some of which propose tax credits with no proposed changes to the Net Metering and Easy Connection Act. See Petitions 207 and 208.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 202-207 and 209-210*

[1] The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. See U.S. Energy Information Administration – Independent Statistics and Analysis.



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Raising the net metering cap from the current 5% of peak hour demand to 7% of peak hour demand will, conservatively, result in a 2% decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase from 5% to 7%. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in the petition provides a strong financial incentive to solar or wind energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[2], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, the net-metering cap applies to single-hour peak load, determined yearly, which means that the cap is a higher percentage of the single hour average load. This fact means that the total increase in generation is higher than it appears. Fourth, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[3] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by approximately $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities. The additional decreases in sales tax revenues from municipal electric utilities and, in petition 206, from electric cooperatives, are unknown but substantial.[4]

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 202, 204-206, 208, and 210*

Community solar facilities are in addition to net metering and represent an additional capacity amounting to 4% of each electrical corporation's single-hour peak load. Energy generated from the community solar facility is allocated pro rata by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. There is the potential for such bill

[2] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[3] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.
[4] Assuming $7.6 billion in electricity is sold in Missouri per year (the actual 2014 figure), a 2% decrease will decrease overall state sales tax revenues by 6.4 million annually, but some petitions enact net metering changes on rural electric cooperatives, and some do not.



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credits to decrease overall electrical bills by more than 4% because the "bill credits" are calculated using a "value of solar rate" which is at least as high as the retail rate for electricity, but may be higher. If, for example, solar energy received a 50% rate premium due to its benefits, the amount of bill credits would increase and sales would decrease by more than the 6%, rather than 4% figure. Half of these community solar facilities—the half not owned by electrical corporations—may be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoid property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership model, similar to net metering, because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%).

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by approximately $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities.

*iii. Tax credits – Initiative Petitions 202-210*

*a. Decreased tax collections due to tax credits – Credits capped at 1% of value of electricity sold in Missouri, annually ($76 million based on 2014 figures) – Initiative Petitions 202, 204, 206-210*

According to 2014 figures, Missouri retail customers bought 7.6 billion dollars' worth of electricity in 2014. It is very conservative to estimate that Missouri retail customers will continue to buy the same value of electricity. Accordingly, the 35% tax credits in these petitions will, conservatively, directly result in a loss of state income of up to $76 million, annually. However, electricity rates are volatile, and rates may react violently given market changes and legal changes proposed by the initiative petitions. As stated by the Department of Economic Development, the total loss to state revenue in a single year could be $429.3 million, annually, and $3 billion in total.

*b. Decreased tax collections due to tax credits – Credits capped at $50 million annually – Initiative Petitions 203 and 205*

Similar to the loss described in subpart a, the 35% tax credits in these petitions will directly result in a loss of state income of up to $50 million, annually.

*c. Cost of eroding tax base due to new energy generation – Initiative Petitions 202-210*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer-generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in



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Missouri. Accordingly, if the tax credits were phased out due to reaching the 1000 MWh/1,000,000 kWh maximum on new electricity generation, new production from such tax credits would produce approximately 1,825,000 MWh per year, also expressed as 1,825,000,000 KWh, or 1,825 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour [5], this new production is valued at $182,500,000.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

In practice, the 1 gigawatt limit on new customer-generated energy production may never be met. Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[6] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for renewable energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology. The petition itself limits tax credits to a maximum of $3.00 per watt, but market forces should make rates in Missouri similar to those in other states, at or around $1.77.

For Initiative Petitions 202, 204, and 206-210, the total, annual loss to state governments *due to the tax credits* is 76.9 million to 435 million over the tax credit period. There is an annual loss in perpetuity after the tax credit period of 5.7 to 7.7 million, depending on how much new customer-generation is developed. See attached table.

For Initiative Petitions 203 and 205, the total, annual loss to state governments *due to the tax credits* is 50.6 million to 53.7 million over the tax credit period. There is an annual loss in perpetuity after the tax credit period of 3.7 to 7.7 million, depending on how much new customer-generation is developed. See attached table.

**Burdens on Local Governments**

[5] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.

[6] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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Local governments face similar losses in revenue from the various petition provisions as state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 202-206 and 209-210*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 202, 204-206, 208, and 210*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*iii. Tax credits – Cost of eroding tax base due to new energy generation – Initiative Petitions 202-210*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petitions may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to local governments, all of which may be reduced or discontinued if the initiative petitions are enacted.



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The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[7] Based on this estimate, the population-weighted combined average local sales tax is 3.585%. Assuming the tax credits sunset due to reaching the 1 Gigawatt production cap, the yearly loss to local governments from lost sales tax from the tax credit is $6,541,578. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,123,540.

For petitions 202, 204, and 206-210, the loss to local governments due to the tax credits is $40.4 million over the tax credit period, then $11.5 to $15.7 million annually. For initiative petitions 203 and 205, the loss to local governments due to the tax credits is $26.6 million over the tax credit period, then $7.5 to $15.7 million annually.

**In Conclusion**

The initiative petitions will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petitions, such as increases in net metering and community solar. The total tax burden on state government imposed by the petitions range from $313 million over the tax credit period, with $3.7 to $7.7 million in lost revenues in perpetuity, to approximately $498.6 million over the tax credit period,[8] with $9.5 million to 11.5 million in lost revenues in perpetuity thereafter.

Sincerely,

Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0

[7] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.
[8] $475.8 million + [(1.9 million + 1.9 million)*6 years]



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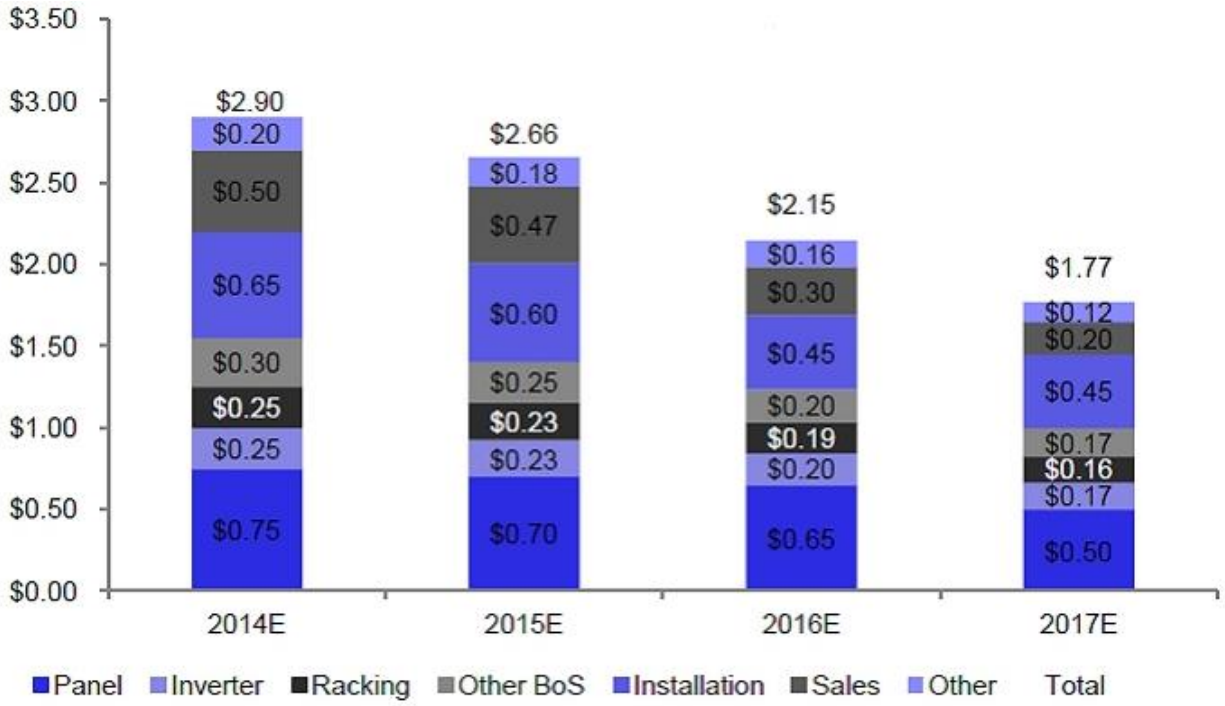
Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017
https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm



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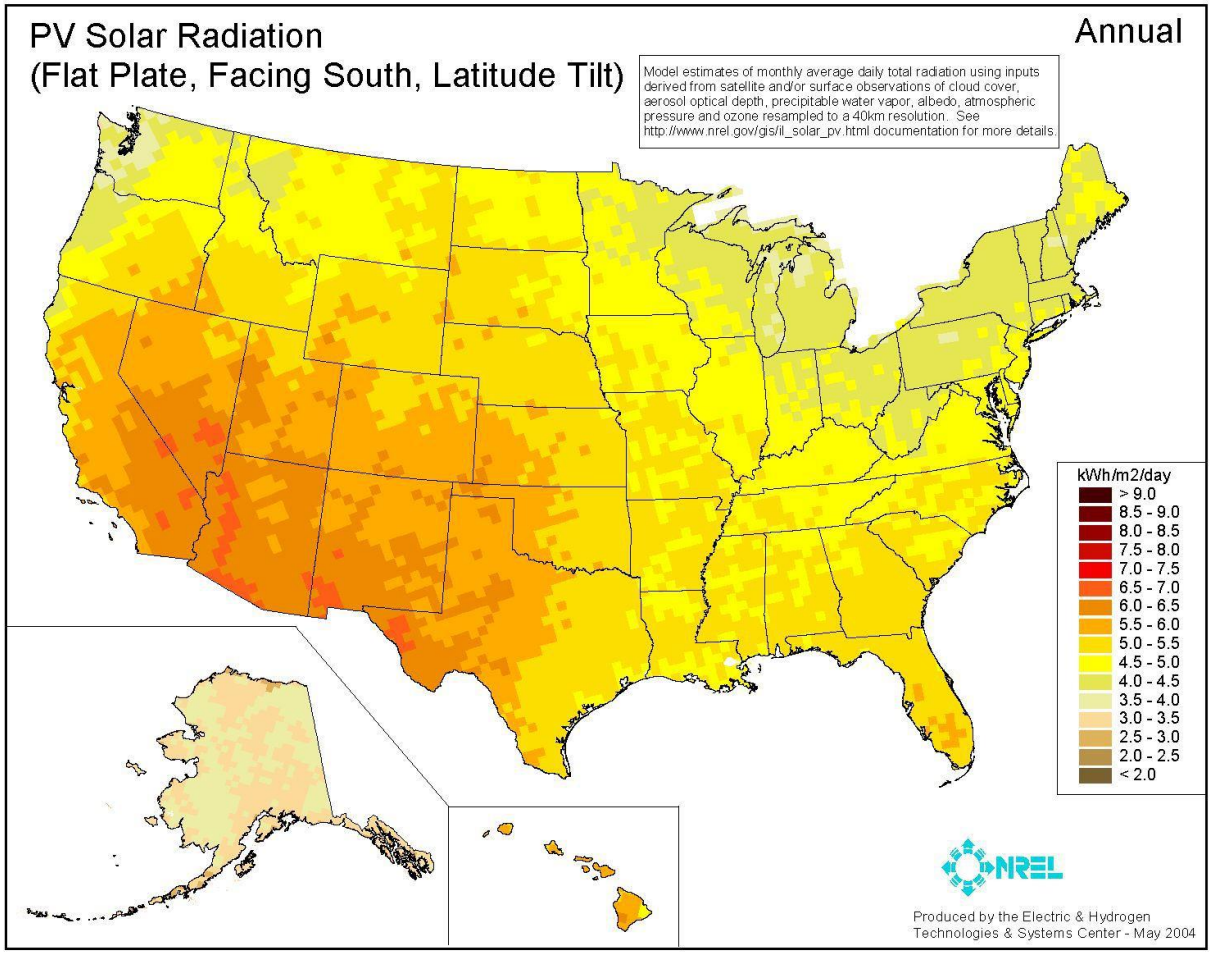
National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Brightergy Renewable Tax Credit Fiscal Analysis (1% Value of Electricity Cap) - Initiative Petitions 202, 204, and 206-210**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 122.68 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $76,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 223,854 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $76,000,000 | 122.68 | 122.68 | 223,854 | $100 | $22,385,441 | 4.225% | $945,785 | $76,945,785 | 3.585% | $802,518 | 5.000% | $1,119,272 | $1,921,790 |
| 2018 | $76,000,000 | 122.68 | 245.36 | 447,709 | $100 | $44,770,882 | 4.225% | $1,891,570 | $77,891,570 | 3.585% | $1,605,036 | 5.000% | $2,238,544 | $3,843,580 |
| 2019 | $76,000,000 | 122.68 | 368.04 | 671,563 | $100 | $67,156,323 | 4.225% | $2,837,355 | $78,837,355 | 3.585% | $2,407,554 | 5.000% | $3,357,816 | $5,765,370 |
| 2020 | $76,000,000 | 122.68 | 490.72 | 895,418 | $100 | $89,541,765 | 4.225% | $3,783,140 | $79,783,140 | 3.585% | $3,210,072 | 5.000% | $4,477,088 | $7,687,160 |
| 2021 | $76,000,000 | 122.68 | 613.40 | 1,119,272 | $100 | $111,927,206 | 4.225% | $4,728,924 | $80,728,924 | 3.585% | $4,012,590 | 5.000% | $5,596,360 | $9,608,951 |
| 2022 | $76,000,000 | 122.68 | 736.08 | 1,343,126 | $100 | $134,312,647 | 4.225% | $5,674,709 | $81,674,709 | 3.585% | $4,815,108 | 5.000% | $6,715,632 | $11,530,741 |
| | | | | | | | | **Total State Tax Burden** | **$475,861,483** | | **Total Local Tax Burden (Sales + Franchise)** | | **$40,357,593** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

**Brightergy Renewable Tax Credit Fiscal Analysis (50 Million Tax Credit Cap) - Initiative Petitions 203 and 205**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 80.71 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $50,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 147,273 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $50,000,000 | 80.71 | 80.71 | 147,273 | $100 | $14,727,264 | 4.225% | $622,227 | $50,622,227 | 3.585% | $527,972 | 5.000% | $736,363 | $1,264,336 |
| 2018 | $50,000,000 | 80.71 | 161.42 | 294,545 | $100 | $29,454,528 | 4.225% | $1,244,454 | $51,244,454 | 3.585% | $1,055,945 | 5.000% | $1,472,726 | $2,528,671 |
| 2019 | $50,000,000 | 80.71 | 242.13 | 441,818 | $100 | $44,181,792 | 4.225% | $1,866,681 | $51,866,681 | 3.585% | $1,583,917 | 5.000% | $2,209,090 | $3,793,007 |
| 2020 | $50,000,000 | 80.71 | 322.84 | 589,091 | $100 | $58,909,056 | 4.225% | $2,488,908 | $52,488,908 | 3.585% | $2,111,890 | 5.000% | $2,945,453 | $5,057,342 |
| 2021 | $50,000,000 | 80.71 | 403.55 | 736,363 | $100 | $73,636,320 | 4.225% | $3,111,135 | $53,111,135 | 3.585% | $2,639,862 | 5.000% | $3,681,816 | $6,321,678 |
| 2022 | $50,000,000 | 80.71 | 484.26 | 883,636 | $100 | $88,363,584 | 4.225% | $3,733,361 | $53,733,361 | 3.585% | $3,167,834 | 5.000% | $4,418,179 | $7,586,014 |
| | | | | | | | | **Total State Tax Burden** | **$313,066,765** | | **Total Local Tax Burden (Sales + Franchise)** | | **$26,551,048** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State government revenue may decrease up to $76 million annually until June 30, 2022 with approximately $660,000 net annual increased operating costs. Local government electric revenue may decrease $23.9 million annually with $3.4 million increased operating costs. Other resulting economic activity will have an unknown impact on state and local governments.

STATE AUDITOR'S OFFICE
RECEIVED
JAN 04 2016

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

16-208

January 4, 2016

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 43 (2016-208)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 31, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-208 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 31 AM 8:54
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-208

*Be it enacted by the people of the state of Missouri:*

Section A: Sections 386.860, 386.870, 386.910 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.910 to 386.1000 shall be known and may be cited as the "Clean Energy Independence and Investment Act of 2016".

386.870. An electrical corporation shall be allowed to recover its costs and add in its rate base prudently incurred costs to purchase and install electric vehicle charging stations intended to recharge electric motor vehicles, provided the electricity consumed at such stations is partially powered by a clean energy resource, as defined in 386.900, or offset with renewable energy credits, as defined in 393.1025. Investments made pursuant to this section shall not raise the retail rates charged to the customers of any such electrical corporation by more than one-half of one percent in any year.

386.910. 1. This section shall be known and may be cited as the "Community Solar Act."

2. Within thirty days of enactment of this section, the commission shall open a docket and by August 1, 2017, the commission shall adopt rules and regulations allowing customers to participate in community solar facilities and set a value-of-community-solar rate as described in subsection 5 of this section. For purposes of this section, a "community solar facility" is a photovoltaic electric generation facility with a capacity of between one hundred and one thousand kilowatts, measured in alternating current, that allows five or more customers of an electrical corporation to offset their energy usage with solar energy and such facility is located within the Missouri service territory of the electrical corporation where such customers have one or more electrical accounts. For the purposes of this section, an electrical corporation is as defined in 386.020.

3. The aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous calendar year, and such capacity of community solar facilities shall not count towards the system-wide net metering cap defined in subsection 3 of section 386.900. Electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. Entities or individuals that are not electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of an electrical corporation's single-hour peak load during the previous year. The commission shall allow prudently incurred costs and expenses for community solar facilities owned by an electrical corporation to be included in such electrical corporation's rate base. Once the four percent aggregate cap is reached for community solar facilities, the commission shall open a docket to determine whether or not the community solar program shall be expanded, and the commission may increase the aggregate capacity cap above four percent. The commission shall consider benefits and costs of such an expansion when

making its decision. Community solar facilities shall not be eligible for tax credits under section 386.1000.

4. For any community solar facility that is owned or operated by an entity other than an electrical corporation, the energy generated by such community solar facility shall be provided to the electrical corporation to which it is interconnected in exchange for the allocation and facilitation of bill credits as provided in subsection 5 of this section.

5. Kilowatt hours generated from community solar facilities shall be allocated, on a pro rata basis, to the designated subscribers of the community solar facility at the direction of the community solar facility owner or operator. Allocated bill credits shall be set at a value-of-community-solar rate per kilowatt hour determined by the commission. The commission shall determine the value of bill credits per kilowatt hour taking into consideration costs and benefits of solar energy including but not limited to energy value, generation value, environmental value, transmission and distribution system value, disaster recovery value, reactive power value and other grid benefit value, but such bill credits shall not be less than the electrical corporation's average retail rate. The value of allocated community solar bill credits shall be used to reduce the customer's total bill. When a community solar facility is placed in service it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years.

6. Owners and operators of community solar facilities shall not be considered a public utility as defined in section 386.020, except that this provision shall not apply to any owner or operator who is an electrical corporation.

7. The commission shall promulgate rules and regulations it deems necessary to carry out the provisions of this section. The commission's rules shall: allow electrical corporations to recover costs; provide earning opportunities for electrical corporations; provide an orderly process, including a reservation system, to allow potential community solar facility owners and operators to develop projects within the capacity limits in subsection 3 of this section; and provide options, which may include financial incentives, to encourage low-income participation.

8. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section, shall be invalid and void.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall be eligible to receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. The total amount of clean energy tax credits offered annually shall not

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exceed one percent of the value of electricity used in Missouri as determined in subsection 4 of this section.

2. The department of economic development shall certify when the tax credits provided in this section have cumulatively resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the clean energy tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.890 and 386.900, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on available reports, including FERC Form Number 1 as allowed by 18 CFR § 141, or an equivalent as determined by the commission, of megawatt hours sales of retail electricity and corresponding revenues for the preceding year or most current reporting period as determined by the commission. The commission shall publish the value of electricity used in Missouri to the public and department of economic development within sixty days of the enactment of this section and at least forty-five days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may apply for and receive the credit authorized by this section only for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

7. To obtain initial approval for tax credits allowed under this section, a taxpayer shall submit an application for tax credits to the department of economic development. Each application shall be reviewed in the order of the date on which the application was received, with the oldest received date receiving highest priority in the queue. Applications received on the same day, that are not time-stamped, shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. The department may retain, for the purposes of administering this section, up to half of each application deposit, which shall not be subject to refund and shall not exceed one hundred dollars for residential taxpayers and two hundred and fifty dollars for all other taxpayers. Such application deposit, except the portion retained for administration purposes by the department, shall be refunded at completion of the project or in the event the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. The taxpayer may request a refund of the application deposit; however, any refunds of the deposit for an application shall cause such application to lose its spot in the application queue. If the taxpayer wants to maintain its position in the application queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

9. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision of its intent to disapprove, including the reasons for intending to disapprove, and to remove such application from the application queue. The taxpayer shall have one opportunity, not to exceed fifteen days of notification of intent to disapprove, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

10. If the department of economic development deems the initial application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the date the department received the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for approval shall be notified by the department of economic development that the maximum amount of credits authorized for the program have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available.

12. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial approval for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available, then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by

the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development, to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1, 3 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by postal or electronic letter and shall issue, to the taxpayer, a tax credit certificate within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

15. If the amount of the credit under subsection 14 of this section exceeds the taxpayer's total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. For financial institutions,

credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

16. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsections 10 or 11 of this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

17. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536. Such rules may include repayment provisions necessary to recover tax credit benefits from taxpayers found to have used fraud or misrepresentations of fact on applications, and other anti-fraud and compliance measures as may be required by the department and the provisions of sections 135.800 to 135.830.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-208)**

## Subject

Initiative petition from Andy Zellers regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received January 04, 2016)

## Date

January 25, 2016

## Description

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **Public Service Commission,** and the **Missouri Joint Municipal Electric Utility Commission**.

**Mark R. Reading** provided information to the State Auditor's Office as a proponent of this initiative petition.

**Edward D. Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** (DED) provided the following information:

The Division of Energy (DE) indicated this petition will result in increased operating expenses of $759,071 for fiscal year 2017, $827,781 for fiscal year 2018, and $835,826 for fiscal year 2019. These costs will be offset by additional revenues to the Clean Energy Fund of $0 for fiscal year 2017, $370,943 for fiscal year 2018, and $370,943 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Section 386.870 – Electric Vehicle Charging Stations

The DE participates in Public Service Commission (PSC) regulatory cases to evaluate issues from a formal state policy and planning perspective consistent with its interests in clean, affordable, abundant energy, and its efficient use. DE is active in cases before the PSC related to energy efficiency and renewable energy and has responsibilities associated with certifying clean energy sources under Missouri's Renewable Energy Standard (RES) and net metering statutes. As such, DE assumes it would be involved in the implementation of this provision by monitoring and participating in cases that allow regulated electric utilities to install and recover costs associated with electric vehicle recharging stations that are partially powered by a clean energy source or offset with renewable energy credits.

Section 386.910 – Community Solar Act

DE assumes it would be involved in the implementation of the Community Solar Act provisions and participate in the rulemaking docket to set the process and details associated with this section. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where community solar facilities are established for purposes of determination of eligibility and certification under the RES. DE assumes this provision would result in additional RES certifications that would need to be performed.

Section 386.1000 – Clean Energy Tax Credit
DE is required to administer the Clean Energy Fund created by this section and promulgate rules to implement the Clean Energy Tax Credit. The proposal requires DE to receive applications and deposits, review and initially approve applications and required information within 30 days, review final approval applications, issue certificates and provide notifications, refund deposits for completed and disapproved projects, at least quarterly publish a list of the amount of tax credits initially and finally approved for each fiscal year and amounts reserved for future years, notify individual applicants of disapproved applications and approval within specified timeframes, notify applicants if the maximum amount of credits authorized have been allocated for the fiscal year and grant three-month extensions if needed for project completion with additional deposit payments.

**Long-range implications**

Fiscal impacts associated with the Clean Energy Tax Credits could continue until June 30, 2022. The authorization for the tax credit would sunset sooner if the 1,000 megawatt limit is reached. Economic benefits associated with construction of solar facilities would also have long-range implications.

**Assumptions and methodology used in arriving at state fiscal impact**

Section 386.870 – Electric Vehicle Charging Stations
For purposes of this fiscal note, DE assumes it would be involved in cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

386.910-Community Solar Act
For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

The RES requires investor-owned utilities in Missouri to either produce green power or purchase Renewable Energy Certificates (RECs) for compliance. One REC represents 1 megawatt-hour of electricity generated from an eligible renewable energy resource. The in-state renewable energy generation can receive a multiplier of 1.25 for RES compliance purpose. DE has statutory authority to certify eligible renewable energy resources before RECs associated with those renewable energy resources can be used for RES compliance. DE does not charge any certification fees.

A community solar facility is defined as a solar photovoltaics facility with a capacity of 100-1000 kilowatts (kW) under this section. DE anticipates that in-state community solar facilities will request DE to certify their renewable energy resources/projects for the purpose of generating additional revenue from REC sales. DE's review primarily focuses

on environmental impacts of renewable electric generation facilities on air, water or land use. The actual staff time spent on each application varies from one project to another. Solar photovoltaics facilities with a larger capacity typically require more staff time for reviewing their third-party environmental impact assessments in addition to verifying applicable environmental permits. Staff time will be also needed for data requests and discussion, data collection, database management, report production and website maintenance.

Current average staff time to review and certify renewable energy facilities ranges from 2 hours for small projects of a few hundred kW and 8-10 hours for larger projects of a few hundred kW to 1000 kW. It is assumed that small projects will account for two-thirds of the total community solar facilities and one-third will be larger projects. The weighted average of staff time (based on 2 hours for smaller projects and 8 hours for larger projects) is 4 hours (calculation: 2*{2/3}+8*{1/3)}). The number of projects at the assumed 200 kW ranges from 71 to 209 if the full amount of tax credits are used (Source: Mark Reading). By multiplying the average staff time of 4 hours, the annual staff time will range from 284 to 836 hours. For purposes of this fiscal note, DE assumes it could implement the provisions of this section related to RES environmental certifications with staff requested to implement the clean energy tax credit in Section 386.1000, RSMo (see below).

Section 386.1000 – Clean Energy Tax Credit

Retail sales of Missouri's utilities totaled $7.6 billion in 2014 (Source: Mark Reading; U.S. DOE/EIA). If all tax credits were used each year up to the cap of 1% of the annual statewide Missouri revenue of Missouri's retail electric suppliers, the decrease in the state's general revenues would be approximately $76 million/year from the effective date through June 30, 2022, depending on the schedule of implementation and applications submitted and approved. If the tax credits cumulatively result in installations of 1,000 megawatts prior to June 30, 2022, the tax credits would sunset. Note the actual tax credit cap would be based on revenues as determined by the Public Service Commission pursuant to Section 386.1000.4, RSMo, of this proposal. The tax credits would have unknown economic benefits from the construction and installation of solar energy systems.

If the full amount of tax credits were used each year and with consideration to the estimated cost and size of the projects, it is estimated there would be 4,933 residential project applications and 283 commercial project applications submitted for tax credit reviews (Source: Mark Reading). DE assumes that it would take approximately 2 hours each to do the initial review/approval of each application and another 2 hours to do the review and issuance of a certification after a project is completed for residential projects. Each of these would include clerical time for input/issuing letters/filing, etc. For larger commercial projects, an estimated 8 hours is anticipated for each of these two steps. See response above for detailed tasks required by the proposal.

19,732 hours for residential applications
4,528 hours for commercial applications
24,260 hours total

To implement this provision, DE assumes it will need a total of 12 full-time employees (FTE) (including a portion of an FTE to implement Community Solar provisions, Section 386.910, RSMo, above) as follows:
8 – Energy Specialist I/II
2 – Energy Engineer II
2 – Administrative Office Support Assistant (AOSA)

- Energy Specialist I/II - Professional level staff to review the renewable energy project applications and to complete project evaluation activities.
- Energy Engineer II - Professional staff with expertise in engineering aspects of renewable energy projects to review the technical aspects of the projects, review of projects related to the Renewable Energy Standard and Renewable Energy Certificates and familiar with environmental impacts of renewable electric generation.
- AOSA - Staff to assist with the administrative requirements of the reviews such as drafting and sending communication to applicants, maintaining the database of applicants, and tracking status of applications.

An application deposit of 2 cents/watt is required to be paid to DE and deposited in the Clean Energy Fund. The proposal provides that DE may retain, for the purposes of administering this section, up to half of each application deposit to administer the provisions of this proposal but would not exceed one hundred dollars for residential taxpayers and two hundred and fifty dollars for all other taxpayers. Using the assumption above, if the full amount of tax credits were used each year and with consideration to the estimated cost and size of the projects, it is estimated there would be 4,933 residential project applications (at an average size of 6.1 kW) and 283 commercial project applications (at an average size of 200 kW) submitted for tax credit reviews. The application deposit for a residential project would be $122 and DE could retain 50% or $61 for a total of $300,913. The application deposit for a commercial project would be $4,000 and DE could retain a maximum of $250/application for a total of $70,750.

For purposes of this fiscal note, DE assumes there could be up to $370,943 per year available from the Clean Energy Fund to administer the provisions of this proposal. As this is less than the estimated costs to implement the provisions of the proposal, DE assumes the shortfall would be from General Revenue funds. It is also assumed that General Revenue funds would be necessary to cover all DE's costs in FY 2017 until such time as sufficient application deposits are received.

DE also assumes that the Department of Economic Development's existing tax credit database will be used to track the applications. Some IT costs to generate the necessary reports are estimated.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated their department would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** estimate this petition will result in increased operating expenses of $243,282 for fiscal year 2017, $181,985 for fiscal year 2018, and $183,470 for fiscal year 2019.

The legislation creates an unknown, negative impact to total state revenue by creating a new tax credit.

**Section 386.1000**
The provisions of this section authorize the issuance of a clean energy tax credit to taxpayers incurring costs for the installation of a clean energy resource project. The taxpayer may claim 35 percent (35%) of the total cost of the project. The legislation caps the amount of tax credits at not more than one percent (1%) of the value of the electricity used in Missouri.

**Section 386.1000.15**
The department suggests changing the provisions pertaining to the transfer of the tax credit to the Department of Revenue because this is currently the department's responsibility based on a previously issued executive order.

**Administrative Impact:**
**Personal Tax:**
Personal Tax requires one (1) Revenue Processing Technician I (Range 10, Step L) for every 6,000 credits claimed.

**Corporate Tax:**
Corporate Tax requires three (3) Revenue Processing Technicians I (Range 10, Step L) for every 4,000 credits redeemed, 4,000 credits transferred, and for every 520 SB 1099 compliance mailings and correspondence.

**Integrated Tax System:**
The integrated tax system incurs additional costs of $43,680 to implement the provisions of this petition.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** (OA) indicated the proposal:

- Allows utilities to recover costs and add in its rate base costs to install electric vehicle charging stations intended to recharge electric motor vehicles, provided the energy consumed at each station is partially powered by a clean energy resource. This could result in a total state revenue reduction. OA defers to the DED for the estimated impact.
- Authorizes the use of net-metering, with certain limits to facilitate the use of customer-sited or controlled clean energy resources.
- Allows retail electric suppliers to recover any costs incurred in this act in that utility's rate structure. To the extent any such costs, lost revenues or lost earning are recovered, they shall not raise the customer retail rates by an average of more than 1% in any year. This could impact total state revenue. OA defers to the PSC for the specific impact.
- Allows participation in community solar facilities.
- Enacts a "Clean Energy" income tax credit for an amount equal to 35% of the total cost of the clean energy project. The annual cap on the credits is 1% of the value of electricity used in Missouri as determined by the PSC. This could result in a significant total state revenue reduction. This would also impact the calculation under Article X, Section 18(e), of the Missouri Constitution. OA understands that the DED and the PSC may have the data to estimate the impact, therefore OA defers to DED and the PSC.
- Establishes the Clean Energy Fund, which is to be used to advance clean energy through the efficient administration of the Clean Energy Tax Credit Program. This will result in an increase to total state revenue. The revenue in the fund will come from various application deposits, but could also come from appropriated moneys,

gifts, contributions, grants or bequests. The DED will administer this fund. OA defers to the DED and the PSC for the estimated impact of the application deposits.

This proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson** indicated because their city does not own any utility except for wastewater, there would be no fiscal impact should this petition become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from **University of Missouri** indicated they have not seen cost impact studies on this initiative from their electric utility suppliers, but they do not believe this will have a significant impact on their university.

Officials from the **Public Service Commission** (PSC) indicated:

Section 386.870 allows an electrical corporation to recover its costs and add in its rate base prudently incurred costs to install electric vehicle charging stations provided the energy consumed is partially powered by a clean energy resource or offset with renewable energy credits. It is not clear if the renewable energy credits can be used to meet Section 386.870 and also used to meet the utility's renewable portfolio standard in Section 393.1030.

Section 386.870 also states investments made pursuant to this section shall not raise the retail rates charged to customers of electrical corporations by more than one half of one percent in any year. The PSC suggests this requirement be clarified. A similar cap is placed on the renewable mandate of Section 393.1045. It has been over 7 years since the enactment of this provision and parties continue to argue its meaning before the PSC.

Section 386.910.5 states that when a community solar facility is placed in service, it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years. It appears this provision would require the utility ratepayers to fund the facility at the current rate for 20 years without adjustment for changes in the utility's costs or revenues that would occur over the 20 year period. It is also not clear if the cost-of-solar value contemplates an earnings opportunity for the Commission-regulated utility.

Section 386.1000 discusses a "clean energy tax credit". It is not clear why the tax credit is in the PSC statute and not in a tax-related statute.

Officials from the **Missouri Joint Municipal Electric Utility Commission** (MJMEUC) indicated:

Missouri Public Utility Alliance (MJMEUC is part of the alliance) through its electric division represents 65 of the 86 cities with municipal electric utilities.

After careful review and analysis, they believe that implementation would reduce municipal electric utility revenues somewhere between $17,000,000 and $23,900,000 annually based on:

1. Varying changes to the state’s net metering law.
2. Greater penetration of solar panels throughout the state because of a state funded tax rebate for their purchase and installation.

Other proposed changes would increase the cost of city operations by approximately $3,435,000.

Several of these proposals modify the state's net metering law to require cities to carry forward to subsequent months excess customer generation. Current software is not designed to provide this functionality and each city would have to contract with their own vendor to modify their billing software. In addition several petition versions require the PSC to approve municipal rate increases by class based on actual expenses. This will necessitate regular cost of service studies and for cities to hire attorneys with experience before the PSC to present their cases for rate increases. In order to calculate costs they have contacted firms in both disciplines to provide estimated costs for these services.

Total estimated impact for this petition would be $17 million in lost revenues.

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art X Sec 16) that reduces income or increases costs without "full state financing", they anticipate that the costs would be reflected in the final state cost when the fiscal note is completed. They have no idea what litigation costs might be necessary.

They would offer the following for potential utilization in the final fiscal note:

"….. *reduce revenues for municipal electric utilities by (fill in the blank), increase operational costs by approximately (fill in the blank) and create unknown litigation costs at both the state and local level over Mo. Const. Art. X Sec. 16."*

**Mark R. Reading** provided the following information as a proponent of this initiative petition.

Submitted by:

_____

Mark R. Reading
2604 Lakeland Drive
Jefferson City, MO 65109
(573) 694-6828
*Primary Contact Person*

**Clean Energy Independence and Investment Act of 2016 - Versions 37, 39, 41, 43, and 45**
**Sec. of State # 202, 204, 206, 208, 210**

**Proposed Statement of Fiscal Impact**
**for Clean Energy Independence and Investment Act of 2016 - Versions 37, 39, 41, 43, and 45**
**Sec. of State # 202, 204, 206, 208, 210**

**Fiscal Impact Information Submitted Pursuant to Section 23.140.2**

The amendment's estimated impact decreases state revenue between $32 to $64 million depending upon the speed of up to $225 million in additional clean energy project construction and implementation by the Department of Economic Development, residential homeowners, and businesses. Local revenue is estimated to grow between $2.6 to $5.1 million.

| ESTIMATED NET EFFECT ON STATE FUNDS | | |
|---|---|---|
| **Fund Affected** | **FY 2017** | **FY 2018** |
| **General Revenue** | $0 | From ($33,037,828) to ($66,019,325) |
| | | |
| **Total Estimated Net Effect on All State Funds** | $0 | From ($32,045,806) to ($64,028,436) |
| **ESTIMATED NET EFFECT ON LOCAL FUNDS** | | |
| Local Funds | $0 | From $2,553,188 to $5,128,651 |
| | | |
| **Total Estimated Net Effect on All Local Funds** | $0 | From $2,553,188 to $5,128,651 |

**SUMMARY OF VERSIONS OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT**

Nine additional versions of the Clean Energy Independence and Investment Act of 2016 have been submitted for review. A summary of which topics are in each version is provided below.

Two additional versions of the Clean Energy Independence and Investment Act of 2016 have been submitted for review. A summary of which topics are in each version is provided below.

**CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT OF 2016**
**SUMMARY OF VERSIONS**

| Petition version | 386.870 - Electric vehicle | 386.890 - Net metering | 386.900 - Enhanced net metering | 386.910 - Community Solar | 386.1000 - Tax credits |
|---|---|---|---|---|---|
| | | | | | |
| **1% Electric Versions** | | | | | |
| Version 37 | N/A | X | X | X | X |
| Version 39 | X | X | X | X | X |
| Version 41 | X | Deletes | X | X | X |
| Version 42 | N/A | N/A | N/A | N/A | X |
| Version 43 | X | N/A | N/A | X | X |
| Version 44 | X | X | X | N/A | X |
| Version 45 | N/A | X | X | X | X |
| | | | | | |
| **$50 million cap Versions** | | | | | |
| Version 38 | N/A | X | X | N/A | X |
| Version 40 | X | X | X | X | X |

## ANALYSIS OF FISCAL IMPACT OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT

The fiscal impact analysis contained herein focuses on estimating the fee and tax revenue resulting from the statutory changes proposed in the initiative petition. Table 1 summarizes the revenue estimated by source and by fiscal year. Page and Table numbers are provided to help readers find specific subjects.

**Table 1 - Summary of Fiscal Impact by Fund**

| Page # | Table # | Purpose | FY 2017 | FY 2018 - low range | FY 2018 - high range | Revenue Type |
|---|---|---|---|---|---|---|
| 4-12 | Table 10 | Tax credit | $0 | ($39,494,829) | ($78,989,658) | Income |
| 14-15 | Table 14 | Taxes from clean energy tax credit construction | $0 | $4,429,063 | $8,858,126 | Various |
| 16-18 | Table 17 | Taxes from community solar construction | $0 | $2,027,938 | $4,112,207 | Various |
| | | subtotal General Revenue Fund | $0 | ($33,037,828) | ($66,019,325) | |
| | | | | | | |
| 8-13 | Table 11 | Clean Energy Fund | $0 | $185,926 | $371,663 | Application deposit |
| | | | | | | |
| 14-15 | Table 14 | Prop C sales tax - clean energy | $0 | $451,369 | $902,739 | Sales tax |
| 16-18 | Table 17 | Prop C sales tax - community solar | $0 | $206,669 | $419,078 | Sales tax |
| | | subtotal Prop C | $0 | $658,038 | $1,321,817 | |
| | | | | | | |
| 14-15 | Table 14 | Conservation sales tax - clean energy | $0 | $56,421 | $112,842 | Sales tax |
| 16-18 | Table 17 | Conservation sales tax - community solar | $0 | $25,834 | $52,385 | Sales tax |
| | | subtotal Conservation | $0 | $82,255 | $165,227 | |
| | | | | | | |
| 14-15 | Table 14 | Parks and Soils sales tax - clean energy | $0 | $45,137 | $90,274 | Sales tax |
| 16-18 | Table 17 | Parks and Soils sales tax - community solar | $0 | $20,667 | $41,908 | Sales tax |
| | | subtotal Parks and Soils | $0 | $65,804 | $132,182 | |
| | | | | | | |
| | | subtotal Other State Funds | $0 | $992,023 | $1,990,889 | |
| | | | | | | |
| | | subtotal all state funds | $0 | ($32,045,806) | ($64,028,436) | |
| | | | | | | |
| 14-15 | Table 14 | Local Sales Tax - clean energy | $0 | $1,751,314 | $3,502,627 | Sales tax |
| 16-18 | Table 17 | Local Sales Tax - community solar | $0 | $801,875 | $1,626,024 | Sales tax |
| | | subtotal Local Funds | $0 | $2,553,188 | $5,128,651 | |
| | | | | | | |
| | | Grand Total State and Local | $0 | ($29,492,617) | ($58,899,785) | |

**Clean Energy tax credits**

The proposal creates a clean energy tax credit in Chapter 386 RSMo. The annual level of tax credits for each calendar year shall not exceed one percent of the annual statewide Missouri revenue of Missouri retail electric suppliers. The Public Service Commission (PSC) is required to determine the revenue for retail electric suppliers using available reports, including FERC Form Number 1 as allowed by 18 CFR § 141 or an equivalent determined by the PSC.

The data for this calculation is gathered and published by the U.S. Energy Information Administration on its website.[1] Table 2 shows the revenues reported by each Missouri entity in 2014. Retail sales totaled $7.6 billion in 2014 for the 74 entities.

**Table 2**
**2014 Utility Bundled Retail Sales - Total**
(Data from forms EIA-861- schedules 4A & 4D and EIA-861S)

| Entity | Ownership | Revenues (Thousands Dollars) |
|---|---|---|
| Atchison-Holt Electric Coop | Cooperative | $6,727 |
| Barry Electric Coop | Cooperative | $16,654 |
| Barton County Elec Coop, Inc | Cooperative | $16,262 |
| Black River Electric Coop - (MO) | Cooperative | $42,554 |
| Boone Electric Coop | Cooperative | $55,335 |
| Callaway Electric Cooperative | Cooperative | $24,618 |
| Carroll Electric Coop Corp - (AR) | Cooperative | $14,104 |
| Central Missouri Elec Coop Inc | Cooperative | $25,350 |
| Chillicothe Municipal Utils | Municipal | $10,035 |
| Citizens Electric Corporation - (MO) | Cooperative | $123,087 |
| City Utilities of Springfield - (MO) | Municipal | $249,286 |
| City of Ava - (MO) | Municipal | $2,894 |
| City of Cameron | Municipal | $7,728 |
| City of Carthage - (MO) | Municipal | $24,493 |
| City of Columbia - (MO) | Municipal | $109,927 |
| City of Farmington - (MO) | Municipal | $18,390 |
| City of Fulton - (MO) | Municipal | $14,228 |
| City of Hannibal - (MO) | Municipal | $25,785 |
| City of Harrisonville - (MO) | Municipal | $12,072 |
| City of Independence - (MO) | Municipal | $135,338 |
| City of Jackson - (MO) | Municipal | $16,281 |
| City of Kennett - (MO) | Municipal | $10,988 |
| City of Kirkwood - (MO) | Municipal | $21,547 |
| City of Lamar - (MO) | Municipal | $6,961 |
| City of Lebanon - (MO) | Municipal | $22,949 |
| City of Macon - (MO) | Municipal | $9,740 |
| City of Marshall - (MO) | Municipal | $17,390 |
| City of Monett - (MO) | Municipal | $20,534 |
| City of Mount Vernon - (MO) | Municipal | $6,790 |
| City of Nixa - (MO) | Municipal | $14,132 |
| City of Poplar Bluff - (MO) | Municipal | $31,686 |
| City of Rolla - (MO) | Municipal | $27,694 |
| City of Sikeston - (MO) | Municipal | $17,528 |

| | | |
|---|---|---|
| City of Sullivan - (MO) | Municipal | $9,645 |
| City of West Plains - (MO) | Municipal | $15,208 |
| Clay County Electric Coop Corp | Cooperative | $96 |
| Co-Mo Electric Coop Inc | Cooperative | $46,302 |
| Consolidated Electric Coop | Cooperative | $21,936 |
| Crawford Electric Coop, Inc | Cooperative | $30,705 |
| Cuivre River Electric Coop Inc | Cooperative | $105,621 |
| Empire District Electric Co | Investor Owned | $456,324 |
| Farmers Electric Coop, Inc - (MO) | Cooperative | $28,697 |
| Gascosage Electric Coop | Cooperative | $17,074 |
| Grundy Electric Coop, Inc | Cooperative | $12,214 |
| Howard Electric Coop | Cooperative | $6,057 |
| Howell-Oregon Elec Coop, Inc | Cooperative | $38,226 |
| Intercounty Electric Coop Assn | Cooperative | $53,855 |
| KCP&L Greater Missouri Operations Co. | Investor Owned | $802,845 |
| Kansas City Power & Light Co | Investor Owned | $824,706 |
| Laclede Electric Coop, Inc | Cooperative | $63,330 |
| Lewis County Rural E C A | Cooperative | $13,534 |
| Macon Electric Coop | Cooperative | $23,795 |
| Missouri Rural Electric Coop | Cooperative | $17,812 |
| New-Mac Electric Coop, Inc | Cooperative | $38,876 |
| North Central MO Elec Coop Inc | Cooperative | $14,098 |
| Osage Valley Elec Coop Assn | Cooperative | $28,034 |
| Ozark Border Electric Coop | Cooperative | $68,293 |
| Ozark Electric Coop Inc - (MO) | Cooperative | $52,354 |
| Pemiscot-Dunklin Elec Coop Inc | Cooperative | $19,856 |
| Platte-Clay Electric Coop, Inc | Cooperative | $51,737 |
| Ralls County Electric Coop | Cooperative | $12,711 |
| SE-MA-NO Electric Coop | Cooperative | $9,438 |
| SEMO Electric Cooperative | Cooperative | $33,195 |
| Sac-Osage Electric Coop Inc | Cooperative | $16,676 |
| Southwest Electric Coop, Inc | Cooperative | $58,853 |
| Sunnova | Behind the Meter | $1 |
| Three Rivers Electric Coop | Cooperative | $36,751 |
| Trenton Municipal Utilities - (MO) | Municipal | $8,647 |
| Tri-County Electric Coop Assn | Cooperative | $12,512 |
| Union Electric Co - (MO) | Investor Owned | $3,112,534 |
| United Electric Coop, Inc - (MO) | Cooperative | $21,579 |
| Webster Electric Coop | Cooperative | $28,828 |
| West Central Electric Coop Inc - (MO) | Cooperative | $25,967 |
| White River Valley El Coop Inc | Cooperative | $86,488 |
| Adjustment 2014 | Other | $159,914 |
| Total | | $7,644,407 |

Source: http://www.eia.gov/electricity/sales_revenue_price/
Table 10: All Sectors - Class of ownership, number of consumers, sales, revenue, and average retail price by State and utility:

Table 3 shows the data series by year from 1990 through 2014 reported by the U.S. Energy Information Administration.[2] The average annual increase in these revenues is 3.33 percent.

**Table 3**
**Revenue from Sales to Ultimate Customers**
**(Thousand Dollars) for Missouri, 1990-2014**

| Year | Total Revenue | $ Growth over previous year | % Growth over previous year |
|---|---|---|---|
| 1990 | $3,484,572,000 | | |
| 1991 | $3,653,391,000 | $1,688,190 | 4.8% |
| 1992 | $3,489,099,000 | ($1,642,920) | (4.5%) |
| 1993 | $3,709,661,000 | $2,205,620 | 6.3% |
| 1994 | $3,749,115,000 | $394,540 | 1.1% |
| 1995 | $3,891,751,000 | $1,426,360 | 3.8% |
| 1996 | $3,961,895,000 | $701,440 | 1.8% |
| 1997 | $4,005,066,000 | $431,710 | 1.1% |
| 1998 | $4,196,674,000 | $1,916,080 | 4.8% |
| 1999 | $4,185,713,000 | ($109,610) | (0.3%) |
| 2000 | $4,370,246,000 | $1,845,330 | 4.4% |
| 2001 | $4,414,434,000 | $441,880 | 1.0% |
| 2002 | $4,565,227,000 | $1,507,930 | 3.4% |
| 2003 | $4,470,188,000 | ($950,390) | (2.1%) |
| 2004 | $4,494,108,000 | $239,200 | 0.5% |
| 2005 | $4,959,849,000 | $4,657,410 | 10.4% |
| 2006 | $5,169,747,000 | $2,098,980 | 4.2% |
| 2007 | $5,614,317,000 | $4,445,700 | 8.6% |
| 2008 | $5,768,459,000 | $1,541,420 | 2.7% |
| 2009 | $5,871,973,000 | $1,035,140 | 1.8% |
| 2010 | $6,698,608,000 | $8,266,350 | 14.1% |
| 2011 | $7,008,476,000 | $3,098,680 | 4.6% |
| 2012 | $7,029,475,000 | $209,990 | 0.3% |
| 2013 | $7,538,092,000 | $5,086,170 | 7.2% |
| 2014 | $7,644,407,000 | $1,063,150 | 1.4% |
| | | Avg. annual growth | 3.33% |

Source: http://www.eia.gov/electricity/sales_revenue_price/
Supplemental Data: 1990 - 2013 Revenue from Retail Sales of Electricity by State by Sector by Provider (EIA-861)

For purposes of this fiscal analysis it is assumed that the Public Service Commission will use the most recent available data for establishing the annual cap. The state is currently in FY 2016 and the most recent available data is from 2014. Thus, for the fiscal periods included for consideration by the State Auditor's Office the FY 2017 cap will be established using 2015 data published by the U.S. Energy Information Administration. Similarly, the FY 2018 cap will be established using 2016 data. In this manner the cap for each calendar year will be established eight months before it begins instead of four months after it starts.

**Table 4**
**Data and Timeline for Establishing Annual Tax Credit Cap**

| Data available | Time period of data | CY year for the cap |
|---|---|---|
| April 2015 | 2014 actual data | CY 2016 |
| April 2016 | 2015 actual data | CY 2017 |
| April 2017 | 2016 actual data | CY 2018 |

As shown in Table 3 the average annual growth rate from 1990 to 2014 was 3.33 percent. Table 5 assumes that the average annual growth rate will carry forward for the next several years. The clean energy tax credits cap is estimated at $76.4 million for CY 2016, $79 million for CY 2017 and $81.6 million for CY 2018.

**Table 5**
**Clean Energy Tax Credit Estimate of Cap**

| Calendar Year for cap | Fiscal Year for likely redemption of credits | Revenue data | Total Revenue | Tax credit at 1.0% |
|---|---|---|---|---|
| CY 2016 | FY 2017 | 2014 actual data | $7,644,407,000 | $76,444,070 |
| CY 2017 | FY 2018 | 2015 projection | $7,898,965,753 | $78,989,658 |
| CY 2018 | FY 2019 | 2016 projection | $8,162,001,313 | $81,620,013 |

For purposes of the fiscal note the State Auditor's office asks that estimates be provided for the first two fiscal years of implementation which are FY 2017 and FY 2018 since the provisions of the proposal would go into effect in December 2016. Almost all taxpayers file their taxes on the April 15th deadline. Therefore, CY 2016 taxes would be due on April 15, 2017 which is in FY 2017 as shown in Table 5.

The proposal establishes a cap beginning for CY 2016. However, the provisions of the act will go into effect in December 2016. Paragraph 13 of the proposed section 386.1000 states that any taxpayer verified by the Department of Economic Development to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with the provisions shall be deemed eligible for the tax credit. This allows for the Department of Economic Development to include projects in 2016 before its processes are in place. Paragraph 17 of the proposed section 386.1000 provides that the Department of Economic Development shall issue rules necessary to administer the act. In addition, paragraph 10 gives the Department of Economic Development 45 days to notify an applicant of approval after the application is submitted.

Issuing rules is at best a months long process. The 45 day processing time allowed for any completed application filed after the rules are adopted makes it very unlikely that the Department of Economic Development will issue any CY 2016 tax credits before April 15, 2017 that would affect the taxpayers initial tax filing and reduce taxes paid during FY 2017. Tax credits issued between April 15 and June 30, 2017 would require an amended filing which also would be unlikely to be completed by June 30, 2017. Thus, this fiscal analysis assumes a de minimis or no impact on FY 2017 general revenue tax collections. Any CY 2016 tax credit impact would at most impact the FY 2018 tax collections through amended returns or through CY 2017 taxes.

**Application Deposit revenue**

The proposed Section 386.1000 RSMo requires that taxpayers submit an application to the Department of Economic Development to receive approval for tax credits (paragraph 7). Each application must include a two cent per watt application deposit. The total revenue from application deposits is dependent upon:

- the number of projects that will be submitted;
- the number of watts generated from all of those projects

Each of these is affected by the:

- percentage of residential v commercial projects
- number of kW generated by residential v commercial projects
- cost of residential and commercial projects
- total construction completed
- any phase-in period as the Department of Economic Development institutes rules and prepares the program
- any phase-in period as the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available

All of these factors must be estimated and evaluated in order to calculate the amount of application deposit revenue that will be received by the Department of Economic Development.

Tax credits are available to both residential and commercial projects. Paragraph 5 of the proposed Section 386.1000 RSMo provides that no electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit.

The Missouri Department of Economic Development, Division of Energy published a Missouri Comprehensive State Energy Plan in October 2015. The report states that half of the installed net-metered PV solar is residential and the other half commercial customers.[3] However, the report also indicates that there are challenges that face residential customers making it more difficult and expensive to install solar projects. These challenges include local ordinances or homeowner's association rules the may prohibit installation or require design changes that decrease efficiency or add to the cost.[4] In addition, over the past decade an industry has developed to assist with the financing of solar projects. Such financing alternatives are easier to obtain by commercial projects because of their size, scope, and estimated return on investment.[5] Commercial projects can have a longer-term outlook than homeowners who may not know how long they may live in their current house. The Missouri State Energy Plan indicates that residential rooftop solar is a relatively expensive energy option due to these and other factors.[6]

For all of the reasons identified in the preceding paragraph, for purposes of this fiscal analysis residential solar installation is assumed to be 40% of the total solar construction. Commercial solar installation is assumed to be 60% of the total solar construction. This fiscal analysis has already indicated that 2016 solar construction will likely not be affected by the approval of the petition by voters in November 2016. Thus, CY 2017 is the first full year of impact. Tax credits resulting from such construction will first affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office.

The next factor to consider is the number of kW generated by residential and commercial projects. A recent report on photovoltaic system pricing trends published by the U.S. Department of Energy indicates that the median residential project is 6.1 kW while the modeled commercial system is 200 kW. Paragraph 5 of the proposed section 386.1000 establishes a 200 kW limit on installations that are authorized for tax credits.[7] For purposes of this fiscal analysis it is assumed that all commercial projects will be at the 200 kW size and that residential projects will be 6.1 kW. Paragraph 7 of the proposed section 386.1000 requires a two cent per watt application deposit fee. Table 6 shows that there would be a $122 application deposit required for the median residential project. There would be a $4,000 application

deposit required for the 200 kW commercial project. A portion of this revenue will be available to the department for operational purposes as shown later in Table 11.

**Table 6**
**Application Deposit Required for Projects**

| Construction type | Project size in kW | Project size in watts | Application deposit for project at 2 cents per watt |
|---|---|---|---|
| Residential | 6.1 | 6,100 | $122 |
| Commercial | 200.0 | 200,000 | $4,000 |

The recent report on photovoltaic system pricing trends published by the U.S. Department of Energy also discusses the historical, recent, and near-term pricing of solar projects.[8] Project cost information was obtained on more than 400,000 systems in 42 states. The modeled system prices identified in the report showed a Q1 2015 residential system price of $3.12/watt and a commercial 200 kW system cost of $2.17/watt. These were reductions in price of from Q4 2013 of 7% and 19% respectively. The report also indicates that prices for residential and commercial PV systems have decreased by 6-12% per year, on average, from 1998-2014. In addition, the report indicates that analysts project the system prices will fall 16-33% for residential systems between 2014-2020.

Table 7 projects residential solar project costs. Projections are made to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 7 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $3,000/kW for residential solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 6.1 kW residential project is estimated at $18,300.

**Table 7**
**Residential Solar Project Estimate**

| | Cost of Residential project per kW | Cost of Residential project at 6.1 kW project size |
|---|---|---|
| CY 2015 | $3,120 | $19,032 |
| CY 2016 | $3,039 | $18,538 |
| CY 2017 | $2,960 | $18,056 |
| average cost of CY16 and CY17 estimates | $3,000 | $18,300 |

The modeled commercial system price identified in the report showed a Q1 2015 commercial 200 kW system cost of $2.17/watt. However, the national average cost of commercial projects is affected by states with more mature solar markets and industries and large companies, like Wal-Mart and Ikea, that have moved to install significant solar projects on their facilities. The first Missouri commercial systems are less likely to meet the $2.17/watt cost projections. Table 8 uses other data in the report to amend the estimate of commercial solar project costs. The report shows that the price of the modeled 200 kW commercial system has fallen from $2.68/watt to $2.17 between 2013 Q4 and 2015 Q1. The mid-point of that decrease is $2.425/watt. Further, it is assumed that the cost of Missouri projects will be higher by 2.6%, or one-year's worth of the low end of the price declines found in the report. The result is that this analysis will assume that the Missouri 2015 Q1 price is $2.488/watt.

**Table 8**
**Commercial Solar Project Cost Estimate per kW**

| | |
|---|---|
| 2013 Q4 | $2,680 |
| 2015 Q5 | $2,170 |
| Mid-point | $2,425 |
| One-year behind (2.6%) | $2,488 |

Table 9 then projects the $2,488/kW 2015 Q1 cost to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 9 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $2,392/kW for commercial solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 200 kW commercial project is estimated at $478,400.

**Table 9**
**Commercial Solar Project Estimate**

| | Cost of Commercial project per kW | Cost of Commercial project at 200 kW project size |
|---|---|---|
| CY 2015 | $2,488 | $497,600 |
| CY 2016 | $2,423 | $484,600 |
| CY 2017 | $2,360 | $472,000 |
| average cost of CY16 and CY17 estimates | $2,392 | $478,400 |

The analysis so far has identified:

- a $79 million estimate of the maximum clean energy tax credits using one percent of the annual statewide Missouri revenue of Missouri retail electric suppliers as directed by paragraph 1 of the proposed section 386.1000.
- an estimate that 40% of total solar construction would be residential and 60% commercial
- project cost estimates of $18,300 for 6.1 kW residential projects and $478,400 for 200 kW commercial projects

The final factor to calculate before arriving at the amount of application deposit revenue is any phase-in period as the Department of Economic Development issues rules and prepares its processes and the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available. The Missouri State Energy plan reports that Missouri currently has 111 MW of installed solar PV capacity. The plan also reports that there is 42.8 MW of installed net-metered PV solar developed over the years largely as a result of rebates from large utility companies in Missouri.

The proposal being analyzed establishes a statutory program of clean energy tax credits that will sunset after the Department of Economic Development certifies that 1,000 MW of capacity has been added as a result of the tax credits but no later than June 30, 2022. The 1,000 MW target represents a dramatic increase in current capacity.

The Missouri State Energy plan provides a wealth of information about the current state of "green jobs" and the solar industry in Missouri. The report includes the following along with other findings about the industry.

- Missouri had over 100,000 "green jobs" according to a 2009 study.[9]
- Missouri was identified as 10th in the nation for growth in clean energy and clean transportation jobs in 2013.[10]

- $187 million was invested by Missouri's solar industry in 2014 to install solar photovoltaic systems for residential, commercial, and utility use.[11]
- There are more than 97 solar companies at work throughout the supply chain in Missouri, employing 2,500 people including manufacturers, contractors, installers, project developers, distributors.[12]
- Missouri could create 8,500 new jobs to design, install, and operate energy efficiency measures by 2025 according to a 2011 study.[13]
- In 2010 Missouri ranked 6th in the nation in photovoltaic jobs.[14]

The clean energy tax credit does not sunset until the 1,000 MW target of additional capacity is met but no later than June 30, 2022. The size and the long-term nature of the 1,000 MW target should encourage the development of the Missouri solar industry even after it sunsets. It should also result in long-term planning and the build out of a native Missouri solar industry. The target also provides an incentive for the industry to meet the growth potential described in the Missouri State Energy Plan.

In the long-term the impact of the 1,000 MW target will grow and build the industry. In addition, investment in solar will allow longer term benefits in reduced fuel usage, cleaner air, better health and the resulting lower costs among other things. The Missouri State Energy Plan identifies the public health impacts of various energy sources with clean energy sources providing significant positive benefits over other sources.[15] A 2013 study of Hawaii's solar tax credit program found that the State recovered the full cost of the tax credit in 9 to 11 years - a rate of return on its investment ranging from 8.9% to 10.3%.[16] In addition, the study found that for each dollar spent by Hawaii on tax credits the amount of additional sales stimulated was $34.69 for residential solar PV and $55.03 for commercial PV.

However, the fiscal note format required for initiative petitions focuses on the short-term revenue and costs. Thus, the longer-term benefits are not included in this fiscal analysis. As explained elsewhere in this fiscal analysis the impact of the availability of tax credits is somewhat dependent upon the speed with which the Department of Economic Development issues the necessary rules and regulations, develops and makes available the application forms, and the industry's reaction to voter approval and the department's actions. Thus, two alternatives are calculated to create a possible range for the likely outcome in the short-term.

The first alternative assumes that construction will be sufficient to use half of the $79 million in possible tax credits. The first alternative assumes that the program is not implemented until July 2017 thus reducing its effect by half in CY 2017. The second alternative assumes that construction will be sufficient to use all of the $79 million in possible tax credits. The second alternative assumes that the industry is energized by the tax credit and pushes forward with construction under the assumption that the Department of Economic Development will recognize all projects that have been started after voter approval of the proposal.

Table 10 takes that information and shows two possible alternatives for CY 2017.

- Construction leading to use of **half** the available tax credits ($39.5 million) - A total of $112.8 million in construction would be required to generate $39.5 million in tax credits. Residential construction of $45.1 million (assuming 40% of construction) would result in $15.8 million in tax credits. Commercial construction of $67.7 million (assuming 60% share of construction) would result in $23.7 million in tax credits.

- Construction leading to use of **all** the available tax credits ($79 million) - **A total of $225.7 million in construction would be required to generate $79 million in tax credits**. Residential construction of $90.3 million (assuming 40% of construction) would result in $31.6 million in tax credits. Commercial construction of $135.4 million (assuming 60% share of construction) would result in $47.4 million in tax credits.

In addition, using the average cost and size of projects it is possible to compute the number of residential and commercial projects that will be constructed. A total of 2,608 projects would be constructed with half

the tax credits (2,466 residential, 142 commercial). A total of 5,216 projects would be constructed with all the tax credits (4,933 residential, 283 commercial).

**Table 10**
**Number of Projects using Half or All of Tax Credit Cap**

| | CY 2017 construction needed for half of tax credits to be used in FY 2018 | CY 2017 construction needed for all of tax credits to be used in FY 2018 |
|---|---|---|
| Tax credits estimate from CY 2017 construction | $39,494,829 | $78,989,658 |
| Amount of construction value needed to generate value of 35% tax credits | $112,842,369 | $225,684,737 |
| | | |
| % of residential per year of credits issued | 40.0% | 40.0% |
| % of commercial per year of credits issued | 60.0% | 60.0% |
| | | |
| Tax credits by type of construction | | |
| Residential | $15,797,932 | $31,595,863 |
| Commercial | $23,696,897 | $47,393,795 |
| Total amount by type | $39,494,829 | $78,989,658 |
| | | |
| Construction value by type of construction | | |
| Residential | $45,136,948 | $90,273,895 |
| Commercial | $67,705,421 | $135,410,842 |
| Total amount by type | $112,842,369 | $225,684,737 |
| | | |
| Cost of solar projects per project | | |
| Residential (6.1 kW/project) | $18,300 | $18,300 |
| Commercial (200 kW/project) | $478,400 | $478,400 |
| | | |
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |

Table 10 shows a significant number of projects that would be completed throughout the state as a result of the clean energy tax credit. These numbers are possible for a variety of reasons identified in the Missouri State Energy Plan.

- Missouri households use about 12% more than the average U.S. household, thus projects would put real dollars into Missourians pockets for other uses and spending.[17]
- Nationally about ten percent of small business owners state that energy is their single biggest cost according to the National Federation of Independent Business. The same report indicates that an additional 25% of small business owners claim that energy is one of their top three business costs.[18] Thus, clean energy projects that reduce energy usage make businesses more profitable, allow for expansion, and could lead to higher wages for employees.
- Businesses can lower costs through on-site generation while also achieving other benefits.[19]
- Significant operational savings are possible through energy efficiency projects with rates of return as high as 25%.[20]

- A wealth of financing alternatives now exist for clean energy projects.[21]
- "Approximately 60% of the largest U.S. businesses have set public climate and energy goals to increase their use of renewable energy."[22]

Table 11 calculates the amount of application deposit revenue that the Department of Economic Development would receive given the number of projects identified in Table 10. If applications are submitted for projects equivalent to half the available tax credits then the department would receive $0.9 million in application deposit revenue. If applications are submitted for projects equivalent to all the available tax credits then the department would receive $1.7 million in application deposit revenue. The proposal allows the department to keep some of the revenue for its operational purposes. Table 11 shows that it can keep up to $61 for residential applications (half of the anticipated deposit in this analysis) and up to $250 for all other applications. The net non-refunded revenue that the department will have available for its operations is $185,926 or $371,663.

**Table 11**
**Application Deposit Revenue**

| | Application Deposit Estimate for half of tax credits for applications FY 2018 | Application Deposit Estimate for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |
| | | |
| Application deposit required per project | | |
| Residential | $122 | $122 |
| Commercial | $4,000 | $4,000 |
| | | |
| Application deposit revenue | | |
| Residential | $300,852 | $601,826 |
| Commercial | $568,000 | $1,132,000 |
| Total revenue by type | $868,852 | $1,733,826 |
| | | |
| | | |
| Application revenue kept per project for Department Operations | | |
| Residential | $61 | $61 |
| Commercial | $250 | $250 |
| | | |
| Application deposit revenue available for Department Operations | | |
| Residential | $150,426 | $300,913 |
| Commercial | $35,500 | $70,750 |
| Total amount by type | $185,926 | $371,663 |

Table 12 shows the amount of solar capacity added by the number of projects identified in the previous tables given the given size of residential and commercial projects. A total of 43.4 MW would be added in solar capacity as a result of projects equivalent to half the available tax credits which would be 4.3% of the 1,000 MW goal that when achieved will sunset the tax credits. A total of 86.7 MW would be added in

solar capacity as a result of projects equivalent to all the available tax credits which would be 8.7% of the 1,000 MW goal that when achieved will sunset the tax credits.

**Table 12 Amount of Solar Capacity Added**

| | Capacity added for half of tax credits for applications FY 2018 | Capacity added for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |
| | | |
| kW generated by construction | | |
| Residential (6.1 kW/project) | 15,043 | 30,091 |
| Commercial (200 kW/project) | 28,400 | 56,600 |
| Total amount by type | 43,443 | 86,691 |
| | | |
| MW generated by construction | | |
| Residential | 15.0 | 30.1 |
| Commercial | 28.4 | 56.6 |
| Total amount by type | 43.4 | 86.7 |
| | | |
| % of 1,000 MW goal achieved | 4.3% | 8.7% |

**Taxes**

As noted on pages 10-11 of this fiscal analysis, the Missouri State Energy Plan published in October 2015 describes the current capacity, industry size, and investments being made in Missouri. The plan also describes the potential for jobs and economic development in the state. The 1,000 MW target represents a dramatic increase in current capacity. The following analysis assumes that due to the dramatic size of the 1,000 MW target that the investments driven by the clean energy tax credits will result in new jobs and industry expansion.

Table 13 shows the cost components of a solar construction project. Labor is assumed to be 35% of the project costs, materials 40%, and Profit 10%. It is assumed that 15% of the project cost is overhead and it is assumed that no taxes would be applied. Since Missouri already has a base of manufacturers and distributors it is assumed that all materials will be Missouri taxed.

**Table 13**
**Construction Project Components, Tax Type, and Tax Rate**

| Project components | % of job | Missouri tax rate | Type tax |
|---|---|---|---|
| Labor | 35.0% | 6.00% | Income tax |
| Materials and local materials | 40.0% | 4.225% | Sales |
| Profit | 10.0% | 6.25% | Corporate |
| Overhead | 15.0% | 0.00% | N/A |
| subtotal by taxable type | 100.0% | | |

Table 14 computes the state and local taxes based on the value of construction and the project components and tax rates shown in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $4.4 million to $8.9 million in FY 2018. The other three state funds

(Prop C, Conservation, Parks/Soils) are estimated to receive between $0.6 million to $1.1 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $1.75 million to $3.5 million in local sales tax revenue in FY 2018.

**Table 14**
**State and Local Taxes Generated by Construction**

| | Half of tax credits used - CY 2017 | All of tax credits used - CY 2017 |
|---|---|---|
| Amount of construction value needed to generate value of 35% tax credits | $112,842,369 | $225,684,737 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $39,494,829 | $78,989,658 |
| Materials and local materials | $45,136,947 | $90,273,895 |
| Profit | $11,284,237 | $22,568,474 |
| subtotal by taxable type | $95,916,013 | $191,832,027 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $2,369,690 | $4,739,379 |
| Materials and local materials - Sales/Use Tax | $1,354,108 | $2,708,217 |
| Profit - General Revenue Corporate Tax | $705,265 | $1,410,530 |
| subtotal GR | $4,429,063 | $8,858,126 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $451,369 | $902,739 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $56,421 | $112,842 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $45,137 | $90,274 |
| subtotal State Taxes | $4,981,991 | $9,963,981 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $1,751,314 | $3,502,627 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $6,733,304 | $13,466,608 |

The taxes generated from the construction activity shown in Table 14 likely underestimate the state revenue that will be generated by the construction of clean energy projects even within the short time period allowed in the fiscal note. As noted earlier there are multiplier effects that ripple through the economy. The Department of Economic Development through MERIC has a sophisticated model that it uses to evaluate the impact of tax credits and other business investments made in the State of Missouri. Using the information in this fiscal analysis MERIC should be able to provide supplementary information regarding the extra economic activity and increased revenues.

Similarly, generating additional clean energy within the State of Missouri will result in a decrease in the importation of power and energy producing raw materials from other states. Such money leakage from the state, businesses and citizens, decreases the amount of purchasing could be done for other purposes such as increased jobs within the state and thus the tax revenues that would be generated. For example, the Missouri State Energy Plan notes that Missouri is the sixth largest consumer of coal in the country and 92.5% of the coal used in 2013 was imported from Wyoming.[23] The plan reports that the state sends billions of dollars out of state for purchases of imported coal, natural gas, and transportation fuels.[24]

**Community Solar Act** - Applies to Versions 28, 30, 31, 32, 34, and 36
The Community Solar Act, section 386.910 of the proposal, directs the Missouri Public Service Commission to establish rules allowing customers to participate in a "community solar facility." Community solar facilities allow participants to benefit from solar energy and receive electric bill credits substantially similar to net metering.

Paragraph 3 of that section states that the "aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous fiscal year." Table 15 shows the total peak demand data compiled by the Public Service Commission for the four utilities affected by this section. The report shows that using peak demand leads to a cap of 504.5 MW on the amount of aggregated capacity of community solar facilities statewide.

**Table 15 - Peak Demand for Community Solar**

| Utility Name | Peak Demand |
|---|---|
| Union Electric Co - (MO) | 7,713.0 |
| Kansas City Power & Light Co | 1,878.0 |
| KCP&L Greater Missouri Operations Co. | 1,860.0 |
| Empire District Electric Co | 1,162.0 |
| Total | 12,613.0 |
| 4% overall cap | 504.5 |

Paragraph 2 of that section defines a community solar facility as a photovoltaic electric generation facility with a capacity of between 100 and 1,000 kW. For purposes of this fiscal note it is assumed that all community solar projects will be the same as the 200 kW project limit established in the clean energy tax credit language of 386.1000. In Table 12 above a low and high range was calculated for the percentage of solar capacity added through the tax credits based on the expectations of the phase-in necessary for the Department of Economic Development's implementation of the clean energy tax credits. The same percentage is used - 4.3% low range and 8.7% higher range. Similarly, for the purposes of this fiscal note the cost per kW will be $2,392 for a total project cost of $478,400 as shown in Table 9.

Table 16 shows the data and calculations needed to identify the number of projects. At the low end of the range 21.7 MW of added community solar capacity would be created which would require 108 projects of 200 kW. At the higher range 43.9 MW of added community solar capacity would be created which would require 219 projects of 200 kW.

Table 16 also shows that at an average project cost of $478,400 the low range results in $51.7 million in construction spending. The higher range results in $104.8 million in construction spending.

**Table 16**
**Community Solar Capacity and Projects**

| | Low Range | Higher Range |
|---|---|---|
| Assumed % of aggregate capacity | 4.3% | 8.7% |
| Added capacity - MW | 21.69 | 43.89 |
| Added capacity - kW | 21,694.36 | 43,893.24 |
| # projects at commercial 200 kW per project | 108 | 219 |
| Construction cost - commercial project per 200 kW project | $478,400 | $478,400 |
| Construction value | $51,667,200 | $104,769,600 |

Table 17 computes the state and local taxes based on the value of construction and the project components and tax rates shown earlier in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $2.0 million to $4.1 million in FY 2018. The other three state funds (Prop C, Conservation, Parks/Soils) are estimated to receive between $0.2 million to $0.5 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $0.8 million to $1.6 million in local sales tax revenue in FY 2018.

**Table 17**
**State and Local Taxes Generated by Construction of Community Solar Projects**

| | Low range | Higher range |
|---|---|---|
| Amount of construction value needed to generate estimated MW | $51,667,200 | $104,769,600 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $18,083,520 | $36,669,360 |
| Materials and local materials | $20,666,880 | $41,907,840 |
| Profit | $5,166,720 | $10,476,960 |
| subtotal by taxable type | $43,917,120 | $89,054,160 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $1,085,011 | $2,200,162 |
| Materials and local materials - Sales/Use Tax | $620,006 | $1,257,235 |
| Profit - General Revenue Corporate Tax | $322,920 | $654,810 |
| subtotal GR | $2,027,938 | $4,112,207 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $206,669 | $419,078 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $25,834 | $52,385 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $20,667 | $41,908 |
| subtotal State Taxes | $2,281,107 | $4,625,578 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $801,875 | $1,626,024 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $3,082,982 | $6,251,602 |

**Net metering bills** - Applies to Versions 28, 29, 30, 31, 32, 35, and 36
The Missouri General Assembly has considered six net metering bills over the past three legislative sessions. Table 18 below identifies the bills and provides links to the fiscal note and bill summary prepared for each bill. All of the fiscal notes prepared and available indicated that there was no state impact from the net metering bills.

**Table 18**
**NET METERING**
**2013, 2014, AND 2015 LEGISLATIVE SESSIONS**

| Session | Bill | Sponsor | Fiscal Note Impact | Fiscal Note Summary Link | Bill Summary Link |
|---|---|---|---|---|---|
| 2015 | SB 75 | Holsman | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0622-01N.ORG.pdf | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=82&BillID=174 |
| 2015 | SB 509 | Holsman | No impact | N/A | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=664&BillID=4599469 |
| 2015 | HB 481 | Berry (38) | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0502-01N.ORG.pdf | http://house.mo.gov/billtracking/bills151/sumpdf/HB0481C.pdf |
| 2014 | HB 1795 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER14/fishtm/5552-02N.ORG.htm | http://house.mo.gov/billtracking/bills141/sumpdf/HB1795I.pdf |
| 2013 | HB 119 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/0794-02N.ORG.htm | http://house.mo.gov/billtracking/bills131/sumpdf/HB0119I.pdf |
| 2013 | SB 396 | Holsman | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/1078-07N.ORG.htm | http://www.senate.mo.gov/13info/BTS_Web/Bill.aspx?SessionType=R&BillID=19218703 |

**Electric Vehicle Charging Stations** - Applies to Versions 30, 31, 32, 34, and 35
The petition authorizes investor-owned utilities to recover costs for infrastructure investments in electric vehicle charging stations, provided the energy output from the stations is offset in part by clean energy. There should be no fiscal impact to the state. Utility investment in electric charging stations will result in positive economic activity similar to other capital investments. However, the range of the benefits is unknown at this time.

ENDNOTES

[1] U.S. Energy Information Administration: *Table 10: All Sectors - Class of ownership, number of consumers, sales, revenue, and average retail price by State and utility*
http://www.eia.gov/electricity/sales_revenue_price/

[2] U.S. Energy Information Administration: *Supplemental Data: 1990 - 2013 Revenue from Retail Sales of Electricity by State by Sector by Provider (EIA-861)*
http://www.eia.gov/electricity/sales_revenue_price/

[3] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25
https://energy.mo.gov/energy/docs/MCSEP.pdf

[4] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25-26
https://energy.mo.gov/energy/docs/MCSEP.pdf

[5] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[6] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 200
https://energy.mo.gov/energy/docs/MCSEP.pdf

[7] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 5
http://www.nrel.gov/docs/fy15osti/64898.pdf

[8] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 4
http://www.nrel.gov/docs/fy15osti/64898.pdf

[9] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 172
https://energy.mo.gov/energy/docs/MCSEP.pdf

[10] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 173
https://energy.mo.gov/energy/docs/MCSEP.pdf

[11] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[12] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[13] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 174
https://energy.mo.gov/energy/docs/MCSEP.pdf

[14] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 175
https://energy.mo.gov/energy/docs/MCSEP.pdf

[15] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 190-191, 193, 195-199, 201, 203
https://energy.mo.gov/energy/docs/MCSEP.pdf

[16] Thomas A Loudat, Blue Planet Foundation. "*The Economic and Fiscal Effects of Hawaii's Solar Tax Credit*" - January 2013.
http://blueplanetfoundation.org/renewable-energy-tax-credit-2013.html?highlight=WyJsb3VkYXQiXQ==

[17] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 154
https://energy.mo.gov/energy/docs/MCSEP.pdf

[18] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 165 for both sentences in this bullet point
https://energy.mo.gov/energy/docs/MCSEP.pdf

[19] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[20] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[21] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[22] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 178
https://energy.mo.gov/energy/docs/MCSEP.pdf

[23] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 20-21
https://energy.mo.gov/energy/docs/MCSEP.pdf

[24] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 42
https://energy.mo.gov/energy/docs/MCSEP.pdf

**Edward D. Greim** provided the following information as an opponent of this initiative petition.

Graves Garrett LLC

Edward D. Greim
Graves Garrett, LLC
1100 Main Street, Suite 2700
Kansas City, Missouri 64105
Direct Dial: (816) 256-4144
edgreim@gravesgarrett.com

January 11, 2016

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: *Fiscal Note in Initiative Petitions 2016-202 through 210*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petitions 202, 204, 206, and 210:

> Lost revenue to state government is $3.04 billion over the tax credit period, with annual losses of $9.5 million to $11.5 million thereafter. Lost revenue to local government is $189.1 million over the tax credit period, with annual losses of $31.5 million to $33.9 million thereafter.

We propose the following fiscal note summary for petition 203:

> Lost revenue to state government is $320.9 million over the tax credit period, with annual losses of $5.6 million to $9.6 million thereafter. Lost revenue to local government is $100.9 million over the tax credit period, with annual losses of $20 million to $28.1 million thereafter.

We propose the following fiscal note summary for petition 205:

> Lost revenue to state government is $328.8 million over the tax credit period, with annual losses of $7.5 million to $11.5 million thereafter. Lost revenue to local government is $175.3 million over the tax credit period, with annual losses of $32.4 million to $40.5 million thereafter.

We propose the following fiscal note summary for petition 207:

> Lost revenue to state government is $3.02 billion over the tax credit period, with annual losses of $5.7 million to $7.7 million thereafter. Lost revenue to local government is $40.4 million over the tax credit period, with annual losses of $11.5 million to $15.7 million thereafter.

We propose the following fiscal note summary for petitions 208 and 209:

> Lost revenue to state government is $3.03 billion over the tax credit period, with annual losses of $7.6 million to $9.6 million thereafter. Lost revenue to local government is $114.8 million over the tax credit period, with annual losses of $23.9 million to $28.1 million thereafter.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments; taxes that do not apply whenever electricity is never sold due to customer-generator production encouraged by the initiative petitions. Petition signers and voters must be informed that any positive fiscal impacts of the initiative petitions are speculative. Likewise, petition signers and voters must be informed that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume.

**Description of Policy**

Initiative Petitions 202 – 210 contain one or more of three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of the "Community Solar Act"; and (3) A state tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, or certain natural gas technologies.

1. Changes to Net Metering for Investor-owned electric utilities and municipal electric utilities, and, in 206, rural electric cooperatives
    A. Raise net metering cap to 7% (is currently 5%);
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);



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   D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.
2. Community Solar Act
   A. PSC adopts rules and regulations allowing groups of 5 or more electrical corporation customers to offset energy usage with solar located in the service territory of the electrical corporation where they have an account;
   B. Facilities are 100 kilowatts to 1 megawatt;
   C. Community solar facilities may, in total, generate electricity of 4% or less of single-hour peak load, but that amount does not count toward net metering; Electrical corporations can own half (max of 2%), which may be included in the rate base. Others may own the other half (max of 2%);
   D. Community Solar facilities are not eligible for tax credits provided in the petition;
   E. Commission sets a community solar rate, not less than electrical corporation's average retail rate;
   F. Value of allocated solar bill credits reduces customer's total bill;
   G. The current value-of-community-solar rate may be locked in for 20 years beginning when a community solar facility is put in operation.
3. Tax credit
   A. 35% tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, etc.
   B. Total value of eligible credits shall not exceed 1% of the value of electricity used in Missouri[1] – defined as revenue from sale of electricity in Missouri; or tax credits are capped at$50 million each year. Unused credits carryover year to year until June 30, 2022
   C. No tax credits after June 30, 2022, or after 1000 megawatts of new generation have been installed using the tax credits.

**Burdens on State Government**

In determining the fiscal impact of each petition it is generally reasonable to assume that the various statutory changes in the petitions will have independent fiscal impacts. The reasonableness of this assumption is buoyed by the various iterations of the petitions themselves, some of which propose tax credits with no proposed changes to the Net Metering and Easy Connection Act. See Petitions 207 and 208.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 202-207 and 209-210*

[1] The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. See U.S. Energy Information Administration – Independent Statistics and Analysis.



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Raising the net metering cap from the current 5% of peak hour demand to 7% of peak hour demand will, conservatively, result in a 2% decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase from 5% to 7%. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in the petition provides a strong financial incentive to solar or wind energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[2], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, the net-metering cap applies to single-hour peak load, determined yearly, which means that the cap is a higher percentage of the single hour average load. This fact means that the total increase in generation is higher than it appears. Fourth, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[3] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by approximately $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities. The additional decreases in sales tax revenues from municipal electric utilities and, in petition 206, from electric cooperatives, are unknown but substantial.[4]

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 202, 204-206, 208, and 210*

Community solar facilities are in addition to net metering and represent an additional capacity amounting to 4% of each electrical corporation's single-hour peak load. Energy generated from the community solar facility is allocated pro rata by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. There is the potential for such bill

[2] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[3] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.
[4] Assuming $7.6 billion in electricity is sold in Missouri per year (the actual 2014 figure), a 2% decrease will decrease overall state sales tax revenues by 6.4 million annually, but some petitions enact net metering changes on rural electric cooperatives, and some do not.



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credits to decrease overall electrical bills by more than 4% because the "bill credits" are calculated using a "value of solar rate" which is at least as high as the retail rate for electricity, but may be higher. If, for example, solar energy received a 50% rate premium due to its benefits, the amount of bill credits would increase and sales would decrease by more than the 6%, rather than 4% figure. Half of these community solar facilities—the half not owned by electrical corporations—may be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoid property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership model, similar to net metering, because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%).

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by approximately $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities.

*iii. Tax credits – Initiative Petitions 202-210*

*a. Decreased tax collections due to tax credits – Credits capped at 1% of value of electricity sold in Missouri, annually ($76 million based on 2014 figures) – Initiative Petitions 202, 204, 206-210*

According to 2014 figures, Missouri retail customers bought 7.6 billion dollars' worth of electricity in 2014. It is very conservative to estimate that Missouri retail customers will continue to buy the same value of electricity. Accordingly, the 35% tax credits in these petitions will, conservatively, directly result in a loss of state income of up to $76 million, annually. However, electricity rates are volatile, and rates may react violently given market changes and legal changes proposed by the initiative petitions. As stated by the Department of Economic Development, the total loss to state revenue in a single year could be $429.3 million, annually, and $3 billion in total.

*b. Decreased tax collections due to tax credits – Credits capped at $50 million annually – Initiative Petitions 203 and 205*

Similar to the loss described in subpart a, the 35% tax credits in these petitions will directly result in a loss of state income of up to $50 million, annually.

*c. Cost of eroding tax base due to new energy generation – Initiative Petitions 202-210*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer-generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in



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Missouri. Accordingly, if the tax credits were phased out due to reaching the 1000 MWh/1,000,000 kWh maximum on new electricity generation, new production from such tax credits would produce approximately 1,825,000 MWh per year, also expressed as 1,825,000,000 KWh, or 1,825 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour [5], this new production is valued at $182,500,000.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

In practice, the 1 gigawatt limit on new customer-generated energy production may never be met. Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[6] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for renewable energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology. The petition itself limits tax credits to a maximum of $3.00 per watt, but market forces should make rates in Missouri similar to those in other states, at or around $1.77.

For Initiative Petitions 202, 204, and 206-210, the total, annual loss to state governments *due to the tax credits* is 76.9 million to 435 million over the tax credit period. There is an annual loss in perpetuity after the tax credit period of 5.7 to 7.7 million, depending on how much new customer-generation is developed. See attached table.

For Initiative Petitions 203 and 205, the total, annual loss to state governments *due to the tax credits* is 50.6 million to 53.7 million over the tax credit period. There is an annual loss in perpetuity after the tax credit period of 3.7 to 7.7 million, depending on how much new customer-generation is developed. See attached table.

**Burdens on Local Governments**

[5] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.

[6] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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Local governments face similar losses in revenue from the various petition provisions as state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 202-206 and 209-210*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 202, 204-206, 208, and 210*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*iii. Tax credits – Cost of eroding tax base due to new energy generation – Initiative Petitions 202-210*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petitions may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to local governments, all of which may be reduced or discontinued if the initiative petitions are enacted.



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The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[7] Based on this estimate, the population-weighted combined average local sales tax is 3.585%. Assuming the tax credits sunset due to reaching the 1 Gigawatt production cap, the yearly loss to local governments from lost sales tax from the tax credit is $6,541,578. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,123,540.

For petitions 202, 204, and 206-210, the loss to local governments due to the tax credits is $40.4 million over the tax credit period, then $11.5 to $15.7 million annually. For initiative petitions 203 and 205, the loss to local governments due to the tax credits is $26.6 million over the tax credit period, then $7.5 to $15.7 million annually.

**In Conclusion**

The initiative petitions will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petitions, such as increases in net metering and community solar. The total tax burden on state government imposed by the petitions range from $313 million over the tax credit period, with $3.7 to $7.7 million in lost revenues in perpetuity, to approximately $498.6 million over the tax credit period,[8] with $9.5 million to 11.5 million in lost revenues in perpetuity thereafter.

Sincerely,

Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0

[7] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.
[8] $475.8 million + [(1.9 million + 1.9 million)*6 years]



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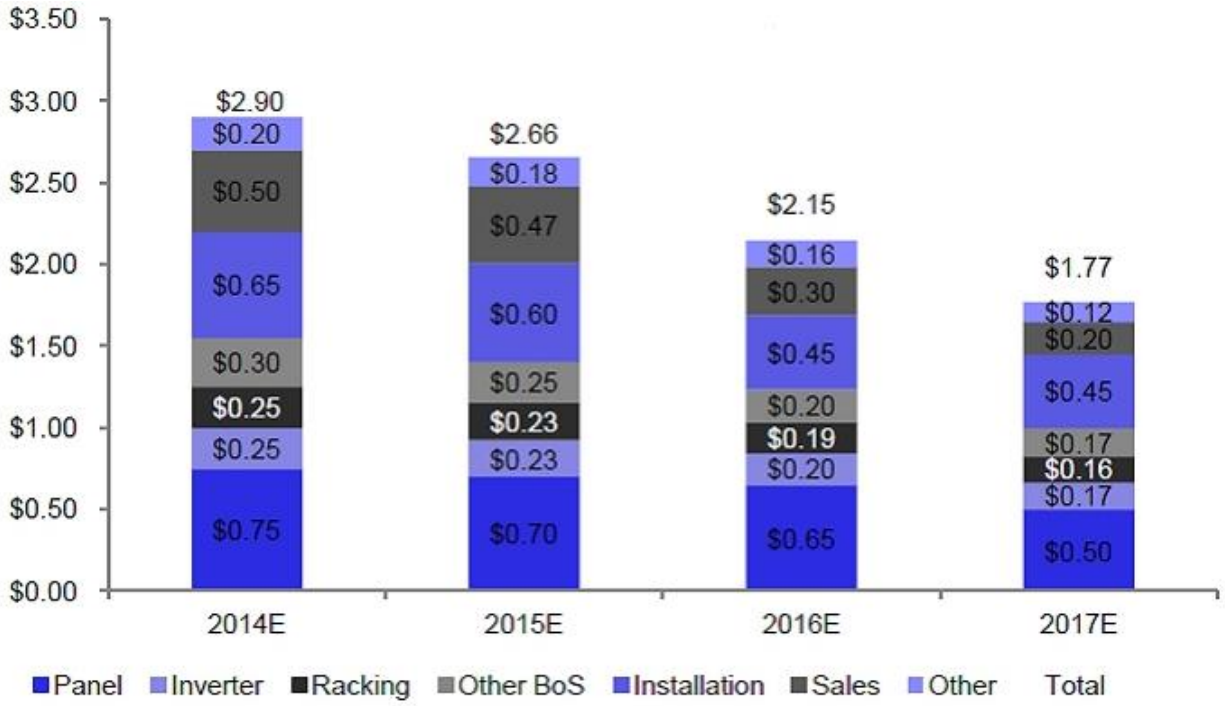
Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017
https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm



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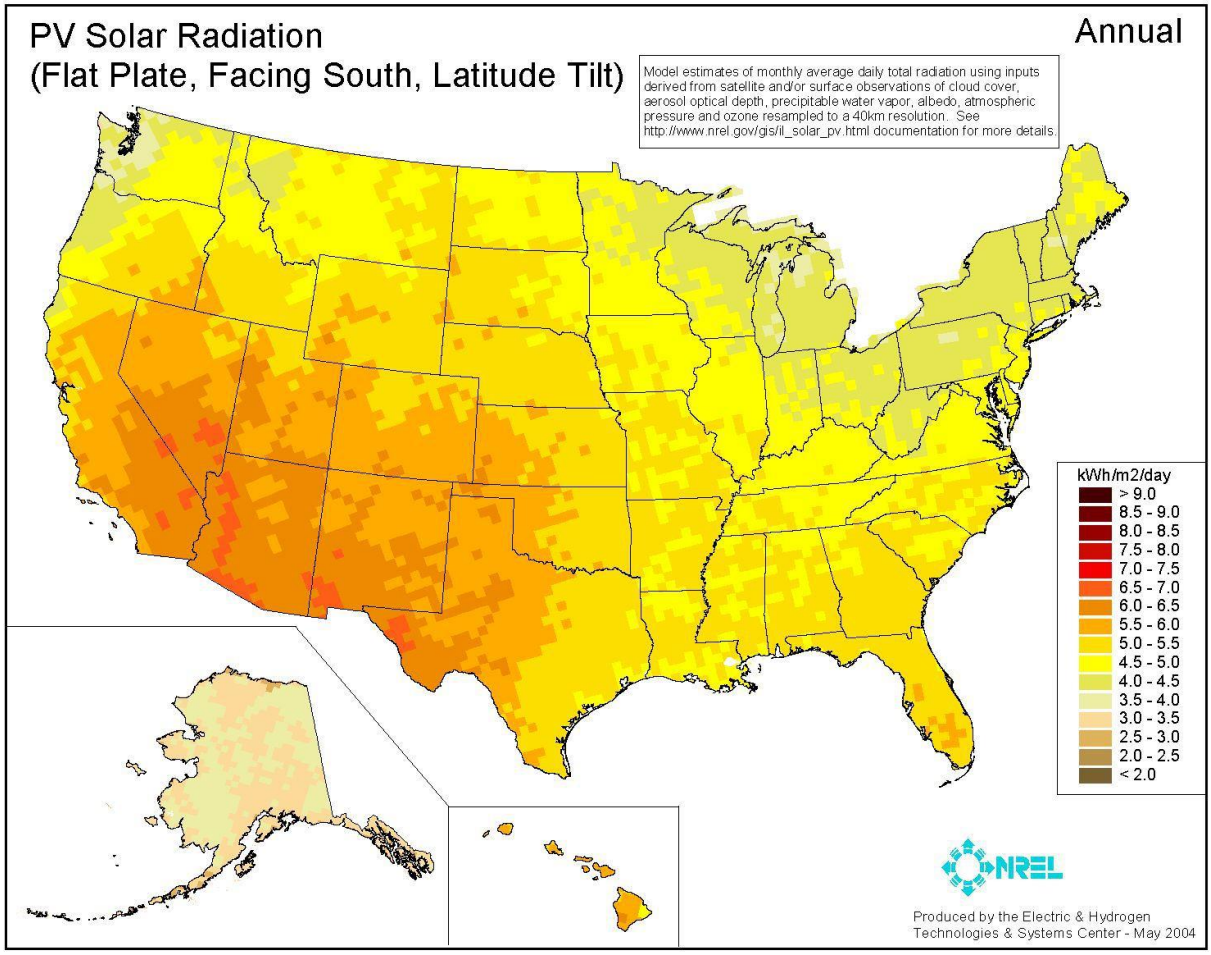
National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Brightergy Renewable Tax Credit Fiscal Analysis (1% Value of Electricity Cap) - Initiative Petitions 202, 204, and 206-210**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 122.68 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $76,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 223,854 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $76,000,000 | 122.68 | 122.68 | 223,854 | $100 | $22,385,441 | 4.225% | $945,785 | $76,945,785 | 3.585% | $802,518 | 5.000% | $1,119,272 | $1,921,790 |
| 2018 | $76,000,000 | 122.68 | 245.36 | 447,709 | $100 | $44,770,882 | 4.225% | $1,891,570 | $77,891,570 | 3.585% | $1,605,036 | 5.000% | $2,238,544 | $3,843,580 |
| 2019 | $76,000,000 | 122.68 | 368.04 | 671,563 | $100 | $67,156,323 | 4.225% | $2,837,355 | $78,837,355 | 3.585% | $2,407,554 | 5.000% | $3,357,816 | $5,765,370 |
| 2020 | $76,000,000 | 122.68 | 490.72 | 895,418 | $100 | $89,541,765 | 4.225% | $3,783,140 | $79,783,140 | 3.585% | $3,210,072 | 5.000% | $4,477,088 | $7,687,160 |
| 2021 | $76,000,000 | 122.68 | 613.40 | 1,119,272 | $100 | $111,927,206 | 4.225% | $4,728,924 | $80,728,924 | 3.585% | $4,012,590 | 5.000% | $5,596,360 | $9,608,951 |
| 2022 | $76,000,000 | 122.68 | 736.08 | 1,343,126 | $100 | $134,312,647 | 4.225% | $5,674,709 | $81,674,709 | 3.585% | $4,815,108 | 5.000% | $6,715,632 | $11,530,741 |
| | | | | | | | | **Total State Tax Burden** | **$475,861,483** | | **Total Local Tax Burden (Sales + Franchise)** | | **$40,357,593** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

**Brightergy Renewable Tax Credit Fiscal Analysis (50 Million Tax Credit Cap) - Initiative Petitions 203 and 205**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 80.71 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $50,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 147,273 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $50,000,000 | 80.71 | 80.71 | 147,273 | $100 | $14,727,264 | 4.225% | $622,227 | $50,622,227 | 3.585% | $527,972 | 5.000% | $736,363 | $1,264,336 |
| 2018 | $50,000,000 | 80.71 | 161.42 | 294,545 | $100 | $29,454,528 | 4.225% | $1,244,454 | $51,244,454 | 3.585% | $1,055,945 | 5.000% | $1,472,726 | $2,528,671 |
| 2019 | $50,000,000 | 80.71 | 242.13 | 441,818 | $100 | $44,181,792 | 4.225% | $1,866,681 | $51,866,681 | 3.585% | $1,583,917 | 5.000% | $2,209,090 | $3,793,007 |
| 2020 | $50,000,000 | 80.71 | 322.84 | 589,091 | $100 | $58,909,056 | 4.225% | $2,488,908 | $52,488,908 | 3.585% | $2,111,890 | 5.000% | $2,945,453 | $5,057,342 |
| 2021 | $50,000,000 | 80.71 | 403.55 | 736,363 | $100 | $73,636,320 | 4.225% | $3,111,135 | $53,111,135 | 3.585% | $2,639,862 | 5.000% | $3,681,816 | $6,321,678 |
| 2022 | $50,000,000 | 80.71 | 484.26 | 883,636 | $100 | $88,363,584 | 4.225% | $3,733,361 | $53,733,361 | 3.585% | $3,167,834 | 5.000% | $4,418,179 | $7,586,014 |
| | | | | | | | | **Total State Tax Burden** | **$313,066,765** | | **Total Local Tax Burden (Sales + Franchise)** | | **$26,551,048** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State government revenue may decrease up to $76 million annually until June 30, 2022 with approximately $640,000 net annual increased operating costs. Local government electric revenue may decrease $17 million annually. Other resulting economic activity will have an unknown impact on state and local governments.

STATE AUDITOR'S OFFICE
RECEIVED
JAN 04 2016

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-207

January 4, 2016

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 42 (2016-207)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 31, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-207 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2016 DEC 31 AM 8:53
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-207

*Be it enacted by the people of the state of Missouri:*

Section A: Sections 386.950 and 386.1000 are enacted to read as follows:

386.950. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, section 386.1000 shall be known and may be cited as the "Clean Energy Independence and Investment Act of 2016".

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall be eligible to receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. The total amount of clean energy tax credits offered annually shall not exceed one percent of the value of electricity used in Missouri as determined in subsection 4 of this section.

2. The department of economic development shall certify when the tax credits provided in this section have cumulatively resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.890 or other technology eligible for net metering as defined in 386.890. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the clean energy tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.890 and 386.900, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on available reports, including FERC Form Number 1 as

allowed by 18 CFR § 141, or an equivalent as determined by the commission, of megawatt hours sales of retail electricity and corresponding revenues for the preceding year or most current reporting period as determined by the commission. The commission shall publish the value of electricity used in Missouri to the public and department of economic development within sixty days of the enactment of this section and at least forty-five days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may apply for and receive the credit authorized by this section only for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

7. To obtain initial approval for tax credits allowed under this section, a taxpayer shall submit an application for tax credits to the department of economic development. Each application shall be reviewed in the order of the date on which the application was received, with the oldest received date receiving highest priority in the queue. Applications received on the same day, that are not time-stamped, shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. The department may retain, for the purposes of administering this section, up to half of each application deposit, which shall not be subject to refund and shall not exceed one hundred dollars for residential taxpayers and two hundred and fifty dollars for all other taxpayers. Such application deposit, except the portion retained for administration purposes by the department, shall be refunded at completion of the project or in the event the department of economic

development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. The taxpayer may request a refund of the application deposit; however, any refunds of the deposit for an application shall cause such application to lose its spot in the application queue. If the taxpayer wants to maintain its position in the application queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

9. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision of its intent to disapprove, including the reasons for intending to disapprove, and to remove such application from the application queue. The taxpayer shall have one opportunity, not to exceed fifteen days of notification of intent to disapprove, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

10. If the department of economic development deems the initial application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the date the department received the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for approval shall be notified by the department of economic development that the maximum amount of credits authorized for the program have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available.

12. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial approval for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available, then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development, to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1, 3 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by postal or electronic letter and shall issue, to the taxpayer, a tax credit certificate within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department

of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

15. If the amount of the credit under subsection 14 of this section exceeds the taxpayer's total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

16. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsections 10 or 11 of this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

17. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536. Such rules may include repayment provisions necessary to recover tax credit benefits from taxpayers found to have used fraud or misrepresentations of fact on applications, and other anti-fraud and compliance measures as may be required by the department and the provisions of sections 135.800 to 135.830.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-207)**

## Subject

Initiative petition from Andy Zellers regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received January 04, 2016)

## Date

January 25, 2016

## Description

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **Public Service Commission,** and the **Missouri Joint Municipal Electric Utility Commission**.

**Mark R. Reading** provided information to the State Auditor's Office as a proponent of this initiative petition.

**Edward D. Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** (DED) provided the following information:

The Division of Energy (DE) indicated this petition will result in increased operating expenses of $759,071 for fiscal year 2017, $827,781 for fiscal year 2018, and $835,826 for fiscal year 2019. These costs will be offset by additional revenues to the Clean Energy Fund of $0 for fiscal year 2017, $370,943 for fiscal year 2018, and $370,943 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Section 386.1000 – Clean Energy Tax Credit

DE is required to administer the Clean Energy Fund created by this section and promulgate rules to implement the Clean Energy Tax Credit. The proposal requires DE to receive applications and deposits, review and initially approve applications and required information within 30 days, review final approval applications, issue certificates and provide notifications, refund deposits for completed and disapproved projects, at least quarterly publish a list of the amount of tax credits initially and finally approved for each fiscal year and amounts reserved for future years, notify individual applicants of disapproved applications and approval within specified timeframes, notify applicants if the maximum amount of credits authorized have been allocated for the fiscal year and grant three-month extensions if needed for project completion with additional deposit payments.

**Long-range implications**

Fiscal impacts associated with the Clean Energy Tax Credits could continue until June 30, 2022. The authorization for the tax credit would sunset sooner if the 1,000 megawatt limit is reached. Economic benefits associated with construction of solar facilities would also have long-range implications.

**Assumptions and methodology used in arriving at state fiscal impact**

Section 386.1000 – Clean Energy Tax Credit

Retail sales of Missouri's utilities totaled $7.6 billion in 2014 (Source: Mark Reading; U.S. DOE/EIA). If all tax credits were used each year up to the cap of 1% of the annual statewide Missouri revenue of Missouri's retail electric suppliers, the decrease in the state's general revenues would be approximately $76 million/year from the effective date through June 30, 2022, depending on the schedule of implementation and applications submitted and approved. If the tax credits cumulatively result in installations of 1,000 megawatts prior to June 30, 2022, the tax credits would sunset. Note the actual tax credit cap would be based on revenues as determined by the Public Service Commission (PSC) pursuant to Section 386.1000.4, RSMo, of this proposal. The tax credits would have unknown economic benefits from the construction and installation of solar energy systems.

If the full amount of tax credits were used each year and with consideration to the estimated cost and size of the projects, it is estimated there would be 4,933 residential project applications and 283 commercial project applications submitted for tax credit reviews (Source: Mark Reading). DE assumes that it would take approximately 2 hours each to do the initial review/approval of each application and another 2 hours to do the review and issuance of a certification after a project is completed for residential projects. Each of these would include clerical time for input/issuing letters/filing, etc. For larger commercial projects, an estimated 8 hours is anticipated for each of these two steps. See response above for detailed tasks required by the proposal.

19,732 hours for residential applications
4,528 hours for commercial applications
24,260 hours total

To implement this provision, DE assumes it will need a total of 12 full-time employees (FTE) as follows:
8 – Energy Specialist I/II
2 – Energy Engineer II
2 – Administrative Office Support Assistant (AOSA)

- Energy Specialist I/II - Professional level staff to review the renewable energy project applications and to complete project evaluation activities.
- Energy Engineer II - Professional staff with expertise in engineering aspects of renewable energy projects to review the technical aspects of the projects, review of projects related to the Renewable Energy Standard and Renewable Energy Certificates and familiar with environmental impacts of renewable electric generation.
- AOSA - Staff to assist with the administrative requirements of the reviews such as drafting and sending communication to applicants, maintaining the database of applicants, and tracking status of applications.

An application deposit of 2 cents/watt is required to be paid to DE and deposited in the Clean Energy Fund. The proposal provides that DE may retain, for the purposes of administering this section, up to half of each application deposit to administer the provisions of this proposal but would not exceed one hundred dollars for residential

taxpayers and two hundred and fifty dollars for all other taxpayers. Using the assumption above, if the full amount of tax credits were used each year and with consideration to the estimated cost and size of the projects, it is estimated there would be 4,933 residential project applications (at an average size of 6.1 kilowatts (kW)) and 283 commercial project applications (at an average size of 200 kW) submitted for tax credit reviews. The application deposit for a residential project would be $122 and DE could retain 50% or $61 for a total of $300,913. The application deposit for a commercial project would be $4,000 and DE could retain a maximum of $250/application for a total of $70,750.

For purposes of this fiscal note, DE assumes there could be up to $370,943 per year available from the Clean Energy Fund to administer the provisions of this proposal. As this is less than the estimated costs to implement the provisions of the proposal, DE assumes the shortfall would be from General Revenue funds. It is also assumed that General Revenue funds would be necessary to cover all DE's costs in FY 2017 until such time as sufficient application deposits are received.

DE also assumes that the Department of Economic Development's existing tax credit database will be used to track the applications. Some IT costs to generate the necessary reports are estimated.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated their department would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** estimate this petition will result in increased operating expenses of $243,282 for fiscal year 2017, $181,985 for fiscal year 2018, and $183,470 for fiscal year 2019.

The legislation creates an unknown, negative impact to total state revenue by creating a new tax credit.

**Section 386.1000**
The provisions of this section authorize the issuance of a clean energy tax credit to taxpayers incurring costs for the installation of a clean energy resource project. The taxpayer may claim 35 percent (35%) of the total cost of the project. The legislation caps the amount of tax credits at not more than one percent (1%) of the value of the electricity used in Missouri.

**Section 386.1000.15**
The department suggests changing the provisions pertaining to the transfer of the tax credit to the Department of Revenue because this is currently the department's responsibility based on a previously issued executive order.

**Administrative Impact:**
**Personal Tax:**
Personal Tax requires one (1) Revenue Processing Technician I (Range 10, Step L) for every 6,000 credits claimed.

**Corporate Tax:**
Corporate Tax requires three (3) Revenue Processing Technicians I (Range 10, Step L) for every 4,000 credits redeemed, 4,000 credits transferred, and for every 520 SB 1099 compliance mailings and correspondence.

**Integrated Tax System:**
The integrated tax system incurs additional costs of $43,680 to implement the provisions of this petition.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** (OA) indicated the proposal:

- Enacts a "Clean Energy" income tax credit for an amount equal to 35% of the total cost of the clean energy project. The annual cap on the credits is 1% of the value of electricity used in Missouri as determined by the PSC. This could result in a significant total state revenue reduction. This would also impact the calculation under Article X, Section 18(e), of the Missouri Constitution. OA understands that the DED and the PSC may have the data to estimate the impact, therefore OA defers to DED and the PSC.
- Establishes the Clean Energy Fund, which is to be used to advance clean energy through the efficient administration of the Clean Energy Tax Credit Program. This will result in an increase to total state revenue. The revenue in the fund will come from various application deposits, but could also come from appropriated moneys, gifts, contributions, grants or bequests. The DED will administer this fund. OA defers to the DED and the PSC for the estimated impact of the application deposits.

This proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson** indicated because their city does not own any utility except for wastewater, there would be no fiscal impact should this petition become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from **University of Missouri** indicated they have not seen cost impact studies on this initiative from their electric utility suppliers, but they do not believe this will have a significant impact on their university.

Officials from the **Public Service Commission** (PSC) indicated Section 386.1000 discusses a "clean energy tax credit". It is not clear why the tax credit is in the PSC statute and not in a tax-related statute.

Officials from the **Missouri Joint Municipal Electric Utility Commission** (MJMEUC) indicated:

Missouri Public Utility Alliance (MJMEUC is part of the alliance) through its electric division represents 65 of the 86 cities with municipal electric utilities.

After careful review and analysis, they believe that implementation would reduce municipal electric utility revenues somewhere between $17,000,000 and $23,900,000 annually based on:

1. Varying changes to the state’s net metering law.
2. Greater penetration of solar panels throughout the state because of a state funded tax rebate for their purchase and installation.

Other proposed changes would increase the cost of city operations by approximately $3,435,000.

Several of these proposals modify the state’s net metering law to require cities to carry forward to subsequent months excess customer generation. Current software is not designed to provide this functionality and each city would have to contract with their own vendor to modify their billing software. In addition several petition versions require the PSC to approve municipal rate increases by class based on actual expenses. This will necessitate regular cost of service studies and for cities to hire attorneys with experience

before the PSC to present their cases for rate increases. In order to calculate costs they have contacted firms in both disciplines to provide estimated costs for these services.

Total estimated impact for this petition would be $17 million in lost revenues.

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art X Sec 16) that reduces income or increases costs without "full state financing", they anticipate that the costs would be reflected in the final state cost when the fiscal note is completed. They have no idea what litigation costs might be necessary.

They would offer the following for potential utilization in the final fiscal note:

"….. *reduce revenues for municipal electric utilities by (fill in the blank), increase operational costs by approximately (fill in the blank) and create unknown litigation costs at both the state and local level over Mo. Const. Art. X Sec. 16."*

**Mark R. Reading** provided the following information as a proponent of this initiative petition.

Submitted by:

_____

Mark R. Reading
2604 Lakeland Drive
Jefferson City, MO 65109
(573) 694-6828
*Primary Contact Person*

**Clean Energy Independence and Investment Act of 2016 - Versions 42 and 44**
**Sec. of State # 207 and 209**

**Proposed Statement of Fiscal Impact**
**for Clean Energy Independence and Investment Act of 2016 - Versions 42 and 44**
**Sec. of State # 207 and 209**

**Fiscal Impact Information Submitted Pursuant to Section 23.140.2**

The amendment's estimated impact decreases state revenue between $34 to $68 million depending upon the speed of up to $225 million in additional clean energy project construction and implementation by the Department of Economic Development, residential homeowners, and businesses. Local revenue is estimated to grow between $1.8 to $3.5 million.

| ESTIMATED NET EFFECT ON STATE FUNDS | | |
|---|---|---|
| **Fund Affected** | **FY 2017** | **FY 2018** |
| **General Revenue** | $0 | From ($35,065,766) to ($70,131,532) |
| | | |
| **Total Estimated Net Effect on All State Funds** | $0 | From ($34,326,912) to ($68,654,014) |
| **ESTIMATED NET EFFECT ON LOCAL FUNDS** | | |
| Local Funds | $0 | From $1,751,314 to $3,502,627 |
| | | |
| **Total Estimated Net Effect on All Local Funds** | $0 | From $1,751,314 to $3,502,627 |

**SUMMARY OF VERSIONS OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT**

Nine additional versions of the Clean Energy Independence and Investment Act of 2016 have been submitted for review. A summary of which topics are in each version is provided below.

**CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT OF 2016**
**SUMMARY OF VERSIONS**

| Petition version | 386.870 - Electric vehicle | 386.890 - Net metering | 386.900 - Enhanced net metering | 386.910 - Community Solar | 386.1000 - Tax credits |
|---|---|---|---|---|---|
| | | | | | |
| **1% Electric Versions** | | | | | |
| Version 37 | N/A | X | X | X | X |
| Version 39 | X | X | X | X | X |
| Version 41 | X | Deletes | X | X | X |
| Version 42 | N/A | N/A | N/A | N/A | X |
| Version 43 | X | N/A | N/A | X | X |
| Version 44 | X | X | X | N/A | X |
| Version 45 | N/A | X | X | X | X |
| | | | | | |
| **$50 million cap Versions** | | | | | |
| Version 38 | N/A | X | X | N/A | X |
| Version 40 | X | X | X | X | X |

## ANALYSIS OF FISCAL IMPACT OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT

The fiscal impact analysis contained herein focuses on estimating the fee and tax revenue resulting from the statutory changes proposed in the initiative petition. Table 1 summarizes the revenue estimated by source and by fiscal year. Page and Table numbers are provided to help readers find specific subjects.

**Table 1 - Summary of Fiscal Impact by Fund**

| Page # | Table # | Purpose | FY 2017 | FY 2018 - low range | FY 2018 - high range | Revenue Type |
|---|---|---|---|---|---|---|
| 4-12 | Table 10 | Tax credit | $0 | ($39,494,829) | ($78,989,658) | Income |
| 14-15 | Table 14 | Taxes from clean energy tax credit construction | $0 | $4,429,063 | $8,858,126 | Various |
| 16-18 | Table 17 | Taxes from community solar construction | N/A | N/A | N/A | Various |
| | | subtotal General Revenue Fund | $0 | ($35,065,766) | ($70,131,532) | |
| | | | | | | |
| 9-11 | Table 11 | Clean Energy Fund | $0 | $185,926 | $371,663 | Application deposit |
| | | | | | | |
| 14-15 | Table 14 | Prop C sales tax - clean energy | $0 | $451,369 | $902,739 | Sales tax |
| 16-18 | Table 17 | Prop C sales tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Prop C | $0 | $451,369 | $902,739 | |
| | | | | | | |
| 14-15 | Table 14 | Conservation sales tax - clean energy | $0 | $56,421 | $112,842 | Sales tax |
| 16-18 | Table 17 | Conservation sales tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Conservation | $0 | $56,421 | $112,842 | |
| | | | | | | |
| 14-15 | Table 14 | Parks and Soils sales tax - clean energy | $0 | $45,137 | $90,274 | Sales tax |
| 16-18 | Table 17 | Parks and Soils sales tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Parks and Soils | $0 | $45,137 | $90,274 | |
| | | | | | | |
| | | subtotal Other State Funds | $0 | $738,854 | $1,477,518 | |
| | | | | | | |
| | | subtotal all state funds | $0 | ($34,326,912) | ($68,654,014) | |
| | | | | | | |
| 14-15 | Table 14 | Local Sales Tax - clean energy | $0 | $1,751,314 | $3,502,627 | Sales tax |
| 16-18 | Table 17 | Local Sales Tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Local Funds | $0 | $1,751,314 | $3,502,627 | |
| | | Grand Total State and Local | $0 | ($32,575,599) | ($65,151,387) | |

**Clean Energy tax credits**

The proposal creates a clean energy tax credit in Chapter 386 RSMo. The annual level of tax credits for each calendar year shall not exceed one percent of the annual statewide Missouri revenue of Missouri retail electric suppliers. The Public Service Commission (PSC) is required to determine the revenue for retail electric suppliers using available reports, including FERC Form Number 1 as allowed by 18 CFR § 141 or an equivalent determined by the PSC.

The data for this calculation is gathered and published by the U.S. Energy Information Administration on its website.[1] Table 2 shows the revenues reported by each Missouri entity in 2014. Retail sales totaled $7.6 billion in 2014 for the 74 entities.

**Table 2**
**2014 Utility Bundled Retail Sales - Total**
(Data from forms EIA-861- schedules 4A & 4D and EIA-861S)

| Entity | Ownership | Revenues (Thousands Dollars) |
|---|---|---|
| Atchison-Holt Electric Coop | Cooperative | $6,727 |
| Barry Electric Coop | Cooperative | $16,654 |
| Barton County Elec Coop, Inc | Cooperative | $16,262 |
| Black River Electric Coop - (MO) | Cooperative | $42,554 |
| Boone Electric Coop | Cooperative | $55,335 |
| Callaway Electric Cooperative | Cooperative | $24,618 |
| Carroll Electric Coop Corp - (AR) | Cooperative | $14,104 |
| Central Missouri Elec Coop Inc | Cooperative | $25,350 |
| Chillicothe Municipal Utils | Municipal | $10,035 |
| Citizens Electric Corporation - (MO) | Cooperative | $123,087 |
| City Utilities of Springfield - (MO) | Municipal | $249,286 |
| City of Ava - (MO) | Municipal | $2,894 |
| City of Cameron | Municipal | $7,728 |
| City of Carthage - (MO) | Municipal | $24,493 |
| City of Columbia - (MO) | Municipal | $109,927 |
| City of Farmington - (MO) | Municipal | $18,390 |
| City of Fulton - (MO) | Municipal | $14,228 |
| City of Hannibal - (MO) | Municipal | $25,785 |
| City of Harrisonville - (MO) | Municipal | $12,072 |
| City of Independence - (MO) | Municipal | $135,338 |
| City of Jackson - (MO) | Municipal | $16,281 |
| City of Kennett - (MO) | Municipal | $10,988 |
| City of Kirkwood - (MO) | Municipal | $21,547 |
| City of Lamar - (MO) | Municipal | $6,961 |
| City of Lebanon - (MO) | Municipal | $22,949 |
| City of Macon - (MO) | Municipal | $9,740 |
| City of Marshall - (MO) | Municipal | $17,390 |
| City of Monett - (MO) | Municipal | $20,534 |
| City of Mount Vernon - (MO) | Municipal | $6,790 |
| City of Nixa - (MO) | Municipal | $14,132 |
| City of Poplar Bluff - (MO) | Municipal | $31,686 |
| City of Rolla - (MO) | Municipal | $27,694 |
| City of Sikeston - (MO) | Municipal | $17,528 |

| | | |
|---|---|---|
| City of Sullivan - (MO) | Municipal | $9,645 |
| City of West Plains - (MO) | Municipal | $15,208 |
| Clay County Electric Coop Corp | Cooperative | $96 |
| Co-Mo Electric Coop Inc | Cooperative | $46,302 |
| Consolidated Electric Coop | Cooperative | $21,936 |
| Crawford Electric Coop, Inc | Cooperative | $30,705 |
| Cuivre River Electric Coop Inc | Cooperative | $105,621 |
| Empire District Electric Co | Investor Owned | $456,324 |
| Farmers Electric Coop, Inc - (MO) | Cooperative | $28,697 |
| Gascosage Electric Coop | Cooperative | $17,074 |
| Grundy Electric Coop, Inc | Cooperative | $12,214 |
| Howard Electric Coop | Cooperative | $6,057 |
| Howell-Oregon Elec Coop, Inc | Cooperative | $38,226 |
| Intercounty Electric Coop Assn | Cooperative | $53,855 |
| KCP&L Greater Missouri Operations Co. | Investor Owned | $802,845 |
| Kansas City Power & Light Co | Investor Owned | $824,706 |
| Laclede Electric Coop, Inc | Cooperative | $63,330 |
| Lewis County Rural E C A | Cooperative | $13,534 |
| Macon Electric Coop | Cooperative | $23,795 |
| Missouri Rural Electric Coop | Cooperative | $17,812 |
| New-Mac Electric Coop, Inc | Cooperative | $38,876 |
| North Central MO Elec Coop Inc | Cooperative | $14,098 |
| Osage Valley Elec Coop Assn | Cooperative | $28,034 |
| Ozark Border Electric Coop | Cooperative | $68,293 |
| Ozark Electric Coop Inc - (MO) | Cooperative | $52,354 |
| Pemiscot-Dunklin Elec Coop Inc | Cooperative | $19,856 |
| Platte-Clay Electric Coop, Inc | Cooperative | $51,737 |
| Ralls County Electric Coop | Cooperative | $12,711 |
| SE-MA-NO Electric Coop | Cooperative | $9,438 |
| SEMO Electric Cooperative | Cooperative | $33,195 |
| Sac-Osage Electric Coop Inc | Cooperative | $16,676 |
| Southwest Electric Coop, Inc | Cooperative | $58,853 |
| Sunnova | Behind the Meter | $1 |
| Three Rivers Electric Coop | Cooperative | $36,751 |
| Trenton Municipal Utilities - (MO) | Municipal | $8,647 |
| Tri-County Electric Coop Assn | Cooperative | $12,512 |
| Union Electric Co - (MO) | Investor Owned | $3,112,534 |
| United Electric Coop, Inc - (MO) | Cooperative | $21,579 |
| Webster Electric Coop | Cooperative | $28,828 |
| West Central Electric Coop Inc - (MO) | Cooperative | $25,967 |
| White River Valley El Coop Inc | Cooperative | $86,488 |
| Adjustment 2014 | Other | $159,914 |
| Total | | $7,644,407 |

Source: http://www.eia.gov/electricity/sales_revenue_price/
Table 10: All Sectors - Class of ownership, number of consumers, sales, revenue, and average retail price by State and utility:

Table 3 shows the data series by year from 1990 through 2014 reported by the U.S. Energy Information Administration.[2] The average annual increase in these revenues is 3.33 percent.

**Table 3**
**Revenue from Sales to Ultimate Customers**
**(Thousand Dollars) for Missouri, 1990-2014**

| Year | Total Revenue | $ Growth over previous year | % Growth over previous year |
|---|---|---|---|
| 1990 | $3,484,572,000 | | |
| 1991 | $3,653,391,000 | $1,688,190 | 4.8% |
| 1992 | $3,489,099,000 | ($1,642,920) | (4.5%) |
| 1993 | $3,709,661,000 | $2,205,620 | 6.3% |
| 1994 | $3,749,115,000 | $394,540 | 1.1% |
| 1995 | $3,891,751,000 | $1,426,360 | 3.8% |
| 1996 | $3,961,895,000 | $701,440 | 1.8% |
| 1997 | $4,005,066,000 | $431,710 | 1.1% |
| 1998 | $4,196,674,000 | $1,916,080 | 4.8% |
| 1999 | $4,185,713,000 | ($109,610) | (0.3%) |
| 2000 | $4,370,246,000 | $1,845,330 | 4.4% |
| 2001 | $4,414,434,000 | $441,880 | 1.0% |
| 2002 | $4,565,227,000 | $1,507,930 | 3.4% |
| 2003 | $4,470,188,000 | ($950,390) | (2.1%) |
| 2004 | $4,494,108,000 | $239,200 | 0.5% |
| 2005 | $4,959,849,000 | $4,657,410 | 10.4% |
| 2006 | $5,169,747,000 | $2,098,980 | 4.2% |
| 2007 | $5,614,317,000 | $4,445,700 | 8.6% |
| 2008 | $5,768,459,000 | $1,541,420 | 2.7% |
| 2009 | $5,871,973,000 | $1,035,140 | 1.8% |
| 2010 | $6,698,608,000 | $8,266,350 | 14.1% |
| 2011 | $7,008,476,000 | $3,098,680 | 4.6% |
| 2012 | $7,029,475,000 | $209,990 | 0.3% |
| 2013 | $7,538,092,000 | $5,086,170 | 7.2% |
| 2014 | $7,644,407,000 | $1,063,150 | 1.4% |
| | | Avg. annual growth | 3.33% |

Source: http://www.eia.gov/electricity/sales_revenue_price/
Supplemental Data: 1990 - 2013 Revenue from Retail Sales of Electricity by State by Sector by Provider (EIA-861)

For purposes of this fiscal analysis it is assumed that the Public Service Commission will use the most recent available data for establishing the annual cap. The state is currently in FY 2016 and the most recent available data is from 2014. Thus, for the fiscal periods included for consideration by the State Auditor's Office the FY 2017 cap will be established using 2015 data published by the U.S. Energy Information Administration. Similarly, the FY 2018 cap will be established using 2016 data. In this manner the cap for each calendar year will be established eight months before it begins instead of four months after it starts.

**Table 4**
**Data and Timeline for Establishing Annual Tax Credit Cap**

| Data available | Time period of data | CY year for the cap |
|---|---|---|
| April 2015 | 2014 actual data | CY 2016 |
| April 2016 | 2015 actual data | CY 2017 |
| April 2017 | 2016 actual data | CY 2018 |

As shown in Table 3 the average annual growth rate from 1990 to 2014 was 3.33 percent. Table 5 assumes that the average annual growth rate will carry forward for the next several years. The clean energy tax credits cap is estimated at $76.4 million for CY 2016, $79 million for CY 2017 and $81.6 million for CY 2018.

**Table 5**
**Clean Energy Tax Credit Estimate of Cap**

| Calendar Year for cap | Fiscal Year for likely redemption of credits | Revenue data | Total Revenue | Tax credit at 1.0% |
|---|---|---|---|---|
| CY 2016 | FY 2017 | 2014 actual data | $7,644,407,000 | $76,444,070 |
| CY 2017 | FY 2018 | 2015 projection | $7,898,965,753 | $78,989,658 |
| CY 2018 | FY 2019 | 2016 projection | $8,162,001,313 | $81,620,013 |

For purposes of the fiscal note the State Auditor's office asks that estimates be provided for the first two fiscal years of implementation which are FY 2017 and FY 2018 since the provisions of the proposal would go into effect in December 2016. Almost all taxpayers file their taxes on the April 15th deadline. Therefore, CY 2016 taxes would be due on April 15, 2017 which is in FY 2017 as shown in Table 5.

The proposal establishes a cap beginning for CY 2016. However, the provisions of the act will go into effect in December 2016. Paragraph 13 of the proposed section 386.1000 states that any taxpayer verified by the Department of Economic Development to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with the provisions shall be deemed eligible for the tax credit. This allows for the Department of Economic Development to include projects in 2016 before its processes are in place. Paragraph 17 of the proposed section 386.1000 provides that the Department of Economic Development shall issue rules necessary to administer the act. In addition, paragraph 10 gives the Department of Economic Development 45 days to notify an applicant of approval after the application is submitted.

Issuing rules is at best a months long process. The 45 day processing time allowed for any completed application filed after the rules are adopted makes it very unlikely that the Department of Economic Development will issue any CY 2016 tax credits before April 15, 2017 that would affect the taxpayers initial tax filing and reduce taxes paid during FY 2017. Tax credits issued between April 15 and June 30, 2017 would require an amended filing which also would be unlikely to be completed by June 30, 2017. Thus, this fiscal analysis assumes a de minimis or no impact on FY 2017 general revenue tax collections. Any CY 2016 tax credit impact would at most impact the FY 2018 tax collections through amended returns or through CY 2017 taxes.

**Application Deposit revenue**

The proposed Section 386.1000 RSMo requires that taxpayers submit an application to the Department of Economic Development to receive approval for tax credits (paragraph 7). Each application must include a two cent per watt application deposit. The total revenue from application deposits is dependent upon:

- the number of projects that will be submitted;
- the number of watts generated from all of those projects

Each of these is affected by the:

- percentage of residential v commercial projects
- number of kW generated by residential v commercial projects
- cost of residential and commercial projects
- total construction completed
- any phase-in period as the Department of Economic Development institutes rules and prepares the program
- any phase-in period as the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available

All of these factors must be estimated and evaluated in order to calculate the amount of application deposit revenue that will be received by the Department of Economic Development.

Tax credits are available to both residential and commercial projects. Paragraph 5 of the proposed Section 386.1000 RSMo provides that no electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit.

The Missouri Department of Economic Development, Division of Energy published a Missouri Comprehensive State Energy Plan in October 2015. The report states that half of the installed net-metered PV solar is residential and the other half commercial customers.[3] However, the report also indicates that there are challenges that face residential customers making it more difficult and expensive to install solar projects. These challenges include local ordinances or homeowner's association rules the may prohibit installation or require design changes that decrease efficiency or add to the cost.[4] In addition, over the past decade an industry has developed to assist with the financing of solar projects. Such financing alternatives are easier to obtain by commercial projects because of their size, scope, and estimated return on investment.[5] Commercial projects can have a longer-term outlook than homeowners who may not know how long they may live in their current house. The Missouri State Energy Plan indicates that residential rooftop solar is a relatively expensive energy option due to these and other factors.[6]

For all of the reasons identified in the preceding paragraph, for purposes of this fiscal analysis residential solar installation is assumed to be 40% of the total solar construction. Commercial solar installation is assumed to be 60% of the total solar construction. This fiscal analysis has already indicated that 2016 solar construction will likely not be affected by the approval of the petition by voters in November 2016. Thus, CY 2017 is the first full year of impact. Tax credits resulting from such construction will first affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office.

The next factor to consider is the number of kW generated by residential and commercial projects. A recent report on photovoltaic system pricing trends published by the U.S. Department of Energy indicates that the median residential project is 6.1 kW while the modeled commercial system is 200 kW. Paragraph 5 of the proposed section 386.1000 establishes a 200 kW limit on installations that are authorized for tax credits.[7] For purposes of this fiscal analysis it is assumed that all commercial projects will be at the 200 kW size and that residential projects will be 6.1 kW. Paragraph 7 of the proposed section 386.1000 requires a two cent per watt application deposit fee. Table 6 shows that there would be a $122 application deposit required for the median residential project. There would be a $4,000 application

deposit required for the 200 kW commercial project. A portion of this revenue will be available to the department for operational purposes as shown later in Table 11.

**Table 6**
**Application Deposit Required for Projects**

| Construction type | Project size in kW | Project size in watts | Application deposit for project at 2 cents per watt |
|---|---|---|---|
| Residential | 6.1 | 6,100 | $122 |
| Commercial | 200.0 | 200,000 | $4,000 |

The recent report on photovoltaic system pricing trends published by the U.S. Department of Energy also discusses the historical, recent, and near-term pricing of solar projects.[8] Project cost information was obtained on more than 400,000 systems in 42 states. The modeled system prices identified in the report showed a Q1 2015 residential system price of $3.12/watt and a commercial 200 kW system cost of $2.17/watt. These were reductions in price of from Q4 2013 of 7% and 19% respectively. The report also indicates that prices for residential and commercial PV systems have decreased by 6-12% per year, on average, from 1998-2014. In addition, the report indicates that analysts project the system prices will fall 16-33% for residential systems between 2014-2020.

Table 7 projects residential solar project costs. Projections are made to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 7 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $3,000/kW for residential solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 6.1 kW residential project is estimated at $18,300.

**Table 7**
**Residential Solar Project Estimate**

| | Cost of Residential project per kW | Cost of Residential project at 6.1 kW project size |
|---|---|---|
| CY 2015 | $3,120 | $19,032 |
| CY 2016 | $3,039 | $18,538 |
| CY 2017 | $2,960 | $18,056 |
| average cost of CY16 and CY17 estimates | $3,000 | $18,300 |

The modeled commercial system price identified in the report showed a Q1 2015 commercial 200 kW system cost of $2.17/watt. However, the national average cost of commercial projects is affected by states with more mature solar markets and industries and large companies, like Wal-Mart and Ikea, that have moved to install significant solar projects on their facilities. The first Missouri commercial systems are less likely to meet the $2.17/watt cost projections. Table 8 uses other data in the report to amend the estimate of commercial solar project costs. The report shows that the price of the modeled 200 kW commercial system has fallen from $2.68/watt to $2.17 between 2013 Q4 and 2015 Q1. The mid-point of that decrease is $2.425/watt. Further, it is assumed that the cost of Missouri projects will be higher by 2.6%, or one-year's worth of the low end of the price declines found in the report. The result is that this analysis will assume that the Missouri 2015 Q1 price is $2.488/watt.

**Table 8**
**Commercial Solar Project Cost Estimate per kW**

| | |
|---|---|
| 2013 Q4 | $2,680 |
| 2015 Q5 | $2,170 |
| Mid-point | $2,425 |
| One-year behind (2.6%) | $2,488 |

Table 9 then projects the $2,488/kW 2015 Q1 cost to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 9 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $2,392/kW for commercial solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 200 kW commercial project is estimated at $478,400.

**Table 9**
**Commercial Solar Project Estimate**

| | Cost of Commercial project per kW | Cost of Commercial project at 200 kW project size |
|---|---|---|
| CY 2015 | $2,488 | $497,600 |
| CY 2016 | $2,423 | $484,600 |
| CY 2017 | $2,360 | $472,000 |
| average cost of CY16 and CY17 estimates | $2,392 | $478,400 |

The analysis so far has identified:

- a $79 million estimate of the maximum clean energy tax credits using one percent of the annual statewide Missouri revenue of Missouri retail electric suppliers as directed by paragraph 1 of the proposed section 386.1000.
- an estimate that 40% of total solar construction would be residential and 60% commercial
- project cost estimates of $18,300 for 6.1 kW residential projects and $478,400 for 200 kW commercial projects

The final factor to calculate before arriving at the amount of application deposit revenue is any phase-in period as the Department of Economic Development issues rules and prepares its processes and the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available. The Missouri State Energy plan reports that Missouri currently has 111 MW of installed solar PV capacity. The plan also reports that there is 42.8 MW of installed net-metered PV solar developed over the years largely as a result of rebates from large utility companies in Missouri.

The proposal being analyzed establishes a statutory program of clean energy tax credits that will sunset after the Department of Economic Development certifies that 1,000 MW of capacity has been added as a result of the tax credits but no later than June 30, 2022. The 1,000 MW target represents a dramatic increase in current capacity.

The Missouri State Energy plan provides a wealth of information about the current state of "green jobs" and the solar industry in Missouri. The report includes the following along with other findings about the industry.

- Missouri had over 100,000 "green jobs" according to a 2009 study.[9]
- Missouri was identified as 10th in the nation for growth in clean energy and clean transportation jobs in 2013.[10]

- $187 million was invested by Missouri's solar industry in 2014 to install solar photovoltaic systems for residential, commercial, and utility use.[11]
- There are more than 97 solar companies at work throughout the supply chain in Missouri, employing 2,500 people including manufacturers, contractors, installers, project developers, distributors.[12]
- Missouri could create 8,500 new jobs to design, install, and operate energy efficiency measures by 2025 according to a 2011 study.[13]
- In 2010 Missouri ranked 6th in the nation in photovoltaic jobs.[14]

The clean energy tax credit does not sunset until the 1,000 MW target of additional capacity is met but no later than June 30, 2022. The size and the long-term nature of the 1,000 MW target should encourage the development of the Missouri solar industry even after it sunsets. It should also result in long-term planning and the build out of a native Missouri solar industry. The target also provides an incentive for the industry to meet the growth potential described in the Missouri State Energy Plan.

In the long-term the impact of the 1,000 MW target will grow and build the industry. In addition, investment in solar will allow longer term benefits in reduced fuel usage, cleaner air, better health and the resulting lower costs among other things. The Missouri State Energy Plan identifies the public health impacts of various energy sources with clean energy sources providing significant positive benefits over other sources.[15] A 2013 study of Hawaii's solar tax credit program found that the State recovered the full cost of the tax credit in 9 to 11 years - a rate of return on its investment ranging from 8.9% to 10.3%.[16] In addition, the study found that for each dollar spent by Hawaii on tax credits the amount of additional sales stimulated was $34.69 for residential solar PV and $55.03 for commercial PV.

However, the fiscal note format required for initiative petitions focuses on the short-term revenue and costs. Thus, the longer-term benefits are not included in this fiscal analysis. As explained elsewhere in this fiscal analysis the impact of the availability of tax credits is somewhat dependent upon the speed with which the Department of Economic Development issues the necessary rules and regulations, develops and makes available the application forms, and the industry's reaction to voter approval and the department's actions. Thus, two alternatives are calculated to create a possible range for the likely outcome in the short-term.

The first alternative assumes that construction will be sufficient to use half of the $79 million in possible tax credits. The first alternative assumes that the program is not implemented until July 2017 thus reducing its effect by half in CY 2017. The second alternative assumes that construction will be sufficient to use all of the $79 million in possible tax credits. The second alternative assumes that the industry is energized by the tax credit and pushes forward with construction under the assumption that the Department of Economic Development will recognize all projects that have been started after voter approval of the proposal.

Table 10 takes that information and shows two possible alternatives for CY 2017.

- Construction leading to use of **half** the available tax credits ($39.5 million) - A total of $112.8 million in construction would be required to generate $39.5 million in tax credits. Residential construction of $45.1 million (assuming 40% of construction) would result in $15.8 million in tax credits. Commercial construction of $67.7 million (assuming 60% share of construction) would result in $23.7 million in tax credits.

- Construction leading to use of **all** the available tax credits ($79 million) - **A total of $225.7 million in construction would be required to generate $79 million in tax credits.** Residential construction of $90.3 million (assuming 40% of construction) would result in $31.6 million in tax credits. Commercial construction of $135.4 million (assuming 60% share of construction) would result in $47.4 million in tax credits.

In addition, using the average cost and size of projects it is possible to compute the number of residential and commercial projects that will be constructed. A total of 2,608 projects would be constructed with half

the tax credits (2,466 residential, 142 commercial). A total of 5,216 projects would be constructed with all the tax credits (4,933 residential, 283 commercial).

**Table 10**
**Number of Projects using Half or All of Tax Credit Cap**

| | CY 2017 construction needed for half of tax credits to be used in FY 2018 | CY 2017 construction needed for all of tax credits to be used in FY 2018 |
|---|---|---|
| Tax credits estimate from CY 2017 construction | $39,494,829 | $78,989,658 |
| Amount of construction value needed to generate value of 35% tax credits | $112,842,369 | $225,684,737 |
| | | |
| % of residential per year of credits issued | 40.0% | 40.0% |
| % of commercial per year of credits issued | 60.0% | 60.0% |
| | | |
| Tax credits by type of construction | | |
| Residential | $15,797,932 | $31,595,863 |
| Commercial | $23,696,897 | $47,393,795 |
| Total amount by type | $39,494,829 | $78,989,658 |
| | | |
| Construction value by type of construction | | |
| Residential | $45,136,948 | $90,273,895 |
| Commercial | $67,705,421 | $135,410,842 |
| Total amount by type | $112,842,369 | $225,684,737 |
| | | |
| Cost of solar projects per project | | |
| Residential (6.1 kW/project) | $18,300 | $18,300 |
| Commercial (200 kW/project) | $478,400 | $478,400 |
| | | |
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |

Table 10 shows a significant number of projects that would be completed throughout the state as a result of the clean energy tax credit. These numbers are possible for a variety of reasons identified in the Missouri State Energy Plan.

- Missouri households use about 12% more than the average U.S. household, thus projects would put real dollars into Missourians pockets for other uses and spending.[17]
- Nationally about ten percent of small business owners state that energy is their single biggest cost according to the National Federation of Independent Business. The same report indicates that an additional 25% of small business owners claim that energy is one of their top three business costs.[18] Thus, clean energy projects that reduce energy usage make businesses more profitable, allow for expansion, and could lead to higher wages for employees.
- Businesses can lower costs through on-site generation while also achieving other benefits.[19]
- Significant operational savings are possible through energy efficiency projects with rates of return as high as 25%.[20]

- A wealth of financing alternatives now exist for clean energy projects.[21]
- "Approximately 60% of the largest U.S. businesses have set public climate and energy goals to increase their use of renewable energy."[22]

Table 11 calculates the amount of application deposit revenue that the Department of Economic Development would receive given the number of projects identified in Table 10. If applications are submitted for projects equivalent to half the available tax credits then the department would receive $0.9 million in application deposit revenue. If applications are submitted for projects equivalent to all the available tax credits then the department would receive $1.7 million in application deposit revenue. The proposal allows the department to keep some of the revenue for its operational purposes. Table 11 shows that it can keep up to $61 for residential applications (half of the anticipated deposit in this analysis) and up to $250 for all other applications. The net non-refunded revenue that the department will have available for its operations is $185,926 or $371,663.

**Table 11**
**Application Deposit Revenue**

| | Application Deposit Estimate for half of tax credits for applications FY 2018 | Application Deposit Estimate for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |
| | | |
| Application deposit required per project | | |
| Residential | $122 | $122 |
| Commercial | $4,000 | $4,000 |
| | | |
| Application deposit revenue | | |
| Residential | $300,852 | $601,826 |
| Commercial | $568,000 | $1,132,000 |
| Total revenue by type | $868,852 | $1,733,826 |
| | | |
| | | |
| Application revenue kept per project for Department Operations | | |
| Residential | $61 | $61 |
| Commercial | $250 | $250 |
| | | |
| Application deposit revenue available for Department Operations | | |
| Residential | $150,426 | $300,913 |
| Commercial | $35,500 | $70,750 |
| Total amount by type | $185,926 | $371,663 |

Table 12 shows the amount of solar capacity added by the number of projects identified in the previous tables given the given size of residential and commercial projects. A total of 43.4 MW would be added in solar capacity as a result of projects equivalent to half the available tax credits which would be 4.3% of the 1,000 MW goal that when achieved will sunset the tax credits. A total of 86.7 MW would be added in

solar capacity as a result of projects equivalent to all the available tax credits which would be 8.7% of the 1,000 MW goal that when achieved will sunset the tax credits.

**Table 12 Amount of Solar Capacity Added**

| | Capacity added for half of tax credits for applications FY 2018 | Capacity added for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |
| | | |
| kW generated by construction | | |
| Residential (6.1 kW/project) | 15,043 | 30,091 |
| Commercial (200 kW/project) | 28,400 | 56,600 |
| Total amount by type | 43,443 | 86,691 |
| | | |
| MW generated by construction | | |
| Residential | 15.0 | 30.1 |
| Commercial | 28.4 | 56.6 |
| Total amount by type | 43.4 | 86.7 |
| | | |
| % of 1,000 MW goal achieved | 4.3% | 8.7% |

**Taxes**

As noted on pages 10-11 of this fiscal analysis, the Missouri State Energy Plan published in October 2015 describes the current capacity, industry size, and investments being made in Missouri. The plan also describes the potential for jobs and economic development in the state. The 1,000 MW target represents a dramatic increase in current capacity. The following analysis assumes that due to the dramatic size of the 1,000 MW target that the investments driven by the clean energy tax credits will result in new jobs and industry expansion.

Table 13 shows the cost components of a solar construction project. Labor is assumed to be 35% of the project costs, materials 40%, and Profit 10%. It is assumed that 15% of the project cost is overhead and it is assumed that no taxes would be applied. Since Missouri already has a base of manufacturers and distributors it is assumed that all materials will be Missouri taxed.

**Table 13**
**Construction Project Components, Tax Type, and Tax Rate**

| Project components | % of job | Missouri tax rate | Type tax |
|---|---|---|---|
| Labor | 35.0% | 6.00% | Income tax |
| Materials and local materials | 40.0% | 4.225% | Sales |
| Profit | 10.0% | 6.25% | Corporate |
| Overhead | 15.0% | 0.00% | N/A |
| subtotal by taxable type | 100.0% | | |

Table 14 computes the state and local taxes based on the value of construction and the project components and tax rates shown in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $4.4 million to $8.9 million in FY 2018. The other three state funds

(Prop C, Conservation, Parks/Soils) are estimated to receive between $0.6 million to $1.1 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $1.75 million to $3.5 million in local sales tax revenue in FY 2018.

**Table 14**
**State and Local Taxes Generated by Construction**

| | Half of tax credits used - CY 2017 | All of tax credits used - CY 2017 |
|---|---|---|
| Amount of construction value needed to generate value of 35% tax credits | $112,842,369 | $225,684,737 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $39,494,829 | $78,989,658 |
| Materials and local materials | $45,136,947 | $90,273,895 |
| Profit | $11,284,237 | $22,568,474 |
| subtotal by taxable type | $95,916,013 | $191,832,027 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $2,369,690 | $4,739,379 |
| Materials and local materials - Sales/Use Tax | $1,354,108 | $2,708,217 |
| Profit - General Revenue Corporate Tax | $705,265 | $1,410,530 |
| subtotal GR | $4,429,063 | $8,858,126 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $451,369 | $902,739 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $56,421 | $112,842 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $45,137 | $90,274 |
| subtotal State Taxes | $4,981,991 | $9,963,981 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $1,751,314 | $3,502,627 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $6,733,304 | $13,466,608 |

The taxes generated from the construction activity shown in Table 14 likely underestimate the state revenue that will be generated by the construction of clean energy projects even within the short time period allowed in the fiscal note. As noted earlier there are multiplier effects that ripple through the economy. The Department of Economic Development through MERIC has a sophisticated model that it uses to evaluate the impact of tax credits and other business investments made in the State of Missouri. Using the information in this fiscal analysis MERIC should be able to provide supplementary information regarding the extra economic activity and increased revenues.

Similarly, generating additional clean energy within the State of Missouri will result in a decrease in the importation of power and energy producing raw materials from other states. Such money leakage from the state, businesses and citizens, decreases the amount of purchasing could be done for other purposes such as increased jobs within the state and thus the tax revenues that would be generated. For example, the Missouri State Energy Plan notes that Missouri is the sixth largest consumer of coal in the country and 92.5% of the coal used in 2013 was imported from Wyoming.[23] The plan reports that the state sends billions of dollars out of state for purchases of imported coal, natural gas, and transportation fuels.[24]

**Community Solar Act** - Applies to Versions 28, 30, 31, 32, 34, and 36
The Community Solar Act, section 386.910 of the proposal, directs the Missouri Public Service Commission to establish rules allowing customers to participate in a "community solar facility." Community solar facilities allow participants to benefit from solar energy and receive electric bill credits substantially similar to net metering.

Paragraph 3 of that section states that the "aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous fiscal year." Table 15 shows the total peak demand data compiled by the Public Service Commission for the four utilities affected by this section. The report shows that using peak demand leads to a cap of 504.5 MW on the amount of aggregated capacity of community solar facilities statewide.

**Table 15 - Peak Demand for Community Solar**

| Utility Name | Peak Demand |
|---|---|
| Union Electric Co - (MO) | 7,713.0 |
| Kansas City Power & Light Co | 1,878.0 |
| KCP&L Greater Missouri Operations Co. | 1,860.0 |
| Empire District Electric Co | 1,162.0 |
| Total | 12,613.0 |
| 4% overall cap | 504.5 |

Paragraph 2 of that section defines a community solar facility as a photovoltaic electric generation facility with a capacity of between 100 and 1,000 kW. For purposes of this fiscal note it is assumed that all community solar projects will be the same as the 200 kW project limit established in the clean energy tax credit language of 386.1000. In Table 12 above a low and high range was calculated for the percentage of solar capacity added through the tax credits based on the expectations of the phase-in necessary for the Department of Economic Development's implementation of the clean energy tax credits. The same percentage is used - 4.3% low range and 8.7% higher range. Similarly, for the purposes of this fiscal note the cost per kW will be $2,392 for a total project cost of $478,400 as shown in Table 9.

Table 16 shows the data and calculations needed to identify the number of projects. At the low end of the range 21.7 MW of added community solar capacity would be created which would require 108 projects of 200 kW. At the higher range 43.9 MW of added community solar capacity would be created which would require 219 projects of 200 kW.

Table 16 also shows that at an average project cost of $478,400 the low range results in $51.7 million in construction spending. The higher range results in $104.8 million in construction spending.

**Table 16**
**Community Solar Capacity and Projects**

| | Low Range | Higher Range |
|---|---|---|
| Assumed % of aggregate capacity | 4.3% | 8.7% |
| Added capacity - MW | 21.69 | 43.89 |
| Added capacity - kW | 21,694.36 | 43,893.24 |
| # projects at commercial 200 kW per project | 108 | 219 |
| Construction cost - commercial project per 200 kW project | $478,400 | $478,400 |
| Construction value | $51,667,200 | $104,769,600 |

Table 17 computes the state and local taxes based on the value of construction and the project components and tax rates shown earlier in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $2.0 million to $4.1 million in FY 2018. The other three state funds (Prop C, Conservation, Parks/Soils) are estimated to receive between $0.2 million to $0.5 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $0.8 million to $1.6 million in local sales tax revenue in FY 2018.

**Table 17**
**State and Local Taxes Generated by Construction of Community Solar Projects**

| | Low range | Higher range |
|---|---|---|
| Amount of construction value needed to generate estimated MW | $51,667,200 | $104,769,600 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $18,083,520 | $36,669,360 |
| Materials and local materials | $20,666,880 | $41,907,840 |
| Profit | $5,166,720 | $10,476,960 |
| subtotal by taxable type | $43,917,120 | $89,054,160 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $1,085,011 | $2,200,162 |
| Materials and local materials - Sales/Use Tax | $620,006 | $1,257,235 |
| Profit - General Revenue Corporate Tax | $322,920 | $654,810 |
| subtotal GR | $2,027,938 | $4,112,207 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $206,669 | $419,078 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $25,834 | $52,385 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $20,667 | $41,908 |
| subtotal State Taxes | $2,281,107 | $4,625,578 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $801,875 | $1,626,024 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $3,082,982 | $6,251,602 |

**Net metering bills** - Applies to Versions 28, 29, 30, 31, 32, 35, and 36
The Missouri General Assembly has considered six net metering bills over the past three legislative sessions. Table 18 below identifies the bills and provides links to the fiscal note and bill summary prepared for each bill. All of the fiscal notes prepared and available indicated that there was no state impact from the net metering bills.

**Table 18**
**NET METERING**
**2013, 2014, AND 2015 LEGISLATIVE SESSIONS**

| Session | Bill | Sponsor | Fiscal Note Impact | Fiscal Note Summary Link | Bill Summary Link |
|---|---|---|---|---|---|
| 2015 | SB 75 | Holsman | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0622-01N.ORG.pdf | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=82&BillID=174 |
| 2015 | SB 509 | Holsman | No impact | N/A | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=664&BillID=4599469 |
| 2015 | HB 481 | Berry (38) | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0502-01N.ORG.pdf | http://house.mo.gov/billtracking/bills151/sumpdf/HB0481C.pdf |
| 2014 | HB 1795 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER14/fishtm/5552-02N.ORG.htm | http://house.mo.gov/billtracking/bills141/sumpdf/HB1795I.pdf |
| 2013 | HB 119 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/0794-02N.ORG.htm | http://house.mo.gov/billtracking/bills131/sumpdf/HB0119I.pdf |
| 2013 | SB 396 | Holsman | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/1078-07N.ORG.htm | http://www.senate.mo.gov/13info/BTS_Web/Bill.aspx?SessionType=R&BillID=19218703 |

**Electric Vehicle Charging Stations** - Applies to Versions 30, 31, 32, 34, and 35
The petition authorizes investor-owned utilities to recover costs for infrastructure investments in electric vehicle charging stations, provided the energy output from the stations is offset in part by clean energy. There should be no fiscal impact to the state. Utility investment in electric charging stations will result in positive economic activity similar to other capital investments. However, the range of the benefits is unknown at this time.

ENDNOTES

[1] U.S. Energy Information Administration: *Table 10: All Sectors - Class of ownership, number of consumers, sales, revenue, and average retail price by State and utility*
http://www.eia.gov/electricity/sales_revenue_price/

[2] U.S. Energy Information Administration: *Supplemental Data: 1990 - 2013 Revenue from Retail Sales of Electricity by State by Sector by Provider (EIA-861)*
http://www.eia.gov/electricity/sales_revenue_price/

[3] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25
https://energy.mo.gov/energy/docs/MCSEP.pdf

[4] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25-26
https://energy.mo.gov/energy/docs/MCSEP.pdf

[5] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[6] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 200
https://energy.mo.gov/energy/docs/MCSEP.pdf

[7] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 5
http://www.nrel.gov/docs/fy15osti/64898.pdf

[8] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 4
http://www.nrel.gov/docs/fy15osti/64898.pdf

[9] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 172
https://energy.mo.gov/energy/docs/MCSEP.pdf

[10] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 173
https://energy.mo.gov/energy/docs/MCSEP.pdf

[11] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[12] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[13] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 174
https://energy.mo.gov/energy/docs/MCSEP.pdf

[14] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 175
https://energy.mo.gov/energy/docs/MCSEP.pdf

[15] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 190-191, 193, 195-199, 201, 203
https://energy.mo.gov/energy/docs/MCSEP.pdf

[16] Thomas A Loudat, Blue Planet Foundation. "*The Economic and Fiscal Effects of Hawaii's Solar Tax Credit*" - January 2013.
http://blueplanetfoundation.org/renewable-energy-tax-credit-2013.html?highlight=WyJsb3VkYXQiXQ==

[17] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 154
https://energy.mo.gov/energy/docs/MCSEP.pdf

[18] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 165 for both sentences in this bullet point
https://energy.mo.gov/energy/docs/MCSEP.pdf

[19] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[20] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[21] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[22] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 178
https://energy.mo.gov/energy/docs/MCSEP.pdf

[23] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 20-21
https://energy.mo.gov/energy/docs/MCSEP.pdf

[24] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 42
https://energy.mo.gov/energy/docs/MCSEP.pdf

**Edward D. Greim** provided the following information as an opponent of this initiative petition.

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January 11, 2016

Missouri State Auditor's Office
301 West High Street
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Re: *Fiscal Note in Initiative Petitions 2016-202 through 210*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petitions 202, 204, 206, and 210:

> Lost revenue to state government is $3.04 billion over the tax credit period, with annual losses of $9.5 million to $11.5 million thereafter. Lost revenue to local government is $189.1 million over the tax credit period, with annual losses of $31.5 million to $33.9 million thereafter.

We propose the following fiscal note summary for petition 203:

> Lost revenue to state government is $320.9 million over the tax credit period, with annual losses of $5.6 million to $9.6 million thereafter. Lost revenue to local government is $100.9 million over the tax credit period, with annual losses of $20 million to $28.1 million thereafter.

We propose the following fiscal note summary for petition 205:

> Lost revenue to state government is $328.8 million over the tax credit period, with annual losses of $7.5 million to $11.5 million thereafter. Lost revenue to local government is $175.3 million over the tax credit period, with annual losses of $32.4 million to $40.5 million thereafter.

We propose the following fiscal note summary for petition 207:

> Lost revenue to state government is $3.02 billion over the tax credit period, with annual losses of $5.7 million to $7.7 million thereafter. Lost revenue to local government is $40.4 million over the tax credit period, with annual losses of $11.5 million to $15.7 million thereafter.

We propose the following fiscal note summary for petitions 208 and 209:

> Lost revenue to state government is $3.03 billion over the tax credit period, with annual losses of $7.6 million to $9.6 million thereafter. Lost revenue to local government is $114.8 million over the tax credit period, with annual losses of $23.9 million to $28.1 million thereafter.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments; taxes that do not apply whenever electricity is never sold due to customer-generator production encouraged by the initiative petitions. Petition signers and voters must be informed that any positive fiscal impacts of the initiative petitions are speculative. Likewise, petition signers and voters must be informed that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume.

**Description of Policy**

Initiative Petitions 202 – 210 contain one or more of three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of the "Community Solar Act"; and (3) A state tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, or certain natural gas technologies.

1. Changes to Net Metering for Investor-owned electric utilities and municipal electric utilities, and, in 206, rural electric cooperatives
    A. Raise net metering cap to 7% (is currently 5%);
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);



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   D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.
2. Community Solar Act
   A. PSC adopts rules and regulations allowing groups of 5 or more electrical corporation customers to offset energy usage with solar located in the service territory of the electrical corporation where they have an account;
   B. Facilities are 100 kilowatts to 1 megawatt;
   C. Community solar facilities may, in total, generate electricity of 4% or less of single-hour peak load, but that amount does not count toward net metering; Electrical corporations can own half (max of 2%), which may be included in the rate base. Others may own the other half (max of 2%);
   D. Community Solar facilities are not eligible for tax credits provided in the petition;
   E. Commission sets a community solar rate, not less than electrical corporation's average retail rate;
   F. Value of allocated solar bill credits reduces customer's total bill;
   G. The current value-of-community-solar rate may be locked in for 20 years beginning when a community solar facility is put in operation.
3. Tax credit
   A. 35% tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, etc.
   B. Total value of eligible credits shall not exceed 1% of the value of electricity used in Missouri[1] – defined as revenue from sale of electricity in Missouri; or tax credits are capped at$50 million each year. Unused credits carryover year to year until June 30, 2022
   C. No tax credits after June 30, 2022, or after 1000 megawatts of new generation have been installed using the tax credits.

**Burdens on State Government**

In determining the fiscal impact of each petition it is generally reasonable to assume that the various statutory changes in the petitions will have independent fiscal impacts. The reasonableness of this assumption is buoyed by the various iterations of the petitions themselves, some of which propose tax credits with no proposed changes to the Net Metering and Easy Connection Act. See Petitions 207 and 208.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 202-207 and 209-210*

[1] The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. See U.S. Energy Information Administration – Independent Statistics and Analysis.



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Raising the net metering cap from the current 5% of peak hour demand to 7% of peak hour demand will, conservatively, result in a 2% decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase from 5% to 7%. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in the petition provides a strong financial incentive to solar or wind energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[2], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, the net-metering cap applies to single-hour peak load, determined yearly, which means that the cap is a higher percentage of the single hour average load. This fact means that the total increase in generation is higher than it appears. Fourth, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[3] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by approximately $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities. The additional decreases in sales tax revenues from municipal electric utilities and, in petition 206, from electric cooperatives, are unknown but substantial.[4]

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 202, 204-206, 208, and 210*

Community solar facilities are in addition to net metering and represent an additional capacity amounting to 4% of each electrical corporation's single-hour peak load. Energy generated from the community solar facility is allocated pro rata by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. There is the potential for such bill

[2] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[3] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.
[4] Assuming $7.6 billion in electricity is sold in Missouri per year (the actual 2014 figure), a 2% decrease will decrease overall state sales tax revenues by 6.4 million annually, but some petitions enact net metering changes on rural electric cooperatives, and some do not.



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credits to decrease overall electrical bills by more than 4% because the "bill credits" are calculated using a "value of solar rate" which is at least as high as the retail rate for electricity, but may be higher. If, for example, solar energy received a 50% rate premium due to its benefits, the amount of bill credits would increase and sales would decrease by more than the 6%, rather than 4% figure. Half of these community solar facilities—the half not owned by electrical corporations—may be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoid property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership model, similar to net metering, because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%).

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by approximately $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities.

*iii. Tax credits – Initiative Petitions 202-210*

*a. Decreased tax collections due to tax credits – Credits capped at 1% of value of electricity sold in Missouri, annually ($76 million based on 2014 figures) – Initiative Petitions 202, 204, 206-210*

According to 2014 figures, Missouri retail customers bought 7.6 billion dollars' worth of electricity in 2014. It is very conservative to estimate that Missouri retail customers will continue to buy the same value of electricity. Accordingly, the 35% tax credits in these petitions will, conservatively, directly result in a loss of state income of up to $76 million, annually. However, electricity rates are volatile, and rates may react violently given market changes and legal changes proposed by the initiative petitions. As stated by the Department of Economic Development, the total loss to state revenue in a single year could be $429.3 million, annually, and $3 billion in total.

*b. Decreased tax collections due to tax credits – Credits capped at $50 million annually – Initiative Petitions 203 and 205*

Similar to the loss described in subpart a, the 35% tax credits in these petitions will directly result in a loss of state income of up to $50 million, annually.

*c. Cost of eroding tax base due to new energy generation – Initiative Petitions 202-210*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer-generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in



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Missouri. Accordingly, if the tax credits were phased out due to reaching the 1000 MWh/1,000,000 kWh maximum on new electricity generation, new production from such tax credits would produce approximately 1,825,000 MWh per year, also expressed as 1,825,000,000 KWh, or 1,825 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour [5], this new production is valued at $182,500,000.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

In practice, the 1 gigawatt limit on new customer-generated energy production may never be met. Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[6] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for renewable energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology. The petition itself limits tax credits to a maximum of $3.00 per watt, but market forces should make rates in Missouri similar to those in other states, at or around $1.77.

For Initiative Petitions 202, 204, and 206-210, the total, annual loss to state governments *due to the tax credits* is 76.9 million to 435 million over the tax credit period. There is an annual loss in perpetuity after the tax credit period of 5.7 to 7.7 million, depending on how much new customer-generation is developed. See attached table.

For Initiative Petitions 203 and 205, the total, annual loss to state governments *due to the tax credits* is 50.6 million to 53.7 million over the tax credit period. There is an annual loss in perpetuity after the tax credit period of 3.7 to 7.7 million, depending on how much new customer-generation is developed. See attached table.

**Burdens on Local Governments**

[5] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.

[6] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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Local governments face similar losses in revenue from the various petition provisions as state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 202-206 and 209-210*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 202, 204-206, 208, and 210*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*iii. Tax credits – Cost of eroding tax base due to new energy generation – Initiative Petitions 202-210*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petitions may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to local governments, all of which may be reduced or discontinued if the initiative petitions are enacted.



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The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[7] Based on this estimate, the population-weighted combined average local sales tax is 3.585%. Assuming the tax credits sunset due to reaching the 1 Gigawatt production cap, the yearly loss to local governments from lost sales tax from the tax credit is $6,541,578. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,123,540.

For petitions 202, 204, and 206-210, the loss to local governments due to the tax credits is $40.4 million over the tax credit period, then $11.5 to $15.7 million annually. For initiative petitions 203 and 205, the loss to local governments due to the tax credits is $26.6 million over the tax credit period, then $7.5 to $15.7 million annually.

**In Conclusion**

The initiative petitions will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petitions, such as increases in net metering and community solar. The total tax burden on state government imposed by the petitions range from $313 million over the tax credit period, with $3.7 to $7.7 million in lost revenues in perpetuity, to approximately $498.6 million over the tax credit period,[8] with $9.5 million to 11.5 million in lost revenues in perpetuity thereafter.

Sincerely,

Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0

[7] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.
[8] $475.8 million + [(1.9 million + 1.9 million)*6 years]



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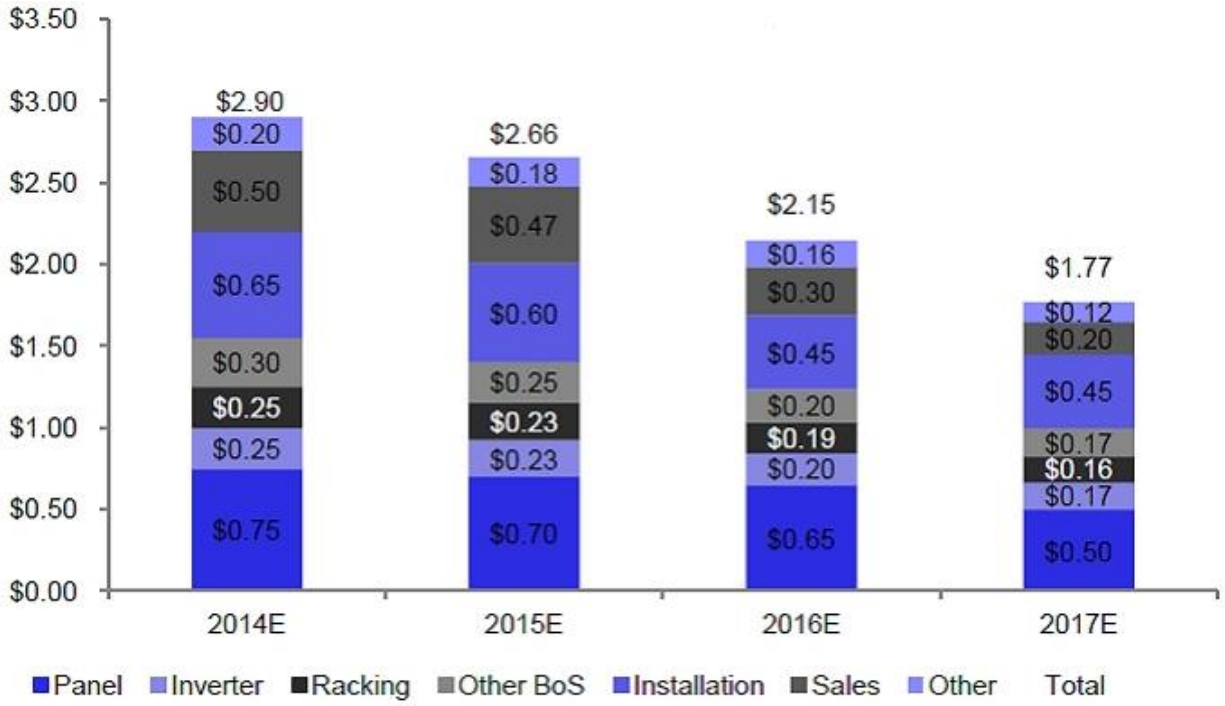
Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017
https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm



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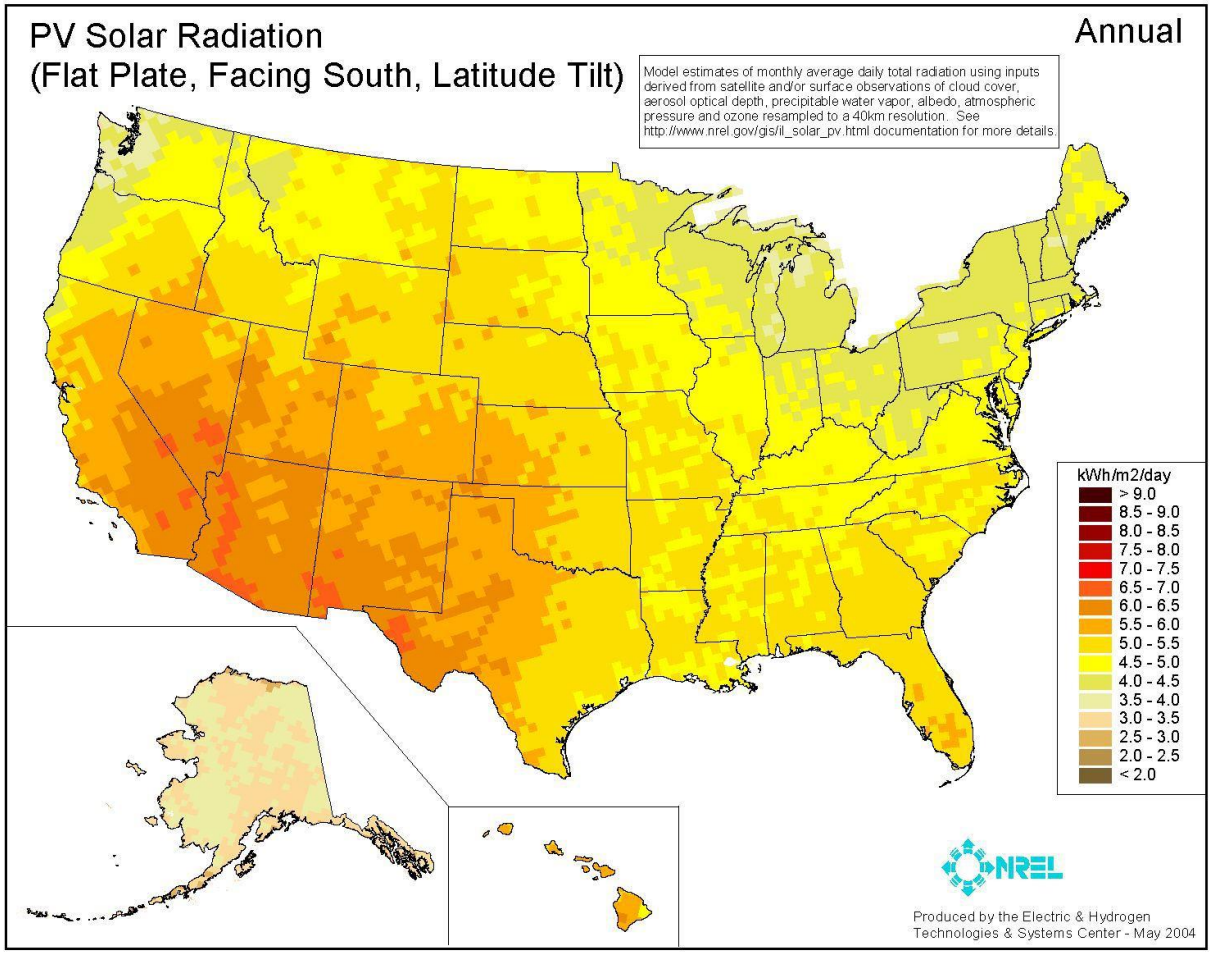
National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Brightergy Renewable Tax Credit Fiscal Analysis (1% Value of Electricity Cap) - Initiative Petitions 202, 204, and 206-210**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 122.68 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $76,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 223,854 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $76,000,000 | 122.68 | 122.68 | 223,854 | $100 | $22,385,441 | 4.225% | $945,785 | $76,945,785 | 3.585% | $802,518 | 5.000% | $1,119,272 | $1,921,790 |
| 2018 | $76,000,000 | 122.68 | 245.36 | 447,709 | $100 | $44,770,882 | 4.225% | $1,891,570 | $77,891,570 | 3.585% | $1,605,036 | 5.000% | $2,238,544 | $3,843,580 |
| 2019 | $76,000,000 | 122.68 | 368.04 | 671,563 | $100 | $67,156,323 | 4.225% | $2,837,355 | $78,837,355 | 3.585% | $2,407,554 | 5.000% | $3,357,816 | $5,765,370 |
| 2020 | $76,000,000 | 122.68 | 490.72 | 895,418 | $100 | $89,541,765 | 4.225% | $3,783,140 | $79,783,140 | 3.585% | $3,210,072 | 5.000% | $4,477,088 | $7,687,160 |
| 2021 | $76,000,000 | 122.68 | 613.40 | 1,119,272 | $100 | $111,927,206 | 4.225% | $4,728,924 | $80,728,924 | 3.585% | $4,012,590 | 5.000% | $5,596,360 | $9,608,951 |
| 2022 | $76,000,000 | 122.68 | 736.08 | 1,343,126 | $100 | $134,312,647 | 4.225% | $5,674,709 | $81,674,709 | 3.585% | $4,815,108 | 5.000% | $6,715,632 | $11,530,741 |
| | | | | | | | | **Total State Tax Burden** | **$475,861,483** | | **Total Local Tax Burden (Sales + Franchise)** | | **$40,357,593** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

**Brightergy Renewable Tax Credit Fiscal Analysis (50 Million Tax Credit Cap) - Initiative Petitions 203 and 205**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 80.71 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $50,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 147,273 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $50,000,000 | 80.71 | 80.71 | 147,273 | $100 | $14,727,264 | 4.225% | $622,227 | $50,622,227 | 3.585% | $527,972 | 5.000% | $736,363 | $1,264,336 |
| 2018 | $50,000,000 | 80.71 | 161.42 | 294,545 | $100 | $29,454,528 | 4.225% | $1,244,454 | $51,244,454 | 3.585% | $1,055,945 | 5.000% | $1,472,726 | $2,528,671 |
| 2019 | $50,000,000 | 80.71 | 242.13 | 441,818 | $100 | $44,181,792 | 4.225% | $1,866,681 | $51,866,681 | 3.585% | $1,583,917 | 5.000% | $2,209,090 | $3,793,007 |
| 2020 | $50,000,000 | 80.71 | 322.84 | 589,091 | $100 | $58,909,056 | 4.225% | $2,488,908 | $52,488,908 | 3.585% | $2,111,890 | 5.000% | $2,945,453 | $5,057,342 |
| 2021 | $50,000,000 | 80.71 | 403.55 | 736,363 | $100 | $73,636,320 | 4.225% | $3,111,135 | $53,111,135 | 3.585% | $2,639,862 | 5.000% | $3,681,816 | $6,321,678 |
| 2022 | $50,000,000 | 80.71 | 484.26 | 883,636 | $100 | $88,363,584 | 4.225% | $3,733,361 | $53,733,361 | 3.585% | $3,167,834 | 5.000% | $4,418,179 | $7,586,014 |
| | | | | | | | | **Total State Tax Burden** | **$313,066,765** | | **Total Local Tax Burden (Sales + Franchise)** | | **$26,551,048** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State government revenue may decrease up to $76 million annually until June 30, 2022 with approximately $640,000 net annual increased operating costs. Local government electric revenue may decrease $17 million annually. Other resulting economic activity will have an unknown impact on state and local governments.

STATE AUDITOR'S OFFICE
RECEIVED
JAN 04 2016

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

January 4, 2016

16-206

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 41 (2016-206)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 31, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-206

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 31 AM 8:52
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

My commission expires _____

_____
Address of Notary (Street, City, State & Zip Code)

16-206

*Be it enacted by the people of the state of Missouri:*

Section A: Section 386.890 is repealed and sections 386.860, 386.870, 386.900, 386.910 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.900 to 386.1000 shall be known and may be cited as the "Clean Energy Independence and Investment Act of 2016".

386.870. An electrical corporation shall be allowed to recover its costs and add in its rate base prudently incurred costs to purchase and install electric vehicle charging stations intended to recharge electric motor vehicles, provided the electricity consumed at such stations is partially powered by a clean energy resource, as defined in 386.900, or offset with renewable energy credits, as defined in 393.1025. Investments made pursuant to this section shall not raise the retail rates charged to the customers of any such electrical corporation by more than one-half of one percent in any year.

[386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal electric utility, rural electric cooperative as provided in chapter 394, or electrical corporation as provided in this chapter;

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of natural resources;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical

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energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any municipal utility, electrical corporation regulated under this chapter, or rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for other electric utilities may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

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(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) For any rural electric cooperative under chapter 394, or municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule or equivalent formal action by each respective governing body:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

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(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10. The governing body of a rural electric cooperative or municipal utility shall, within nine months of January 1, 2008, adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

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16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.]

386.900. 1. This section shall be known and may be cited as the "Enhanced Net Metering and Easy Connection Act". It shall be the policy of the state to facilitate the use of customer-sited or controlled clean energy resources.

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal utility, rural electric cooperative as provided in chapter 394, or electrical corporation as provided in this chapter;

(2) "Clean energy resource", electrical energy produced from:

(a) Wind;
(b) Solar thermal sources;
(c) Hydroelectric sources;
(d) Photovoltaic cells and panels;
(e) Fuel cells using hydrogen produced by one of the above-named electrical energy sources; or
(f) Other sources of energy that become available after January 1, 2017, and are certified as clean by the department.

(3) "Commission", the public service commission of the state of Missouri;

(4) "Customer-generator", the owner, lessee or operator of a qualified electric energy generation unit which:

(a) Is powered by a clean energy resource or micro CHP;

(b) Has an electrical generating system with a capacity of not more than five hundred kilowatts, measured in alternating current;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

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(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(5) "Department", the department of economic development;

(6) "Micro CHP", combined heat and power or cogeneration systems that simultaneously generate electricity and thermal energy in a single integrated system with a nameplate rated capacity equal to or lower than 130 kilowatts, measured in alternating current;

(7) "Net excess energy", the amount of energy expressed in kilowatt hours delivered by a customer-generator to a supplier that exceeds the amount of energy delivered by the supplier to the customer-generator over a single billing period;

(8) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(9) "Retail electric supplier" or "supplier", any municipal utility, rural electric cooperative under chapter 394 or electrical corporation regulated under this chapter that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals seven percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for other electric utilities may increase the total rated generating capacity of net metering systems to an amount above seven percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds two percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the retail electric supplier shall pay for the costs to purchase and install the necessary additional equipment, unless the commission or governing body makes a determination that the customer-generator is the only customer benefiting from the additional

distribution equipment. If the commission or governing body determines the customer-generator is the only customer benefiting, such customer-generator shall reimburse the electric supplier for reasonably incurred equipment expenses. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subdivision (2) of subsection 3 of this section and all net excess energy shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent months;

(4) Any net excess energy credits carried forward under subdivision (3) of this subsection shall expire without any compensation at the earlier of either the next subsequent March billing period or when the customer-generator disconnects service or otherwise terminates the net metering relationship with the supplier.

(5) For any rural electric cooperative under chapter 394, or municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a

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utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule or equivalent formal action by each respective governing body:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (4) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems one hundred kilowatts or less and within sixty days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application. Retail electric suppliers shall interconnect qualified energy generation units within thirty days of being notified the generation unit is installed and meets the requirements of this section.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for notifying the retail electric supplier.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other suppliers shall submit the same report to their respective governing body and make said report available to a customer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall by June 1, 2017 promulgate any rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts

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will be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after June 1, 2017, shall be invalid and void.

10. The governing body of a rural electric cooperative or municipal utility shall by June 1, 2017 adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs, including lost revenues and lost earnings opportunities associated with reduced demand or kilowatt hours sales, incurred under this section by a retail electric supplier shall be recovered in a timely manner in that utility's rate structure in the form of a tracker or other appropriate rate recovery mechanism. At the time of any general change in a supplier's rates, any over-recovery or under-recovery balance shall be included in the supplier's revenue requirement used to set rates as amortized over a period not exceeding three years, and shall be recovered from each rate class pursuant to the supplier's approved rate design. At the time any general change in prospective rates is proposed, the commission shall permit the supplier to estimate the total generation output from all customer-owned generation for each rate class for the twelve-month period following the effective date of any change in rates, and rates shall be set using energy and demand billing units that reflect the estimated reduction of energy and demand likely to occur due to customer-owned generation. When considering costs, the commission may evaluate the value of distributed generation and clean energy resources. To the extent any costs,

lost revenues, or lost earnings are recovered under this section, they shall not raise the retail rates charged to the customers of any such electrical corporation by an average of more than one percent in any year. Any limitation on cost recovery shall not limit the availability of net metering except as provided in subsection 3 of this section.

15. No customer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a customer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said customer and terminate said consumer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.910. 1. This section shall be known and may be cited as the "Community Solar Act."

2. Within thirty days of enactment of this section, the commission shall open a docket and by August 1, 2017, the commission shall adopt rules and regulations allowing customers to participate in community solar facilities and set a value-of-community-solar rate as described in subsection 5 of this section. For purposes of this section, a "community solar facility" is a photovoltaic electric generation facility with a capacity of between one hundred and one thousand kilowatts, measured in alternating current, that allows five or more customers of an electrical corporation to offset their energy usage with solar energy and such facility is located within the Missouri service territory of the electrical corporation where such customers have one or more electrical accounts. For the purposes of this section, an electrical corporation is as defined in 386.020.

3. The aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous calendar year, and such capacity of community solar facilities shall not count towards the system-wide net metering cap defined in subsection 3 of section 386.900. Electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. Entities or individuals that are not electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of an electrical corporation's single-hour peak load during the previous year. The commission shall allow prudently incurred costs and expenses for community solar facilities owned by an electrical corporation to be included in such electrical corporation's rate base. Once the four percent aggregate cap is reached for community solar facilities, the commission shall open a docket to determine whether or not the community solar program shall be expanded, and the commission may increase the aggregate capacity cap above

four percent. The commission shall consider benefits and costs of such an expansion when making its decision. Community solar facilities shall not be eligible for tax credits under section 386.1000.

4. For any community solar facility that is owned or operated by an entity other than an electrical corporation, the energy generated by such community solar facility shall be provided to the electrical corporation to which it is interconnected in exchange for the allocation and facilitation of bill credits as provided in subsection 5 of this section.

5. Kilowatt hours generated from community solar facilities shall be allocated, on a pro rata basis, to the designated subscribers of the community solar facility at the direction of the community solar facility owner or operator. Allocated bill credits shall be set at a value-of-community-solar rate per kilowatt hour determined by the commission. The commission shall determine the value of bill credits per kilowatt hour taking into consideration costs and benefits of solar energy including but not limited to energy value, generation value, environmental value, transmission and distribution system value, disaster recovery value, reactive power value and other grid benefit value, but such bill credits shall not be less than the electrical corporation's average retail rate. The value of allocated community solar bill credits shall be used to reduce the customer's total bill. When a community solar facility is placed in service it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years.

6. Owners and operators of community solar facilities shall not be considered a public utility as defined in section 386.020, except that this provision shall not apply to any owner or operator who is an electrical corporation.

7. The commission shall promulgate rules and regulations it deems necessary to carry out the provisions of this section. The commission's rules shall: allow electrical corporations to recover costs; provide earning opportunities for electrical corporations; provide an orderly process, including a reservation system, to allow potential community solar facility owners and operators to develop projects within the capacity limits in subsection 3 of this section; and provide options, which may include financial incentives, to encourage low-income participation.

8. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section, shall be invalid and void.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall be eligible to receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and

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expenses of the project. The total amount of clean energy tax credits offered annually shall not exceed one percent of the value of electricity used in Missouri as determined in subsection 4 of this section.

2. The department of economic development shall certify when the tax credits provided in this section have cumulatively resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the clean energy tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.900, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on available reports, including FERC Form Number 1 as allowed by 18 CFR § 141, or an equivalent as determined by the commission, of megawatt hours sales of retail electricity and corresponding revenues for the preceding year or most current reporting period as determined by the commission. The commission shall publish the value of electricity used in Missouri to the public and department of economic development within sixty days of the enactment of this section and at least forty-five days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may apply for and receive the credit authorized by this section only for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

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6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

7. To obtain initial approval for tax credits allowed under this section, a taxpayer shall submit an application for tax credits to the department of economic development. Each application shall be reviewed in the order of the date on which the application was received, with the oldest received date receiving highest priority in the queue. Applications received on the same day, that are not time-stamped, shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. The department may retain, for the purposes of administering this section, up to half of each application deposit, which shall not be subject to refund and shall not exceed one hundred dollars for residential taxpayers and two hundred and fifty dollars for all other taxpayers. Such application deposit, except the portion retained for administration purposes by the department, shall be refunded at completion of the project or in the event the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. The taxpayer may request a refund of the application deposit; however, any refunds of the deposit for an application shall cause such application to lose its spot in the application queue. If the taxpayer wants to maintain its position in the application queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

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8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

9. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision of its intent to disapprove, including the reasons for intending to disapprove, and to remove such application from the application queue. The taxpayer shall have one opportunity, not to exceed fifteen days of notification of intent to disapprove, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

10. If the department of economic development deems the initial application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the date the department received the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for approval shall be notified by the department of economic development that the maximum amount of credits authorized for the program have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available.

12. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial approval for tax credits. Completion shall include

certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available, then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development, to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1, 3 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by postal or electronic letter and shall issue, to the taxpayer, a tax credit certificate within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

15. If the amount of the credit under subsection 14 of this section exceeds the taxpayer's total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the

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transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

16. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsections 10 or 11 of this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

17. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536. Such rules may include repayment provisions necessary to recover tax credit benefits from taxpayers found to have used fraud or misrepresentations of fact on applications, and other anti-fraud and compliance measures as may be required by the department and the provisions of sections 135.800 to 135.830.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-206)**

## Subject

Initiative petition from Andy Zellers regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received January 04, 2016)

## Date

January 25, 2016

## Description

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **Public Service Commission,** and the **Missouri Joint Municipal Electric Utility Commission**.

**Mark R. Reading** provided information to the State Auditor's Office as a proponent of this initiative petition.

**Edward D. Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Assumptions**

Officials from the **Attorney General's office** indicated Section 386.900.13, RSMo, of the proposal assigns new rulemaking responsibility to their office regarding mandatory disclosures of information by sellers of qualified electric generation units, as well as new investigatory and litigation duties. They assume they would need 1/4 full-time employee (FTE) to handle the complaints, enforcement and the rulemaking responsibilities assigned to their office, resulting in increased operating expenses of $13,890 for fiscal year 2017, $16,810 for fiscal year 2018, and $16,952 for fiscal year 2019.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** (DED) provided the following information:

The Division of Energy (DE) indicated this petition will result in increased operating expenses of $759,071 for fiscal year 2017, $827,781 for fiscal year 2018, and $835,826 for fiscal year 2019. These costs will be offset by additional revenues to the Clean Energy Fund of $0 for fiscal year 2017, $370,943 for fiscal year 2018, and $370,943 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Section 386.870 – Electric Vehicle Charging Stations

The DE participates in Public Service Commission (PSC) regulatory cases to evaluate issues from a formal state policy and planning perspective consistent with its interests in clean, affordable, abundant energy, and its efficient use. DE is active in cases before the PSC related to energy efficiency and renewable energy and has responsibilities associated with certifying clean energy sources under Missouri's Renewable Energy Standard (RES) and net metering statutes. As such, DE assumes it would be involved in the implementation of this provision by monitoring and participating in cases that allow regulated electric utilities to install and recover costs associated with electric vehicle recharging stations that are partially powered by a clean energy source or offset with renewable energy credits.

Section 386.900 – Enhanced Net Metering and Easy Connection Act

DE assumes it would be involved in the implementation of this provision that modifies the existing net metering and interconnection requirements for regulated electric utilities. It is assumed there would be a rulemaking docket to set the process and details associated with this proposal. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop

proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where enhanced net metering provisions are considered.

Section 386.910 – Community Solar Act

DE assumes it would be involved in the implementation of the Community Solar Act provisions and participate in the rulemaking docket to set the process and details associated with this section. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where community solar facilities are established for purposes of determination of eligibility and certification under the RES. DE assumes this provision would result in additional RES certifications that would need to be performed.

Section 386.1000 – Clean Energy Tax Credit

DE is required to administer the Clean Energy Fund created by this section and promulgate rules to implement the Clean Energy Tax Credit. The proposal requires DE to receive applications and deposits, review and initially approve applications and required information within 30 days, review final approval applications, issue certificates and provide notifications, refund deposits for completed and disapproved projects, at least quarterly publish a list of the amount of tax credits initially and finally approved for each fiscal year and amounts reserved for future years, notify individual applicants of disapproved applications and approval within specified timeframes, notify applicants if the maximum amount of credits authorized have been allocated for the fiscal year and grant three-month extensions if needed for project completion with additional deposit payments.

**Long-range implications**

Fiscal impacts associated with the Clean Energy Tax Credits could continue until June 30, 2022. The authorization for the tax credit would sunset sooner if the 1,000 megawatt limit is reached. Economic benefits associated with construction of solar facilities would also have long-range implications.

**Assumptions and methodology used in arriving at state fiscal impact**

Section 386.870 – Electric Vehicle Charging Stations

For purposes of this fiscal note, DE assumes it would be involved in cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

Section 386.900 – Enhanced Net Metering and Easy Connection Act

For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

386.910-Community Solar Act

For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

The RES requires investor-owned utilities in Missouri to either produce green power or purchase Renewable Energy Certificates (RECs) for compliance. One REC represents 1 megawatt-hour of electricity generated from an eligible renewable energy resource. The in-state renewable energy generation can receive a multiplier of 1.25 for RES compliance purpose. DE has statutory authority to certify eligible renewable energy resources before RECs associated with those renewable energy resources can be used for RES compliance. DE does not charge any certification fees.

A community solar facility is defined as a solar photovoltaics facility with a capacity of 100-1000 kilowatts (kW) under this section. DE anticipates that in-state community solar facilities will request DE to certify their renewable energy resources/projects for the purpose of generating additional revenue from REC sales. DE's review primarily focuses on environmental impacts of renewable electric generation facilities on air, water or land use. The actual staff time spent on each application varies from one project to another. Solar photovoltaics facilities with a larger capacity typically require more staff time for reviewing their third-party environmental impact assessments in addition to verifying applicable environmental permits. Staff time will be also needed for data requests and discussion, data collection, database management, report production and website maintenance.

Current average staff time to review and certify renewable energy facilities ranges from 2 hours for small projects of a few hundred kW and 8-10 hours for larger projects of a few hundred kW to 1000 kW. It is assumed that small projects will account for two-thirds of the total community solar facilities and one-third will be larger projects. The weighted average of staff time (based on 2 hours for smaller projects and 8 hours for larger projects) is 4 hours (calculation: 2*{2/3}+8*{1/3)}). The number of projects at the assumed 200 kW ranges from 71 to 209 if the full amount of tax credits are used (Source: Mark Reading). By multiplying the average staff time of 4 hours, the annual staff time will range from 284 to 836 hours. For purposes of this fiscal note, DE assumes it could implement the provisions of this section related to RES environmental certifications with staff requested to implement the clean energy tax credit in Section 386.1000, RSMo (see below).

Section 386.1000 – Clean Energy Tax Credit

Retail sales of Missouri's utilities totaled $7.6 billion in 2014 (Source: Mark Reading; U.S. DOE/EIA). If all tax credits were used each year up to the cap of 1% of the annual statewide Missouri revenue of Missouri's retail electric suppliers, the decrease in the state's general revenues would be approximately $76 million/year from the effective date through June 30, 2022, depending on the schedule of implementation and applications submitted and approved. If the tax credits cumulatively result in installations of 1,000 megawatts prior to June 30, 2022, the tax credits would sunset. Note the actual tax credit cap would be based on revenues as determined by the Public Service Commission pursuant to Section 386.1000.4, RSMo, of this proposal. The tax credits would have unknown economic benefits from the construction and installation of solar energy systems.

If the full amount of tax credits were used each year and with consideration to the estimated cost and size of the projects, it is estimated there would be 4,933 residential project applications and 283 commercial project applications submitted for tax credit reviews (Source: Mark Reading). DE assumes that it would take approximately 2 hours each to do the initial review/approval of each application and another 2 hours to do the review and issuance of a certification after a project is completed for residential projects. Each of these would include clerical time for input/issuing letters/filing, etc. For larger commercial projects, an estimated 8 hours is anticipated for each of these two steps. See response above for detailed tasks required by the proposal.

19,732 hours for residential applications
4,528 hours for commercial applications
24,260 hours total

To implement this provision, DE assumes it will need a total of 12 FTE (including a portion of an FTE to implement Community Solar provisions, Section 386.910, RSMo, above) as follows:

8 – Energy Specialist I/II
2 – Energy Engineer II
2 – Administrative Office Support Assistant (AOSA)

- Energy Specialist I/II - Professional level staff to review the renewable energy project applications and to complete project evaluation activities.
- Energy Engineer II - Professional staff with expertise in engineering aspects of renewable energy projects to review the technical aspects of the projects, review of projects related to the Renewable Energy Standard and Renewable Energy Certificates and familiar with environmental impacts of renewable electric generation.
- AOSA - Staff to assist with the administrative requirements of the reviews such as drafting and sending communication to applicants, maintaining the database of applicants, and tracking status of applications.

An application deposit of 2 cents/watt is required to be paid to DE and deposited in the Clean Energy Fund. The proposal provides that DE may retain, for the purposes of administering this section, up to half of each application deposit to administer the

provisions of this proposal but would not exceed one hundred dollars for residential taxpayers and two hundred and fifty dollars for all other taxpayers. Using the assumption above, if the full amount of tax credits were used each year and with consideration to the estimated cost and size of the projects, it is estimated there would be 4,933 residential project applications (at an average size of 6.1 kW) and 283 commercial project applications (at an average size of 200 kW) submitted for tax credit reviews. The application deposit for a residential project would be $122 and DE could retain 50% or $61 for a total of $300,913. The application deposit for a commercial project would be $4,000 and DE could retain a maximum of $250/application for a total of $70,750.

For purposes of this fiscal note, DE assumes there could be up to $370,943 per year available from the Clean Energy Fund to administer the provisions of this proposal. As this is less than the estimated costs to implement the provisions of the proposal, DE assumes the shortfall would be from General Revenue funds. It is also assumed that General Revenue funds would be necessary to cover all DE's costs in FY 2017 until such time as sufficient application deposits are received.

DE also assumes that the Department of Economic Development's existing tax credit database will be used to track the applications. Some IT costs to generate the necessary reports are estimated.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated the responsibilities of this proposal appear to fall under the Division of Energy. With Executive Order 13-03 the Division of Energy was transferred from their department to the Missouri Department of Economic Development, by Type I transfer. Therefore, they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** estimate this petition will result in increased operating expenses of $243,282 for fiscal year 2017, $181,985 for fiscal year 2018, and $183,470 for fiscal year 2019.

The legislation creates an unknown, negative impact to total state revenue by creating a new tax credit.

**Section 386.1000**
The provisions of this section authorize the issuance of a clean energy tax credit to taxpayers incurring costs for the installation of a clean energy resource project. The taxpayer may claim 35 percent (35%) of the total cost of the project. The legislation caps the amount of tax credits at not more than one percent (1%) of the value of the electricity used in Missouri.

**Section 386.1000.15**
The department suggests changing the provisions pertaining to the transfer of the tax credit to the Department of Revenue because this is currently the department's responsibility based on a previously issued executive order.

**Administrative Impact:**
**Personal Tax:**
Personal Tax requires one (1) Revenue Processing Technician I (Range 10, Step L) for every 6,000 credits claimed.

**Corporate Tax:**
Corporate Tax requires three (3) Revenue Processing Technicians I (Range 10, Step L) for every 4,000 credits redeemed, 4,000 credits transferred, and for every 520 SB 1099 compliance mailings and correspondence.

**Integrated Tax System:**
The integrated tax system incurs additional costs of $43,680 to implement the provisions of this petition.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** (OA) indicated the proposal:

- Allows utilities to recover costs and add in its rate base costs to install electric vehicle charging stations intended to recharge electric motor vehicles, provided the energy consumed at each station is partially powered by a clean energy resource. This could result in a total state revenue reduction. OA defers to the DED for the estimated impact.
- Authorizes the use of net-metering, with certain limits to facilitate the use of customer-sited or controlled clean energy resources.
- Allows retail electric suppliers to recover any costs incurred in this act in that utility's rate structure. To the extent any such costs, lost revenues or lost earning are recovered, they shall not raise the customer retail rates by an average of more than 1% in any year. This could impact total state revenue. OA defers to the PSC for the specific impact.
- Allows participation in community solar facilities.
- Enacts a "Clean Energy" income tax credit for an amount equal to 35% of the total cost of the clean energy project. The annual cap on the credits is 1% of the value of electricity used in Missouri as determined by the PSC. This could result in a significant total state revenue reduction. This would also impact the calculation under Article X, Section 18(e), of the Missouri Constitution. OA understands that the DED and the PSC may have the data to estimate the impact, therefore OA defers to DED and the PSC.
- Establishes the Clean Energy Fund, which is to be used to advance clean energy through the efficient administration of the Clean Energy Tax Credit Program. This will result in an increase to total state revenue. The revenue in the fund will come from various application deposits, but could also come from appropriated moneys, gifts, contributions, grants or bequests. The DED will administer this fund. OA defers to the DED and the PSC for the estimated impact of the application deposits.

This proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had

historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson** indicated because their city does not own any utility except for wastewater, there would be no fiscal impact should this petition become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from **University of Missouri** indicated they have not seen cost impact studies on this initiative from their electric utility suppliers, but they do not believe this will have a significant impact on their university.

Officials from the **Public Service Commission** (PSC) indicated:

Section 386.870 allows an electrical corporation to recover its costs and add in its rate base prudently incurred costs to install electric vehicle charging stations provided the energy consumed is partially powered by a clean energy resource or offset with renewable energy credits. It is not clear if the renewable energy credits can be used to meet Section 386.870 and also used to meet the utility's renewable portfolio standard in Section 393.1030.

Section 386.870 also states investments made pursuant to this section shall not raise the retail rates charged to customers of electrical corporations by more than one half of one percent in any year. The PSC suggests this requirement be clarified. A similar cap is placed on the renewable mandate of Section 393.1045. It has been over 7 years since the enactment of this provision and parties continue to argue its meaning before the PSC.

Section 386.900 uses terms such as "commission-regulated supplier" and "public utilities" to describe suppliers that are subject to PSC jurisdiction. The PSC respectfully suggests the terms be used consistently.

Section 386.900 requires the PSC to promulgate rules by June 1, 2017 and Section 386.910 requires the PSC to adopt rules by August 1, 2017. The PSC respectfully suggests these dates may be aggressive for final rules to be effective.

Section 386.900.6.(2) references "subsection 4 of this section". This appears to be an inaccurate cross-reference as there is no subsection 4 of the section.

Section 386.900.12 says the estimated generating capacity of all net metering systems shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate, but the renewable energy portfolio deals with "energy" not "capacity".

Section 386.900.14 says any costs, including lost revenues and lost earnings opportunities. The PSC respectfully suggests "lost revenues" and "lost earnings opportunities" be clearly defined as to how to calculate those amounts. The interpretation and calculation of these terms has been the subject of on-going disagreement as they relate to the Missouri Energy Efficiency Investment Act.

Section 386.900.14 states the commission may evaluate the value of distributed generation and clean energy resources, but it is not clear how to determine those values.

Section 386.900.14 states any costs, lost revenues or lost earnings recovered under this section shall not raise the retail rates charged to customers by an average of more than one percent in any year. The PSC suggests this requirement be clarified. A similar cap is placed on the renewable mandate of Section 393.1045. It has been over seven years since the enactment of this provision and parties continue to argue over its meaning before the commission.

Section 386.910.5 states that when a community solar facility is placed in service, it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years. It appears this provision would require the utility ratepayers to fund the facility at the current rate for 20 years without adjustment for changes in the utility's costs or revenues that would occur over the 20 year period. It is also not clear if the cost-of-solar value contemplates an earnings opportunity for the Commission-regulated utility.

Section 386.1000 discusses a "clean energy tax credit". It is not clear why the tax credit is in the PSC statute and not in a tax-related statute.

Officials from the **Missouri Joint Municipal Electric Utility Commission** (MJMEUC) indicated:

Missouri Public Utility Alliance (MJMEUC is part of the alliance) through its electric division represents 65 of the 86 cities with municipal electric utilities.

After careful review and analysis, they believe that implementation would reduce municipal electric utility revenues somewhere between $17,000,000 and $23,900,000 annually based on:

1. Varying changes to the state's net metering law.
2. Greater penetration of solar panels throughout the state because of a state funded tax rebate for their purchase and installation.

Other proposed changes would increase the cost of city operations by approximately $3,435,000.

Several of these proposals modify the state's net metering law to require cities to carry forward to subsequent months excess customer generation. Current software is not designed to provide this functionality and each city would have to contract with their own vendor to modify their billing software. In addition several petition versions require the PSC to approve municipal rate increases by class based on actual expenses. This will necessitate regular cost of service studies and for cities to hire attorneys with experience before the PSC to present their cases for rate increases. In order to calculate costs they have contacted firms in both disciplines to provide estimated costs for these services.

Total estimated costs are as follows:

| | |
|---|---|
| Lost Revenues: | $23,900,000 |
| Service Study: | 1,505,000 |
| Attorney, PSC Experience: | 410,000 |
| Billing Modification: | 1,520,000 |
| TOTAL | $27,335,000 |

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art X Sec 16) that reduces income or increases costs without "full state financing", they anticipate that the costs would be reflected in the final state cost when the fiscal note is completed. They have no idea what litigation costs might be necessary.

They would offer the following for potential utilization in the final fiscal note:

"….. *reduce revenues for municipal electric utilities by (fill in the blank), increase operational costs by approximately (fill in the blank) and create unknown litigation costs at both the state and local level over Mo. Const. Art. X Sec. 16."*

**Mark R. Reading** provided the following information as a proponent of this initiative petition.

Submitted by:

_____

Mark R. Reading
2604 Lakeland Drive
Jefferson City, MO 65109
(573) 694-6828
*Primary Contact Person*

**Clean Energy Independence and Investment Act of 2016 - Versions 37, 39, 41, 43, and 45**
**Sec. of State # 202, 204, 206, 208, 210**

**Proposed Statement of Fiscal Impact**
**for Clean Energy Independence and Investment Act of 2016 - Versions 37, 39, 41, 43, and 45**
**Sec. of State # 202, 204, 206, 208, 210**

**Fiscal Impact Information Submitted Pursuant to Section 23.140.2**

The amendment's estimated impact decreases state revenue between $32 to $64 million depending upon the speed of up to $225 million in additional clean energy project construction and implementation by the Department of Economic Development, residential homeowners, and businesses. Local revenue is estimated to grow between $2.6 to $5.1 million.

| ESTIMATED NET EFFECT ON STATE FUNDS | | |
|---|---|---|
| **Fund Affected** | **FY 2017** | **FY 2018** |
| **General Revenue** | $0 | From ($33,037,828) to ($66,019,325) |
| | | |
| **Total Estimated Net Effect on All State Funds** | $0 | From ($32,045,806) to ($64,028,436) |
| **ESTIMATED NET EFFECT ON LOCAL FUNDS** | | |
| Local Funds | $0 | From $2,553,188 to $5,128,651 |
| | | |
| **Total Estimated Net Effect on All Local Funds** | $0 | From $2,553,188 to $5,128,651 |

**SUMMARY OF VERSIONS OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT**

Nine additional versions of the Clean Energy Independence and Investment Act of 2016 have been submitted for review. A summary of which topics are in each version is provided below.

Two additional versions of the Clean Energy Independence and Investment Act of 2016 have been submitted for review. A summary of which topics are in each version is provided below.

**CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT OF 2016**
**SUMMARY OF VERSIONS**

| Petition version | 386.870 - Electric vehicle | 386.890 - Net metering | 386.900 - Enhanced net metering | 386.910 - Community Solar | 386.1000 - Tax credits |
|---|---|---|---|---|---|
| | | | | | |
| **1% Electric Versions** | | | | | |
| Version 37 | N/A | X | X | X | X |
| Version 39 | X | X | X | X | X |
| Version 41 | X | Deletes | X | X | X |
| Version 42 | N/A | N/A | N/A | N/A | X |
| Version 43 | X | N/A | N/A | X | X |
| Version 44 | X | X | X | N/A | X |
| Version 45 | N/A | X | X | X | X |
| | | | | | |
| **$50 million cap Versions** | | | | | |
| Version 38 | N/A | X | X | N/A | X |
| Version 40 | X | X | X | X | X |

## ANALYSIS OF FISCAL IMPACT OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT

The fiscal impact analysis contained herein focuses on estimating the fee and tax revenue resulting from the statutory changes proposed in the initiative petition. Table 1 summarizes the revenue estimated by source and by fiscal year. Page and Table numbers are provided to help readers find specific subjects.

**Table 1 - Summary of Fiscal Impact by Fund**

| Page # | Table # | Purpose | FY 2017 | FY 2018 - low range | FY 2018 - high range | Revenue Type |
|---|---|---|---|---|---|---|
| 4-12 | Table 10 | Tax credit | $0 | ($39,494,829) | ($78,989,658) | Income |
| 14-15 | Table 14 | Taxes from clean energy tax credit construction | $0 | $4,429,063 | $8,858,126 | Various |
| 16-18 | Table 17 | Taxes from community solar construction | $0 | $2,027,938 | $4,112,207 | Various |
| | | subtotal General Revenue Fund | $0 | ($33,037,828) | ($66,019,325) | |
| | | | | | | |
| 8-13 | Table 11 | Clean Energy Fund | $0 | $185,926 | $371,663 | Application deposit |
| | | | | | | |
| 14-15 | Table 14 | Prop C sales tax - clean energy | $0 | $451,369 | $902,739 | Sales tax |
| 16-18 | Table 17 | Prop C sales tax - community solar | $0 | $206,669 | $419,078 | Sales tax |
| | | subtotal Prop C | $0 | $658,038 | $1,321,817 | |
| | | | | | | |
| 14-15 | Table 14 | Conservation sales tax - clean energy | $0 | $56,421 | $112,842 | Sales tax |
| 16-18 | Table 17 | Conservation sales tax - community solar | $0 | $25,834 | $52,385 | Sales tax |
| | | subtotal Conservation | $0 | $82,255 | $165,227 | |
| | | | | | | |
| 14-15 | Table 14 | Parks and Soils sales tax - clean energy | $0 | $45,137 | $90,274 | Sales tax |
| 16-18 | Table 17 | Parks and Soils sales tax - community solar | $0 | $20,667 | $41,908 | Sales tax |
| | | subtotal Parks and Soils | $0 | $65,804 | $132,182 | |
| | | | | | | |
| | | subtotal Other State Funds | $0 | $992,023 | $1,990,889 | |
| | | | | | | |
| | | subtotal all state funds | $0 | ($32,045,806) | ($64,028,436) | |
| | | | | | | |
| 14-15 | Table 14 | Local Sales Tax - clean energy | $0 | $1,751,314 | $3,502,627 | Sales tax |
| 16-18 | Table 17 | Local Sales Tax - community solar | $0 | $801,875 | $1,626,024 | Sales tax |
| | | subtotal Local Funds | $0 | $2,553,188 | $5,128,651 | |
| | | | | | | |
| | | Grand Total State and Local | $0 | ($29,492,617) | ($58,899,785) | |

**Clean Energy tax credits**

The proposal creates a clean energy tax credit in Chapter 386 RSMo. The annual level of tax credits for each calendar year shall not exceed one percent of the annual statewide Missouri revenue of Missouri retail electric suppliers. The Public Service Commission (PSC) is required to determine the revenue for retail electric suppliers using available reports, including FERC Form Number 1 as allowed by 18 CFR § 141 or an equivalent determined by the PSC.

The data for this calculation is gathered and published by the U.S. Energy Information Administration on its website.[1] Table 2 shows the revenues reported by each Missouri entity in 2014. Retail sales totaled $7.6 billion in 2014 for the 74 entities.

**Table 2**
**2014 Utility Bundled Retail Sales - Total**
(Data from forms EIA-861- schedules 4A & 4D and EIA-861S)

| Entity | Ownership | Revenues (Thousands Dollars) |
|---|---|---|
| Atchison-Holt Electric Coop | Cooperative | $6,727 |
| Barry Electric Coop | Cooperative | $16,654 |
| Barton County Elec Coop, Inc | Cooperative | $16,262 |
| Black River Electric Coop - (MO) | Cooperative | $42,554 |
| Boone Electric Coop | Cooperative | $55,335 |
| Callaway Electric Cooperative | Cooperative | $24,618 |
| Carroll Electric Coop Corp - (AR) | Cooperative | $14,104 |
| Central Missouri Elec Coop Inc | Cooperative | $25,350 |
| Chillicothe Municipal Utils | Municipal | $10,035 |
| Citizens Electric Corporation - (MO) | Cooperative | $123,087 |
| City Utilities of Springfield - (MO) | Municipal | $249,286 |
| City of Ava - (MO) | Municipal | $2,894 |
| City of Cameron | Municipal | $7,728 |
| City of Carthage - (MO) | Municipal | $24,493 |
| City of Columbia - (MO) | Municipal | $109,927 |
| City of Farmington - (MO) | Municipal | $18,390 |
| City of Fulton - (MO) | Municipal | $14,228 |
| City of Hannibal - (MO) | Municipal | $25,785 |
| City of Harrisonville - (MO) | Municipal | $12,072 |
| City of Independence - (MO) | Municipal | $135,338 |
| City of Jackson - (MO) | Municipal | $16,281 |
| City of Kennett - (MO) | Municipal | $10,988 |
| City of Kirkwood - (MO) | Municipal | $21,547 |
| City of Lamar - (MO) | Municipal | $6,961 |
| City of Lebanon - (MO) | Municipal | $22,949 |
| City of Macon - (MO) | Municipal | $9,740 |
| City of Marshall - (MO) | Municipal | $17,390 |
| City of Monett - (MO) | Municipal | $20,534 |
| City of Mount Vernon - (MO) | Municipal | $6,790 |
| City of Nixa - (MO) | Municipal | $14,132 |
| City of Poplar Bluff - (MO) | Municipal | $31,686 |
| City of Rolla - (MO) | Municipal | $27,694 |
| City of Sikeston - (MO) | Municipal | $17,528 |

| | | |
|---|---|---|
| City of Sullivan - (MO) | Municipal | $9,645 |
| City of West Plains - (MO) | Municipal | $15,208 |
| Clay County Electric Coop Corp | Cooperative | $96 |
| Co-Mo Electric Coop Inc | Cooperative | $46,302 |
| Consolidated Electric Coop | Cooperative | $21,936 |
| Crawford Electric Coop, Inc | Cooperative | $30,705 |
| Cuivre River Electric Coop Inc | Cooperative | $105,621 |
| Empire District Electric Co | Investor Owned | $456,324 |
| Farmers Electric Coop, Inc - (MO) | Cooperative | $28,697 |
| Gascosage Electric Coop | Cooperative | $17,074 |
| Grundy Electric Coop, Inc | Cooperative | $12,214 |
| Howard Electric Coop | Cooperative | $6,057 |
| Howell-Oregon Elec Coop, Inc | Cooperative | $38,226 |
| Intercounty Electric Coop Assn | Cooperative | $53,855 |
| KCP&L Greater Missouri Operations Co. | Investor Owned | $802,845 |
| Kansas City Power & Light Co | Investor Owned | $824,706 |
| Laclede Electric Coop, Inc | Cooperative | $63,330 |
| Lewis County Rural E C A | Cooperative | $13,534 |
| Macon Electric Coop | Cooperative | $23,795 |
| Missouri Rural Electric Coop | Cooperative | $17,812 |
| New-Mac Electric Coop, Inc | Cooperative | $38,876 |
| North Central MO Elec Coop Inc | Cooperative | $14,098 |
| Osage Valley Elec Coop Assn | Cooperative | $28,034 |
| Ozark Border Electric Coop | Cooperative | $68,293 |
| Ozark Electric Coop Inc - (MO) | Cooperative | $52,354 |
| Pemiscot-Dunklin Elec Coop Inc | Cooperative | $19,856 |
| Platte-Clay Electric Coop, Inc | Cooperative | $51,737 |
| Ralls County Electric Coop | Cooperative | $12,711 |
| SE-MA-NO Electric Coop | Cooperative | $9,438 |
| SEMO Electric Cooperative | Cooperative | $33,195 |
| Sac-Osage Electric Coop Inc | Cooperative | $16,676 |
| Southwest Electric Coop, Inc | Cooperative | $58,853 |
| Sunnova | Behind the Meter | $1 |
| Three Rivers Electric Coop | Cooperative | $36,751 |
| Trenton Municipal Utilities - (MO) | Municipal | $8,647 |
| Tri-County Electric Coop Assn | Cooperative | $12,512 |
| Union Electric Co - (MO) | Investor Owned | $3,112,534 |
| United Electric Coop, Inc - (MO) | Cooperative | $21,579 |
| Webster Electric Coop | Cooperative | $28,828 |
| West Central Electric Coop Inc - (MO) | Cooperative | $25,967 |
| White River Valley El Coop Inc | Cooperative | $86,488 |
| Adjustment 2014 | Other | $159,914 |
| Total | | $7,644,407 |

Source: http://www.eia.gov/electricity/sales_revenue_price/
Table 10: All Sectors - Class of ownership, number of consumers, sales, revenue, and average retail price by State and utility:

Table 3 shows the data series by year from 1990 through 2014 reported by the U.S. Energy Information Administration.[2] The average annual increase in these revenues is 3.33 percent.

**Table 3**
**Revenue from Sales to Ultimate Customers**
**(Thousand Dollars) for Missouri, 1990-2014**

| Year | Total Revenue | $ Growth over previous year | % Growth over previous year |
|---|---|---|---|
| 1990 | $3,484,572,000 | | |
| 1991 | $3,653,391,000 | $1,688,190 | 4.8% |
| 1992 | $3,489,099,000 | ($1,642,920) | (4.5%) |
| 1993 | $3,709,661,000 | $2,205,620 | 6.3% |
| 1994 | $3,749,115,000 | $394,540 | 1.1% |
| 1995 | $3,891,751,000 | $1,426,360 | 3.8% |
| 1996 | $3,961,895,000 | $701,440 | 1.8% |
| 1997 | $4,005,066,000 | $431,710 | 1.1% |
| 1998 | $4,196,674,000 | $1,916,080 | 4.8% |
| 1999 | $4,185,713,000 | ($109,610) | (0.3%) |
| 2000 | $4,370,246,000 | $1,845,330 | 4.4% |
| 2001 | $4,414,434,000 | $441,880 | 1.0% |
| 2002 | $4,565,227,000 | $1,507,930 | 3.4% |
| 2003 | $4,470,188,000 | ($950,390) | (2.1%) |
| 2004 | $4,494,108,000 | $239,200 | 0.5% |
| 2005 | $4,959,849,000 | $4,657,410 | 10.4% |
| 2006 | $5,169,747,000 | $2,098,980 | 4.2% |
| 2007 | $5,614,317,000 | $4,445,700 | 8.6% |
| 2008 | $5,768,459,000 | $1,541,420 | 2.7% |
| 2009 | $5,871,973,000 | $1,035,140 | 1.8% |
| 2010 | $6,698,608,000 | $8,266,350 | 14.1% |
| 2011 | $7,008,476,000 | $3,098,680 | 4.6% |
| 2012 | $7,029,475,000 | $209,990 | 0.3% |
| 2013 | $7,538,092,000 | $5,086,170 | 7.2% |
| 2014 | $7,644,407,000 | $1,063,150 | 1.4% |
| | | Avg. annual growth | 3.33% |

Source: http://www.eia.gov/electricity/sales_revenue_price/
Supplemental Data: 1990 - 2013 Revenue from Retail Sales of Electricity by State by Sector by Provider (EIA-861)

For purposes of this fiscal analysis it is assumed that the Public Service Commission will use the most recent available data for establishing the annual cap. The state is currently in FY 2016 and the most recent available data is from 2014. Thus, for the fiscal periods included for consideration by the State Auditor's Office the FY 2017 cap will be established using 2015 data published by the U.S. Energy Information Administration. Similarly, the FY 2018 cap will be established using 2016 data. In this manner the cap for each calendar year will be established eight months before it begins instead of four months after it starts.

**Table 4**
**Data and Timeline for Establishing Annual Tax Credit Cap**

| Data available | Time period of data | CY year for the cap |
|---|---|---|
| April 2015 | 2014 actual data | CY 2016 |
| April 2016 | 2015 actual data | CY 2017 |
| April 2017 | 2016 actual data | CY 2018 |

As shown in Table 3 the average annual growth rate from 1990 to 2014 was 3.33 percent. Table 5 assumes that the average annual growth rate will carry forward for the next several years. The clean energy tax credits cap is estimated at $76.4 million for CY 2016, $79 million for CY 2017 and $81.6 million for CY 2018.

**Table 5**
**Clean Energy Tax Credit Estimate of Cap**

| Calendar Year for cap | Fiscal Year for likely redemption of credits | Revenue data | Total Revenue | Tax credit at 1.0% |
|---|---|---|---|---|
| CY 2016 | FY 2017 | 2014 actual data | $7,644,407,000 | $76,444,070 |
| CY 2017 | FY 2018 | 2015 projection | $7,898,965,753 | $78,989,658 |
| CY 2018 | FY 2019 | 2016 projection | $8,162,001,313 | $81,620,013 |

For purposes of the fiscal note the State Auditor's office asks that estimates be provided for the first two fiscal years of implementation which are FY 2017 and FY 2018 since the provisions of the proposal would go into effect in December 2016. Almost all taxpayers file their taxes on the April 15th deadline. Therefore, CY 2016 taxes would be due on April 15, 2017 which is in FY 2017 as shown in Table 5.

The proposal establishes a cap beginning for CY 2016. However, the provisions of the act will go into effect in December 2016. Paragraph 13 of the proposed section 386.1000 states that any taxpayer verified by the Department of Economic Development to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with the provisions shall be deemed eligible for the tax credit. This allows for the Department of Economic Development to include projects in 2016 before its processes are in place. Paragraph 17 of the proposed section 386.1000 provides that the Department of Economic Development shall issue rules necessary to administer the act. In addition, paragraph 10 gives the Department of Economic Development 45 days to notify an applicant of approval after the application is submitted.

Issuing rules is at best a months long process. The 45 day processing time allowed for any completed application filed after the rules are adopted makes it very unlikely that the Department of Economic Development will issue any CY 2016 tax credits before April 15, 2017 that would affect the taxpayers initial tax filing and reduce taxes paid during FY 2017. Tax credits issued between April 15 and June 30, 2017 would require an amended filing which also would be unlikely to be completed by June 30, 2017. Thus, this fiscal analysis assumes a de minimis or no impact on FY 2017 general revenue tax collections. Any CY 2016 tax credit impact would at most impact the FY 2018 tax collections through amended returns or through CY 2017 taxes.

**Application Deposit revenue**

The proposed Section 386.1000 RSMo requires that taxpayers submit an application to the Department of Economic Development to receive approval for tax credits (paragraph 7). Each application must include a two cent per watt application deposit. The total revenue from application deposits is dependent upon:

- the number of projects that will be submitted;
- the number of watts generated from all of those projects

Each of these is affected by the:

- percentage of residential v commercial projects
- number of kW generated by residential v commercial projects
- cost of residential and commercial projects
- total construction completed
- any phase-in period as the Department of Economic Development institutes rules and prepares the program
- any phase-in period as the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available

All of these factors must be estimated and evaluated in order to calculate the amount of application deposit revenue that will be received by the Department of Economic Development.

Tax credits are available to both residential and commercial projects. Paragraph 5 of the proposed Section 386.1000 RSMo provides that no electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit.

The Missouri Department of Economic Development, Division of Energy published a Missouri Comprehensive State Energy Plan in October 2015. The report states that half of the installed net-metered PV solar is residential and the other half commercial customers.[3] However, the report also indicates that there are challenges that face residential customers making it more difficult and expensive to install solar projects. These challenges include local ordinances or homeowner's association rules the may prohibit installation or require design changes that decrease efficiency or add to the cost.[4] In addition, over the past decade an industry has developed to assist with the financing of solar projects. Such financing alternatives are easier to obtain by commercial projects because of their size, scope, and estimated return on investment.[5] Commercial projects can have a longer-term outlook than homeowners who may not know how long they may live in their current house. The Missouri State Energy Plan indicates that residential rooftop solar is a relatively expensive energy option due to these and other factors.[6]

For all of the reasons identified in the preceding paragraph, for purposes of this fiscal analysis residential solar installation is assumed to be 40% of the total solar construction. Commercial solar installation is assumed to be 60% of the total solar construction. This fiscal analysis has already indicated that 2016 solar construction will likely not be affected by the approval of the petition by voters in November 2016. Thus, CY 2017 is the first full year of impact. Tax credits resulting from such construction will first affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office.

The next factor to consider is the number of kW generated by residential and commercial projects. A recent report on photovoltaic system pricing trends published by the U.S. Department of Energy indicates that the median residential project is 6.1 kW while the modeled commercial system is 200 kW. Paragraph 5 of the proposed section 386.1000 establishes a 200 kW limit on installations that are authorized for tax credits.[7] For purposes of this fiscal analysis it is assumed that all commercial projects will be at the 200 kW size and that residential projects will be 6.1 kW. Paragraph 7 of the proposed section 386.1000 requires a two cent per watt application deposit fee. Table 6 shows that there would be a $122 application deposit required for the median residential project. There would be a $4,000 application

deposit required for the 200 kW commercial project. A portion of this revenue will be available to the department for operational purposes as shown later in Table 11.

**Table 6**
**Application Deposit Required for Projects**

| Construction type | Project size in kW | Project size in watts | Application deposit for project at 2 cents per watt |
|---|---|---|---|
| Residential | 6.1 | 6,100 | $122 |
| Commercial | 200.0 | 200,000 | $4,000 |

The recent report on photovoltaic system pricing trends published by the U.S. Department of Energy also discusses the historical, recent, and near-term pricing of solar projects.[8] Project cost information was obtained on more than 400,000 systems in 42 states. The modeled system prices identified in the report showed a Q1 2015 residential system price of $3.12/watt and a commercial 200 kW system cost of $2.17/watt. These were reductions in price of from Q4 2013 of 7% and 19% respectively. The report also indicates that prices for residential and commercial PV systems have decreased by 6-12% per year, on average, from 1998-2014. In addition, the report indicates that analysts project the system prices will fall 16-33% for residential systems between 2014-2020.

Table 7 projects residential solar project costs. Projections are made to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 7 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $3,000/kW for residential solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 6.1 kW residential project is estimated at $18,300.

**Table 7**
**Residential Solar Project Estimate**

| | Cost of Residential project per kW | Cost of Residential project at 6.1 kW project size |
|---|---|---|
| CY 2015 | $3,120 | $19,032 |
| CY 2016 | $3,039 | $18,538 |
| CY 2017 | $2,960 | $18,056 |
| average cost of CY16 and CY17 estimates | $3,000 | $18,300 |

The modeled commercial system price identified in the report showed a Q1 2015 commercial 200 kW system cost of $2.17/watt. However, the national average cost of commercial projects is affected by states with more mature solar markets and industries and large companies, like Wal-Mart and Ikea, that have moved to install significant solar projects on their facilities. The first Missouri commercial systems are less likely to meet the $2.17/watt cost projections. Table 8 uses other data in the report to amend the estimate of commercial solar project costs. The report shows that the price of the modeled 200 kW commercial system has fallen from $2.68/watt to $2.17 between 2013 Q4 and 2015 Q1. The mid-point of that decrease is $2.425/watt. Further, it is assumed that the cost of Missouri projects will be higher by 2.6%, or one-year's worth of the low end of the price declines found in the report. The result is that this analysis will assume that the Missouri 2015 Q1 price is $2.488/watt.

**Table 8**
**Commercial Solar Project Cost Estimate per kW**

| | |
|---|---|
| 2013 Q4 | $2,680 |
| 2015 Q5 | $2,170 |
| Mid-point | $2,425 |
| One-year behind (2.6%) | $2,488 |

Table 9 then projects the $2,488/kW 2015 Q1 cost to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 9 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $2,392/kW for commercial solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 200 kW commercial project is estimated at $478,400.

**Table 9**
**Commercial Solar Project Estimate**

| | Cost of Commercial project per kW | Cost of Commercial project at 200 kW project size |
|---|---|---|
| CY 2015 | $2,488 | $497,600 |
| CY 2016 | $2,423 | $484,600 |
| CY 2017 | $2,360 | $472,000 |
| average cost of CY16 and CY17 estimates | $2,392 | $478,400 |

The analysis so far has identified:

- a $79 million estimate of the maximum clean energy tax credits using one percent of the annual statewide Missouri revenue of Missouri retail electric suppliers as directed by paragraph 1 of the proposed section 386.1000.
- an estimate that 40% of total solar construction would be residential and 60% commercial
- project cost estimates of $18,300 for 6.1 kW residential projects and $478,400 for 200 kW commercial projects

The final factor to calculate before arriving at the amount of application deposit revenue is any phase-in period as the Department of Economic Development issues rules and prepares its processes and the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available. The Missouri State Energy plan reports that Missouri currently has 111 MW of installed solar PV capacity. The plan also reports that there is 42.8 MW of installed net-metered PV solar developed over the years largely as a result of rebates from large utility companies in Missouri.

The proposal being analyzed establishes a statutory program of clean energy tax credits that will sunset after the Department of Economic Development certifies that 1,000 MW of capacity has been added as a result of the tax credits but no later than June 30, 2022. The 1,000 MW target represents a dramatic increase in current capacity.

The Missouri State Energy plan provides a wealth of information about the current state of "green jobs" and the solar industry in Missouri. The report includes the following along with other findings about the industry.

- Missouri had over 100,000 "green jobs" according to a 2009 study.[9]
- Missouri was identified as 10th in the nation for growth in clean energy and clean transportation jobs in 2013.[10]

- $187 million was invested by Missouri's solar industry in 2014 to install solar photovoltaic systems for residential, commercial, and utility use.[11]
- There are more than 97 solar companies at work throughout the supply chain in Missouri, employing 2,500 people including manufacturers, contractors, installers, project developers, distributors.[12]
- Missouri could create 8,500 new jobs to design, install, and operate energy efficiency measures by 2025 according to a 2011 study.[13]
- In 2010 Missouri ranked 6th in the nation in photovoltaic jobs.[14]

The clean energy tax credit does not sunset until the 1,000 MW target of additional capacity is met but no later than June 30, 2022. The size and the long-term nature of the 1,000 MW target should encourage the development of the Missouri solar industry even after it sunsets. It should also result in long-term planning and the build out of a native Missouri solar industry. The target also provides an incentive for the industry to meet the growth potential described in the Missouri State Energy Plan.

In the long-term the impact of the 1,000 MW target will grow and build the industry. In addition, investment in solar will allow longer term benefits in reduced fuel usage, cleaner air, better health and the resulting lower costs among other things. The Missouri State Energy Plan identifies the public health impacts of various energy sources with clean energy sources providing significant positive benefits over other sources.[15] A 2013 study of Hawaii's solar tax credit program found that the State recovered the full cost of the tax credit in 9 to 11 years - a rate of return on its investment ranging from 8.9% to 10.3%.[16] In addition, the study found that for each dollar spent by Hawaii on tax credits the amount of additional sales stimulated was $34.69 for residential solar PV and $55.03 for commercial PV.

However, the fiscal note format required for initiative petitions focuses on the short-term revenue and costs. Thus, the longer-term benefits are not included in this fiscal analysis. As explained elsewhere in this fiscal analysis the impact of the availability of tax credits is somewhat dependent upon the speed with which the Department of Economic Development issues the necessary rules and regulations, develops and makes available the application forms, and the industry's reaction to voter approval and the department's actions. Thus, two alternatives are calculated to create a possible range for the likely outcome in the short-term.

The first alternative assumes that construction will be sufficient to use half of the $79 million in possible tax credits. The first alternative assumes that the program is not implemented until July 2017 thus reducing its effect by half in CY 2017. The second alternative assumes that construction will be sufficient to use all of the $79 million in possible tax credits. The second alternative assumes that the industry is energized by the tax credit and pushes forward with construction under the assumption that the Department of Economic Development will recognize all projects that have been started after voter approval of the proposal.

Table 10 takes that information and shows two possible alternatives for CY 2017.

- Construction leading to use of **half** the available tax credits ($39.5 million) - A total of $112.8 million in construction would be required to generate $39.5 million in tax credits. Residential construction of $45.1 million (assuming 40% of construction) would result in $15.8 million in tax credits. Commercial construction of $67.7 million (assuming 60% share of construction) would result in $23.7 million in tax credits.

- Construction leading to use of **all** the available tax credits ($79 million) - **A total of $225.7 million in construction would be required to generate $79 million in tax credits**. Residential construction of $90.3 million (assuming 40% of construction) would result in $31.6 million in tax credits. Commercial construction of $135.4 million (assuming 60% share of construction) would result in $47.4 million in tax credits.

In addition, using the average cost and size of projects it is possible to compute the number of residential and commercial projects that will be constructed. A total of 2,608 projects would be constructed with half

the tax credits (2,466 residential, 142 commercial). A total of 5,216 projects would be constructed with all the tax credits (4,933 residential, 283 commercial).

**Table 10**
**Number of Projects using Half or All of Tax Credit Cap**

| | CY 2017 construction needed for half of tax credits to be used in FY 2018 | CY 2017 construction needed for all of tax credits to be used in FY 2018 |
|---|---|---|
| Tax credits estimate from CY 2017 construction | $39,494,829 | $78,989,658 |
| Amount of construction value needed to generate value of 35% tax credits | $112,842,369 | $225,684,737 |
| | | |
| % of residential per year of credits issued | 40.0% | 40.0% |
| % of commercial per year of credits issued | 60.0% | 60.0% |
| | | |
| Tax credits by type of construction | | |
| Residential | $15,797,932 | $31,595,863 |
| Commercial | $23,696,897 | $47,393,795 |
| Total amount by type | $39,494,829 | $78,989,658 |
| | | |
| Construction value by type of construction | | |
| Residential | $45,136,948 | $90,273,895 |
| Commercial | $67,705,421 | $135,410,842 |
| Total amount by type | $112,842,369 | $225,684,737 |
| | | |
| Cost of solar projects per project | | |
| Residential (6.1 kW/project) | $18,300 | $18,300 |
| Commercial (200 kW/project) | $478,400 | $478,400 |
| | | |
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |

Table 10 shows a significant number of projects that would be completed throughout the state as a result of the clean energy tax credit. These numbers are possible for a variety of reasons identified in the Missouri State Energy Plan.

- Missouri households use about 12% more than the average U.S. household, thus projects would put real dollars into Missourians pockets for other uses and spending.[17]
- Nationally about ten percent of small business owners state that energy is their single biggest cost according to the National Federation of Independent Business. The same report indicates that an additional 25% of small business owners claim that energy is one of their top three business costs.[18] Thus, clean energy projects that reduce energy usage make businesses more profitable, allow for expansion, and could lead to higher wages for employees.
- Businesses can lower costs through on-site generation while also achieving other benefits.[19]
- Significant operational savings are possible through energy efficiency projects with rates of return as high as 25%.[20]

- A wealth of financing alternatives now exist for clean energy projects.[21]
- "Approximately 60% of the largest U.S. businesses have set public climate and energy goals to increase their use of renewable energy."[22]

Table 11 calculates the amount of application deposit revenue that the Department of Economic Development would receive given the number of projects identified in Table 10. If applications are submitted for projects equivalent to half the available tax credits then the department would receive $0.9 million in application deposit revenue. If applications are submitted for projects equivalent to all the available tax credits then the department would receive $1.7 million in application deposit revenue. The proposal allows the department to keep some of the revenue for its operational purposes. Table 11 shows that it can keep up to $61 for residential applications (half of the anticipated deposit in this analysis) and up to $250 for all other applications. The net non-refunded revenue that the department will have available for its operations is $185,926 or $371,663.

**Table 11**
**Application Deposit Revenue**

| | Application Deposit Estimate for half of tax credits for applications FY 2018 | Application Deposit Estimate for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |
| | | |
| Application deposit required per project | | |
| Residential | $122 | $122 |
| Commercial | $4,000 | $4,000 |
| | | |
| Application deposit revenue | | |
| Residential | $300,852 | $601,826 |
| Commercial | $568,000 | $1,132,000 |
| Total revenue by type | $868,852 | $1,733,826 |
| | | |
| | | |
| Application revenue kept per project for Department Operations | | |
| Residential | $61 | $61 |
| Commercial | $250 | $250 |
| | | |
| Application deposit revenue available for Department Operations | | |
| Residential | $150,426 | $300,913 |
| Commercial | $35,500 | $70,750 |
| Total amount by type | $185,926 | $371,663 |

Table 12 shows the amount of solar capacity added by the number of projects identified in the previous tables given the given size of residential and commercial projects. A total of 43.4 MW would be added in solar capacity as a result of projects equivalent to half the available tax credits which would be 4.3% of the 1,000 MW goal that when achieved will sunset the tax credits. A total of 86.7 MW would be added in

solar capacity as a result of projects equivalent to all the available tax credits which would be 8.7% of the 1,000 MW goal that when achieved will sunset the tax credits.

**Table 12 Amount of Solar Capacity Added**

| | Capacity added for half of tax credits for applications FY 2018 | Capacity added for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |
| | | |
| kW generated by construction | | |
| Residential (6.1 kW/project) | 15,043 | 30,091 |
| Commercial (200 kW/project) | 28,400 | 56,600 |
| Total amount by type | 43,443 | 86,691 |
| | | |
| MW generated by construction | | |
| Residential | 15.0 | 30.1 |
| Commercial | 28.4 | 56.6 |
| Total amount by type | 43.4 | 86.7 |
| | | |
| % of 1,000 MW goal achieved | 4.3% | 8.7% |

**Taxes**

As noted on pages 10-11 of this fiscal analysis, the Missouri State Energy Plan published in October 2015 describes the current capacity, industry size, and investments being made in Missouri. The plan also describes the potential for jobs and economic development in the state. The 1,000 MW target represents a dramatic increase in current capacity. The following analysis assumes that due to the dramatic size of the 1,000 MW target that the investments driven by the clean energy tax credits will result in new jobs and industry expansion.

Table 13 shows the cost components of a solar construction project. Labor is assumed to be 35% of the project costs, materials 40%, and Profit 10%. It is assumed that 15% of the project cost is overhead and it is assumed that no taxes would be applied. Since Missouri already has a base of manufacturers and distributors it is assumed that all materials will be Missouri taxed.

**Table 13**
**Construction Project Components, Tax Type, and Tax Rate**

| Project components | % of job | Missouri tax rate | Type tax |
|---|---|---|---|
| Labor | 35.0% | 6.00% | Income tax |
| Materials and local materials | 40.0% | 4.225% | Sales |
| Profit | 10.0% | 6.25% | Corporate |
| Overhead | 15.0% | 0.00% | N/A |
| subtotal by taxable type | 100.0% | | |

Table 14 computes the state and local taxes based on the value of construction and the project components and tax rates shown in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $4.4 million to $8.9 million in FY 2018. The other three state funds

(Prop C, Conservation, Parks/Soils) are estimated to receive between $0.6 million to $1.1 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $1.75 million to $3.5 million in local sales tax revenue in FY 2018.

**Table 14**
**State and Local Taxes Generated by Construction**

| | Half of tax credits used - CY 2017 | All of tax credits used - CY 2017 |
|---|---|---|
| Amount of construction value needed to generate value of 35% tax credits | $112,842,369 | $225,684,737 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $39,494,829 | $78,989,658 |
| Materials and local materials | $45,136,947 | $90,273,895 |
| Profit | $11,284,237 | $22,568,474 |
| subtotal by taxable type | $95,916,013 | $191,832,027 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $2,369,690 | $4,739,379 |
| Materials and local materials - Sales/Use Tax | $1,354,108 | $2,708,217 |
| Profit - General Revenue Corporate Tax | $705,265 | $1,410,530 |
| subtotal GR | $4,429,063 | $8,858,126 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $451,369 | $902,739 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $56,421 | $112,842 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $45,137 | $90,274 |
| subtotal State Taxes | $4,981,991 | $9,963,981 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $1,751,314 | $3,502,627 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $6,733,304 | $13,466,608 |

The taxes generated from the construction activity shown in Table 14 likely underestimate the state revenue that will be generated by the construction of clean energy projects even within the short time period allowed in the fiscal note. As noted earlier there are multiplier effects that ripple through the economy. The Department of Economic Development through MERIC has a sophisticated model that it uses to evaluate the impact of tax credits and other business investments made in the State of Missouri. Using the information in this fiscal analysis MERIC should be able to provide supplementary information regarding the extra economic activity and increased revenues.

Similarly, generating additional clean energy within the State of Missouri will result in a decrease in the importation of power and energy producing raw materials from other states. Such money leakage from the state, businesses and citizens, decreases the amount of purchasing could be done for other purposes such as increased jobs within the state and thus the tax revenues that would be generated. For example, the Missouri State Energy Plan notes that Missouri is the sixth largest consumer of coal in the country and 92.5% of the coal used in 2013 was imported from Wyoming.[23] The plan reports that the state sends billions of dollars out of state for purchases of imported coal, natural gas, and transportation fuels.[24]

**Community Solar Act** - Applies to Versions 28, 30, 31, 32, 34, and 36
The Community Solar Act, section 386.910 of the proposal, directs the Missouri Public Service Commission to establish rules allowing customers to participate in a "community solar facility." Community solar facilities allow participants to benefit from solar energy and receive electric bill credits substantially similar to net metering.

Paragraph 3 of that section states that the "aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous fiscal year." Table 15 shows the total peak demand data compiled by the Public Service Commission for the four utilities affected by this section. The report shows that using peak demand leads to a cap of 504.5 MW on the amount of aggregated capacity of community solar facilities statewide.

**Table 15 - Peak Demand for Community Solar**

| Utility Name | Peak Demand |
|---|---|
| Union Electric Co - (MO) | 7,713.0 |
| Kansas City Power & Light Co | 1,878.0 |
| KCP&L Greater Missouri Operations Co. | 1,860.0 |
| Empire District Electric Co | 1,162.0 |
| Total | 12,613.0 |
| 4% overall cap | 504.5 |

Paragraph 2 of that section defines a community solar facility as a photovoltaic electric generation facility with a capacity of between 100 and 1,000 kW. For purposes of this fiscal note it is assumed that all community solar projects will be the same as the 200 kW project limit established in the clean energy tax credit language of 386.1000. In Table 12 above a low and high range was calculated for the percentage of solar capacity added through the tax credits based on the expectations of the phase-in necessary for the Department of Economic Development's implementation of the clean energy tax credits. The same percentage is used - 4.3% low range and 8.7% higher range. Similarly, for the purposes of this fiscal note the cost per kW will be $2,392 for a total project cost of $478,400 as shown in Table 9.

Table 16 shows the data and calculations needed to identify the number of projects. At the low end of the range 21.7 MW of added community solar capacity would be created which would require 108 projects of 200 kW. At the higher range 43.9 MW of added community solar capacity would be created which would require 219 projects of 200 kW.

Table 16 also shows that at an average project cost of $478,400 the low range results in $51.7 million in construction spending. The higher range results in $104.8 million in construction spending.

**Table 16**
**Community Solar Capacity and Projects**

| | Low Range | Higher Range |
|---|---|---|
| Assumed % of aggregate capacity | 4.3% | 8.7% |
| Added capacity - MW | 21.69 | 43.89 |
| Added capacity - kW | 21,694.36 | 43,893.24 |
| # projects at commercial 200 kW per project | 108 | 219 |
| Construction cost - commercial project per 200 kW project | $478,400 | $478,400 |
| Construction value | $51,667,200 | $104,769,600 |

Table 17 computes the state and local taxes based on the value of construction and the project components and tax rates shown earlier in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $2.0 million to $4.1 million in FY 2018. The other three state funds (Prop C, Conservation, Parks/Soils) are estimated to receive between $0.2 million to $0.5 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $0.8 million to $1.6 million in local sales tax revenue in FY 2018.

**Table 17**
**State and Local Taxes Generated by Construction of Community Solar Projects**

| | Low range | Higher range |
|---|---|---|
| Amount of construction value needed to generate estimated MW | $51,667,200 | $104,769,600 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $18,083,520 | $36,669,360 |
| Materials and local materials | $20,666,880 | $41,907,840 |
| Profit | $5,166,720 | $10,476,960 |
| subtotal by taxable type | $43,917,120 | $89,054,160 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $1,085,011 | $2,200,162 |
| Materials and local materials - Sales/Use Tax | $620,006 | $1,257,235 |
| Profit - General Revenue Corporate Tax | $322,920 | $654,810 |
| subtotal GR | $2,027,938 | $4,112,207 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $206,669 | $419,078 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $25,834 | $52,385 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $20,667 | $41,908 |
| subtotal State Taxes | $2,281,107 | $4,625,578 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $801,875 | $1,626,024 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $3,082,982 | $6,251,602 |

**Net metering bills** - Applies to Versions 28, 29, 30, 31, 32, 35, and 36
The Missouri General Assembly has considered six net metering bills over the past three legislative sessions. Table 18 below identifies the bills and provides links to the fiscal note and bill summary prepared for each bill. All of the fiscal notes prepared and available indicated that there was no state impact from the net metering bills.

**Table 18**
**NET METERING**
**2013, 2014, AND 2015 LEGISLATIVE SESSIONS**

| Session | Bill | Sponsor | Fiscal Note Impact | Fiscal Note Summary Link | Bill Summary Link |
|---|---|---|---|---|---|
| 2015 | SB 75 | Holsman | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0622-01N.ORG.pdf | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=82&BillID=174 |
| 2015 | SB 509 | Holsman | No impact | N/A | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=664&BillID=4599469 |
| 2015 | HB 481 | Berry (38) | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0502-01N.ORG.pdf | http://house.mo.gov/billtracking/bills151/sumpdf/HB0481C.pdf |
| 2014 | HB 1795 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER14/fishtm/5552-02N.ORG.htm | http://house.mo.gov/billtracking/bills141/sumpdf/HB1795I.pdf |
| 2013 | HB 119 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/0794-02N.ORG.htm | http://house.mo.gov/billtracking/bills131/sumpdf/HB0119I.pdf |
| 2013 | SB 396 | Holsman | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/1078-07N.ORG.htm | http://www.senate.mo.gov/13info/BTS_Web/Bill.aspx?SessionType=R&BillID=19218703 |

**Electric Vehicle Charging Stations** - Applies to Versions 30, 31, 32, 34, and 35
The petition authorizes investor-owned utilities to recover costs for infrastructure investments in electric vehicle charging stations, provided the energy output from the stations is offset in part by clean energy. There should be no fiscal impact to the state. Utility investment in electric charging stations will result in positive economic activity similar to other capital investments. However, the range of the benefits is unknown at this time.

ENDNOTES

[1] U.S. Energy Information Administration: *Table 10: All Sectors - Class of ownership, number of consumers, sales, revenue, and average retail price by State and utility*
http://www.eia.gov/electricity/sales_revenue_price/

[2] U.S. Energy Information Administration: *Supplemental Data: 1990 - 2013 Revenue from Retail Sales of Electricity by State by Sector by Provider (EIA-861)*
http://www.eia.gov/electricity/sales_revenue_price/

[3] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25
https://energy.mo.gov/energy/docs/MCSEP.pdf

[4] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25-26
https://energy.mo.gov/energy/docs/MCSEP.pdf

[5] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[6] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 200
https://energy.mo.gov/energy/docs/MCSEP.pdf

[7] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 5
http://www.nrel.gov/docs/fy15osti/64898.pdf

[8] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 4
http://www.nrel.gov/docs/fy15osti/64898.pdf

[9] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 172
https://energy.mo.gov/energy/docs/MCSEP.pdf

[10] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 173
https://energy.mo.gov/energy/docs/MCSEP.pdf

[11] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[12] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[13] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 174
https://energy.mo.gov/energy/docs/MCSEP.pdf

[14] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 175
https://energy.mo.gov/energy/docs/MCSEP.pdf

[15] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 190-191, 193, 195-199, 201, 203
https://energy.mo.gov/energy/docs/MCSEP.pdf

[16] Thomas A Loudat, Blue Planet Foundation. "*The Economic and Fiscal Effects of Hawaii's Solar Tax Credit*" - January 2013.
http://blueplanetfoundation.org/renewable-energy-tax-credit-2013.html?highlight=WyJsb3VkYXQiXQ==

[17] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 154
https://energy.mo.gov/energy/docs/MCSEP.pdf

[18] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 165 for both sentences in this bullet point
https://energy.mo.gov/energy/docs/MCSEP.pdf

[19] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[20] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[21] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[22] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 178
https://energy.mo.gov/energy/docs/MCSEP.pdf

[23] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 20-21
https://energy.mo.gov/energy/docs/MCSEP.pdf

[24] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 42
https://energy.mo.gov/energy/docs/MCSEP.pdf

**Edward D. Greim** provided the following information as an opponent of this initiative petition.

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January 11, 2016

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Re: *Fiscal Note in Initiative Petitions 2016-202 through 210*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petitions 202, 204, 206, and 210:

> Lost revenue to state government is $3.04 billion over the tax credit period, with annual losses of $9.5 million to $11.5 million thereafter. Lost revenue to local government is $189.1 million over the tax credit period, with annual losses of $31.5 million to $33.9 million thereafter.

We propose the following fiscal note summary for petition 203:

> Lost revenue to state government is $320.9 million over the tax credit period, with annual losses of $5.6 million to $9.6 million thereafter. Lost revenue to local government is $100.9 million over the tax credit period, with annual losses of $20 million to $28.1 million thereafter.

We propose the following fiscal note summary for petition 205:

> Lost revenue to state government is $328.8 million over the tax credit period, with annual losses of $7.5 million to $11.5 million thereafter. Lost revenue to local government is $175.3 million over the tax credit period, with annual losses of $32.4 million to $40.5 million thereafter.

We propose the following fiscal note summary for petition 207:

> Lost revenue to state government is $3.02 billion over the tax credit period, with annual losses of $5.7 million to $7.7 million thereafter. Lost revenue to local government is $40.4 million over the tax credit period, with annual losses of $11.5 million to $15.7 million thereafter.

We propose the following fiscal note summary for petitions 208 and 209:

> Lost revenue to state government is $3.03 billion over the tax credit period, with annual losses of $7.6 million to $9.6 million thereafter. Lost revenue to local government is $114.8 million over the tax credit period, with annual losses of $23.9 million to $28.1 million thereafter.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments; taxes that do not apply whenever electricity is never sold due to customer-generator production encouraged by the initiative petitions. Petition signers and voters must be informed that any positive fiscal impacts of the initiative petitions are speculative. Likewise, petition signers and voters must be informed that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume.

**Description of Policy**

Initiative Petitions 202 – 210 contain one or more of three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of the "Community Solar Act"; and (3) A state tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, or certain natural gas technologies.

1. Changes to Net Metering for Investor-owned electric utilities and municipal electric utilities, and, in 206, rural electric cooperatives
    A. Raise net metering cap to 7% (is currently 5%);
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);



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   D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.
2. Community Solar Act
   A. PSC adopts rules and regulations allowing groups of 5 or more electrical corporation customers to offset energy usage with solar located in the service territory of the electrical corporation where they have an account;
   B. Facilities are 100 kilowatts to 1 megawatt;
   C. Community solar facilities may, in total, generate electricity of 4% or less of single-hour peak load, but that amount does not count toward net metering; Electrical corporations can own half (max of 2%), which may be included in the rate base. Others may own the other half (max of 2%);
   D. Community Solar facilities are not eligible for tax credits provided in the petition;
   E. Commission sets a community solar rate, not less than electrical corporation's average retail rate;
   F. Value of allocated solar bill credits reduces customer's total bill;
   G. The current value-of-community-solar rate may be locked in for 20 years beginning when a community solar facility is put in operation.
3. Tax credit
   A. 35% tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, etc.
   B. Total value of eligible credits shall not exceed 1% of the value of electricity used in Missouri[1] – defined as revenue from sale of electricity in Missouri; or tax credits are capped at$50 million each year. Unused credits carryover year to year until June 30, 2022
   C. No tax credits after June 30, 2022, or after 1000 megawatts of new generation have been installed using the tax credits.

**Burdens on State Government**

In determining the fiscal impact of each petition it is generally reasonable to assume that the various statutory changes in the petitions will have independent fiscal impacts. The reasonableness of this assumption is buoyed by the various iterations of the petitions themselves, some of which propose tax credits with no proposed changes to the Net Metering and Easy Connection Act. See Petitions 207 and 208.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 202-207 and 209-210*

[1] The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. See U.S. Energy Information Administration – Independent Statistics and Analysis.



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Raising the net metering cap from the current 5% of peak hour demand to 7% of peak hour demand will, conservatively, result in a 2% decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase from 5% to 7%. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in the petition provides a strong financial incentive to solar or wind energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[2], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, the net-metering cap applies to single-hour peak load, determined yearly, which means that the cap is a higher percentage of the single hour average load. This fact means that the total increase in generation is higher than it appears. Fourth, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[3] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by approximately $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities. The additional decreases in sales tax revenues from municipal electric utilities and, in petition 206, from electric cooperatives, are unknown but substantial.[4]

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 202, 204-206, 208, and 210*

Community solar facilities are in addition to net metering and represent an additional capacity amounting to 4% of each electrical corporation's single-hour peak load. Energy generated from the community solar facility is allocated pro rata by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. There is the potential for such bill

[2] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[3] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.
[4] Assuming $7.6 billion in electricity is sold in Missouri per year (the actual 2014 figure), a 2% decrease will decrease overall state sales tax revenues by 6.4 million annually, but some petitions enact net metering changes on rural electric cooperatives, and some do not.



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credits to decrease overall electrical bills by more than 4% because the "bill credits" are calculated using a "value of solar rate" which is at least as high as the retail rate for electricity, but may be higher. If, for example, solar energy received a 50% rate premium due to its benefits, the amount of bill credits would increase and sales would decrease by more than the 6%, rather than 4% figure. Half of these community solar facilities—the half not owned by electrical corporations—may be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoid property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership model, similar to net metering, because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%).

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by approximately $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities.

*iii. Tax credits – Initiative Petitions 202-210*

*a. Decreased tax collections due to tax credits – Credits capped at 1% of value of electricity sold in Missouri, annually ($76 million based on 2014 figures) – Initiative Petitions 202, 204, 206-210*

According to 2014 figures, Missouri retail customers bought 7.6 billion dollars' worth of electricity in 2014. It is very conservative to estimate that Missouri retail customers will continue to buy the same value of electricity. Accordingly, the 35% tax credits in these petitions will, conservatively, directly result in a loss of state income of up to $76 million, annually. However, electricity rates are volatile, and rates may react violently given market changes and legal changes proposed by the initiative petitions. As stated by the Department of Economic Development, the total loss to state revenue in a single year could be $429.3 million, annually, and $3 billion in total.

*b. Decreased tax collections due to tax credits – Credits capped at $50 million annually – Initiative Petitions 203 and 205*

Similar to the loss described in subpart a, the 35% tax credits in these petitions will directly result in a loss of state income of up to $50 million, annually.

*c. Cost of eroding tax base due to new energy generation – Initiative Petitions 202-210*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer-generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in



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Missouri. Accordingly, if the tax credits were phased out due to reaching the 1000 MWh/1,000,000 kWh maximum on new electricity generation, new production from such tax credits would produce approximately 1,825,000 MWh per year, also expressed as 1,825,000,000 KWh, or 1,825 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour [5], this new production is valued at $182,500,000.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

In practice, the 1 gigawatt limit on new customer-generated energy production may never be met. Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[6] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for renewable energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology. The petition itself limits tax credits to a maximum of $3.00 per watt, but market forces should make rates in Missouri similar to those in other states, at or around $1.77.

For Initiative Petitions 202, 204, and 206-210, the total, annual loss to state governments *due to the tax credits* is 76.9 million to 435 million over the tax credit period. There is an annual loss in perpetuity after the tax credit period of 5.7 to 7.7 million, depending on how much new customer-generation is developed. See attached table.

For Initiative Petitions 203 and 205, the total, annual loss to state governments *due to the tax credits* is 50.6 million to 53.7 million over the tax credit period. There is an annual loss in perpetuity after the tax credit period of 3.7 to 7.7 million, depending on how much new customer-generation is developed. See attached table.

**Burdens on Local Governments**

[5] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.

[6] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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Local governments face similar losses in revenue from the various petition provisions as state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 202-206 and 209-210*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 202, 204-206, 208, and 210*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*iii. Tax credits – Cost of eroding tax base due to new energy generation – Initiative Petitions 202-210*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petitions may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to local governments, all of which may be reduced or discontinued if the initiative petitions are enacted.



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The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[7] Based on this estimate, the population-weighted combined average local sales tax is 3.585%. Assuming the tax credits sunset due to reaching the 1 Gigawatt production cap, the yearly loss to local governments from lost sales tax from the tax credit is $6,541,578. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,123,540.

For petitions 202, 204, and 206-210, the loss to local governments due to the tax credits is $40.4 million over the tax credit period, then $11.5 to $15.7 million annually. For initiative petitions 203 and 205, the loss to local governments due to the tax credits is $26.6 million over the tax credit period, then $7.5 to $15.7 million annually.

**In Conclusion**

The initiative petitions will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petitions, such as increases in net metering and community solar. The total tax burden on state government imposed by the petitions range from $313 million over the tax credit period, with $3.7 to $7.7 million in lost revenues in perpetuity, to approximately $498.6 million over the tax credit period,[8] with $9.5 million to 11.5 million in lost revenues in perpetuity thereafter.

Sincerely,

Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0

[7] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.
[8] $475.8 million + [(1.9 million + 1.9 million)*6 years]



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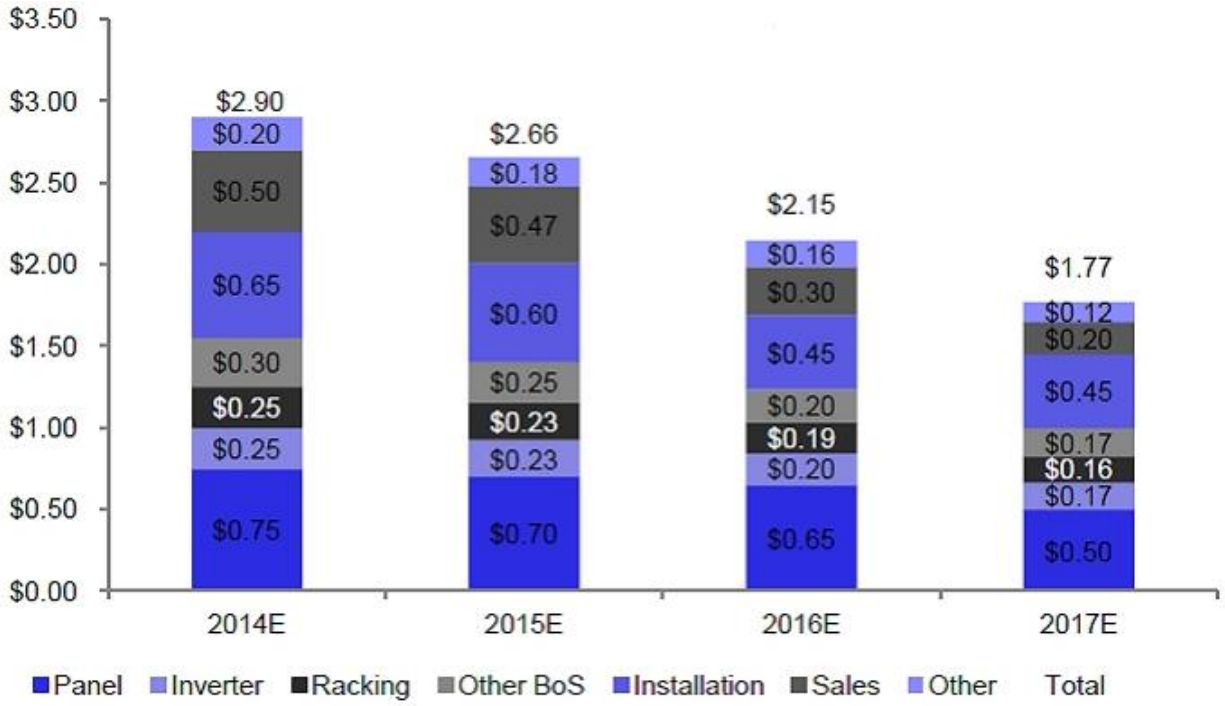
Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017
https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm



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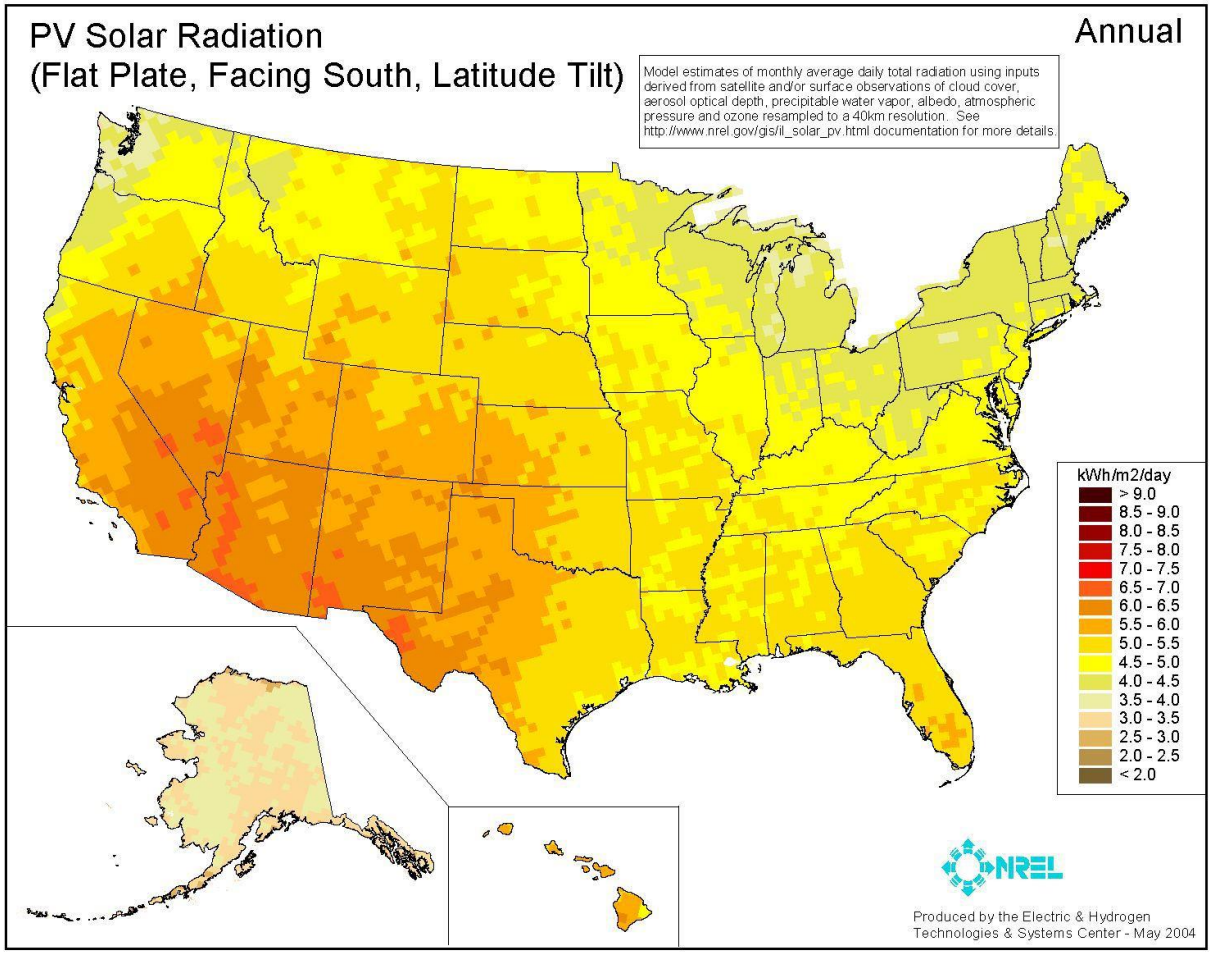
National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Brightergy Renewable Tax Credit Fiscal Analysis (1% Value of Electricity Cap) - Initiative Petitions 202, 204, and 206-210**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 122.68 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $76,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 223,854 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $76,000,000 | 122.68 | 122.68 | 223,854 | $100 | $22,385,441 | 4.225% | $945,785 | $76,945,785 | 3.585% | $802,518 | 5.000% | $1,119,272 | $1,921,790 |
| 2018 | $76,000,000 | 122.68 | 245.36 | 447,709 | $100 | $44,770,882 | 4.225% | $1,891,570 | $77,891,570 | 3.585% | $1,605,036 | 5.000% | $2,238,544 | $3,843,580 |
| 2019 | $76,000,000 | 122.68 | 368.04 | 671,563 | $100 | $67,156,323 | 4.225% | $2,837,355 | $78,837,355 | 3.585% | $2,407,554 | 5.000% | $3,357,816 | $5,765,370 |
| 2020 | $76,000,000 | 122.68 | 490.72 | 895,418 | $100 | $89,541,765 | 4.225% | $3,783,140 | $79,783,140 | 3.585% | $3,210,072 | 5.000% | $4,477,088 | $7,687,160 |
| 2021 | $76,000,000 | 122.68 | 613.40 | 1,119,272 | $100 | $111,927,206 | 4.225% | $4,728,924 | $80,728,924 | 3.585% | $4,012,590 | 5.000% | $5,596,360 | $9,608,951 |
| 2022 | $76,000,000 | 122.68 | 736.08 | 1,343,126 | $100 | $134,312,647 | 4.225% | $5,674,709 | $81,674,709 | 3.585% | $4,815,108 | 5.000% | $6,715,632 | $11,530,741 |
| | | | | | | | | **Total State Tax Burden** | **$475,861,483** | | **Total Local Tax Burden (Sales + Franchise)** | | **$40,357,593** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

**Brightergy Renewable Tax Credit Fiscal Analysis (50 Million Tax Credit Cap) - Initiative Petitions 203 and 205**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 80.71 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $50,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 147,273 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $50,000,000 | 80.71 | 80.71 | 147,273 | $100 | $14,727,264 | 4.225% | $622,227 | $50,622,227 | 3.585% | $527,972 | 5.000% | $736,363 | $1,264,336 |
| 2018 | $50,000,000 | 80.71 | 161.42 | 294,545 | $100 | $29,454,528 | 4.225% | $1,244,454 | $51,244,454 | 3.585% | $1,055,945 | 5.000% | $1,472,726 | $2,528,671 |
| 2019 | $50,000,000 | 80.71 | 242.13 | 441,818 | $100 | $44,181,792 | 4.225% | $1,866,681 | $51,866,681 | 3.585% | $1,583,917 | 5.000% | $2,209,090 | $3,793,007 |
| 2020 | $50,000,000 | 80.71 | 322.84 | 589,091 | $100 | $58,909,056 | 4.225% | $2,488,908 | $52,488,908 | 3.585% | $2,111,890 | 5.000% | $2,945,453 | $5,057,342 |
| 2021 | $50,000,000 | 80.71 | 403.55 | 736,363 | $100 | $73,636,320 | 4.225% | $3,111,135 | $53,111,135 | 3.585% | $2,639,862 | 5.000% | $3,681,816 | $6,321,678 |
| 2022 | $50,000,000 | 80.71 | 484.26 | 883,636 | $100 | $88,363,584 | 4.225% | $3,733,361 | $53,733,361 | 3.585% | $3,167,834 | 5.000% | $4,418,179 | $7,586,014 |
| | | | | | | | | **Total State Tax Burden** | **$313,066,765** | | **Total Local Tax Burden (Sales + Franchise)** | | **$26,551,048** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State government revenue may decrease up to $76 million annually until June 30, 2022 with approximately $660,000 net annual increased operating costs. Local government electric revenue may decrease $23.9 million annually with $3.4 million increased operating costs. Other resulting economic activity will have an unknown impact on state and local governments.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
JAN 04 2016

16-205

January 4, 2016

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 40 (2016-205)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 31, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-205 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 31 AM 8:51
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-205

*Be it enacted by the people of the state of Missouri:*

Section A: Section 386.890 is amended and sections 386.860, 386.870, 386.900, 386.910 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.900 to 386.1000 shall be known and may be cited as the "Clean Energy Independence and Investment Act of 2016".

386.870. An electrical corporation shall be allowed to recover its costs and add in its rate base prudently incurred costs to purchase and install electric vehicle charging stations intended to recharge electric motor vehicles, provided the electricity consumed at such stations is partially powered by a clean energy resource, as defined in 386.900, or offset with renewable energy credits, as defined in 393.1025. Investments made pursuant to this section shall not raise the retail rates charged to the customers of any such electrical corporation by more than one-half of one percent in any year.

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any [municipal electric utility,] rural electric cooperative as provided in chapter 394[, or electrical corporation as provided in this chapter];

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of natural resources;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any [municipal utility, electrical corporation regulated under this chapter, or] rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which [the commission for a public utility or] the governing body for the supplier[other electric utilities] may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing,

maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) [For any rural electric cooperative under chapter 394, or municipal utility, u]Upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional

liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, [the commission for public utilities and] the governing body for the supplier[other utilities] shall, by rule or equivalent formal action[ by each respective governing body]:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. [Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated s]Suppliers shall submit [the same] an annual net metering report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. [The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section

and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10.] The governing body of a supplier [rural electric cooperative or municipal utility] shall[, within nine months of January 1, 2008,] adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

[11.] 10. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

[12.] 11. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

[13.] 12. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

[14.] 13. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

[15.] 14. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

[16.] 15. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

[17.] 16. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.900. 1. This section shall be known and may be cited as the "Enhanced Net Metering and Easy Connection Act". It shall be the policy of the state to facilitate the use of customer-sited or controlled clean energy resources.

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2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal utility or electrical corporation as provided in this chapter;

(2) "Clean energy resource", electrical energy produced from:

(a) Wind;
(b) Solar thermal sources;
(c) Hydroelectric sources;
(d) Photovoltaic cells and panels;
(e) Fuel cells using hydrogen produced by a source listed in paragraphs (a) through (d) of this subdivision; or
(f) Other sources of energy that become available after January 1, 2017, and are certified as clean by the department.

(3) "Commission", the public service commission of the state of Missouri;

(4) "Customer-generator", the owner, lessee or operator of a qualified electric energy generation unit which:

(a) Is powered by a clean energy resource or micro CHP;

(b) Has an electrical generating system with a capacity of not more than five hundred kilowatts, measured in alternating current;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(5) "Department", the department of economic development;

(6) "Micro CHP", combined heat and power or cogeneration systems that simultaneously generate electricity and thermal energy in a single integrated system with a nameplate rated capacity equal to or lower than 130 kilowatts, measured in alternating current;

(7) "Net excess energy", the amount of energy expressed in kilowatt hours delivered by a customer-generator to a supplier that exceeds the amount of energy delivered by the supplier to the customer-generator over a single billing period;

(8) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(9) "Retail electric supplier" or "supplier", any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals seven percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for a municipal utility may increase the total rated generating capacity of net metering systems to an amount above seven percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds two percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the retail electric supplier shall pay for the costs to purchase and install the necessary additional equipment, unless the commission or governing body makes a determination that the customer-generator is the only customer benefiting from the additional distribution equipment. If the commission or governing body determines the customer-generator is the only customer benefiting, such customer-generator shall reimburse the electric supplier for reasonably incurred equipment expenses. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subdivision (2) of subsection 3 of this section and all net excess energy shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent months;

(4) Any net excess energy credits carried forward under subdivision (3) of this subsection shall expire without any compensation at the earlier of either the next subsequent March billing period or when the customer-generator disconnects service or otherwise terminates the net metering relationship with the supplier;

(5) For any municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (4) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems one hundred kilowatts or less and within sixty days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application. Retail electric suppliers shall interconnect qualified energy generation units within thirty days of being notified the generation unit is installed and meets the requirements of this section.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for notifying the retail electric supplier.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other suppliers shall submit the same report to their respective governing body and make said report available to a customer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall by June 1, 2017 promulgate any rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after June 1, 2017, shall be invalid and void.

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10. The governing body of a municipal utility shall by June 1, 2017 adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs, including lost revenues and lost earnings opportunities associated with reduced demand or kilowatt hours sales, incurred under this section by a retail electric supplier shall be recovered in a timely manner in that utility's rate structure in the form of a tracker or other appropriate rate recovery mechanism. At the time of any general change in a supplier's rates, any over-recovery or under-recovery balance shall be included in the supplier's revenue requirement used to set rates as amortized over a period not exceeding three years, and shall be recovered from each rate class pursuant to the supplier's approved rate design. At the time any general change in prospective rates is proposed, the commission shall permit the supplier to estimate the total generation output from all customer-owned generation for each rate class for the twelve-month period following the effective date of any change in rates, and rates shall be set using energy and demand billing units that reflect the estimated reduction of energy and demand likely to occur due to customer-owned generation. When considering costs, the commission may evaluate the value of distributed generation and clean energy resources. To the extent any costs, lost revenues, or lost earnings are recovered under this section, they shall not raise the retail rates charged to the customers of any such electrical corporation by an average of more than one percent in any year. Any limitation on cost recovery shall not limit the availability of net metering except as provided in subsection 3 of this section.

15. No customer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a customer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said customer and terminate said customer's electric service.

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16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.910. 1. This section shall be known and may be cited as the "Community Solar Act."

2. Within thirty days of enactment of this section, the commission shall open a docket and by August 1, 2017, the commission shall adopt rules and regulations allowing customers to participate in community solar facilities and set a value-of-community-solar rate as described in subsection 5 of this section. For purposes of this section, a "community solar facility" is a photovoltaic electric generation facility with a capacity of between one hundred and one thousand kilowatts, measured in alternating current, that allows five or more customers of an electrical corporation to offset their energy usage with solar energy and such facility is located within the Missouri service territory of the electrical corporation where such customers have one or more electrical accounts. For the purposes of this section, an electrical corporation is as defined in 386.020.

3. The aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous calendar year, and such capacity of community solar facilities shall not count towards the system-wide net metering cap defined in subsection 3 of section 386.900. Electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. Entities or individuals that are not electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of an electrical corporation's single-hour peak load during the previous year. The commission shall allow prudently incurred costs and expenses for community solar facilities owned by an electrical corporation to be included in such electrical corporation's rate base. Once the four percent aggregate cap is reached for community solar facilities, the commission shall open a docket to determine whether or not the community solar program shall be expanded, and the commission may increase the aggregate capacity cap above four percent. The commission shall consider benefits and costs of such an expansion when making its decision. Community solar facilities shall not be eligible for tax credits under section 386.1000.

4. For any community solar facility that is owned or operated by an entity other than an electrical corporation, the energy generated by such community solar facility shall be provided to the electrical corporation to which it is interconnected in exchange for the allocation and facilitation of bill credits as provided in subsection 5 of this section.

5. Kilowatt hours generated from community solar facilities shall be allocated, on a pro rata basis, to the designated subscribers of the community solar facility at the direction of the community solar facility owner or operator. Allocated bill credits shall be set at a value-of-community-solar rate per kilowatt hour determined by the commission. The commission shall determine the value of bill credits per kilowatt hour taking into consideration costs and benefits of solar energy including but not limited to energy value, generation value, environmental value, transmission and distribution system value, disaster recovery value, reactive power value and other grid benefit value, but such bill credits shall not be less than the electrical corporation's average retail rate. The value of allocated community solar bill credits shall be used to reduce the customer's total bill. When a community solar facility is placed in service it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years.

6. Owners and operators of community solar facilities shall not be considered a public utility as defined in section 386.020, except that this provision shall not apply to any owner or operator who is an electrical corporation.

7. The commission shall promulgate rules and regulations it deems necessary to carry out the provisions of this section. The commission's rules shall: allow electrical corporations to recover costs; provide earning opportunities for electrical corporations; provide an orderly process, including a reservation system, to allow potential community solar facility owners and operators to develop projects within the capacity limits in subsection 3 of this section; and provide options, which may include financial incentives, to encourage low-income participation.

8. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section, shall be invalid and void.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall be eligible to receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the clean energy tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project

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installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

2. The department of economic development shall certify when the tax credits provided in this section have resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. The total amount of clean energy tax credits provided in this section allocated annually shall not exceed fifty million dollars in the aggregate per fiscal year. The aggregate amount of the clean energy resources tax credits available annually as specified in this section shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. If the amount of the clean energy tax credits offered in any fiscal year, other than 2017, is less than the annual statutory cap contained in this section then the cap for the following fiscal year shall be increased by that amount. The carryover of any unused clean energy tax credit authority shall extend until it is used, however in no fiscal year shall the total offered be greater than seventy million dollars. The provisions of this section notwithstanding, a claimant may apply for and receive the credit authorized by this section only for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

4. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such

balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

5. To obtain initial approval for tax credits allowed under this section, a taxpayer shall submit an application for tax credits to the department of economic development. Each application shall be reviewed in the order of the date on which the application was received, with the oldest received date receiving highest priority in the queue. Applications received on the same day, that are not time-stamped, shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. The department may retain, for the purposes of administering this section, up to half of each application deposit, which shall not be subject to refund and shall not exceed one hundred dollars for residential taxpayers and two hundred and fifty dollars for all other taxpayers. Such application deposit, except the portion retained for administration purposes by the department, shall be refunded at completion of the project or in the event the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. The taxpayer may request a refund of the application deposit; however, any refunds of the deposit for an application shall cause such application to lose its spot in the application queue. If the taxpayer wants to maintain its position in the application queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

6. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 5 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

7. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision of its intent to disapprove, including the reasons for intending to disapprove, and to remove such application from the application queue. The taxpayer shall have one opportunity, not to exceed fifteen days of notification of intent to disapprove, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

8. If the department of economic development deems the initial application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the date the department received the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 5 of this section.

9. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for approval shall be notified by the department of economic development that the maximum amount of credits authorized for the program have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available.

10. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial approval for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available, then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development, to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits

shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

11. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1and 3 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

12. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by postal or electronic letter and shall issue, to the taxpayer, a tax credit certificate within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

13. If the amount of the credit under subsection 12 of this section exceeds the taxpayer's total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

14. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsections 8 or 9 of this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

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15. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536. Such rules may include repayment provisions necessary to recover tax credit benefits from taxpayers found to have used fraud or misrepresentations of fact on applications, and other anti-fraud and compliance measures as may be required by the department and the provisions of sections 135.800 to 135.830.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-205)**

## Subject

Initiative petition from Andy Zellers regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received January 04, 2016)

## Date

January 25, 2016

## Description

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **Public Service Commission,** and the **Missouri Joint Municipal Electric Utility Commission**.

**Mark R. Reading** provided information to the State Auditor's Office as a proponent of this initiative petition.

**Edward D. Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Assumptions**

Officials from the **Attorney General's office** indicated Section 386.900.13, RSMo, of the proposal assigns new rulemaking responsibility to their office regarding mandatory disclosures of information by sellers of qualified electric generation units, as well as new investigatory and litigation duties. They assume they would need 1/4 full-time employee (FTE) to handle the complaints, enforcement and the rulemaking responsibilities assigned to their office, resulting in increased operating expenses of $13,890 for fiscal year 2017, $16,810 for fiscal year 2018, and $16,952 for fiscal year 2019.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** (DED) provided the following information:

The Division of Energy (DE) indicated this petition will result in increased operating expenses of $723,522 for fiscal year 2017, $792,438 for fiscal year 2018, and $800,141 for fiscal year 2019. These costs will be offset by additional revenues to the Clean Energy Fund of $0 for fiscal year 2017, $355,548 for fiscal year 2018, and $355,548 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Section 386.870 – Electric Vehicle Charging Stations

The DE participates in Public Service Commission (PSC) regulatory cases to evaluate issues from a formal state policy and planning perspective consistent with its interests in clean, affordable, abundant energy, and its efficient use. DE is active in cases before the PSC related to energy efficiency and renewable energy and has responsibilities associated with certifying clean energy sources under Missouri's Renewable Energy Standard (RES) and net metering statutes. As such, DE assumes it would be involved in the implementation of this provision by monitoring and participating in cases that allow regulated electric utilities to install and recover costs associated with electric vehicle recharging stations that are partially powered by a clean energy source or offset with renewable energy credits.

Section 386.900 – Enhanced Net Metering and Easy Connection Act

DE assumes it would be involved in the implementation of this provision that modifies the existing net metering and interconnection requirements for regulated electric utilities. It is assumed there would be a rulemaking docket to set the process and details associated with this proposal. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop

proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where enhanced net metering provisions are considered.

Section 386.910 – Community Solar Act

DE assumes it would be involved in the implementation of the Community Solar Act provisions and participate in the rulemaking docket to set the process and details associated with this section. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where community solar facilities are established for purposes of determination of eligibility and certification under the RES. DE assumes this provision would result in additional RES certifications that would need to be performed.

Section 386.1000 – Clean Energy Tax Credit

DE is required to administer the Clean Energy Fund created by this section and promulgate rules to implement the Clean Energy Tax Credit. The proposal requires DE to receive applications and deposits, review and initially approve applications and required information within 30 days, review final approval applications, issue certificates and provide notifications, refund deposits for completed and disapproved projects, at least quarterly publish a list of the amount of tax credits initially and finally approved for each fiscal year and amounts reserved for future years, notify individual applicants of disapproved applications and approval within specified timeframes, notify applicants if the maximum amount of credits authorized have been allocated for the fiscal year and grant three-month extensions if needed for project completion with additional deposit payments.

**Long-range implications**

Fiscal impacts associated with the Clean Energy Tax Credits could continue until June 30, 2022. The authorization for the tax credit would sunset sooner if the 1,000 megawatt limit is reached. Economic benefits associated with construction of solar facilities would also have long-range implications.

**Assumptions and methodology used in arriving at state fiscal impact**

Section 386.870 – Electric Vehicle Charging Stations

For purposes of this fiscal note, DE assumes it would be involved in cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

Section 386.900 – Enhanced Net Metering and Easy Connection Act

For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

386.910-Community Solar Act

For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

The RES requires investor-owned utilities in Missouri to either produce green power or purchase Renewable Energy Certificates (RECs) for compliance. One REC represents 1 megawatt-hour of electricity generated from an eligible renewable energy resource. The in-state renewable energy generation can receive a multiplier of 1.25 for RES compliance purpose. DE has statutory authority to certify eligible renewable energy resources before RECs associated with those renewable energy resources can be used for RES compliance. DE does not charge any certification fees.

A community solar facility is defined as a solar photovoltaics facility with a capacity of 100-1000 kilowatts (kW) under this section. DE anticipates that in-state community solar facilities will request DE to certify their renewable energy resources/projects for the purpose of generating additional revenue from REC sales. DE's review primarily focuses on environmental impacts of renewable electric generation facilities on air, water or land use. The actual staff time spent on each application varies from one project to another. Solar photovoltaics facilities with a larger capacity typically require more staff time for reviewing their third-party environmental impact assessments in addition to verifying applicable environmental permits. Staff time will be also needed for data requests and discussion, data collection, database management, report production and website maintenance.

Current average staff time to review and certify renewable energy facilities ranges from 2 hours for small projects of a few hundred kW and 8-10 hours for larger projects of a few hundred kW to 1000 kW. It is assumed that small projects will account for two-thirds of the total community solar facilities and one-third will be larger projects. The weighted average of staff time (based on 2 hours for smaller projects and 8 hours for larger projects) is 4 hours (calculation: 2*{2/3}+8*{1/3)}). The number of projects at the assumed 200 kW ranges from 71 to 209 if the full amount of tax credits are used (Source: Mark Reading). By multiplying the average staff time of 4 hours, the annual staff time will range from 284 to 836 hours. For purposes of this fiscal note, DE assumes it could implement the provisions of this section related to RES environmental certifications with staff requested to implement the clean energy tax credit in Section 386.1000, RSMo (see below).

Section 386.1000 – Clean Energy Tax Credit

The proposal provides for the total amount of tax credits of up to $50 million in the aggregate per fiscal year. This amount would be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. If the amount of the clean energy tax credits offered in any fiscal year, other than 2017, is less than the annual statutory cap, the cap for the following fiscal year would be increased by that amount with the carryover of any unused clean energy tax credit authority extending until it is used, with a maximum in any fiscal year of $70 million. For purposes of this fiscal note, it is assumed there would be a decrease in general revenues of $50 million per fiscal year. The tax credits would have unknown economic benefits from the construction and installation of solar energy systems.

If all tax credits were used up to the cap of $50 million per year, and with consideration to the estimated cost and size of the projects, it is estimated there would be 4,718 residential project applications and 271 commercial project applications submitted for tax credit reviews (Source: Mark Reading). DE assumes that it would take approximately 2 hours each to do the initial review/approval of each application and another 2 hours to do the review and issuance of a certification after a project is completed for residential projects. Each of these would include clerical time for input/issuing letters/filing, etc. For larger commercial projects, an estimated 8 hours is anticipated for each of these two steps. See response above for detailed tasks required by the proposal.

18,872 hours for residential applications
4,336 hours for commercial applications
23,208 hours total

DE assumes it will need a total of 11 FTE to implement the clean energy tax credit and community solar provisions of this proposal as follows:

6 – Energy Specialist I/II
2 – Energy Engineer II
1 – Energy Engineer III
2 – Administrative Office Support Assistant (AOSA)

- Energy Specialist I/II - Professional level staff to review the renewable energy project applications and to complete project evaluation activities.
- Energy Engineer II/III - Professional staff with expertise in engineering aspects of renewable energy projects to review the technical aspects of the projects, review of projects related to the Renewable Energy Standard and Renewable Energy Certificates and familiar with environmental impacts of renewable electric generation.
- AOSA - Staff to assist with the administrative requirements of the reviews such as drafting and sending communication to applicants, maintaining the database of applicants, and tracking status of applications.

An application deposit of 2 cents/watt is required to be paid to DE and deposited in the Clean Energy Fund. The proposal provides that DE may retain, for the purposes of administering this section, up to half of each application deposit to administer the

provisions of this proposal but would not exceed one hundred dollars for residential taxpayers and two hundred and fifty dollars for all other taxpayers. Using the assumption above, if the full amount of tax credits were used each year and with consideration to the estimated cost and size of the projects, it is estimated there would be 4,718 residential project applications (at an average size of 6.1 kW) and 271 commercial project applications (at an average size of 200 kW) submitted for tax credit reviews. The application deposit for a residential project would be $122 and DE could retain 50% or $61 for a total of $287,798. The application deposit for a commercial project would be $4,000 and DE could retain a maximum of $250/application for a total of $67,750.

For purposes of this fiscal note, DE assumes there could be up to $355,548 per year available from the Clean Energy Fund to administer the provisions of this proposal. As this is less than the estimated costs to implement the provisions of the proposal, DE assumes the shortfall would be from General Revenue funds. It is also assumed that General Revenue funds would be necessary to cover all DE's costs in FY 2017 until such time as sufficient application deposits are received.

DE also assumes that the Department of Economic Development's existing tax credit database will be used to track the applications. Some IT costs to generate the necessary reports are estimated.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated the responsibilities of this proposal appear to fall under the Division of Energy. With Executive Order 13-03 the Division of Energy was transferred from their department to the Missouri Department of Economic Development, by Type I transfer. Therefore, they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** estimate this petition will result in increased operating expenses of $243,282 for fiscal year 2017, $181,985 for fiscal year 2018, and $183,470 for fiscal year 2019.

The legislation creates a negative impact of up to $50 million per fiscal year to total state revenue by creating a new tax credit.

**Section 386.1000**
The provisions of this section authorize the issuance of a clean energy tax credit to taxpayers incurring costs for the installation of a clean energy resource project. The taxpayer may claim 35 percent (35%) of the total cost of the project. The aggregate amount of tax credits cannot exceed $50 million per fiscal year, which will be increased or decreased each year by the Consumer Price Index.

**Section 386.1000.13**
The department suggests changing the provisions pertaining to the transfer of the tax credit to the Department of Revenue because this is currently the department's responsibility based on a previously issued executive order.

**Administrative Impact:**
**Personal Tax:**
Personal Tax requires one (1) Revenue Processing Technician I (Range 10, Step L) for every 6,000 credits claimed.

**Corporate Tax:**
Corporate Tax requires three (3) Revenue Processing Technicians I (Range 10, Step L) for every 4,000 credits redeemed, 4,000 credits transferred, and for every 520 SB 1099 compliance mailings and correspondence.

**Integrated Tax System:**
The integrated tax system incurs additional costs of $43,680 to implement the provisions of this petition.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** (OA) indicated the proposal:

- Allows utilities to recover costs and add in its rate base costs to install electric vehicle charging stations intended to recharge electric motor vehicles, provided the energy consumed at each station is partially powered by a clean energy resource. This could result in a total state revenue reduction. OA defers to the DED for the estimated impact.
- Authorizes the use of net-metering, with certain limits to facilitate the use of customer-sited or controlled clean energy resources.
- Allows retail electric suppliers to recover any costs incurred in this act in that utility's rate structure. To the extent any such costs, lost revenues or lost earning are recovered, they shall not raise the customer retail rates by an average of more than 1% in any year. This could impact total state revenue. OA defers to the PSC for the specific impact.
- Allows participation in community solar facilities.
- Enacts a "Clean Energy" income tax credit for an amount equal to 35% of the total cost of the clean energy project. The annual cap on the credits is $50 million, with any unused portion added to the next year's cap up to a maximum of $70 million. In addition, the cap can be adjusted based on the Consumer Price Index. The tax credit has a 3-year carry-back and a 10-year carry-forward provision and is transferable. This will result in a total state revenue reduction up to $50 million or the adjusted cap amount. This will also impact the calculation under Article X, Section 18(e), of the Missouri Constitution.
- Establishes the Clean Energy Fund, which is to be used to advance clean energy through the efficient administration of the Clean Energy Tax Credit Program. This will result in an increase to total state revenue. The revenue in the fund will come from various application deposits, but could also come from appropriated moneys, gifts, contributions, grants or bequests. The DED will administer this fund. OA defers to the DED and the PSC for the estimated impact of the application deposits.

This proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to

meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson** indicated because their city does not own any utility except for wastewater, there would be no fiscal impact should this petition become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from **University of Missouri** indicated they have not seen cost impact studies on this initiative from their electric utility suppliers, but they do not believe this will have a significant impact on their university.

Officials from the **Public Service Commission** (PSC) indicated:

Section 386.870 allows an electrical corporation to recover its costs and add in its rate base prudently incurred costs to install electric vehicle charging stations provided the energy consumed is partially powered by a clean energy resource or offset with renewable energy credits. It is not clear if the renewable energy credits can be used to meet Section 386.870 and also used to meet the utility's renewable portfolio standard in Section 393.1030.

Section 386.870 also states investments made pursuant to this section shall not raise the retail rates charged to customers of electrical corporations by more than one half of one percent in any year. The PSC suggests this requirement be clarified. A similar cap is placed on the renewable mandate of Section 393.1045. It has been over 7 years since the enactment of this provision and parties continue to argue its meaning before the PSC.

Section 386.890 defines "department" as the department of natural resources. Since other changes are being made to this section, "department" should be defined as the department of economic development, division of energy.

Sections 386.890 and 386.900 both use the terms "Retail electric supplier" or "supplier", but in Section 386.890 a "retail electric supplier" or "supplier" is any rural electric cooperative under Chapter 394 that provides retail electric service in this state and in Section 386.900 a "retail electric supplier" or "supplier" is any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state. Although the terms are in different statutes, it may be confusing to define the same term in a different manner. It may be clearer to use different terms applicable to the respective intent. Further since Section 386.890 is only applicable to rural electric cooperatives, it may make sense to move the entire provision to Chapter 394.

Sections 386.890 and 386.900 use the term "wholesale generator". The PSC respectfully suggests this term be defined.

Section 386.900 uses terms such as "commission-regulated supplier" and "public utilities" to describe suppliers that are subject to PSC jurisdiction. The PSC respectfully suggests the terms be used consistently.

Section 386.900 requires the PSC to promulgate rules by June 1, 2017 and Section 386.910 requires the PSC to adopt rules by August 1, 2017. The PSC respectfully suggests these dates may be aggressive for final rules to be effective.

Section 386.900.6.(2) references "subsection 4 of this section". This appears to be an inaccurate cross-reference as there is no subsection 4 of the section.

Section 386.900.12 says the estimated generating capacity of all net metering systems shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate, but the renewable energy portfolio deals with "energy" not "capacity".

Section 386.900.14 says any costs, including lost revenues and lost earnings opportunities. The PSC respectfully suggests "lost revenues" and "lost earnings opportunities" be clearly defined as to how to calculate those amounts. The interpretation and calculation of these terms has been the subject of on-going disagreement as they relate to the Missouri Energy Efficiency Investment Act.

Section 386.900.14 states the commission may evaluate the value of distributed generation and clean energy resources, but it is not clear how to determine those values.

Section 386.900.14 states any costs, lost revenues or lost earnings recovered under this section shall not raise the retail rates charged to customers by an average of more than one percent in any year. The PSC suggests this requirement be clarified. A similar cap is placed on the renewable mandate of Section 393.1045. It has been over seven years since the enactment of this provision and parties continue to argue over its meaning before the commission.

Section 386.910.5 states that when a community solar facility is placed in service, it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years. It appears this provision would require the utility ratepayers to fund the facility at the current rate for 20 years without adjustment for changes in the utility's costs or revenues that would occur over the 20 year period. It is also not clear if the cost-of-solar value contemplates an earnings opportunity for the Commission-regulated utility.

Section 386.1000 discusses a "clean energy tax credit". It is not clear why the tax credit is in the PSC statute and not in a tax-related statute.

Officials from the **Missouri Joint Municipal Electric Utility Commission** (MJMEUC) indicated:

Missouri Public Utility Alliance (MJMEUC is part of the alliance) through its electric division represents 65 of the 86 cities with municipal electric utilities.

After careful review and analysis, they believe that implementation would reduce municipal electric utility revenues of approximately $23,900,000 annually based on:

1. Varying changes to the state's net metering law.
2. Greater penetration of solar panels throughout the state because of a state funded tax rebate for their purchase and installation.

Other proposed changes would increase the cost of city operations by approximately $3,435,000 to a total of $27,335,000.

Several of these proposals modify the state's net metering law to require cities to carry forward to subsequent months excess customer generation. Current software is not designed to provide this functionality and each city would have to contract with their own vendor to modify their billing software. In addition several petition versions require the PSC to approve municipal rate increases by class based on actual expenses. This will necessitate regular cost of service studies and for cities to hire attorneys with experience before the PSC to present their cases for rate increases. In order to calculate costs they have contacted firms in both disciplines to provide estimated costs for these services.

Total estimated costs are as follows:

| | |
|---|---|
| Lost Revenues: | $23,900,000 |
| Service Study: | 1,505,000 |
| Attorney, PSC Experience: | 410,000 |
| Billing Modification: | 1,520,000 |
| TOTAL | $27,335,000 |

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art X Sec 16) that reduces income or increases costs without "full state financing", they anticipate that the costs would be reflected in the final state cost when the fiscal note is completed. They have no idea what litigation costs might be necessary.

They would offer the following for potential utilization in the final fiscal note:

"….. *reduce revenues for municipal electric utilities by (fill in the blank), increase operational costs by approximately (fill in the blank) and create unknown litigation costs at both the state and local level over Mo. Const. Art. X Sec. 16."*

**Mark R. Reading** provided the following information as a proponent of this initiative petition.

Submitted by:

_____

Mark R. Reading
2604 Lakeland Drive
Jefferson City, MO 65109
(573) 694-6828
*Primary Contact Person*

**Clean Energy Independence and Investment Act of 2016 - Versions 37, 39, 41, 43, and 45**
**Sec. of State # 202, 204, 206, 208, 210**

**Proposed Statement of Fiscal Impact**
**for Clean Energy Independence and Investment Act of 2016 - Versions 37, 39, 41, 43, and 45**
**Sec. of State # 202, 204, 206, 208, 210**

**Fiscal Impact Information Submitted Pursuant to Section 23.140.2**

The amendment's estimated impact decreases state revenue between $32 to $64 million depending upon the speed of up to $225 million in additional clean energy project construction and implementation by the Department of Economic Development, residential homeowners, and businesses. Local revenue is estimated to grow between $2.6 to $5.1 million.

| ESTIMATED NET EFFECT ON STATE FUNDS | | |
|---|---|---|
| **Fund Affected** | **FY 2017** | **FY 2018** |
| **General Revenue** | $0 | From ($33,037,828) to ($66,019,325) |
| | | |
| **Total Estimated Net Effect on All State Funds** | $0 | From ($32,045,806) to ($64,028,436) |
| **ESTIMATED NET EFFECT ON LOCAL FUNDS** | | |
| Local Funds | $0 | From $2,553,188 to $5,128,651 |
| | | |
| **Total Estimated Net Effect on All Local Funds** | $0 | From $2,553,188 to $5,128,651 |

**SUMMARY OF VERSIONS OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT**

Nine additional versions of the Clean Energy Independence and Investment Act of 2016 have been submitted for review. A summary of which topics are in each version is provided below.

Two additional versions of the Clean Energy Independence and Investment Act of 2016 have been submitted for review. A summary of which topics are in each version is provided below.

**CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT OF 2016**
**SUMMARY OF VERSIONS**

| Petition version | 386.870 - Electric vehicle | 386.890 - Net metering | 386.900 - Enhanced net metering | 386.910 - Community Solar | 386.1000 - Tax credits |
|---|---|---|---|---|---|
| | | | | | |
| **1% Electric Versions** | | | | | |
| Version 37 | N/A | X | X | X | X |
| Version 39 | X | X | X | X | X |
| Version 41 | X | Deletes | X | X | X |
| Version 42 | N/A | N/A | N/A | N/A | X |
| Version 43 | X | N/A | N/A | X | X |
| Version 44 | X | X | X | N/A | X |
| Version 45 | N/A | X | X | X | X |
| | | | | | |
| **$50 million cap Versions** | | | | | |
| Version 38 | N/A | X | X | N/A | X |
| Version 40 | X | X | X | X | X |

## ANALYSIS OF FISCAL IMPACT OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT

The fiscal impact analysis contained herein focuses on estimating the fee and tax revenue resulting from the statutory changes proposed in the initiative petition. Table 1 summarizes the revenue estimated by source and by fiscal year. Page and Table numbers are provided to help readers find specific subjects.

**Table 1 - Summary of Fiscal Impact by Fund**

| Page # | Table # | Purpose | FY 2017 | FY 2018 - low range | FY 2018 - high range | Revenue Type |
|---|---|---|---|---|---|---|
| 4-12 | Table 10 | Tax credit | $0 | ($39,494,829) | ($78,989,658) | Income |
| 14-15 | Table 14 | Taxes from clean energy tax credit construction | $0 | $4,429,063 | $8,858,126 | Various |
| 16-18 | Table 17 | Taxes from community solar construction | $0 | $2,027,938 | $4,112,207 | Various |
| | | subtotal General Revenue Fund | $0 | ($33,037,828) | ($66,019,325) | |
| | | | | | | |
| 8-13 | Table 11 | Clean Energy Fund | $0 | $185,926 | $371,663 | Application deposit |
| | | | | | | |
| 14-15 | Table 14 | Prop C sales tax - clean energy | $0 | $451,369 | $902,739 | Sales tax |
| 16-18 | Table 17 | Prop C sales tax - community solar | $0 | $206,669 | $419,078 | Sales tax |
| | | subtotal Prop C | $0 | $658,038 | $1,321,817 | |
| | | | | | | |
| 14-15 | Table 14 | Conservation sales tax - clean energy | $0 | $56,421 | $112,842 | Sales tax |
| 16-18 | Table 17 | Conservation sales tax - community solar | $0 | $25,834 | $52,385 | Sales tax |
| | | subtotal Conservation | $0 | $82,255 | $165,227 | |
| | | | | | | |
| 14-15 | Table 14 | Parks and Soils sales tax - clean energy | $0 | $45,137 | $90,274 | Sales tax |
| 16-18 | Table 17 | Parks and Soils sales tax - community solar | $0 | $20,667 | $41,908 | Sales tax |
| | | subtotal Parks and Soils | $0 | $65,804 | $132,182 | |
| | | | | | | |
| | | subtotal Other State Funds | $0 | $992,023 | $1,990,889 | |
| | | | | | | |
| | | subtotal all state funds | $0 | ($32,045,806) | ($64,028,436) | |
| | | | | | | |
| 14-15 | Table 14 | Local Sales Tax - clean energy | $0 | $1,751,314 | $3,502,627 | Sales tax |
| 16-18 | Table 17 | Local Sales Tax - community solar | $0 | $801,875 | $1,626,024 | Sales tax |
| | | subtotal Local Funds | $0 | $2,553,188 | $5,128,651 | |
| | | | | | | |
| | | Grand Total State and Local | $0 | ($29,492,617) | ($58,899,785) | |

**Clean Energy tax credits**

The proposal creates a clean energy tax credit in Chapter 386 RSMo. The annual level of tax credits for each calendar year shall not exceed one percent of the annual statewide Missouri revenue of Missouri retail electric suppliers. The Public Service Commission (PSC) is required to determine the revenue for retail electric suppliers using available reports, including FERC Form Number 1 as allowed by 18 CFR § 141 or an equivalent determined by the PSC.

The data for this calculation is gathered and published by the U.S. Energy Information Administration on its website.[1] Table 2 shows the revenues reported by each Missouri entity in 2014. Retail sales totaled $7.6 billion in 2014 for the 74 entities.

**Table 2**
**2014 Utility Bundled Retail Sales - Total**
(Data from forms EIA-861- schedules 4A & 4D and EIA-861S)

| Entity | Ownership | Revenues (Thousands Dollars) |
|---|---|---|
| Atchison-Holt Electric Coop | Cooperative | $6,727 |
| Barry Electric Coop | Cooperative | $16,654 |
| Barton County Elec Coop, Inc | Cooperative | $16,262 |
| Black River Electric Coop - (MO) | Cooperative | $42,554 |
| Boone Electric Coop | Cooperative | $55,335 |
| Callaway Electric Cooperative | Cooperative | $24,618 |
| Carroll Electric Coop Corp - (AR) | Cooperative | $14,104 |
| Central Missouri Elec Coop Inc | Cooperative | $25,350 |
| Chillicothe Municipal Utils | Municipal | $10,035 |
| Citizens Electric Corporation - (MO) | Cooperative | $123,087 |
| City Utilities of Springfield - (MO) | Municipal | $249,286 |
| City of Ava - (MO) | Municipal | $2,894 |
| City of Cameron | Municipal | $7,728 |
| City of Carthage - (MO) | Municipal | $24,493 |
| City of Columbia - (MO) | Municipal | $109,927 |
| City of Farmington - (MO) | Municipal | $18,390 |
| City of Fulton - (MO) | Municipal | $14,228 |
| City of Hannibal - (MO) | Municipal | $25,785 |
| City of Harrisonville - (MO) | Municipal | $12,072 |
| City of Independence - (MO) | Municipal | $135,338 |
| City of Jackson - (MO) | Municipal | $16,281 |
| City of Kennett - (MO) | Municipal | $10,988 |
| City of Kirkwood - (MO) | Municipal | $21,547 |
| City of Lamar - (MO) | Municipal | $6,961 |
| City of Lebanon - (MO) | Municipal | $22,949 |
| City of Macon - (MO) | Municipal | $9,740 |
| City of Marshall - (MO) | Municipal | $17,390 |
| City of Monett - (MO) | Municipal | $20,534 |
| City of Mount Vernon - (MO) | Municipal | $6,790 |
| City of Nixa - (MO) | Municipal | $14,132 |
| City of Poplar Bluff - (MO) | Municipal | $31,686 |
| City of Rolla - (MO) | Municipal | $27,694 |
| City of Sikeston - (MO) | Municipal | $17,528 |

| | | |
|---|---|---|
| City of Sullivan - (MO) | Municipal | $9,645 |
| City of West Plains - (MO) | Municipal | $15,208 |
| Clay County Electric Coop Corp | Cooperative | $96 |
| Co-Mo Electric Coop Inc | Cooperative | $46,302 |
| Consolidated Electric Coop | Cooperative | $21,936 |
| Crawford Electric Coop, Inc | Cooperative | $30,705 |
| Cuivre River Electric Coop Inc | Cooperative | $105,621 |
| Empire District Electric Co | Investor Owned | $456,324 |
| Farmers Electric Coop, Inc - (MO) | Cooperative | $28,697 |
| Gascosage Electric Coop | Cooperative | $17,074 |
| Grundy Electric Coop, Inc | Cooperative | $12,214 |
| Howard Electric Coop | Cooperative | $6,057 |
| Howell-Oregon Elec Coop, Inc | Cooperative | $38,226 |
| Intercounty Electric Coop Assn | Cooperative | $53,855 |
| KCP&L Greater Missouri Operations Co. | Investor Owned | $802,845 |
| Kansas City Power & Light Co | Investor Owned | $824,706 |
| Laclede Electric Coop, Inc | Cooperative | $63,330 |
| Lewis County Rural E C A | Cooperative | $13,534 |
| Macon Electric Coop | Cooperative | $23,795 |
| Missouri Rural Electric Coop | Cooperative | $17,812 |
| New-Mac Electric Coop, Inc | Cooperative | $38,876 |
| North Central MO Elec Coop Inc | Cooperative | $14,098 |
| Osage Valley Elec Coop Assn | Cooperative | $28,034 |
| Ozark Border Electric Coop | Cooperative | $68,293 |
| Ozark Electric Coop Inc - (MO) | Cooperative | $52,354 |
| Pemiscot-Dunklin Elec Coop Inc | Cooperative | $19,856 |
| Platte-Clay Electric Coop, Inc | Cooperative | $51,737 |
| Ralls County Electric Coop | Cooperative | $12,711 |
| SE-MA-NO Electric Coop | Cooperative | $9,438 |
| SEMO Electric Cooperative | Cooperative | $33,195 |
| Sac-Osage Electric Coop Inc | Cooperative | $16,676 |
| Southwest Electric Coop, Inc | Cooperative | $58,853 |
| Sunnova | Behind the Meter | $1 |
| Three Rivers Electric Coop | Cooperative | $36,751 |
| Trenton Municipal Utilities - (MO) | Municipal | $8,647 |
| Tri-County Electric Coop Assn | Cooperative | $12,512 |
| Union Electric Co - (MO) | Investor Owned | $3,112,534 |
| United Electric Coop, Inc - (MO) | Cooperative | $21,579 |
| Webster Electric Coop | Cooperative | $28,828 |
| West Central Electric Coop Inc - (MO) | Cooperative | $25,967 |
| White River Valley El Coop Inc | Cooperative | $86,488 |
| Adjustment 2014 | Other | $159,914 |
| Total | | $7,644,407 |

Source: http://www.eia.gov/electricity/sales_revenue_price/
Table 10: All Sectors - Class of ownership, number of consumers, sales, revenue, and average retail price by State and utility:

Table 3 shows the data series by year from 1990 through 2014 reported by the U.S. Energy Information Administration.[2] The average annual increase in these revenues is 3.33 percent.

**Table 3**
**Revenue from Sales to Ultimate Customers**
**(Thousand Dollars) for Missouri, 1990-2014**

| Year | Total Revenue | $ Growth over previous year | % Growth over previous year |
|---|---|---|---|
| 1990 | $3,484,572,000 | | |
| 1991 | $3,653,391,000 | $1,688,190 | 4.8% |
| 1992 | $3,489,099,000 | ($1,642,920) | (4.5%) |
| 1993 | $3,709,661,000 | $2,205,620 | 6.3% |
| 1994 | $3,749,115,000 | $394,540 | 1.1% |
| 1995 | $3,891,751,000 | $1,426,360 | 3.8% |
| 1996 | $3,961,895,000 | $701,440 | 1.8% |
| 1997 | $4,005,066,000 | $431,710 | 1.1% |
| 1998 | $4,196,674,000 | $1,916,080 | 4.8% |
| 1999 | $4,185,713,000 | ($109,610) | (0.3%) |
| 2000 | $4,370,246,000 | $1,845,330 | 4.4% |
| 2001 | $4,414,434,000 | $441,880 | 1.0% |
| 2002 | $4,565,227,000 | $1,507,930 | 3.4% |
| 2003 | $4,470,188,000 | ($950,390) | (2.1%) |
| 2004 | $4,494,108,000 | $239,200 | 0.5% |
| 2005 | $4,959,849,000 | $4,657,410 | 10.4% |
| 2006 | $5,169,747,000 | $2,098,980 | 4.2% |
| 2007 | $5,614,317,000 | $4,445,700 | 8.6% |
| 2008 | $5,768,459,000 | $1,541,420 | 2.7% |
| 2009 | $5,871,973,000 | $1,035,140 | 1.8% |
| 2010 | $6,698,608,000 | $8,266,350 | 14.1% |
| 2011 | $7,008,476,000 | $3,098,680 | 4.6% |
| 2012 | $7,029,475,000 | $209,990 | 0.3% |
| 2013 | $7,538,092,000 | $5,086,170 | 7.2% |
| 2014 | $7,644,407,000 | $1,063,150 | 1.4% |
| | | Avg. annual growth | 3.33% |

Source: http://www.eia.gov/electricity/sales_revenue_price/
Supplemental Data: 1990 - 2013 Revenue from Retail Sales of Electricity by State by Sector by Provider (EIA-861)

For purposes of this fiscal analysis it is assumed that the Public Service Commission will use the most recent available data for establishing the annual cap. The state is currently in FY 2016 and the most recent available data is from 2014. Thus, for the fiscal periods included for consideration by the State Auditor's Office the FY 2017 cap will be established using 2015 data published by the U.S. Energy Information Administration. Similarly, the FY 2018 cap will be established using 2016 data. In this manner the cap for each calendar year will be established eight months before it begins instead of four months after it starts.

**Table 4**
**Data and Timeline for Establishing Annual Tax Credit Cap**

| Data available | Time period of data | CY year for the cap |
|---|---|---|
| April 2015 | 2014 actual data | CY 2016 |
| April 2016 | 2015 actual data | CY 2017 |
| April 2017 | 2016 actual data | CY 2018 |

As shown in Table 3 the average annual growth rate from 1990 to 2014 was 3.33 percent. Table 5 assumes that the average annual growth rate will carry forward for the next several years. The clean energy tax credits cap is estimated at $76.4 million for CY 2016, $79 million for CY 2017 and $81.6 million for CY 2018.

**Table 5**
**Clean Energy Tax Credit Estimate of Cap**

| Calendar Year for cap | Fiscal Year for likely redemption of credits | Revenue data | Total Revenue | Tax credit at 1.0% |
|---|---|---|---|---|
| CY 2016 | FY 2017 | 2014 actual data | $7,644,407,000 | $76,444,070 |
| CY 2017 | FY 2018 | 2015 projection | $7,898,965,753 | $78,989,658 |
| CY 2018 | FY 2019 | 2016 projection | $8,162,001,313 | $81,620,013 |

For purposes of the fiscal note the State Auditor's office asks that estimates be provided for the first two fiscal years of implementation which are FY 2017 and FY 2018 since the provisions of the proposal would go into effect in December 2016. Almost all taxpayers file their taxes on the April 15th deadline. Therefore, CY 2016 taxes would be due on April 15, 2017 which is in FY 2017 as shown in Table 5.

The proposal establishes a cap beginning for CY 2016. However, the provisions of the act will go into effect in December 2016. Paragraph 13 of the proposed section 386.1000 states that any taxpayer verified by the Department of Economic Development to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with the provisions shall be deemed eligible for the tax credit. This allows for the Department of Economic Development to include projects in 2016 before its processes are in place. Paragraph 17 of the proposed section 386.1000 provides that the Department of Economic Development shall issue rules necessary to administer the act. In addition, paragraph 10 gives the Department of Economic Development 45 days to notify an applicant of approval after the application is submitted.

Issuing rules is at best a months long process. The 45 day processing time allowed for any completed application filed after the rules are adopted makes it very unlikely that the Department of Economic Development will issue any CY 2016 tax credits before April 15, 2017 that would affect the taxpayers initial tax filing and reduce taxes paid during FY 2017. Tax credits issued between April 15 and June 30, 2017 would require an amended filing which also would be unlikely to be completed by June 30, 2017. Thus, this fiscal analysis assumes a de minimis or no impact on FY 2017 general revenue tax collections. Any CY 2016 tax credit impact would at most impact the FY 2018 tax collections through amended returns or through CY 2017 taxes.

**Application Deposit revenue**

The proposed Section 386.1000 RSMo requires that taxpayers submit an application to the Department of Economic Development to receive approval for tax credits (paragraph 7). Each application must include a two cent per watt application deposit. The total revenue from application deposits is dependent upon:

- the number of projects that will be submitted;
- the number of watts generated from all of those projects

Each of these is affected by the:

- percentage of residential v commercial projects
- number of kW generated by residential v commercial projects
- cost of residential and commercial projects
- total construction completed
- any phase-in period as the Department of Economic Development institutes rules and prepares the program
- any phase-in period as the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available

All of these factors must be estimated and evaluated in order to calculate the amount of application deposit revenue that will be received by the Department of Economic Development.

Tax credits are available to both residential and commercial projects. Paragraph 5 of the proposed Section 386.1000 RSMo provides that no electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit.

The Missouri Department of Economic Development, Division of Energy published a Missouri Comprehensive State Energy Plan in October 2015. The report states that half of the installed net-metered PV solar is residential and the other half commercial customers.[3] However, the report also indicates that there are challenges that face residential customers making it more difficult and expensive to install solar projects. These challenges include local ordinances or homeowner's association rules the may prohibit installation or require design changes that decrease efficiency or add to the cost.[4] In addition, over the past decade an industry has developed to assist with the financing of solar projects. Such financing alternatives are easier to obtain by commercial projects because of their size, scope, and estimated return on investment.[5] Commercial projects can have a longer-term outlook than homeowners who may not know how long they may live in their current house. The Missouri State Energy Plan indicates that residential rooftop solar is a relatively expensive energy option due to these and other factors.[6]

For all of the reasons identified in the preceding paragraph, for purposes of this fiscal analysis residential solar installation is assumed to be 40% of the total solar construction. Commercial solar installation is assumed to be 60% of the total solar construction. This fiscal analysis has already indicated that 2016 solar construction will likely not be affected by the approval of the petition by voters in November 2016. Thus, CY 2017 is the first full year of impact. Tax credits resulting from such construction will first affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office.

The next factor to consider is the number of kW generated by residential and commercial projects. A recent report on photovoltaic system pricing trends published by the U.S. Department of Energy indicates that the median residential project is 6.1 kW while the modeled commercial system is 200 kW. Paragraph 5 of the proposed section 386.1000 establishes a 200 kW limit on installations that are authorized for tax credits.[7] For purposes of this fiscal analysis it is assumed that all commercial projects will be at the 200 kW size and that residential projects will be 6.1 kW. Paragraph 7 of the proposed section 386.1000 requires a two cent per watt application deposit fee. Table 6 shows that there would be a $122 application deposit required for the median residential project. There would be a $4,000 application

deposit required for the 200 kW commercial project. A portion of this revenue will be available to the department for operational purposes as shown later in Table 11.

**Table 6**
**Application Deposit Required for Projects**

| Construction type | Project size in kW | Project size in watts | Application deposit for project at 2 cents per watt |
|---|---|---|---|
| Residential | 6.1 | 6,100 | $122 |
| Commercial | 200.0 | 200,000 | $4,000 |

The recent report on photovoltaic system pricing trends published by the U.S. Department of Energy also discusses the historical, recent, and near-term pricing of solar projects.[8] Project cost information was obtained on more than 400,000 systems in 42 states. The modeled system prices identified in the report showed a Q1 2015 residential system price of $3.12/watt and a commercial 200 kW system cost of $2.17/watt. These were reductions in price of from Q4 2013 of 7% and 19% respectively. The report also indicates that prices for residential and commercial PV systems have decreased by 6-12% per year, on average, from 1998-2014. In addition, the report indicates that analysts project the system prices will fall 16-33% for residential systems between 2014-2020.

Table 7 projects residential solar project costs. Projections are made to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 7 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $3,000/kW for residential solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 6.1 kW residential project is estimated at $18,300.

**Table 7**
**Residential Solar Project Estimate**

| | Cost of Residential project per kW | Cost of Residential project at 6.1 kW project size |
|---|---|---|
| CY 2015 | $3,120 | $19,032 |
| CY 2016 | $3,039 | $18,538 |
| CY 2017 | $2,960 | $18,056 |
| average cost of CY16 and CY17 estimates | $3,000 | $18,300 |

The modeled commercial system price identified in the report showed a Q1 2015 commercial 200 kW system cost of $2.17/watt. However, the national average cost of commercial projects is affected by states with more mature solar markets and industries and large companies, like Wal-Mart and Ikea, that have moved to install significant solar projects on their facilities. The first Missouri commercial systems are less likely to meet the $2.17/watt cost projections. Table 8 uses other data in the report to amend the estimate of commercial solar project costs. The report shows that the price of the modeled 200 kW commercial system has fallen from $2.68/watt to $2.17 between 2013 Q4 and 2015 Q1. The mid-point of that decrease is $2.425/watt. Further, it is assumed that the cost of Missouri projects will be higher by 2.6%, or one-year's worth of the low end of the price declines found in the report. The result is that this analysis will assume that the Missouri 2015 Q1 price is $2.488/watt.

**Table 8**
**Commercial Solar Project Cost Estimate per kW**

| | |
|---|---|
| 2013 Q4 | $2,680 |
| 2015 Q5 | $2,170 |
| Mid-point | $2,425 |
| One-year behind (2.6%) | $2,488 |

Table 9 then projects the $2,488/kW 2015 Q1 cost to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 9 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $2,392/kW for commercial solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 200 kW commercial project is estimated at $478,400.

**Table 9**
**Commercial Solar Project Estimate**

| | Cost of Commercial project per kW | Cost of Commercial project at 200 kW project size |
|---|---|---|
| CY 2015 | $2,488 | $497,600 |
| CY 2016 | $2,423 | $484,600 |
| CY 2017 | $2,360 | $472,000 |
| average cost of CY16 and CY17 estimates | $2,392 | $478,400 |

The analysis so far has identified:

- a $79 million estimate of the maximum clean energy tax credits using one percent of the annual statewide Missouri revenue of Missouri retail electric suppliers as directed by paragraph 1 of the proposed section 386.1000.
- an estimate that 40% of total solar construction would be residential and 60% commercial
- project cost estimates of $18,300 for 6.1 kW residential projects and $478,400 for 200 kW commercial projects

The final factor to calculate before arriving at the amount of application deposit revenue is any phase-in period as the Department of Economic Development issues rules and prepares its processes and the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available. The Missouri State Energy plan reports that Missouri currently has 111 MW of installed solar PV capacity. The plan also reports that there is 42.8 MW of installed net-metered PV solar developed over the years largely as a result of rebates from large utility companies in Missouri.

The proposal being analyzed establishes a statutory program of clean energy tax credits that will sunset after the Department of Economic Development certifies that 1,000 MW of capacity has been added as a result of the tax credits but no later than June 30, 2022. The 1,000 MW target represents a dramatic increase in current capacity.

The Missouri State Energy plan provides a wealth of information about the current state of "green jobs" and the solar industry in Missouri. The report includes the following along with other findings about the industry.

- Missouri had over 100,000 "green jobs" according to a 2009 study.[9]
- Missouri was identified as 10th in the nation for growth in clean energy and clean transportation jobs in 2013.[10]

- $187 million was invested by Missouri's solar industry in 2014 to install solar photovoltaic systems for residential, commercial, and utility use.[11]
- There are more than 97 solar companies at work throughout the supply chain in Missouri, employing 2,500 people including manufacturers, contractors, installers, project developers, distributors.[12]
- Missouri could create 8,500 new jobs to design, install, and operate energy efficiency measures by 2025 according to a 2011 study.[13]
- In 2010 Missouri ranked 6th in the nation in photovoltaic jobs.[14]

The clean energy tax credit does not sunset until the 1,000 MW target of additional capacity is met but no later than June 30, 2022. The size and the long-term nature of the 1,000 MW target should encourage the development of the Missouri solar industry even after it sunsets. It should also result in long-term planning and the build out of a native Missouri solar industry. The target also provides an incentive for the industry to meet the growth potential described in the Missouri State Energy Plan.

In the long-term the impact of the 1,000 MW target will grow and build the industry. In addition, investment in solar will allow longer term benefits in reduced fuel usage, cleaner air, better health and the resulting lower costs among other things. The Missouri State Energy Plan identifies the public health impacts of various energy sources with clean energy sources providing significant positive benefits over other sources.[15] A 2013 study of Hawaii's solar tax credit program found that the State recovered the full cost of the tax credit in 9 to 11 years - a rate of return on its investment ranging from 8.9% to 10.3%.[16] In addition, the study found that for each dollar spent by Hawaii on tax credits the amount of additional sales stimulated was $34.69 for residential solar PV and $55.03 for commercial PV.

However, the fiscal note format required for initiative petitions focuses on the short-term revenue and costs. Thus, the longer-term benefits are not included in this fiscal analysis. As explained elsewhere in this fiscal analysis the impact of the availability of tax credits is somewhat dependent upon the speed with which the Department of Economic Development issues the necessary rules and regulations, develops and makes available the application forms, and the industry's reaction to voter approval and the department's actions. Thus, two alternatives are calculated to create a possible range for the likely outcome in the short-term.

The first alternative assumes that construction will be sufficient to use half of the $79 million in possible tax credits. The first alternative assumes that the program is not implemented until July 2017 thus reducing its effect by half in CY 2017. The second alternative assumes that construction will be sufficient to use all of the $79 million in possible tax credits. The second alternative assumes that the industry is energized by the tax credit and pushes forward with construction under the assumption that the Department of Economic Development will recognize all projects that have been started after voter approval of the proposal.

Table 10 takes that information and shows two possible alternatives for CY 2017.

- Construction leading to use of **half** the available tax credits ($39.5 million) - A total of $112.8 million in construction would be required to generate $39.5 million in tax credits. Residential construction of $45.1 million (assuming 40% of construction) would result in $15.8 million in tax credits. Commercial construction of $67.7 million (assuming 60% share of construction) would result in $23.7 million in tax credits.

- Construction leading to use of **all** the available tax credits ($79 million) - **A total of $225.7 million in construction would be required to generate $79 million in tax credits**. Residential construction of $90.3 million (assuming 40% of construction) would result in $31.6 million in tax credits. Commercial construction of $135.4 million (assuming 60% share of construction) would result in $47.4 million in tax credits.

In addition, using the average cost and size of projects it is possible to compute the number of residential and commercial projects that will be constructed. A total of 2,608 projects would be constructed with half

the tax credits (2,466 residential, 142 commercial). A total of 5,216 projects would be constructed with all the tax credits (4,933 residential, 283 commercial).

**Table 10**
**Number of Projects using Half or All of Tax Credit Cap**

| | CY 2017 construction needed for half of tax credits to be used in FY 2018 | CY 2017 construction needed for all of tax credits to be used in FY 2018 |
|---|---|---|
| Tax credits estimate from CY 2017 construction | $39,494,829 | $78,989,658 |
| Amount of construction value needed to generate value of 35% tax credits | $112,842,369 | $225,684,737 |
| | | |
| % of residential per year of credits issued | 40.0% | 40.0% |
| % of commercial per year of credits issued | 60.0% | 60.0% |
| | | |
| Tax credits by type of construction | | |
| Residential | $15,797,932 | $31,595,863 |
| Commercial | $23,696,897 | $47,393,795 |
| Total amount by type | $39,494,829 | $78,989,658 |
| | | |
| Construction value by type of construction | | |
| Residential | $45,136,948 | $90,273,895 |
| Commercial | $67,705,421 | $135,410,842 |
| Total amount by type | $112,842,369 | $225,684,737 |
| | | |
| Cost of solar projects per project | | |
| Residential (6.1 kW/project) | $18,300 | $18,300 |
| Commercial (200 kW/project) | $478,400 | $478,400 |
| | | |
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |

Table 10 shows a significant number of projects that would be completed throughout the state as a result of the clean energy tax credit. These numbers are possible for a variety of reasons identified in the Missouri State Energy Plan.

- Missouri households use about 12% more than the average U.S. household, thus projects would put real dollars into Missourians pockets for other uses and spending.[17]
- Nationally about ten percent of small business owners state that energy is their single biggest cost according to the National Federation of Independent Business. The same report indicates that an additional 25% of small business owners claim that energy is one of their top three business costs.[18] Thus, clean energy projects that reduce energy usage make businesses more profitable, allow for expansion, and could lead to higher wages for employees.
- Businesses can lower costs through on-site generation while also achieving other benefits.[19]
- Significant operational savings are possible through energy efficiency projects with rates of return as high as 25%.[20]

- A wealth of financing alternatives now exist for clean energy projects.[21]
- "Approximately 60% of the largest U.S. businesses have set public climate and energy goals to increase their use of renewable energy."[22]

Table 11 calculates the amount of application deposit revenue that the Department of Economic Development would receive given the number of projects identified in Table 10. If applications are submitted for projects equivalent to half the available tax credits then the department would receive $0.9 million in application deposit revenue. If applications are submitted for projects equivalent to all the available tax credits then the department would receive $1.7 million in application deposit revenue. The proposal allows the department to keep some of the revenue for its operational purposes. Table 11 shows that it can keep up to $61 for residential applications (half of the anticipated deposit in this analysis) and up to $250 for all other applications. The net non-refunded revenue that the department will have available for its operations is $185,926 or $371,663.

**Table 11**
**Application Deposit Revenue**

| | Application Deposit Estimate for half of tax credits for applications FY 2018 | Application Deposit Estimate for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |
| | | |
| Application deposit required per project | | |
| Residential | $122 | $122 |
| Commercial | $4,000 | $4,000 |
| | | |
| Application deposit revenue | | |
| Residential | $300,852 | $601,826 |
| Commercial | $568,000 | $1,132,000 |
| Total revenue by type | $868,852 | $1,733,826 |
| | | |
| | | |
| Application revenue kept per project for Department Operations | | |
| Residential | $61 | $61 |
| Commercial | $250 | $250 |
| | | |
| Application deposit revenue available for Department Operations | | |
| Residential | $150,426 | $300,913 |
| Commercial | $35,500 | $70,750 |
| Total amount by type | $185,926 | $371,663 |

Table 12 shows the amount of solar capacity added by the number of projects identified in the previous tables given the given size of residential and commercial projects. A total of 43.4 MW would be added in solar capacity as a result of projects equivalent to half the available tax credits which would be 4.3% of the 1,000 MW goal that when achieved will sunset the tax credits. A total of 86.7 MW would be added in

solar capacity as a result of projects equivalent to all the available tax credits which would be 8.7% of the 1,000 MW goal that when achieved will sunset the tax credits.

**Table 12 Amount of Solar Capacity Added**

| | Capacity added for half of tax credits for applications FY 2018 | Capacity added for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |
| | | |
| kW generated by construction | | |
| Residential (6.1 kW/project) | 15,043 | 30,091 |
| Commercial (200 kW/project) | 28,400 | 56,600 |
| Total amount by type | 43,443 | 86,691 |
| | | |
| MW generated by construction | | |
| Residential | 15.0 | 30.1 |
| Commercial | 28.4 | 56.6 |
| Total amount by type | 43.4 | 86.7 |
| | | |
| % of 1,000 MW goal achieved | 4.3% | 8.7% |

**Taxes**

As noted on pages 10-11 of this fiscal analysis, the Missouri State Energy Plan published in October 2015 describes the current capacity, industry size, and investments being made in Missouri. The plan also describes the potential for jobs and economic development in the state. The 1,000 MW target represents a dramatic increase in current capacity. The following analysis assumes that due to the dramatic size of the 1,000 MW target that the investments driven by the clean energy tax credits will result in new jobs and industry expansion.

Table 13 shows the cost components of a solar construction project. Labor is assumed to be 35% of the project costs, materials 40%, and Profit 10%. It is assumed that 15% of the project cost is overhead and it is assumed that no taxes would be applied. Since Missouri already has a base of manufacturers and distributors it is assumed that all materials will be Missouri taxed.

**Table 13**
**Construction Project Components, Tax Type, and Tax Rate**

| Project components | % of job | Missouri tax rate | Type tax |
|---|---|---|---|
| Labor | 35.0% | 6.00% | Income tax |
| Materials and local materials | 40.0% | 4.225% | Sales |
| Profit | 10.0% | 6.25% | Corporate |
| Overhead | 15.0% | 0.00% | N/A |
| subtotal by taxable type | 100.0% | | |

Table 14 computes the state and local taxes based on the value of construction and the project components and tax rates shown in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $4.4 million to $8.9 million in FY 2018. The other three state funds

(Prop C, Conservation, Parks/Soils) are estimated to receive between $0.6 million to $1.1 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $1.75 million to $3.5 million in local sales tax revenue in FY 2018.

**Table 14**
**State and Local Taxes Generated by Construction**

| | Half of tax credits used - CY 2017 | All of tax credits used - CY 2017 |
|---|---|---|
| Amount of construction value needed to generate value of 35% tax credits | $112,842,369 | $225,684,737 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $39,494,829 | $78,989,658 |
| Materials and local materials | $45,136,947 | $90,273,895 |
| Profit | $11,284,237 | $22,568,474 |
| subtotal by taxable type | $95,916,013 | $191,832,027 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $2,369,690 | $4,739,379 |
| Materials and local materials - Sales/Use Tax | $1,354,108 | $2,708,217 |
| Profit - General Revenue Corporate Tax | $705,265 | $1,410,530 |
| subtotal GR | $4,429,063 | $8,858,126 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $451,369 | $902,739 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $56,421 | $112,842 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $45,137 | $90,274 |
| subtotal State Taxes | $4,981,991 | $9,963,981 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $1,751,314 | $3,502,627 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $6,733,304 | $13,466,608 |

The taxes generated from the construction activity shown in Table 14 likely underestimate the state revenue that will be generated by the construction of clean energy projects even within the short time period allowed in the fiscal note. As noted earlier there are multiplier effects that ripple through the economy. The Department of Economic Development through MERIC has a sophisticated model that it uses to evaluate the impact of tax credits and other business investments made in the State of Missouri. Using the information in this fiscal analysis MERIC should be able to provide supplementary information regarding the extra economic activity and increased revenues.

Similarly, generating additional clean energy within the State of Missouri will result in a decrease in the importation of power and energy producing raw materials from other states. Such money leakage from the state, businesses and citizens, decreases the amount of purchasing could be done for other purposes such as increased jobs within the state and thus the tax revenues that would be generated. For example, the Missouri State Energy Plan notes that Missouri is the sixth largest consumer of coal in the country and 92.5% of the coal used in 2013 was imported from Wyoming.[23] The plan reports that the state sends billions of dollars out of state for purchases of imported coal, natural gas, and transportation fuels.[24]

**Community Solar Act** - Applies to Versions 28, 30, 31, 32, 34, and 36
The Community Solar Act, section 386.910 of the proposal, directs the Missouri Public Service Commission to establish rules allowing customers to participate in a "community solar facility." Community solar facilities allow participants to benefit from solar energy and receive electric bill credits substantially similar to net metering.

Paragraph 3 of that section states that the "aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous fiscal year." Table 15 shows the total peak demand data compiled by the Public Service Commission for the four utilities affected by this section. The report shows that using peak demand leads to a cap of 504.5 MW on the amount of aggregated capacity of community solar facilities statewide.

**Table 15 - Peak Demand for Community Solar**

| Utility Name | Peak Demand |
|---|---|
| Union Electric Co - (MO) | 7,713.0 |
| Kansas City Power & Light Co | 1,878.0 |
| KCP&L Greater Missouri Operations Co. | 1,860.0 |
| Empire District Electric Co | 1,162.0 |
| Total | 12,613.0 |
| 4% overall cap | 504.5 |

Paragraph 2 of that section defines a community solar facility as a photovoltaic electric generation facility with a capacity of between 100 and 1,000 kW. For purposes of this fiscal note it is assumed that all community solar projects will be the same as the 200 kW project limit established in the clean energy tax credit language of 386.1000. In Table 12 above a low and high range was calculated for the percentage of solar capacity added through the tax credits based on the expectations of the phase-in necessary for the Department of Economic Development's implementation of the clean energy tax credits. The same percentage is used - 4.3% low range and 8.7% higher range. Similarly, for the purposes of this fiscal note the cost per kW will be $2,392 for a total project cost of $478,400 as shown in Table 9.

Table 16 shows the data and calculations needed to identify the number of projects. At the low end of the range 21.7 MW of added community solar capacity would be created which would require 108 projects of 200 kW. At the higher range 43.9 MW of added community solar capacity would be created which would require 219 projects of 200 kW.

Table 16 also shows that at an average project cost of $478,400 the low range results in $51.7 million in construction spending. The higher range results in $104.8 million in construction spending.

**Table 16**
**Community Solar Capacity and Projects**

| | Low Range | Higher Range |
|---|---|---|
| Assumed % of aggregate capacity | 4.3% | 8.7% |
| Added capacity - MW | 21.69 | 43.89 |
| Added capacity - kW | 21,694.36 | 43,893.24 |
| # projects at commercial 200 kW per project | 108 | 219 |
| Construction cost - commercial project per 200 kW project | $478,400 | $478,400 |
| Construction value | $51,667,200 | $104,769,600 |

Table 17 computes the state and local taxes based on the value of construction and the project components and tax rates shown earlier in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $2.0 million to $4.1 million in FY 2018. The other three state funds (Prop C, Conservation, Parks/Soils) are estimated to receive between $0.2 million to $0.5 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $0.8 million to $1.6 million in local sales tax revenue in FY 2018.

**Table 17**
**State and Local Taxes Generated by Construction of Community Solar Projects**

| | Low range | Higher range |
|---|---|---|
| Amount of construction value needed to generate estimated MW | $51,667,200 | $104,769,600 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $18,083,520 | $36,669,360 |
| Materials and local materials | $20,666,880 | $41,907,840 |
| Profit | $5,166,720 | $10,476,960 |
| subtotal by taxable type | $43,917,120 | $89,054,160 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $1,085,011 | $2,200,162 |
| Materials and local materials - Sales/Use Tax | $620,006 | $1,257,235 |
| Profit - General Revenue Corporate Tax | $322,920 | $654,810 |
| subtotal GR | $2,027,938 | $4,112,207 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $206,669 | $419,078 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $25,834 | $52,385 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $20,667 | $41,908 |
| subtotal State Taxes | $2,281,107 | $4,625,578 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $801,875 | $1,626,024 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $3,082,982 | $6,251,602 |

**Net metering bills** - Applies to Versions 28, 29, 30, 31, 32, 35, and 36
The Missouri General Assembly has considered six net metering bills over the past three legislative sessions. Table 18 below identifies the bills and provides links to the fiscal note and bill summary prepared for each bill. All of the fiscal notes prepared and available indicated that there was no state impact from the net metering bills.

**Table 18**
**NET METERING**
**2013, 2014, AND 2015 LEGISLATIVE SESSIONS**

| Session | Bill | Sponsor | Fiscal Note Impact | Fiscal Note Summary Link | Bill Summary Link |
|---|---|---|---|---|---|
| 2015 | SB 75 | Holsman | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0622-01N.ORG.pdf | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=82&BillID=174 |
| 2015 | SB 509 | Holsman | No impact | N/A | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=664&BillID=4599469 |
| 2015 | HB 481 | Berry (38) | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0502-01N.ORG.pdf | http://house.mo.gov/billtracking/bills151/sumpdf/HB0481C.pdf |
| 2014 | HB 1795 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER14/fishtm/5552-02N.ORG.htm | http://house.mo.gov/billtracking/bills141/sumpdf/HB1795I.pdf |
| 2013 | HB 119 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/0794-02N.ORG.htm | http://house.mo.gov/billtracking/bills131/sumpdf/HB0119I.pdf |
| 2013 | SB 396 | Holsman | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/1078-07N.ORG.htm | http://www.senate.mo.gov/13info/BTS_Web/Bill.aspx?SessionType=R&BillID=19218703 |

**Electric Vehicle Charging Stations** - Applies to Versions 30, 31, 32, 34, and 35
The petition authorizes investor-owned utilities to recover costs for infrastructure investments in electric vehicle charging stations, provided the energy output from the stations is offset in part by clean energy. There should be no fiscal impact to the state. Utility investment in electric charging stations will result in positive economic activity similar to other capital investments. However, the range of the benefits is unknown at this time.

ENDNOTES

[1] U.S. Energy Information Administration: *Table 10: All Sectors - Class of ownership, number of consumers, sales, revenue, and average retail price by State and utility*
http://www.eia.gov/electricity/sales_revenue_price/

[2] U.S. Energy Information Administration: *Supplemental Data: 1990 - 2013 Revenue from Retail Sales of Electricity by State by Sector by Provider (EIA-861)*
http://www.eia.gov/electricity/sales_revenue_price/

[3] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25
https://energy.mo.gov/energy/docs/MCSEP.pdf

[4] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25-26
https://energy.mo.gov/energy/docs/MCSEP.pdf

[5] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[6] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 200
https://energy.mo.gov/energy/docs/MCSEP.pdf

[7] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 5
http://www.nrel.gov/docs/fy15osti/64898.pdf

[8] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 4
http://www.nrel.gov/docs/fy15osti/64898.pdf

[9] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 172
https://energy.mo.gov/energy/docs/MCSEP.pdf

[10] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 173
https://energy.mo.gov/energy/docs/MCSEP.pdf

[11] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[12] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[13] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 174
https://energy.mo.gov/energy/docs/MCSEP.pdf

[14] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 175
https://energy.mo.gov/energy/docs/MCSEP.pdf

[15] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 190-191, 193, 195-199, 201, 203
https://energy.mo.gov/energy/docs/MCSEP.pdf

[16] Thomas A Loudat, Blue Planet Foundation. "*The Economic and Fiscal Effects of Hawaii's Solar Tax Credit*" - January 2013.
http://blueplanetfoundation.org/renewable-energy-tax-credit-2013.html?highlight=WyJsb3VkYXQiXQ==

[17] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 154
https://energy.mo.gov/energy/docs/MCSEP.pdf

[18] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 165 for both sentences in this bullet point
https://energy.mo.gov/energy/docs/MCSEP.pdf

[19] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[20] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[21] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[22] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 178
https://energy.mo.gov/energy/docs/MCSEP.pdf

[23] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 20-21
https://energy.mo.gov/energy/docs/MCSEP.pdf

[24] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 42
https://energy.mo.gov/energy/docs/MCSEP.pdf

**Edward D. Greim** provided the following information as an opponent of this initiative petition.

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January 11, 2016

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Re: *Fiscal Note in Initiative Petitions 2016-202 through 210*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petitions 202, 204, 206, and 210:

> Lost revenue to state government is $3.04 billion over the tax credit period, with annual losses of $9.5 million to $11.5 million thereafter. Lost revenue to local government is $189.1 million over the tax credit period, with annual losses of $31.5 million to $33.9 million thereafter.

We propose the following fiscal note summary for petition 203:

> Lost revenue to state government is $320.9 million over the tax credit period, with annual losses of $5.6 million to $9.6 million thereafter. Lost revenue to local government is $100.9 million over the tax credit period, with annual losses of $20 million to $28.1 million thereafter.

We propose the following fiscal note summary for petition 205:

> Lost revenue to state government is $328.8 million over the tax credit period, with annual losses of $7.5 million to $11.5 million thereafter. Lost revenue to local government is $175.3 million over the tax credit period, with annual losses of $32.4 million to $40.5 million thereafter.

We propose the following fiscal note summary for petition 207:

> Lost revenue to state government is $3.02 billion over the tax credit period, with annual losses of $5.7 million to $7.7 million thereafter. Lost revenue to local government is $40.4 million over the tax credit period, with annual losses of $11.5 million to $15.7 million thereafter.

We propose the following fiscal note summary for petitions 208 and 209:

> Lost revenue to state government is $3.03 billion over the tax credit period, with annual losses of $7.6 million to $9.6 million thereafter. Lost revenue to local government is $114.8 million over the tax credit period, with annual losses of $23.9 million to $28.1 million thereafter.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments; taxes that do not apply whenever electricity is never sold due to customer-generator production encouraged by the initiative petitions. Petition signers and voters must be informed that any positive fiscal impacts of the initiative petitions are speculative. Likewise, petition signers and voters must be informed that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume.

**Description of Policy**

Initiative Petitions 202 – 210 contain one or more of three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of the "Community Solar Act"; and (3) A state tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, or certain natural gas technologies.

1. Changes to Net Metering for Investor-owned electric utilities and municipal electric utilities, and, in 206, rural electric cooperatives
    A. Raise net metering cap to 7% (is currently 5%);
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);



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   D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.
2. Community Solar Act
   A. PSC adopts rules and regulations allowing groups of 5 or more electrical corporation customers to offset energy usage with solar located in the service territory of the electrical corporation where they have an account;
   B. Facilities are 100 kilowatts to 1 megawatt;
   C. Community solar facilities may, in total, generate electricity of 4% or less of single-hour peak load, but that amount does not count toward net metering; Electrical corporations can own half (max of 2%), which may be included in the rate base. Others may own the other half (max of 2%);
   D. Community Solar facilities are not eligible for tax credits provided in the petition;
   E. Commission sets a community solar rate, not less than electrical corporation's average retail rate;
   F. Value of allocated solar bill credits reduces customer's total bill;
   G. The current value-of-community-solar rate may be locked in for 20 years beginning when a community solar facility is put in operation.
3. Tax credit
   A. 35% tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, etc.
   B. Total value of eligible credits shall not exceed 1% of the value of electricity used in Missouri[1] – defined as revenue from sale of electricity in Missouri; or tax credits are capped at$50 million each year. Unused credits carryover year to year until June 30, 2022
   C. No tax credits after June 30, 2022, or after 1000 megawatts of new generation have been installed using the tax credits.

**Burdens on State Government**

In determining the fiscal impact of each petition it is generally reasonable to assume that the various statutory changes in the petitions will have independent fiscal impacts. The reasonableness of this assumption is buoyed by the various iterations of the petitions themselves, some of which propose tax credits with no proposed changes to the Net Metering and Easy Connection Act. See Petitions 207 and 208.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 202-207 and 209-210*

[1] The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. See U.S. Energy Information Administration – Independent Statistics and Analysis.



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Raising the net metering cap from the current 5% of peak hour demand to 7% of peak hour demand will, conservatively, result in a 2% decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase from 5% to 7%. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in the petition provides a strong financial incentive to solar or wind energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[2], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, the net-metering cap applies to single-hour peak load, determined yearly, which means that the cap is a higher percentage of the single hour average load. This fact means that the total increase in generation is higher than it appears. Fourth, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[3] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by approximately $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities. The additional decreases in sales tax revenues from municipal electric utilities and, in petition 206, from electric cooperatives, are unknown but substantial.[4]

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 202, 204-206, 208, and 210*

Community solar facilities are in addition to net metering and represent an additional capacity amounting to 4% of each electrical corporation's single-hour peak load. Energy generated from the community solar facility is allocated pro rata by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. There is the potential for such bill

[2] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[3] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.
[4] Assuming $7.6 billion in electricity is sold in Missouri per year (the actual 2014 figure), a 2% decrease will decrease overall state sales tax revenues by 6.4 million annually, but some petitions enact net metering changes on rural electric cooperatives, and some do not.



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credits to decrease overall electrical bills by more than 4% because the "bill credits" are calculated using a "value of solar rate" which is at least as high as the retail rate for electricity, but may be higher. If, for example, solar energy received a 50% rate premium due to its benefits, the amount of bill credits would increase and sales would decrease by more than the 6%, rather than 4% figure. Half of these community solar facilities—the half not owned by electrical corporations—may be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoid property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership model, similar to net metering, because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%).

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by approximately $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities.

*iii. Tax credits – Initiative Petitions 202-210*

*a. Decreased tax collections due to tax credits – Credits capped at 1% of value of electricity sold in Missouri, annually ($76 million based on 2014 figures) – Initiative Petitions 202, 204, 206-210*

According to 2014 figures, Missouri retail customers bought 7.6 billion dollars' worth of electricity in 2014. It is very conservative to estimate that Missouri retail customers will continue to buy the same value of electricity. Accordingly, the 35% tax credits in these petitions will, conservatively, directly result in a loss of state income of up to $76 million, annually. However, electricity rates are volatile, and rates may react violently given market changes and legal changes proposed by the initiative petitions. As stated by the Department of Economic Development, the total loss to state revenue in a single year could be $429.3 million, annually, and $3 billion in total.

*b. Decreased tax collections due to tax credits – Credits capped at $50 million annually – Initiative Petitions 203 and 205*

Similar to the loss described in subpart a, the 35% tax credits in these petitions will directly result in a loss of state income of up to $50 million, annually.

*c. Cost of eroding tax base due to new energy generation – Initiative Petitions 202-210*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer-generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in



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Missouri. Accordingly, if the tax credits were phased out due to reaching the 1000 MWh/1,000,000 kWh maximum on new electricity generation, new production from such tax credits would produce approximately 1,825,000 MWh per year, also expressed as 1,825,000,000 KWh, or 1,825 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour [5], this new production is valued at $182,500,000.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

In practice, the 1 gigawatt limit on new customer-generated energy production may never be met. Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[6] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for renewable energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology. The petition itself limits tax credits to a maximum of $3.00 per watt, but market forces should make rates in Missouri similar to those in other states, at or around $1.77.

For Initiative Petitions 202, 204, and 206-210, the total, annual loss to state governments *due to the tax credits* is 76.9 million to 435 million over the tax credit period. There is an annual loss in perpetuity after the tax credit period of 5.7 to 7.7 million, depending on how much new customer-generation is developed. See attached table.

For Initiative Petitions 203 and 205, the total, annual loss to state governments *due to the tax credits* is 50.6 million to 53.7 million over the tax credit period. There is an annual loss in perpetuity after the tax credit period of 3.7 to 7.7 million, depending on how much new customer-generation is developed. See attached table.

**Burdens on Local Governments**

[5] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.

[6] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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Local governments face similar losses in revenue from the various petition provisions as state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 202-206 and 209-210*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 202, 204-206, 208, and 210*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*iii. Tax credits – Cost of eroding tax base due to new energy generation – Initiative Petitions 202-210*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petitions may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to local governments, all of which may be reduced or discontinued if the initiative petitions are enacted.



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The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[7] Based on this estimate, the population-weighted combined average local sales tax is 3.585%. Assuming the tax credits sunset due to reaching the 1 Gigawatt production cap, the yearly loss to local governments from lost sales tax from the tax credit is $6,541,578. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,123,540.

For petitions 202, 204, and 206-210, the loss to local governments due to the tax credits is $40.4 million over the tax credit period, then $11.5 to $15.7 million annually. For initiative petitions 203 and 205, the loss to local governments due to the tax credits is $26.6 million over the tax credit period, then $7.5 to $15.7 million annually.

**In Conclusion**

The initiative petitions will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petitions, such as increases in net metering and community solar. The total tax burden on state government imposed by the petitions range from $313 million over the tax credit period, with $3.7 to $7.7 million in lost revenues in perpetuity, to approximately $498.6 million over the tax credit period,[8] with $9.5 million to 11.5 million in lost revenues in perpetuity thereafter.

Sincerely,

Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0

[7] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.
[8] $475.8 million + [(1.9 million + 1.9 million)*6 years]



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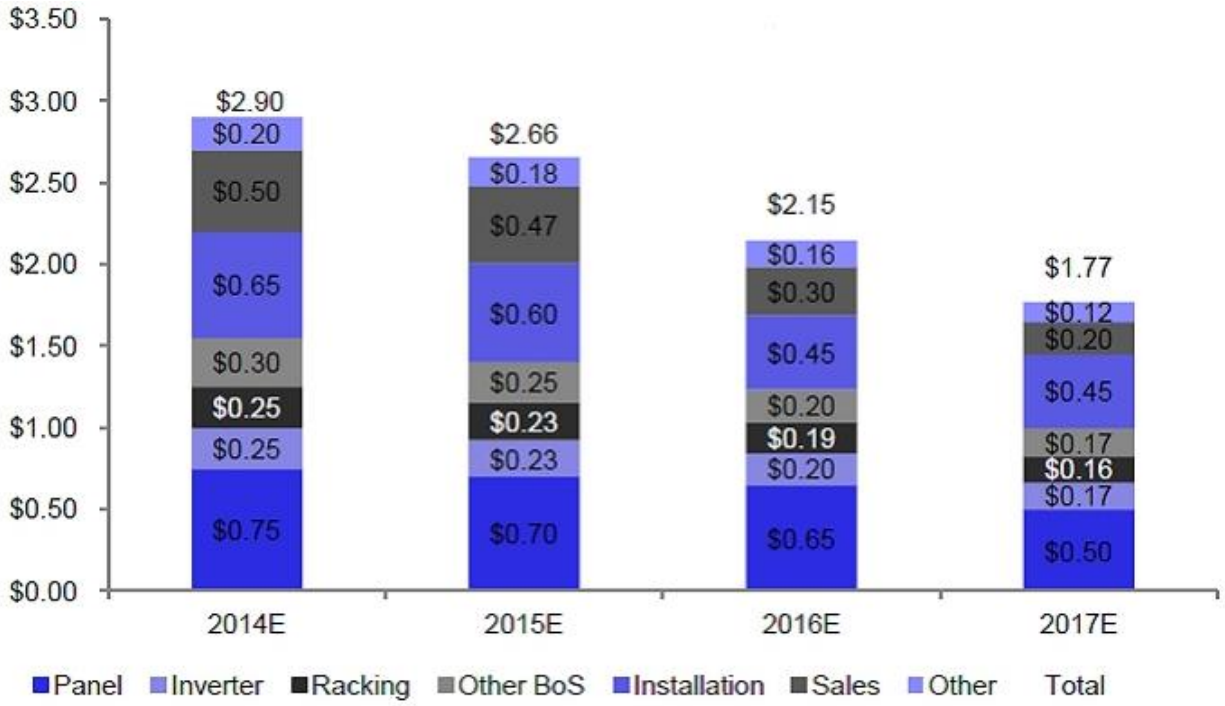
Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017
https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm



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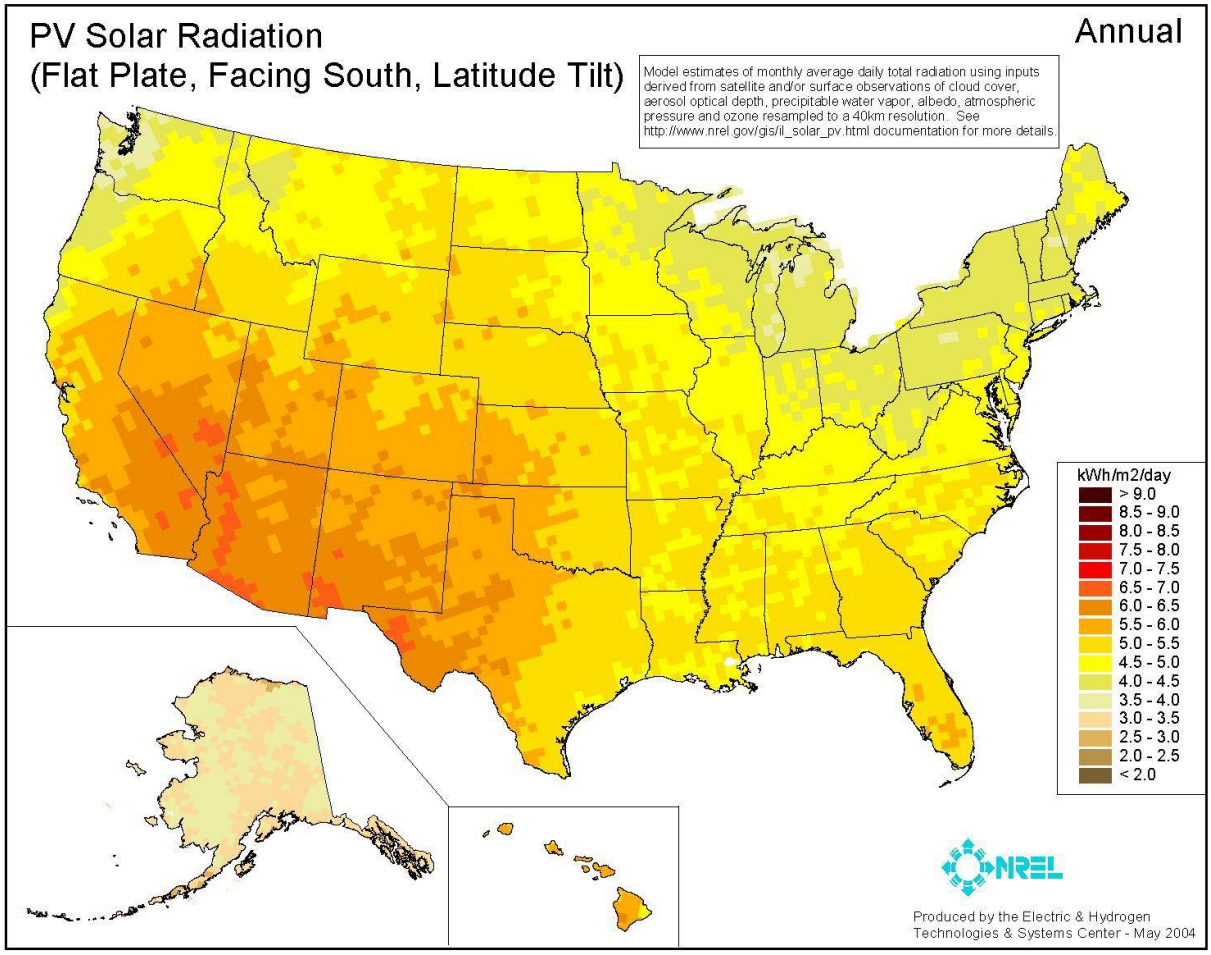
National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Brightergy Renewable Tax Credit Fiscal Analysis (1% Value of Electricity Cap) - Initiative Petitions 202, 204, and 206-210**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 122.68 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $76,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 223,854 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $76,000,000 | 122.68 | 122.68 | 223,854 | $100 | $22,385,441 | 4.225% | $945,785 | $76,945,785 | 3.585% | $802,518 | 5.000% | $1,119,272 | $1,921,790 |
| 2018 | $76,000,000 | 122.68 | 245.36 | 447,709 | $100 | $44,770,882 | 4.225% | $1,891,570 | $77,891,570 | 3.585% | $1,605,036 | 5.000% | $2,238,544 | $3,843,580 |
| 2019 | $76,000,000 | 122.68 | 368.04 | 671,563 | $100 | $67,156,323 | 4.225% | $2,837,355 | $78,837,355 | 3.585% | $2,407,554 | 5.000% | $3,357,816 | $5,765,370 |
| 2020 | $76,000,000 | 122.68 | 490.72 | 895,418 | $100 | $89,541,765 | 4.225% | $3,783,140 | $79,783,140 | 3.585% | $3,210,072 | 5.000% | $4,477,088 | $7,687,160 |
| 2021 | $76,000,000 | 122.68 | 613.40 | 1,119,272 | $100 | $111,927,206 | 4.225% | $4,728,924 | $80,728,924 | 3.585% | $4,012,590 | 5.000% | $5,596,360 | $9,608,951 |
| 2022 | $76,000,000 | 122.68 | 736.08 | 1,343,126 | $100 | $134,312,647 | 4.225% | $5,674,709 | $81,674,709 | 3.585% | $4,815,108 | 5.000% | $6,715,632 | $11,530,741 |
| | | | | | | | | **Total State Tax Burden** | **$475,861,483** | | **Total Local Tax Burden (Sales + Franchise)** | | **$40,357,593** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

**Brightergy Renewable Tax Credit Fiscal Analysis (50 Million Tax Credit Cap) - Initiative Petitions 203 and 205**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 80.71 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $50,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 147,273 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $50,000,000 | 80.71 | 80.71 | 147,273 | $100 | $14,727,264 | 4.225% | $622,227 | $50,622,227 | 3.585% | $527,972 | 5.000% | $736,363 | $1,264,336 |
| 2018 | $50,000,000 | 80.71 | 161.42 | 294,545 | $100 | $29,454,528 | 4.225% | $1,244,454 | $51,244,454 | 3.585% | $1,055,945 | 5.000% | $1,472,726 | $2,528,671 |
| 2019 | $50,000,000 | 80.71 | 242.13 | 441,818 | $100 | $44,181,792 | 4.225% | $1,866,681 | $51,866,681 | 3.585% | $1,583,917 | 5.000% | $2,209,090 | $3,793,007 |
| 2020 | $50,000,000 | 80.71 | 322.84 | 589,091 | $100 | $58,909,056 | 4.225% | $2,488,908 | $52,488,908 | 3.585% | $2,111,890 | 5.000% | $2,945,453 | $5,057,342 |
| 2021 | $50,000,000 | 80.71 | 403.55 | 736,363 | $100 | $73,636,320 | 4.225% | $3,111,135 | $53,111,135 | 3.585% | $2,639,862 | 5.000% | $3,681,816 | $6,321,678 |
| 2022 | $50,000,000 | 80.71 | 484.26 | 883,636 | $100 | $88,363,584 | 4.225% | $3,733,361 | $53,733,361 | 3.585% | $3,167,834 | 5.000% | $4,418,179 | $7,586,014 |
| | | | | | | | | **Total State Tax Burden** | **$313,066,765** | | **Total Local Tax Burden (Sales + Franchise)** | | **$26,551,048** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State government revenue may decrease up to $50 million annually until June 30, 2022 with approximately $640,000 net annual increased operating costs. Local government electric revenue may decrease $23.9 million annually with $3.4 million increased operating costs. Other resulting economic activity will have an unknown impact on state and local governments.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

STATE AUDITOR'S OFFICE
RECEIVED
JAN 04 2016

16-204

January 4, 2016

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 39 (2016-204)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 31, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-264

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 31 AM 8:50
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-204

*Be it enacted by the people of the state of Missouri:*

Section A: Section 386.890 is amended and sections 386.860, 386.870, 386.900, 386.910 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.900 to 386.1000 shall be known and may be cited as the "Clean Energy Independence and Investment Act of 2016".

386.870. An electrical corporation shall be allowed to recover its costs and add in its rate base prudently incurred costs to purchase and install electric vehicle charging stations intended to recharge electric motor vehicles, provided the electricity consumed at such stations is partially powered by a clean energy resource, as defined in 386.900, or offset with renewable energy credits, as defined in 393.1025. Investments made pursuant to this section shall not raise the retail rates charged to the customers of any such electrical corporation by more than one-half of one percent in any year.

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any [municipal electric utility,] rural electric cooperative as provided in chapter 394[, or electrical corporation as provided in this chapter];

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of natural resources;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any [municipal utility, electrical corporation regulated under this chapter, or] rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which [the commission for a public utility or] the governing body for the supplier[other electric utilities] may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing,

maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) [For any rural electric cooperative under chapter 394, or municipal utility, u]Upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional

liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, [the commission for public utilities and] the governing body for the supplier[other utilities] shall, by rule or equivalent formal action[ by each respective governing body]:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. [Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated s]Suppliers shall submit [the same] an annual net metering report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. [The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section

and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10.] The governing body of a supplier [rural electric cooperative or municipal utility] shall[, within nine months of January 1, 2008,] adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

[11.] 10. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

[12.] 11. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

[13.] 12. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

[14.] 13. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

[15.] 14. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

[16.] 15. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

[17.] 16. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.900. 1. This section shall be known and may be cited as the "Enhanced Net Metering and Easy Connection Act". It shall be the policy of the state to facilitate the use of customer-sited or controlled clean energy resources.

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal utility or electrical corporation as provided in this chapter;

(2) "Clean energy resource", electrical energy produced from:

(a) Wind;
(b) Solar thermal sources;
(c) Hydroelectric sources;
(d) Photovoltaic cells and panels;
(e) Fuel cells using hydrogen produced by a source listed in paragraphs (a) through (d) of this subdivision; or
(f) Other sources of energy that become available after January 1, 2017, and are certified as clean by the department.

(3) "Commission", the public service commission of the state of Missouri;

(4) "Customer-generator", the owner, lessee or operator of a qualified electric energy generation unit which:

(a) Is powered by a clean energy resource or micro CHP;

(b) Has an electrical generating system with a capacity of not more than five hundred kilowatts, measured in alternating current;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(5) "Department", the department of economic development;

(6) "Micro CHP", combined heat and power or cogeneration systems that simultaneously generate electricity and thermal energy in a single integrated system with a nameplate rated capacity equal to or lower than 130 kilowatts, measured in alternating current;

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(7) "Net excess energy", the amount of energy expressed in kilowatt hours delivered by a customer-generator to a supplier that exceeds the amount of energy delivered by the supplier to the customer-generator over a single billing period;

(8) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(9) "Retail electric supplier" or "supplier", any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals seven percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for a municipal utility may increase the total rated generating capacity of net metering systems to an amount above seven percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds two percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the retail electric supplier shall pay for the costs to purchase and install the necessary additional equipment, unless the commission or governing body makes a determination that the customer-generator is the only customer benefiting from the additional distribution equipment. If the commission or governing body determines the customer-generator is the only customer benefiting, such customer-generator shall reimburse the electric supplier for reasonably incurred equipment expenses. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

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(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subdivision (2) of subsection 3 of this section and all net excess energy shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent months;

(4) Any net excess energy credits carried forward under subdivision (3) of this subsection shall expire without any compensation at the earlier of either the next subsequent March billing period or when the customer-generator disconnects service or otherwise terminates the net metering relationship with the supplier;

(5) For any municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule:

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(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (4) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems one hundred kilowatts or less and within sixty days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application. Retail electric suppliers shall interconnect qualified energy generation units within thirty days of being notified the generation unit is installed and meets the requirements of this section.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for notifying the retail electric supplier.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other suppliers shall submit the same report to their respective governing body and make said report available to a customer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall by June 1, 2017 promulgate any rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after June 1, 2017, shall be invalid and void.

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10. The governing body of a municipal utility shall by June 1, 2017 adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs, including lost revenues and lost earnings opportunities associated with reduced demand or kilowatt hours sales, incurred under this section by a retail electric supplier shall be recovered in a timely manner in that utility's rate structure in the form of a tracker or other appropriate rate recovery mechanism. At the time of any general change in a supplier's rates, any over-recovery or under-recovery balance shall be included in the supplier's revenue requirement used to set rates as amortized over a period not exceeding three years, and shall be recovered from each rate class pursuant to the supplier's approved rate design. At the time any general change in prospective rates is proposed, the commission shall permit the supplier to estimate the total generation output from all customer-owned generation for each rate class for the twelve-month period following the effective date of any change in rates, and rates shall be set using energy and demand billing units that reflect the estimated reduction of energy and demand likely to occur due to customer-owned generation. When considering costs, the commission may evaluate the value of distributed generation and clean energy resources. To the extent any costs, lost revenues, or lost earnings are recovered under this section, they shall not raise the retail rates charged to the customers of any such electrical corporation by an average of more than one percent in any year. Any limitation on cost recovery shall not limit the availability of net metering except as provided in subsection 3 of this section.

15. No customer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a customer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said customer and terminate said customer's electric service.

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16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.910. 1. This section shall be known and may be cited as the "Community Solar Act."

2. Within thirty days of enactment of this section, the commission shall open a docket and by August 1, 2017, the commission shall adopt rules and regulations allowing customers to participate in community solar facilities and set a value-of-community-solar rate as described in subsection 5 of this section. For purposes of this section, a "community solar facility" is a photovoltaic electric generation facility with a capacity of between one hundred and one thousand kilowatts, measured in alternating current, that allows five or more customers of an electrical corporation to offset their energy usage with solar energy and such facility is located within the Missouri service territory of the electrical corporation where such customers have one or more electrical accounts. For the purposes of this section, an electrical corporation is as defined in 386.020.

3. The aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous calendar year, and such capacity of community solar facilities shall not count towards the system-wide net metering cap defined in subsection 3 of section 386.900. Electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. Entities or individuals that are not electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of an electrical corporation's single-hour peak load during the previous year. The commission shall allow prudently incurred costs and expenses for community solar facilities owned by an electrical corporation to be included in such electrical corporation's rate base. Once the four percent aggregate cap is reached for community solar facilities, the commission shall open a docket to determine whether or not the community solar program shall be expanded, and the commission may increase the aggregate capacity cap above four percent. The commission shall consider benefits and costs of such an expansion when making its decision. Community solar facilities shall not be eligible for tax credits under section 386.1000.

4. For any community solar facility that is owned or operated by an entity other than an electrical corporation, the energy generated by such community solar facility shall be provided to the electrical corporation to which it is interconnected in exchange for the allocation and facilitation of bill credits as provided in subsection 5 of this section.

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5. Kilowatt hours generated from community solar facilities shall be allocated, on a pro rata basis, to the designated subscribers of the community solar facility at the direction of the community solar facility owner or operator. Allocated bill credits shall be set at a value-of-community-solar rate per kilowatt hour determined by the commission. The commission shall determine the value of bill credits per kilowatt hour taking into consideration costs and benefits of solar energy including but not limited to energy value, generation value, environmental value, transmission and distribution system value, disaster recovery value, reactive power value and other grid benefit value, but such bill credits shall not be less than the electrical corporation's average retail rate. The value of allocated community solar bill credits shall be used to reduce the customer's total bill. When a community solar facility is placed in service it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years.

6. Owners and operators of community solar facilities shall not be considered a public utility as defined in section 386.020, except that this provision shall not apply to any owner or operator who is an electrical corporation.

7. The commission shall promulgate rules and regulations it deems necessary to carry out the provisions of this section. The commission's rules shall: allow electrical corporations to recover costs; provide earning opportunities for electrical corporations; provide an orderly process, including a reservation system, to allow potential community solar facility owners and operators to develop projects within the capacity limits in subsection 3 of this section; and provide options, which may include financial incentives, to encourage low-income participation.

8. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section, shall be invalid and void.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall be eligible to receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. The total amount of clean energy tax credits offered annually shall not exceed one percent of the value of electricity used in Missouri as determined in subsection 4 of this section.

2. The department of economic development shall certify when the tax credits provided in this section have cumulatively resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each

taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the clean energy tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.890 and 386.900, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on available reports, including FERC Form Number 1 as allowed by 18 CFR § 141, or an equivalent as determined by the commission, of megawatt hours sales of retail electricity and corresponding revenues for the preceding year or most current reporting period as determined by the commission. The commission shall publish the value of electricity used in Missouri to the public and department of economic development within sixty days of the enactment of this section and at least forty-five days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may apply for and receive the credit authorized by this section only for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to

the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

7. To obtain initial approval for tax credits allowed under this section, a taxpayer shall submit an application for tax credits to the department of economic development. Each application shall be reviewed in the order of the date on which the application was received, with the oldest received date receiving highest priority in the queue. Applications received on the same day, that are not time-stamped, shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. The department may retain, for the purposes of administering this section, up to half of each application deposit, which shall not be subject to refund and shall not exceed one hundred dollars for residential taxpayers and two hundred and fifty dollars for all other taxpayers. Such application deposit, except the portion retained for administration purposes by the department, shall be refunded at completion of the project or in the event the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. The taxpayer may request a refund of the application deposit; however, any refunds of the deposit for an application shall cause such application to lose its spot in the application queue. If the taxpayer wants to maintain its position in the application queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

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(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

9. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision of its intent to disapprove, including the reasons for intending to disapprove, and to remove such application from the application queue. The taxpayer shall have one opportunity, not to exceed fifteen days of notification of intent to disapprove, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

10. If the department of economic development deems the initial application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the date the department received the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for approval shall be notified by the department of economic development that the maximum amount of credits authorized for the program have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available.

12. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial approval for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available, then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development, to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be

completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1, 3 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by postal or electronic letter and shall issue, to the taxpayer, a tax credit certificate within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

15. If the amount of the credit under subsection 14 of this section exceeds the taxpayer's total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

16. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsections 10 or 11 of this section, such taxpayer may not apply to the department for issuance of tax credits in an

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amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

17. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536. Such rules may include repayment provisions necessary to recover tax credit benefits from taxpayers found to have used fraud or misrepresentations of fact on applications, and other anti-fraud and compliance measures as may be required by the department and the provisions of sections 135.800 to 135.830.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-204)**

## Subject

Initiative petition from Andy Zellers regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received January 04, 2016)

## Date

January 25, 2016

## Description

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **Public Service Commission,** and the **Missouri Joint Municipal Electric Utility Commission**.

**Mark R. Reading** provided information to the State Auditor's Office as a proponent of this initiative petition.

**Edward D. Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Assumptions**

Officials from the **Attorney General's office** indicated Section 386.900.13, RSMo, of the proposal assigns new rulemaking responsibility to their office regarding mandatory disclosures of information by sellers of qualified electric generation units, as well as new investigatory and litigation duties. They assume they would need 1/4 full-time employee (FTE) to handle the complaints, enforcement and the rulemaking responsibilities assigned to their office, resulting in increased operating expenses of $13,890 for fiscal year 2017, $16,810 for fiscal year 2018, and $16,952 for fiscal year 2019.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** (DED) provided the following information:

The Division of Energy (DE) indicated this petition will result in increased operating expenses of $759,071 for fiscal year 2017, $827,781 for fiscal year 2018, and $835,826 for fiscal year 2019. These costs will be offset by additional revenues to the Clean Energy Fund of $0 for fiscal year 2017, $370,943 for fiscal year 2018, and $370,943 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Section 386.870 – Electric Vehicle Charging Stations

The DE participates in Public Service Commission (PSC) regulatory cases to evaluate issues from a formal state policy and planning perspective consistent with its interests in clean, affordable, abundant energy, and its efficient use. DE is active in cases before the PSC related to energy efficiency and renewable energy and has responsibilities associated with certifying clean energy sources under Missouri's Renewable Energy Standard (RES) and net metering statutes. As such, DE assumes it would be involved in the implementation of this provision by monitoring and participating in cases that allow regulated electric utilities to install and recover costs associated with electric vehicle recharging stations that are partially powered by a clean energy source or offset with renewable energy credits.

Section 386.900 – Enhanced Net Metering and Easy Connection Act

DE assumes it would be involved in the implementation of this provision that modifies the existing net metering and interconnection requirements for regulated electric utilities. It is assumed there would be a rulemaking docket to set the process and details associated with this proposal. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop

proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where enhanced net metering provisions are considered.

Section 386.910 – Community Solar Act
DE assumes it would be involved in the implementation of the Community Solar Act provisions including participation in the rulemaking docket to set the process and details associated with this section. DE assumes it would monitor and participate in tariff and other related cases where community solar facilities are established for purposes of determination of eligibility and certification under the RES. DE assumes this provision would result in additional RES certifications that would need to be performed.

Section 386.1000 – Clean Energy Tax Credit
DE is required to administer the Clean Energy Fund created by this section and promulgate rules to implement the Clean Energy Tax Credit. The proposal requires DE to receive applications and deposits, review and initially approve applications and required information within 30 days, review final approval applications, issue certificates and provide notifications, refund deposits for completed and disapproved projects, at least quarterly publish a list of the amount of tax credits initially and finally approved for each fiscal year and amounts reserved for future years, notify individual applicants of disapproved applications and approval within specified timeframes, notify applicants if the maximum amount of credits authorized have been allocated for the fiscal year and grant three-month extensions if needed for project completion with additional deposit payments.

**Long-range implications**

Fiscal impacts associated with the Clean Energy Tax Credits could continue until June 30, 2022. The authorization for the tax credit would sunset sooner if the 1,000 megawatt limit is reached. Economic benefits associated with construction of solar facilities would also have long-range implications.

**Assumptions and methodology used in arriving at state fiscal impact**

Section 386.870 – Electric Vehicle Charging Stations
For purposes of this fiscal note, DE assumes it would be involved in cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

Section 386.900 – Enhanced Net Metering and Easy Connection Act
For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

386.910-Community Solar Act

For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

The RES requires investor-owned utilities in Missouri to either produce green power or purchase Renewable Energy Certificates (RECs) for compliance. One REC represents 1 megawatt-hour of electricity generated from an eligible renewable energy resource. The in-state renewable energy generation can receive a multiplier of 1.25 for RES compliance purpose. DE has statutory authority to certify eligible renewable energy resources before RECs associated with those renewable energy resources can be used for RES compliance. DE does not charge any certification fees.

A community solar facility is defined as a solar photovoltaics facility with a capacity of 100-1000 kilowatts (kW) under this section. DE anticipates that in-state community solar facilities will request DE to certify their renewable energy resources/projects for the purpose of generating additional revenue from REC sales. DE's review primarily focuses on environmental impacts of renewable electric generation facilities on air, water or land use. The actual staff time spent on each application varies from one project to another. Solar photovoltaics facilities with a larger capacity typically require more staff time for reviewing their third-party environmental impact assessments in addition to verifying applicable environmental permits. Staff time will be also needed for data requests and discussion, data collection, database management, report production and website maintenance.

Current average staff time to review and certify renewable energy facilities ranges from 2 hours for small projects of a few hundred kW and 8-10 hours for larger projects of a few hundred kW to 1000 kW. It is assumed that small projects will account for two-thirds of the total community solar facilities and one-third will be larger projects. The weighted average of staff time (based on 2 hours for smaller projects and 8 hours for larger projects) is 4 hours (calculation: 2*{2/3}+8*{1/3)}). The number of projects at the assumed 200 kW ranges from 71 to 209 if the full amount of tax credits are used (Source: Mark Reading). By multiplying the average staff time of 4 hours, the annual staff time will range from 284 to 836 hours. For purposes of this fiscal note, DE assumes it could implement the provisions of this section related to RES environmental certifications with staff requested to implement the clean energy tax credit in Section 386.1000, RSMo (see below).

Section 386.1000 – Clean Energy Tax Credit

Retail sales of Missouri's utilities totaled $7.6 billion in 2014 (Source: Mark Reading; U.S. DOE/EIA). If all tax credits were used each year up to the cap of 1% of the annual statewide Missouri revenue of Missouri's retail electric suppliers, the decrease in the state's general revenues would be approximately $76 million/year from the effective date through June 30, 2022, depending on the schedule of implementation and applications submitted and approved. If the tax credits cumulatively result in installations of 1,000

megawatts prior to June 30, 2022, the tax credits would sunset. Note the actual tax credit cap would be based on revenues as determined by the Public Service Commission pursuant to Section 386.1000.4, RSMo, of this proposal. The tax credits would have unknown economic benefits from the construction and installation of solar energy systems.

If the full amount of tax credits were used each year and with consideration to the estimated cost and size of the projects, it is estimated there would be 4,933 residential project applications and 283 commercial project applications submitted for tax credit reviews (Source: Mark Reading). DE assumes that it would take approximately 2 hours each to do the initial review/approval of each application and another 2 hours to do the review and issuance of a certification after a project is completed for residential projects. Each of these would include clerical time for input/issuing letters/filing, etc. For larger commercial projects, an estimated 8 hours is anticipated for each of these two steps. See response above for detailed tasks required by the proposal.

19,732 hours for residential applications
4,528 hours for commercial applications
24,260 hours total

To implement this provision, DE assumes it will need a total of 12 FTE (including a portion of an FTE to implement Community Solar provisions, Section 386.910, RSMo, above) as follows:
8 – Energy Specialist I/II
2 – Energy Engineer II
2 – Administrative Office Support Assistant (AOSA)

- Energy Specialist I/II - Professional level staff to review the renewable energy project applications and to complete project evaluation activities.
- Energy Engineer II - Professional staff with expertise in engineering aspects of renewable energy projects to review the technical aspects of the projects, review of projects related to the Renewable Energy Standard and Renewable Energy Certificates and familiar with environmental impacts of renewable electric generation.
- AOSA - Staff to assist with the administrative requirements of the reviews such as drafting and sending communication to applicants, maintaining the database of applicants, and tracking status of applications.

An application deposit of 2 cents/watt is required to be paid to DE and deposited in the Clean Energy Fund. The proposal provides that DE may retain, for the purposes of administering this section, up to half of each application deposit to administer the provisions of this proposal but would not exceed one hundred dollars for residential taxpayers and two hundred and fifty dollars for all other taxpayers. Using the assumption above, if the full amount of tax credits were used each year and with consideration to the estimated cost and size of the projects, it is estimated there would be 4,933 residential project applications (at an average size of 6.1 kW) and 283 commercial project applications (at an average size of 200 kW) submitted for tax credit reviews. The application deposit for a residential project would be $122 and DE could retain 50% or

$61 for a total of $300,913. The application deposit for a commercial project would be $4,000 and DE could retain a maximum of $250/application for a total of $70,750.

For purposes of this fiscal note, DE assumes there could be up to $370,943 per year available from the Clean Energy Fund to administer the provisions of this proposal. As this is less than the estimated costs to implement the provisions of the proposal, DE assumes the shortfall would be from General Revenue funds. It is also assumed that General Revenue funds would be necessary to cover all DE's costs in FY 2017 until such time as sufficient application deposits are received.

DE also assumes that the Department of Economic Development's existing tax credit database will be used to track the applications. Some IT costs to generate the necessary reports are estimated.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated the responsibilities of this proposal appear to fall under the Division of Energy. With Executive Order 13-03 the Division of Energy was transferred from their department to the Missouri Department of Economic Development, by Type I transfer. Therefore, they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** estimate this petition will result in increased operating expenses of $243,282 for fiscal year 2017, $181,985 for fiscal year 2018, and $183,470 for fiscal year 2019.

The legislation creates an unknown, negative impact to total state revenue by creating a new tax credit.

**Section 386.1000**
The provisions of this section authorize the issuance of a clean energy tax credit to taxpayers incurring costs for the installation of a clean energy resource project. The taxpayer may claim 35 percent (35%) of the total cost of the project. The legislation caps the amount of tax credits at not more than one percent (1%) of the value of the electricity used in Missouri.

**Section 386.1000.15**
The department suggests changing the provisions pertaining to the transfer of the tax credit to the Department of Revenue because this is currently the department's responsibility based on a previously issued executive order.

**Administrative Impact:**
**Personal Tax:**
Personal Tax requires one (1) Revenue Processing Technician I (Range 10, Step L) for every 6,000 credits claimed.

**Corporate Tax:**
Corporate Tax requires three (3) Revenue Processing Technicians I (Range 10, Step L) for every 4,000 credits redeemed, 4,000 credits transferred, and for every 520 SB 1099 compliance mailings and correspondence.

**Integrated Tax System:**
The integrated tax system incurs additional costs of $43,680 to implement the provisions of this petition.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** (OA) indicated the proposal:

- Allows utilities to recover costs and add in its rate base costs to install electric vehicle charging stations intended to recharge electric motor vehicles, provided the energy consumed at each station is partially powered by a clean energy resource. This could

result in a total state revenue reduction. OA does not have the data to estimate the fiscal impact. The DED or the PSC may have such data.

- Authorizes the use of net-metering, with certain limits to facilitate the use of customer-sited or controlled clean energy resources.
- Allows retail electric suppliers to recover any costs incurred in this act in that utility's rate structure. To the extent any such costs, lost revenues or lost earning are recovered, they shall not raise the customer retail rates by an average of more than 1% in any year. This could impact total state revenue. OA does not have the data to estimate the fiscal impact. The DED or the PSC may have such data.
- Allows participation in community solar facilities.
- Enacts a "Clean Energy" income tax credit for an amount equal to 35% of the total cost of the clean energy project. The annual cap on the credits is 1% of the value of electricity used in Missouri as determined by the PSC. This will result in a total state revenue reduction. This would also impact the calculation under Article X, Section 18(e), of the Missouri Constitution. OA understands that the DED and/or the PSC may have the data to estimate the impact, therefore OA defers to DED and the PSC.
- Establishes the Clean Energy Fund, which is to be used to advance clean energy through the efficient administration of the Clean Energy Tax Credit Program. This will result in an increase to total state revenue. The revenue in the fund will come from various application deposits, but could also come from appropriated moneys, gifts, contributions, grants or bequests. The DED will administer this fund. OA defers to the DED for the estimated impact of the application deposits.

This proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015,

at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson** indicated because their city does not own any utility except for wastewater, there would be no fiscal impact should this petition become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from **University of Missouri** indicated they have not seen cost impact studies on this initiative from their electric utility suppliers, but they do not believe this will have a significant impact on their university.

Officials from the **Public Service Commission** (PSC) indicated:

Section 386.870 allows an electrical corporation to recover its costs and add in its rate base prudently incurred costs to install electric vehicle charging stations provided the energy consumed is partially powered by a clean energy resource or offset with renewable energy credits. It is not clear if the renewable energy credits can be used to meet Section 386.870 and also used to meet the utility's renewable portfolio standard in Section 393.1030.

Section 386.870 also states investments made pursuant to this section shall not raise the retail rates charged to customers of electrical corporations by more than one half of one percent in any year. The PSC suggests this requirement be clarified. A similar cap is placed on the renewable mandate of Section 393.1045. It has been over 7 years since the enactment of this provision and parties continue to argue its meaning before the PSC.

Section 386.890 defines "department" as the department of natural resources. Since other changes are being made to this section, "department" should be defined as the department of economic development, division of energy.

Sections 386.890 and 386.900 both use the terms "Retail electric supplier" or "supplier", but in Section 386.890 a "retail electric supplier" or "supplier" is any rural electric cooperative under Chapter 394 that provides retail electric service in this state and in Section 386.900 a "retail electric supplier" or "supplier" is any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state. Although the terms are in different statutes, it may be confusing to define the same term in a different manner. It may be clearer to use different terms applicable to the respective intent. Further since Section 386.890 is only applicable to rural electric cooperatives, it may make sense to move the entire provision to Chapter 394.

Sections 386.890 and 386.900 use the term "wholesale generator". The PSC respectfully suggests this term be defined.

Section 386.900 uses terms such as "commission-regulated supplier" and "public utilities" to describe suppliers that are subject to PSC jurisdiction. The PSC respectfully suggests the terms be used consistently.

Section 386.900 requires the PSC to promulgate rules by June 1, 2017 and Section 386.910 requires the PSC to adopt rules by August 1, 2017. The PSC respectfully suggests these dates may be aggressive for final rules to be effective.

Section 386.900.6.(2) references "subsection 4 of this section". This appears to be an inaccurate cross-reference as there is no subsection 4 of the section.

Section 386.900.12 says the estimated generating capacity of all net metering systems shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate, but the renewable energy portfolio deals with "energy" not "capacity".

Section 386.900.14 says any costs, including lost revenues and lost earnings opportunities. The PSC respectfully suggests "lost revenues" and "lost earnings opportunities" be clearly defined as to how to calculate those amounts. The interpretation and calculation of these terms has been the subject of on-going disagreement as they relate to the Missouri Energy Efficiency Investment Act.

Section 386.900.14 states the commission may evaluate the value of distributed generation and clean energy resources, but it is not clear how to determine those values.

Section 386.900.14 states any costs, lost revenues or lost earnings recovered under this section shall not raise the retail rates charged to customers by an average of more than one percent in any year. The PSC suggests this requirement be clarified. A similar cap is placed on the renewable mandate of Section 393.1045. It has been over seven years since the enactment of this provision and parties continue to argue over its meaning before the commission.

Section 386.910.5 states that when a community solar facility is placed in service, it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years. It appears this provision would require the utility ratepayers to fund the facility at the current rate for 20 years without adjustment for changes in the utility's costs or revenues that would occur over the 20 year period. It is also not clear if the cost-of-solar value contemplates an earnings opportunity for the Commission-regulated utility.

Section 386.1000 discusses a "clean energy tax credit". It is not clear why the tax credit is in the PSC statute and not in a tax-related statute.

Officials from the **Missouri Joint Municipal Electric Utility Commission** (MJMEUC) indicated:

Missouri Public Utility Alliance (MJMEUC is part of the alliance) through its electric division represents 65 of the 86 cities with municipal electric utilities.

After careful review and analysis, they believe that implementation would reduce municipal electric utility revenues somewhere between $17,000,000 and $23,900,000 annually based on:

1. Varying changes to the state's net metering law.
2. Greater penetration of solar panels throughout the state because of a state funded tax rebate for their purchase and installation.

Other proposed changes would increase the cost of city operations by approximately $3,435,000.

Several of these proposals modify the state's net metering law to require cities to carry forward to subsequent months excess customer generation. Current software is not designed to provide this functionality and each city would have to contract with their own vendor to modify their billing software. In addition several petition versions require the PSC to approve municipal rate increases by class based on actual expenses. This will necessitate regular cost of service studies and for cities to hire attorneys with experience before the PSC to present their cases for rate increases. In order to calculate costs they have contacted firms in both disciplines to provide estimated costs for these services.

Total estimated costs are as follows:

| | |
|---|---|
| Lost Revenues: | $23,900,000 |
| Service Study: | 1,505,000 |
| Attorney, PSC Experience: | 410,000 |
| Billing Modification: | 1,520,000 |
| TOTAL | $27,335,000 |

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art X Sec 16) that reduces income or increases costs without "full state financing", they anticipate that the costs would be reflected in the final state

cost when the fiscal note is completed. They have no idea what litigation costs might be necessary.

They would offer the following for potential utilization in the final fiscal note:

"….. *reduce revenues for municipal electric utilities by (fill in the blank), increase operational costs by approximately (fill in the blank) and create unknown litigation costs at both the state and local level over Mo. Const. Art. X Sec. 16."*

**Mark R. Reading** provided the following information as a proponent of this initiative petition.

Submitted by:

_____

Mark R. Reading
2604 Lakeland Drive
Jefferson City, MO 65109
(573) 694-6828
*Primary Contact Person*

**Clean Energy Independence and Investment Act of 2016 - Version 38**
**Sec. of State # 203**

**Proposed Statement of Fiscal Impact**
**for Clean Energy Independence and Investment Act of 2016 - Version 38**
**Sec. of State # 203**

**Fiscal Impact Information Submitted Pursuant to Section 23.140.2**

The amendment's estimated impact decreases state revenue between $21 to $60 million depending upon the speed of up to $200 million in additional clean energy project construction and implementation by the Department of Economic Development, residential homeowners, and businesses. Local revenue is estimated to grow between $1.1 to $3.1 million.

| ESTIMATED NET EFFECT ON STATE FUNDS | | |
|---|---|---|
| **Fund Affected** | **FY 2017** | **FY 2018** |
| **General Revenue** | $0 | From ($22,196,429) to ($62,150,000) |
| | | |
| **Total Estimated Net Effect on All State Funds** | $0 | From ($21,407,279) to ($59,940,558) |
| **ESTIMATED NET EFFECT ON LOCAL FUNDS** | | |
| Local Funds | $0 | From $1,108,571 to $3,104,000 |
| | | |
| **Total Estimated Net Effect on All Local Funds** | $0 | From $1,108,571 to $3,104,000 |

**SUMMARY OF VERSIONS OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT**

Nine additional versions of the Clean Energy Independence and Investment Act of 2016 have been submitted for review. A summary of which topics are in each version is provided below.

**CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT OF 2016**
**SUMMARY OF VERSIONS**

| Petition version | 386.870 - Electric vehicle | 386.890 - Net metering | 386.900 - Enhanced net metering | 386.910 - Community Solar | 386.1000 - Tax credits |
|---|---|---|---|---|---|
| | | | | | |
| **1% Electric Versions** | | | | | |
| Version 37 | N/A | X | X | X | X |
| Version 39 | X | X | X | X | X |
| Version 41 | X | Deletes | X | X | X |
| Version 42 | N/A | N/A | N/A | N/A | X |
| Version 43 | X | N/A | N/A | X | X |
| Version 44 | X | X | X | N/A | X |
| Version 45 | N/A | X | X | X | X |
| | | | | | |
| **$50 million cap Versions** | | | | | |
| Version 38 | N/A | X | X | N/A | X |
| Version 40 | X | X | X | X | X |

## ANALYSIS OF FISCAL IMPACT OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT

The fiscal impact analysis contained herein focuses on estimating the fee and tax revenue resulting from the statutory changes proposed in the initiative petition. Table 1 summarizes the revenue estimated by source and by fiscal year. Page and Table numbers are provided to help readers find specific subjects.

**Table 1 - Summary of Fiscal Impact by Fund**

| Page # | Table # | Purpose | FY 2017 | FY 2018 - low range | FY 2018 - high range | Revenue Type |
|---|---|---|---|---|---|---|
| 9 | Table 9 | Tax credit | $0 | ($25,000,000) | ($70,000,000) | Income |
| 12-14 | Table 14 | Taxes from clean energy tax credit construction | $0 | $2,803,571 | $7,850,000 | Various |
| 14-16 | Table 17 | Taxes from community solar construction | N/A | N/A | N/A | Various |
| | | subtotal General Revenue Fund | $0 | ($22,196,429) | ($62,150,000) | |
| | | | | | | |
| 5-11 | Table 11 | Clean Energy Fund | $0 | $117,721 | $329,442 | Application deposit |
| | | | | | | |
| 12-14 | Table 14 | Prop C sales tax - clean energy | $0 | $285,714 | $800,000 | Sales tax |
| 14-16 | Table 17 | Prop C sales tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Prop C | $0 | $285,714 | $800,000 | |
| | | | | | | |
| 12-14 | Table 14 | Conservation sales tax - clean energy | $0 | $35,714 | $100,000 | Sales tax |
| 14-16 | Table 17 | Conservation sales tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Conservation | $0 | $35,714 | $100,000 | |
| | | | | | | |
| 12-14 | Table 14 | Parks and Soils sales tax - clean energy | $0 | $28,571 | $80,000 | Sales tax |
| 14-16 | Table 17 | Parks and Soils sales tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Parks and Soils | $0 | $28,571 | $80,000 | |
| | | | | | | |
| | | subtotal Other State Funds | $0 | $789,150 | $2,209,442 | |
| | | | | | | |
| | | subtotal all state funds | $0 | ($21,407,279) | ($59,940,558) | |
| | | | | | | |
| 12-14 | Table 14 | Local Sales Tax - clean energy | $0 | $1,108,571 | $3,104,000 | Sales tax |
| 14-16 | Table 17 | Local Sales Tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Local Funds | $0 | $1,108,571 | $3,104,000 | |
| | | Grand Total State and Local | $0 | ($20,298,708) | ($56,836,558) | |

**Clean Energy tax credits**

The proposal creates a clean energy tax credit in Chapter 386 RSMo. The annual level of tax credits shall be $50 million at the beginning of the program. The proposal also provides that the tax credit cap shall be increased or decreased each year by the percentage increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency.

Table 2 shows the CPI values reported for December from 2000 to 2014. The annual average growth over the period was 2.16%. Recent CPI increases have been lower than the early part of the series due to the most recent recession and concerted action by the Federal Reserve to keep interest rates low. The Federal Reserve is expected to raise interest rates in the near future. This is likely to raise CPI inflation. To ensure a better prediction of future anticipated CPI the longer time period is used to determine the average annual increase.

**Table 2**
**Consumer Price Index (CPI-U) History**
**December Reported**

| Year | CPI value | Increase | % increase |
|---|---|---|---|
| 2000 | 174.000 | | |
| 2001 | 176.700 | 2.700 | 1.6% |
| 2002 | 180.900 | 4.200 | 2.4% |
| 2003 | 184.300 | 3.400 | 1.9% |
| 2004 | 190.300 | 6.000 | 3.3% |
| 2005 | 196.800 | 6.500 | 3.4% |
| 2006 | 201.800 | 5.000 | 2.5% |
| 2007 | 210.036 | 8.236 | 4.1% |
| 2008 | 210.228 | 0.192 | 0.1% |
| 2009 | 215.949 | 5.721 | 2.7% |
| 2010 | 219.179 | 3.230 | 1.5% |
| 2011 | 225.672 | 6.493 | 3.0% |
| 2012 | 229.601 | 3.929 | 1.7% |
| 2013 | 233.049 | 3.448 | 1.5% |
| 2014 | 234.812 | 1.763 | 0.8% |
| | Avg. annual increase | | 2.16% |

Table 3 uses the average annual growth rate for 2000 to 2014 to project the tax credit cap into the future. The election date of November 2016 on the proposal is in the State's FY 2017. Therefore, FY 2017 is the base year for the $50 million clean energy tax credit cap. The clean energy tax credits cap is estimated at $50 million for FY 2017, $51.1 million for FY 2018 and $52.2 million for FY 2019.

**Table 3**
**Clean Energy Tax Credit Estimate of Cap**

| Fiscal Year | Clean Energy Tax Credit Cap |
|---|---|
| FY 2017 | $50,000,000 |
| FY 2018 | $51,082,005 |
| FY 2019 | $52,187,425 |

For purposes of the fiscal note the State Auditor's office asks that estimates be provided for the first two fiscal years of implementation which are FY 2017 and FY 2018 since the provisions of the proposal would go into effect in December 2016. Almost all taxpayers file their taxes on the April 15th deadline. Therefore, CY 2016 taxes would be due on April 15, 2017 which is in FY 2017.

The provisions of the act will go into effect in December 2016. Paragraph 11 of the proposed section 386.1000 states that any taxpayer verified by the Department of Economic Development to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with the provisions shall be deemed eligible for the tax credit. This allows for the Department of Economic Development to include projects in 2016 before its processes are in place. Paragraph 15 of the proposed section 386.1000 provides that the Department of Economic Development shall issue rules necessary to administer the act. In addition, paragraph 8 gives the Department of Economic Development 45 days to notify an applicant of approval after the application is submitted.

Issuing rules is at best a months long process. The 45 day processing time allowed for any completed application filed after the rules are adopted makes it very unlikely that the Department of Economic Development will issue any FY 2017 tax credits before April 15, 2017 that would affect the taxpayers initial tax filing and reduce taxes paid during FY 2017. Tax credits issued between April 15 and June 30, 2017 would require an amended filing which also would be unlikely to be completed by June 30, 2017. Thus, this fiscal analysis assumes a de minimis or no impact on FY 2017 general revenue tax collections. Any CY 2016 project with tax credit impact would at most impact the FY 2018 tax collections through amended returns or through CY 2017 taxes paid in FY 2018.

Paragraph 3 of the proposed section 386.1000 provides for the carryover of any unused clean energy tax credit authority until it is used. If the Department of Economic Development is slow to issue clean energy tax credits in FY 2017 at the beginning of the program then the unused authority of the cap carries over to FY 2018. Table 4 shows what the FY 2018 clean energy tax credit cap would be if all of the FY 2017 tax credit authority provided carries over - $101.1 million. This does not mean that the State's general revenue fund collections would be affected by $101.1 million. Paragraph 3 also limits the department to a total offer of no more than $70 million in tax credits. Clean energy construction of $200 million would be necessary to qualify for the entire $70 million in tax credits that are allowed.

**Table 4**
**FY 2018 Tax Credit Cap with FY 2017 Possible Carryover**

| Fiscal Year | FY 2018 |
|---|---|
| Original cap | $51,082,005 |
| Carry over from previous year | $50,000,000 |
| Total | $101,082,005 |

**Application Deposit revenue**

The proposed Section 386.1000 RSMo requires that taxpayers submit an application to the Department of Economic Development to receive approval for tax credits (paragraph 5). Each application must include a two cent per watt application deposit. The total revenue from application deposits is dependent upon:

- the number of projects that will be submitted;
- the number of watts generated from all of those projects

Each of these is affected by the:

- percentage of residential v commercial projects
- number of kW generated by residential v commercial projects
- cost of residential and commercial projects
- total construction completed
- any phase-in period as the Department of Economic Development institutes rules and prepares the program
- any phase-in period as the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available

All of these factors must be estimated and evaluated in order to calculate the amount of application deposit revenue that will be received by the Department of Economic Development.

Tax credits are available to both residential and commercial projects. Paragraph 2 of the proposed Section 386.1000 RSMo provides that no electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit.

The Missouri Department of Economic Development, Division of Energy published a Missouri Comprehensive State Energy Plan in October 2015. The report states that half of the installed net-metered PV solar is residential and the other half commercial customers.[1] However, the report also indicates that there are challenges that face residential customers making it more difficult and expensive to install solar projects. These challenges include local ordinances or homeowner's association rules the may prohibit installation or require design changes that decrease efficiency or add to the cost.[2] In addition, over the past decade an industry has developed to assist with the financing of solar projects. Such financing alternatives are easier to obtain by commercial projects because of their size, scope, and estimated return on investment.[3] Commercial projects can have a longer-term outlook than homeowners who may not know how long they may live in their current house. The Missouri State Energy Plan indicates that residential rooftop solar is a relatively expensive energy option due to these and other factors.[4]

For all of the reasons identified in the preceding paragraph, for purposes of this fiscal analysis residential solar installation is assumed to be 40% of the total solar construction. Commercial solar installation is assumed to be 60% of the total solar construction. This fiscal analysis has already indicated that CY 2016 solar construction will likely not be affected by the approval of the petition by voters in November 2016. Thus, CY 2017 is the first full year of impact. Tax credits resulting from such construction will first affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office.

The next factor to consider is the number of kW generated by residential and commercial projects. A recent report on photovoltaic system pricing trends published by the U.S. Department of Energy indicates that the median residential project is 6.1 kW while the modeled commercial system is 200 kW. Paragraph 2 of the proposed section 386.1000 establishes a 200 kW limit on installations that are authorized for tax credits.[5] For purposes of this fiscal analysis it is assumed that all commercial projects will be at the 200 kW size and that residential projects will be 6.1 kW. Paragraph 5 of the proposed section 386.1000 requires a two cent per watt application deposit fee. Table 5 shows that there would be a $122 application deposit required for the median residential project. There would be a $4,000 application deposit required for the 200 kW commercial project. A portion of this revenue will be available to the department for operational purposes as shown later in Table 11.

**Table 5**
**Application Deposit Required for Projects**

| Construction type | Project size in kW | Project size in watts | Application deposit for project at 2 cents per watt |
|---|---|---|---|
| Residential | 6.1 | 6,100 | $122 |
| Commercial | 200.0 | 200,000 | $4,000 |

The recent report on photovoltaic system pricing trends published by the U.S. Department of Energy also discusses the historical, recent, and near-term pricing of solar projects.[6] Project cost information was obtained on more than 400,000 systems in 42 states. The modeled system prices identified in the report showed a Q1 2015 residential system price of $3.12/watt and a commercial 200 kW system cost of $2.17/watt. These were reductions in price of from Q4 2013 of 7% and 19% respectively. The report also indicates that prices for residential and commercial PV systems have decreased by 6-12% per year, on

average, from 1998-2014. In addition, the report indicates that analysts project the system prices will fall 16-33% for residential systems between 2014-2020.

Table 6 projects residential solar project costs. Projections are made to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 6 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $3,000/kW for residential solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 6.1 kW residential project is estimated at $18,300.

**Table 6**
**Residential Solar Project Estimate**

| | Cost of Residential project per kW | Cost of Residential project at 6.1 kW project size |
|---|---|---|
| CY 2015 | $3,120 | $19,032 |
| CY 2016 | $3,039 | $18,538 |
| CY 2017 | $2,960 | $18,056 |
| average cost of CY16 and CY17 estimates | $3,000 | $18,300 |

The modeled commercial system price identified in the report showed a Q1 2015 commercial 200 kW system cost of $2.17/watt. However, the national average cost of commercial projects is affected by states with more mature solar markets and industries and large companies, like Wal-Mart and Ikea, that have moved to install significant solar projects on their facilities. The first Missouri commercial systems are less likely to meet the $2.17/watt cost projections. Table 7 uses other data in the report to amend the estimate of commercial solar project costs. The report shows that the price of the modeled 200 kW commercial system has fallen from $2.68/watt to $2.17 between 2013 Q4 and 2015 Q1. The mid-point of that decrease is $2.425/watt. Further, it is assumed that the cost of Missouri projects will be higher by 2.6%, or one-year's worth of the low end of the price declines found in the report. The result is that this analysis will assume that the Missouri 2015 Q1 price is $2.488/watt.

**Table 7**
**Commercial Solar Project Cost Estimate per kW**

| | |
|---|---|
| 2013 Q4 | $2,680 |
| 2015 Q5 | $2,170 |
| Mid-point | $2,425 |
| One-year behind (2.6%) | $2,488 |

Table 8 then projects the $2,488/kW 2015 Q1 cost to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 8 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $2,392/kW for commercial solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 200 kW commercial project is estimated at $478,400.

**Table 8**
**Commercial Solar Project Estimate**

| | Cost of Commercial project per kW | Cost of Commercial project at 200 kW project size |
|---|---|---|
| CY 2015 | $2,488 | $497,600 |
| CY 2016 | $2,423 | $484,600 |
| CY 2017 | $2,360 | $472,000 |
| average cost of CY16 and CY17 estimates | $2,392 | $478,400 |

The analysis so far has identified:

- estimates of $50 million in FY 2017 and $51.1 million in FY 2018 clean energy tax credits in accordance with paragraph 2 of the proposed section 386.1000. The FY 2018 clean energy tax credit limit may be higher depending on any unused authority that is carried over from FY 2017.
- an estimate that 40% of total solar construction would be residential and 60% commercial
- project cost estimates of $18,300 for 6.1 kW residential projects and $478,400 for 200 kW commercial projects

The final factor to calculate before arriving at the amount of application deposit revenue is any phase-in period as the Department of Economic Development issues rules and prepares its processes and the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available. The Missouri State Energy plan reports that Missouri currently has 111 MW of installed solar PV capacity. The plan also reports that there is 42.8 MW of installed net-metered PV solar developed over the years largely as a result of rebates from large utility companies in Missouri.

The proposal being analyzed establishes a statutory program of clean energy tax credits that will sunset after the Department of Economic Development certifies that 1,000 MW of capacity has been added as a result of the tax credits but no later than June 30, 2022. The 1,000 MW target represents a dramatic increase in current capacity.

The Missouri State Energy plan provides a wealth of information about the current state of "green jobs" and the solar industry in Missouri. The report includes the following along with other findings about the industry.

- Missouri had over 100,000 "green jobs" according to a 2009 study.[7]
- Missouri was identified as 10th in the nation for growth in clean energy and clean transportation jobs in 2013.[8]
- $187 million was invested by Missouri's solar industry in 2014 to install solar photovoltaic systems for residential, commercial, and utility use.[9]
- There are more than 97 solar companies at work throughout the supply chain in Missouri, employing 2,500 people including manufacturers, contractors, installers, project developers, distributors.[10]
- Missouri could create 8,500 new jobs to design, install, and operate energy efficiency measures by 2025 according to a 2011 study.[11]
- In 2010 Missouri ranked 6th in the nation in photovoltaic jobs.[12]

The clean energy tax credit does not sunset until the 1,000 MW target of additional capacity is met but no later than June 30, 2022. The size and the long-term nature of the 1,000 MW target should encourage the development of the Missouri solar industry even after it sunsets. It should also result in long-term planning and the build out of a native Missouri solar industry. The target also provides an incentive for the industry to meet the growth potential described in the Missouri State Energy Plan.

In the long-term the impact of the 1,000 MW target will grow and build the industry. In addition, investment in solar will allow longer term benefits in reduced fuel usage, cleaner air, better health and the resulting lower costs among other things. The Missouri State Energy Plan identifies the public health impacts of various energy sources with clean energy sources providing significant positive benefits over other sources.[13] A 2013 study of Hawaii's solar tax credit program found that the State recovered the full cost of the tax credit in 9 to 11 years - a rate of return on its investment ranging from 8.9% to 10.3%.[14] In addition, the study found that for each dollar spent by Hawaii on tax credits the amount of additional sales stimulated was $34.69 for residential solar PV and $55.03 for commercial PV.

However, the fiscal note format required for initiative petitions focuses on the short-term revenue and costs. Thus, the longer-term benefits are not included in this fiscal analysis. As explained elsewhere in this fiscal analysis the impact of the availability of tax credits is somewhat dependent upon the speed with which the Department of Economic Development issues the necessary rules and regulations, develops and makes available the application forms, and the industry's reaction to voter approval and the department's actions. Thus, two alternatives are calculated to create a possible range for the likely outcome in the short-term.

Table 9 shows two possible alternatives estimating the effect on FY 2018.

- Construction leading to use of **half** the available FY 2017 tax credits ($25 million) - These tax credits would cover any CY 2016 clean energy construction allowed under paragraph 11 of the proposal and any CY 2017 clean energy construction that qualifies for FY 2017 tax credits that the Department of Economic Development could process by the end of CY 2017 in order to affect FY 2018 state tax collections. It is assumed that the Department of Economic Development would most likely issue such tax credits during the last half of CY 2017 after its processes are in place. Table 10 shows that total of $71.4 million in construction would be required to generate $25 million in tax credits. Residential construction of $28.6 million (assuming 40% of construction) would result in $10.0 million in tax credits. Commercial construction of $42.9 million (assuming 60% share of construction) would result in $15.0 million in tax credits.

- Construction leading to use of **all** the available FY 2017 tax credits and the amount necessary of the FY 2018 tax credits to meet the maximum cap allowed to the department ($70.0 million) - These tax credits would cover any CY 2016 clean energy construction allowed under paragraph 11 of the proposal and any CY 2017 clean energy construction that qualifies for FY 2017 tax credits that the Department of Economic Development could process by the end of CY 2017 in order to affect FY 2018 state tax collections. It is assumed that even the Department of Economic Development would most likely issue such tax credits during the last half of CY 2017 after its processes are in place that the department would be able to authorize all of the FY 2017 credits and half the FY 2018 credits. **Table 10 shows that a total of $200 million in construction would be required to generate $70 million in tax credits.** Residential construction of $80 million (assuming 40% of construction) would result in $28 million in tax credits. Commercial construction of $120 million (assuming 60% share of construction) would result in $42 million in tax credits.

**Table 9**
**FY 2018 Tax Credit Effect - Possible Range**

| Fiscal Year | Low range | Higher range |
|---|---|---|
| FY 2017 credits | $25,000,000 | $50,000,000 |
| FY 2018 credits | $0 | $20,000,000 |
| Total | $25,000,000 | $70,000,000 |

**Table 10 Number of Projects - Low Range v Higher Range**

| | Low Range | Higher Range |
|---|---|---|
| Tax credits estimate | $25,000,000 | $70,000,000 |
| Amount of construction value needed to generate value of 35% tax credits | $71,428,571 | $200,000,000 |
| - | | |
| % of residential per year of credits issued | 40.0% | 40.0% |
| % of commercial per year of credits issued | 60.0% | 60.0% |
| | | |
| Tax credits by type of construction | | |
| Residential | $10,000,000 | $28,000,000 |
| Commercial | $15,000,000 | $42,000,000 |
| Total amount by type | $25,000,000 | $70,000,000 |
| - | | |
| Construction value by type of construction | | |
| Residential | $28,571,428 | $80,000,000 |
| Commercial | $42,857,143 | $120,000,000 |
| Total amount by type | $71,428,571 | $200,000,000 |
| | | |
| Cost of solar projects per project | | |
| Residential (6.1 kW/project) | $18,300 | $18,300 |
| Commercial (200 kW/project) | $478,400 | $478,400 |
| | | |
| # of projects | | |
| Residential | 1,561 | 4,372 |
| Commercial | 90 | 251 |
| Total amount by type | 1,651 | 4,623 |

In addition, using the average cost and size of projects it is possible to compute the number of residential and commercial projects that will be constructed. Table 10 shows a total of 1,651 projects would be constructed at the low range of the tax credits (1,561 residential, 90 commercial). A total of 4,623 projects would be constructed at the higher range of the tax credits (4,372 residential, 251 commercial).

Table 10 shows a significant number of projects that would be completed throughout the state as a result of the clean energy tax credit. These numbers are possible for a variety of reasons identified in the Missouri State Energy Plan.

- Missouri households use about 12% more than the average U.S. household, thus projects would put real dollars into Missourians pockets for other uses and spending.[15]
- Nationally about ten percent of small business owners state that energy is their single biggest cost according to the National Federation of Independent Business. The same report indicates that an additional 25% of small business owners claim that energy is one of their top three business costs.[16] Thus, clean energy projects that reduce energy usage make businesses more profitable, allow for expansion, and could lead to higher wages for employees.
- Businesses can lower costs through on-site generation while also achieving other benefits.[17]
- Significant operational savings are possible through energy efficiency projects with rates of return as high as 25%.[18]
- A wealth of financing alternatives now exist for clean energy projects.[19]
- "Approximately 60% of the largest U.S. businesses have set public climate and energy goals to increase their use of renewable energy."[20]

Table 11 calculates the amount of application deposit revenue that the Department of Economic Development would receive given the number of projects identified in Table 10. If applications are submitted for projects equivalent to half the available tax credits then the department would receive $0.6 million in application deposit revenue. If applications are submitted for projects equivalent to all the available tax credits then the department would receive $1.5 million in application deposit revenue. The proposal allows the department to keep some of the revenue for its operational purposes. Table 11 shows that it can keep up to $61 for residential applications (half of the anticipated deposit in this analysis) and up to $250 for all other applications. The net non-refunded revenue that the department will have available for its operations is $117,721 or $329,442.

**Table 11**
**Application Deposit Revenue**

| | Application Deposit Estimate for half of tax credits for applications FY 2018 | Application Deposit Estimate for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 1,561 | 4,372 |
| Commercial | 90 | 251 |
| Total amount by type | 1,651 | 4,623 |
| | | |
| Application deposit required per project | | |
| Residential | $122 | $122 |
| Commercial | $4,000 | $4,000 |
| | | |
| Application deposit revenue | | |
| Residential | $190,442 | $533,384 |
| Commercial | $360,000 | $1,004,000 |
| Total amount by type | $550,442 | $1,537,384 |
| | | |
| | | |
| Application revenue kept per project for Department Operations | | |
| Residential | $61 | $61 |
| Commercial | $250 | $250 |
| | | |
| Application deposit revenue available for Department Operations | | |
| Residential | $95,221 | $266,692 |
| Commercial | $22,500 | $62,750 |
| Total amount by type | $117,721 | $329,442 |

Table 12 shows the amount of solar capacity added by the number of projects identified in the previous tables given the given size of residential and commercial projects. A total of 27.5 MW would be added in solar capacity as a result of projects equivalent to half the available tax credits which would be 2.8% of

the 1,000 MW goal. A total of 83.0 MW would be added in solar capacity as a result of projects equivalent to all the available tax credits which would be 7.7% of the 1,000 MW goal.

**Table 12**
**Amount of Solar Capacity Added**

| | Capacity added for half of tax credits for applications FY 2018 | Capacity added for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 1,561.0 | 4,372.0 |
| Commercial | 90.0 | 251.0 |
| Total amount by type | 1,651.0 | 4,623.0 |
| | | |
| kW generated by construction | | |
| Residential (6.1 kW/project) | 9,522.1 | 26,669.2 |
| Commercial (200 kW/project) | 18,000.0 | 50,200.0 |
| Total amount by type | 27,522.1 | 76,869.2 |
| | | |
| MW generated by construction | | |
| Residential | 9.5 | 26.7 |
| Commercial | 18.0 | 50.2 |
| Total amount by type | 27.5 | 76.9 |
| | | |
| % of 1,000 MW goal achieved | 2.8% | 7.7% |

**Taxes**

As noted on pages 10-11 of this fiscal analysis, the Missouri State Energy Plan published in October 2015 describes the current capacity, industry size, and investments being made in Missouri. The plan also describes the potential for jobs and economic development in the state. The 1,000 MW target represents a dramatic increase in current capacity. The following analysis assumes that due to the dramatic size of the 1,000 MW target that the investments driven by the clean energy tax credits will result in new jobs and industry expansion.

Table 13 shows the cost components of a solar construction project. Labor is assumed to be 35% of the project costs, materials 40%, and Profit 10%. It is assumed that 15% of the project cost is overhead and it is assumed that no taxes would be applied. Since Missouri already has a base of manufacturers and distributors it is assumed that all materials will be Missouri taxed.

**Table 13**
**Construction Project Components, Tax Type, and Tax Rate**

| Project components | % of job | Missouri tax rate | Type tax |
|---|---|---|---|
| Labor | 35.0% | 6.00% | Income tax |
| Materials and local materials | 40.0% | 4.225% | Sales |
| Profit | 10.0% | 6.25% | Corporate |
| Overhead | 15.0% | 0.00% | N/A |
| subtotal by taxable type | 100.0% | | |

Table 14 computes the state and local taxes based on the value of construction and the project components and tax rates shown in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $2.8 million to $7.9 million in FY 2018. The other three state funds

(Prop C, Conservation, Parks/Soils) are estimated to receive between $0.4 million to $1.0 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $1.1 million to $3.1 million in local sales tax revenue in FY 2018.

**Table 14**
**State and Local Taxes Generated by Construction**

| | Low Range | Higher Range |
|---|---|---|
| Amount of construction value needed to generate value of 35% tax credits | $71,428,571 | $200,000,000 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $25,000,000 | $70,000,000 |
| Materials and local materials | $28,571,428 | $80,000,000 |
| Profit | $7,142,857 | $20,000,000 |
| subtotal by taxable type | $60,714,285 | $170,000,000 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $1,500,000 | $4,200,000 |
| Materials and local materials - Sales/Use Tax | $857,143 | $2,400,000 |
| Profit - General Revenue Corporate Tax | $446,429 | $1,250,000 |
| subtotal GR | $2,803,571 | $7,850,000 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $285,714 | $800,000 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $35,714 | $100,000 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $28,571 | $80,000 |
| subtotal State Taxes | $3,153,571 | $8,830,000 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $1,108,571 | $3,104,000 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $4,262,143 | $11,934,000 |

The taxes generated from the construction activity shown in Table 14 likely underestimate the state revenue that will be generated by the construction of clean energy projects even within the short time period allowed in the fiscal note. As noted earlier there are multiplier effects that ripple through the economy. The Department of Economic Development through MERIC has a sophisticated model that it uses to evaluate the impact of tax credits and other business investments made in the State of Missouri. Using the information in this fiscal analysis MERIC should be able to provide supplementary information regarding the extra economic activity and increased revenues.

Similarly, generating additional clean energy within the State of Missouri will result in a decrease in the importation of power and energy producing raw materials from other states. Such money leakage from the state, businesses and citizens, decreases the amount of purchasing could be done for other purposes such as increased jobs within the state and thus the tax revenues that would be generated. For example, the Missouri State Energy Plan notes that Missouri is the sixth largest consumer of coal in the country and 92.5% of the coal used in 2013 was imported from Wyoming.[21] The plan reports that the state sends billions of dollars out of state for purchases of imported coal, natural gas, and transportation fuels.[22]

**Community Solar Act** - Applies to Versions 28, 30, 31, 32, 34, and 36
The Community Solar Act, section 386.910 of the proposal, directs the Missouri Public Service Commission to establish rules allowing customers to participate in a "community solar facility." Community solar facilities allow participants to benefit from solar energy and receive electric bill credits substantially similar to net metering.

Paragraph 3 of that section states that the "aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous fiscal year." Table 15 shows the total peak demand data compiled by the Public Service Commission for the four utilities affected by this section. The report shows that using peak demand leads to a cap of 504.5 MW on the amount of aggregated capacity of community solar facilities statewide.

**Table 15 - Peak Demand for Community Solar**

| Utility Name | Peak Demand |
|---|---|
| Union Electric Co - (MO) | 7,713.0 |
| Kansas City Power & Light Co | 1,878.0 |
| KCP&L Greater Missouri Operations Co. | 1,860.0 |
| Empire District Electric Co | 1,162.0 |
| Total | 12,613.0 |
| 4% overall cap | 504.5 |

Paragraph 2 of that section defines a community solar facility as a photovoltaic electric generation facility with a capacity of between 100 and 1,000 kW. For purposes of this fiscal note it is assumed that all community solar projects will be the same as the 200 kW project limit established in the clean energy tax credit language of 386.1000. In Table 12 above a low and high range was calculated for the percentage of solar capacity added through the tax credits based on the expectations of the phase-in necessary for the Department of Economic Development's implementation of the clean energy tax credits. The same percentage is used - 2.8% low range and 7.7% higher range. Similarly, for the purposes of this fiscal note the cost per kW will be $2,392 for a total project cost of $478,400 as shown in Table 9.

Table 16 shows the data and calculations needed to identify the number of projects. At the low end of the range 14.1 MW of added community solar capacity would be created which would require 71 projects of 200 kW. At the higher range 38.8 MW of added community solar capacity would be created which would require 194 projects of 200 kW.

Table 16 also shows that at an average project cost of $478,400 the low range results in $34.0 million in construction spending. The higher range results in $92.8 million in construction spending.

**Table 16**
**Community Solar Capacity and Projects**

| | Low Range | Higher Range |
|---|---|---|
| Assumed % of aggregate capacity | 2.8% | 7.7% |
| Added capacity - MW | 14.13 | 38.85 |
| Added capacity - kW | 14,126.56 | 38,848.04 |
| # projects at commercial 200 kW per project | 71 | 194 |
| Construction cost - commercial project per 200 Kw project | $478,400 | $478,400 |
| Construction value | $33,966,400 | $92,809,600 |

Table 17 computes the state and local taxes based on the value of construction and the project components and tax rates shown earlier in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $1.3 million to $3.6 million in FY 2018. The other three state funds (Prop C, Conservation, Parks/Soils) are estimated to receive between $0.2 million to $0.5 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $0.5 million to $1.4 million in local sales tax revenue in FY 2018.

**Table 17**
**State and Local Taxes Generated by Construction of Community Solar Projects**

| | Low range | Higher range |
|---|---|---|
| Amount of construction value needed to generate estimated MW | $33,966,400 | $92,809,600 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $11,888,240 | $32,483,360 |
| Materials and local materials | $13,586,560 | $37,123,840 |
| Profit | $3,396,640 | $9,280,960 |
| subtotal by taxable type | $28,871,440 | $78,888,160 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $713,294 | $1,949,002 |
| Materials and local materials - Sales/Use Tax | $407,597 | $1,113,715 |
| Profit - General Revenue Corporate Tax | $212,290 | $580,060 |
| subtotal GR | $1,333,181 | $3,642,777 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $135,866 | $371,238 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $16,983 | $46,405 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $13,587 | $37,124 |
| subtotal State Taxes | $1,499,617 | $4,097,544 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $527,159 | $1,440,405 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $2,026,775 | $5,537,949 |

**Net metering bills** - Applies to Versions 28, 29, 30, 31, 32, 35, and 36
The Missouri General Assembly has considered six net metering bills over the past three legislative sessions. Table 14 below identifies the bills and provides links to the fiscal note and bill summary prepared for each bill. All of the fiscal notes prepared and available indicated that there was no state impact from the net metering bills.

**Table 14**
**NET METERING**
**2013, 2014, AND 2015 LEGISLATIVE SESSIONS**

| Session | Bill | Sponsor | Fiscal Note Impact | Fiscal Note Summary Link | Bill Summary Link |
|---|---|---|---|---|---|
| 2015 | SB 75 | Holsman | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0622-01N.ORG.pdf | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=82&BillID=174 |
| 2015 | SB 509 | Holsman | No impact | N/A | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=664&BillID=4599469 |
| 2015 | HB 481 | Berry (38) | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0502-01N.ORG.pdf | http://house.mo.gov/billtracking/bills151/sumpdf/HB0481C.pdf |
| 2014 | HB 1795 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER14/fishtm/5552-02N.ORG.htm | http://house.mo.gov/billtracking/bills141/sumpdf/HB1795I.pdf |
| 2013 | HB 119 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/0794-02N.ORG.htm | http://house.mo.gov/billtracking/bills131/sumpdf/HB0119I.pdf |
| 2013 | SB 396 | Holsman | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/1078-07N.ORG.htm | http://www.senate.mo.gov/13info/BTS_Web/Bill.aspx?SessionType=R&BillID=19218703 |

**Electric Vehicle Charging Stations** - Applies to Versions 30, 31, 32, 34, and 35
The petition authorizes investor-owned utilities to recover costs for infrastructure investments in electric vehicle charging stations, provided the energy output from the stations is offset in part by clean energy. There should be no fiscal impact to the state.

ENDNOTES

[1] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25
https://energy.mo.gov/energy/docs/MCSEP.pdf

[2] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25-26
https://energy.mo.gov/energy/docs/MCSEP.pdf

[3] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[4] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 200
https://energy.mo.gov/energy/docs/MCSEP.pdf

[5] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 5
http://www.nrel.gov/docs/fy15osti/64898.pdf

[6] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 4
http://www.nrel.gov/docs/fy15osti/64898.pdf

[7] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 172
https://energy.mo.gov/energy/docs/MCSEP.pdf

[8] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 173
https://energy.mo.gov/energy/docs/MCSEP.pdf

[9] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[10] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[11] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 174
https://energy.mo.gov/energy/docs/MCSEP.pdf

[12] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 175
https://energy.mo.gov/energy/docs/MCSEP.pdf

[13] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 190-191, 193, 195-199, 201, 203
https://energy.mo.gov/energy/docs/MCSEP.pdf

[14] Thomas A Loudat, Blue Planet Foundation. "*The Economic and Fiscal Effects of Hawaii's Solar Tax Credit*" - January 2013.
http://blueplanetfoundation.org/renewable-energy-tax-credit-2013.html?highlight=WyJsb3VkYXQiXQ==

[15] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 154
https://energy.mo.gov/energy/docs/MCSEP.pdf

[16] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 165 for both sentences in this bullet point
https://energy.mo.gov/energy/docs/MCSEP.pdf

[17] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[18] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[19] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[20] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 178
https://energy.mo.gov/energy/docs/MCSEP.pdf

[21] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 20-21
https://energy.mo.gov/energy/docs/MCSEP.pdf

[22] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 42
https://energy.mo.gov/energy/docs/MCSEP.pdf

**Edward D. Greim** provided the following information as an opponent of this initiative petition.

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January 11, 2016

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Re: *Fiscal Note in Initiative Petitions 2016-202 through 210*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petitions 202, 204, 206, and 210:

> Lost revenue to state government is $3.04 billion over the tax credit period, with annual losses of $9.5 million to $11.5 million thereafter. Lost revenue to local government is $189.1 million over the tax credit period, with annual losses of $31.5 million to $33.9 million thereafter.

We propose the following fiscal note summary for petition 203:

> Lost revenue to state government is $320.9 million over the tax credit period, with annual losses of $5.6 million to $9.6 million thereafter. Lost revenue to local government is $100.9 million over the tax credit period, with annual losses of $20 million to $28.1 million thereafter.

We propose the following fiscal note summary for petition 205:

> Lost revenue to state government is $328.8 million over the tax credit period, with annual losses of $7.5 million to $11.5 million thereafter. Lost revenue to local government is $175.3 million over the tax credit period, with annual losses of $32.4 million to $40.5 million thereafter.

We propose the following fiscal note summary for petition 207:

> Lost revenue to state government is $3.02 billion over the tax credit period, with annual losses of $5.7 million to $7.7 million thereafter. Lost revenue to local government is $40.4 million over the tax credit period, with annual losses of $11.5 million to $15.7 million thereafter.

We propose the following fiscal note summary for petitions 208 and 209:

> Lost revenue to state government is $3.03 billion over the tax credit period, with annual losses of $7.6 million to $9.6 million thereafter. Lost revenue to local government is $114.8 million over the tax credit period, with annual losses of $23.9 million to $28.1 million thereafter.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments; taxes that do not apply whenever electricity is never sold due to customer-generator production encouraged by the initiative petitions. Petition signers and voters must be informed that any positive fiscal impacts of the initiative petitions are speculative. Likewise, petition signers and voters must be informed that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume.

**Description of Policy**

Initiative Petitions 202 – 210 contain one or more of three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of the "Community Solar Act"; and (3) A state tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, or certain natural gas technologies.

1. Changes to Net Metering for Investor-owned electric utilities and municipal electric utilities, and, in 206, rural electric cooperatives
    A. Raise net metering cap to 7% (is currently 5%);
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);



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   D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.
2. Community Solar Act
   A. PSC adopts rules and regulations allowing groups of 5 or more electrical corporation customers to offset energy usage with solar located in the service territory of the electrical corporation where they have an account;
   B. Facilities are 100 kilowatts to 1 megawatt;
   C. Community solar facilities may, in total, generate electricity of 4% or less of single-hour peak load, but that amount does not count toward net metering; Electrical corporations can own half (max of 2%), which may be included in the rate base. Others may own the other half (max of 2%);
   D. Community Solar facilities are not eligible for tax credits provided in the petition;
   E. Commission sets a community solar rate, not less than electrical corporation's average retail rate;
   F. Value of allocated solar bill credits reduces customer's total bill;
   G. The current value-of-community-solar rate may be locked in for 20 years beginning when a community solar facility is put in operation.
3. Tax credit
   A. 35% tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, etc.
   B. Total value of eligible credits shall not exceed 1% of the value of electricity used in Missouri[1] – defined as revenue from sale of electricity in Missouri; or tax credits are capped at$50 million each year. Unused credits carryover year to year until June 30, 2022
   C. No tax credits after June 30, 2022, or after 1000 megawatts of new generation have been installed using the tax credits.

**Burdens on State Government**

In determining the fiscal impact of each petition it is generally reasonable to assume that the various statutory changes in the petitions will have independent fiscal impacts. The reasonableness of this assumption is buoyed by the various iterations of the petitions themselves, some of which propose tax credits with no proposed changes to the Net Metering and Easy Connection Act. See Petitions 207 and 208.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 202-207 and 209-210*

[1] The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. See U.S. Energy Information Administration – Independent Statistics and Analysis.



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Raising the net metering cap from the current 5% of peak hour demand to 7% of peak hour demand will, conservatively, result in a 2% decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase from 5% to 7%. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in the petition provides a strong financial incentive to solar or wind energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[2], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, the net-metering cap applies to single-hour peak load, determined yearly, which means that the cap is a higher percentage of the single hour average load. This fact means that the total increase in generation is higher than it appears. Fourth, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[3] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by approximately $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities. The additional decreases in sales tax revenues from municipal electric utilities and, in petition 206, from electric cooperatives, are unknown but substantial.[4]

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 202, 204-206, 208, and 210*

Community solar facilities are in addition to net metering and represent an additional capacity amounting to 4% of each electrical corporation's single-hour peak load. Energy generated from the community solar facility is allocated pro rata by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. There is the potential for such bill

[2] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[3] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.
[4] Assuming $7.6 billion in electricity is sold in Missouri per year (the actual 2014 figure), a 2% decrease will decrease overall state sales tax revenues by 6.4 million annually, but some petitions enact net metering changes on rural electric cooperatives, and some do not.



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credits to decrease overall electrical bills by more than 4% because the "bill credits" are calculated using a "value of solar rate" which is at least as high as the retail rate for electricity, but may be higher. If, for example, solar energy received a 50% rate premium due to its benefits, the amount of bill credits would increase and sales would decrease by more than the 6%, rather than 4% figure. Half of these community solar facilities—the half not owned by electrical corporations—may be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoid property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership model, similar to net metering, because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%).

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by approximately $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities.

*iii. Tax credits – Initiative Petitions 202-210*

*a. Decreased tax collections due to tax credits – Credits capped at 1% of value of electricity sold in Missouri, annually ($76 million based on 2014 figures) – Initiative Petitions 202, 204, 206-210*

According to 2014 figures, Missouri retail customers bought 7.6 billion dollars' worth of electricity in 2014. It is very conservative to estimate that Missouri retail customers will continue to buy the same value of electricity. Accordingly, the 35% tax credits in these petitions will, conservatively, directly result in a loss of state income of up to $76 million, annually. However, electricity rates are volatile, and rates may react violently given market changes and legal changes proposed by the initiative petitions. As stated by the Department of Economic Development, the total loss to state revenue in a single year could be $429.3 million, annually, and $3 billion in total.

*b. Decreased tax collections due to tax credits – Credits capped at $50 million annually – Initiative Petitions 203 and 205*

Similar to the loss described in subpart a, the 35% tax credits in these petitions will directly result in a loss of state income of up to $50 million, annually.

*c. Cost of eroding tax base due to new energy generation – Initiative Petitions 202-210*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer-generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in



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Missouri. Accordingly, if the tax credits were phased out due to reaching the 1000 MWh/1,000,000 kWh maximum on new electricity generation, new production from such tax credits would produce approximately 1,825,000 MWh per year, also expressed as 1,825,000,000 KWh, or 1,825 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour [5], this new production is valued at $182,500,000.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

In practice, the 1 gigawatt limit on new customer-generated energy production may never be met. Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[6] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for renewable energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology. The petition itself limits tax credits to a maximum of $3.00 per watt, but market forces should make rates in Missouri similar to those in other states, at or around $1.77.

For Initiative Petitions 202, 204, and 206-210, the total, annual loss to state governments *due to the tax credits* is 76.9 million to 435 million over the tax credit period. There is an annual loss in perpetuity after the tax credit period of 5.7 to 7.7 million, depending on how much new customer-generation is developed. See attached table.

For Initiative Petitions 203 and 205, the total, annual loss to state governments *due to the tax credits* is 50.6 million to 53.7 million over the tax credit period. There is an annual loss in perpetuity after the tax credit period of 3.7 to 7.7 million, depending on how much new customer-generation is developed. See attached table.

**Burdens on Local Governments**

[5] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.

[6] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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Local governments face similar losses in revenue from the various petition provisions as state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 202-206 and 209-210*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 202, 204-206, 208, and 210*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*iii. Tax credits – Cost of eroding tax base due to new energy generation – Initiative Petitions 202-210*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petitions may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to local governments, all of which may be reduced or discontinued if the initiative petitions are enacted.



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The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[7] Based on this estimate, the population-weighted combined average local sales tax is 3.585%. Assuming the tax credits sunset due to reaching the 1 Gigawatt production cap, the yearly loss to local governments from lost sales tax from the tax credit is $6,541,578. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,123,540.

For petitions 202, 204, and 206-210, the loss to local governments due to the tax credits is $40.4 million over the tax credit period, then $11.5 to $15.7 million annually. For initiative petitions 203 and 205, the loss to local governments due to the tax credits is $26.6 million over the tax credit period, then $7.5 to $15.7 million annually.

**In Conclusion**

The initiative petitions will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petitions, such as increases in net metering and community solar. The total tax burden on state government imposed by the petitions range from $313 million over the tax credit period, with $3.7 to $7.7 million in lost revenues in perpetuity, to approximately $498.6 million over the tax credit period,[8] with $9.5 million to 11.5 million in lost revenues in perpetuity thereafter.

Sincerely,

Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0

[7] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.
[8] $475.8 million + [(1.9 million + 1.9 million)*6 years]



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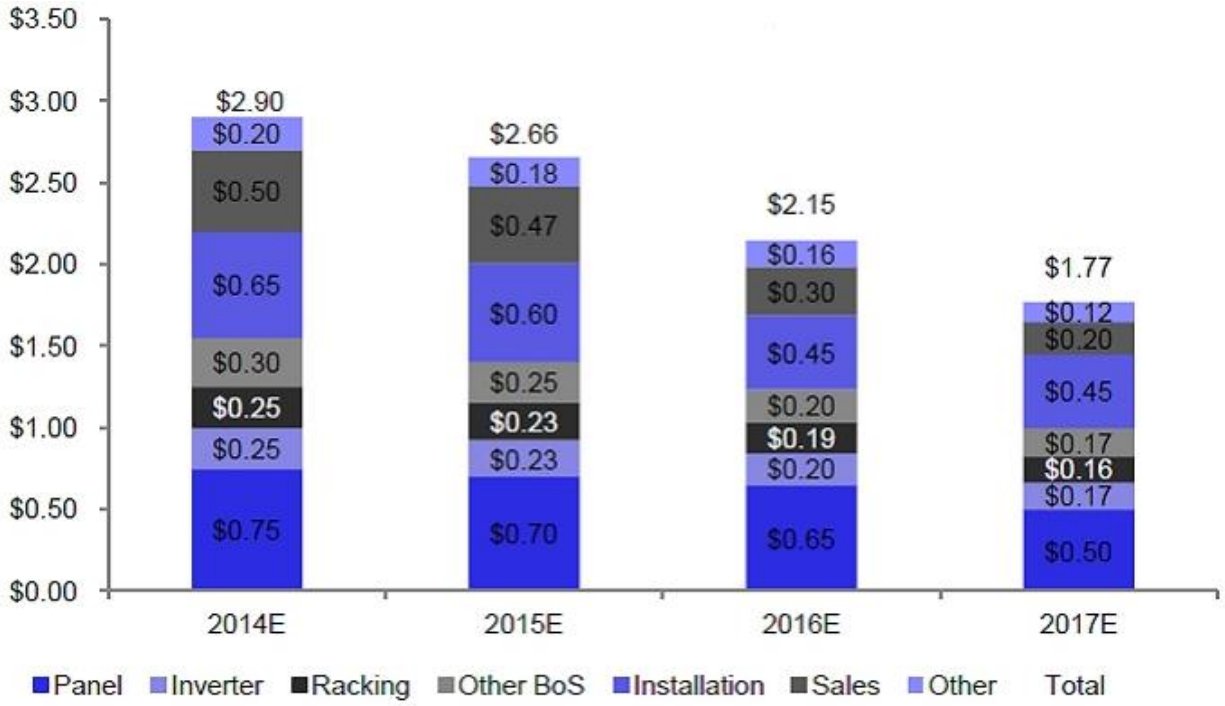
Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017
https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm



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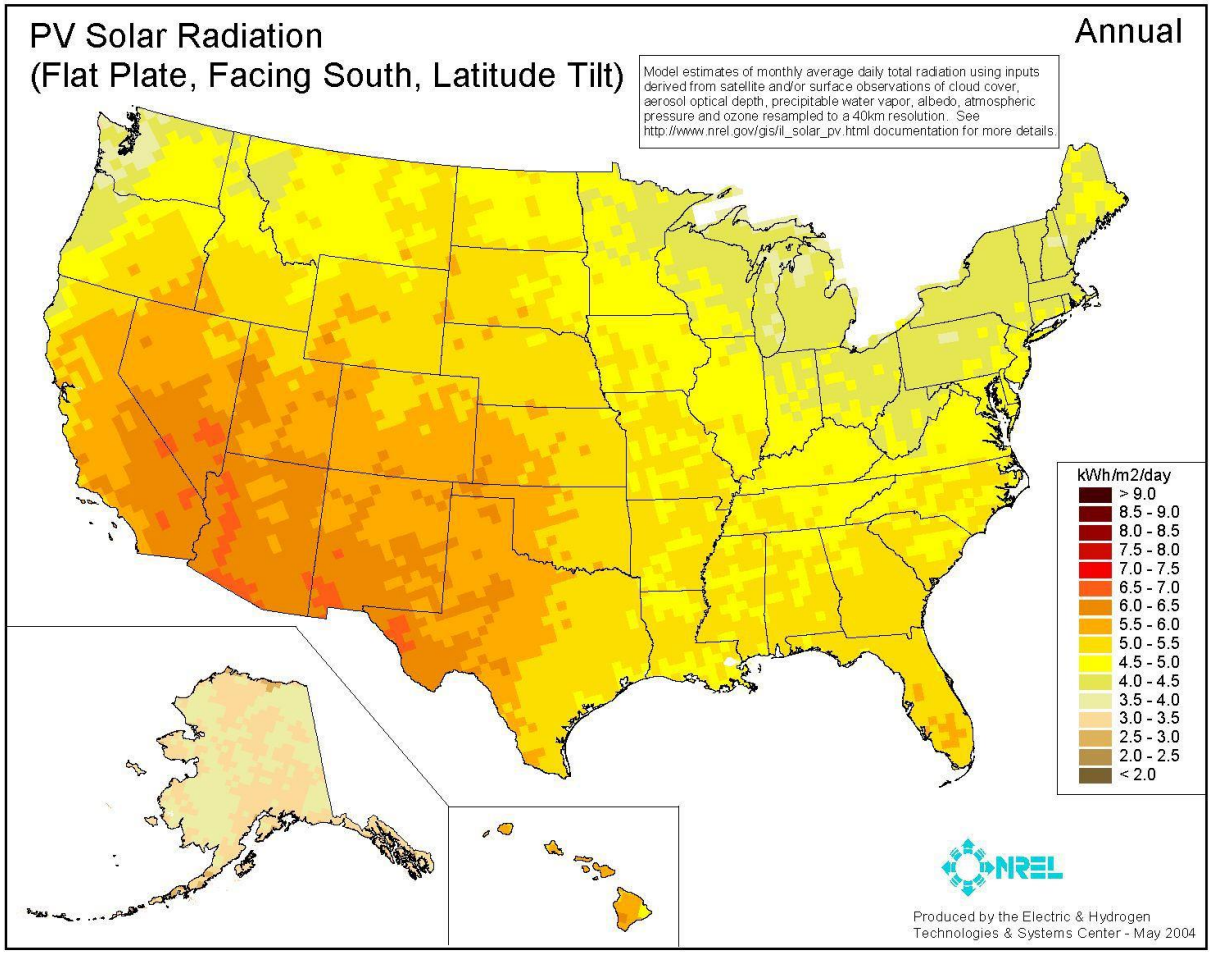
National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Brightergy Renewable Tax Credit Fiscal Analysis (1% Value of Electricity Cap) - Initiative Petitions 202, 204, and 206-210**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 122.68 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $76,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 223,854 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $76,000,000 | 122.68 | 122.68 | 223,854 | $100 | $22,385,441 | 4.225% | $945,785 | $76,945,785 | 3.585% | $802,518 | 5.000% | $1,119,272 | $1,921,790 |
| 2018 | $76,000,000 | 122.68 | 245.36 | 447,709 | $100 | $44,770,882 | 4.225% | $1,891,570 | $77,891,570 | 3.585% | $1,605,036 | 5.000% | $2,238,544 | $3,843,580 |
| 2019 | $76,000,000 | 122.68 | 368.04 | 671,563 | $100 | $67,156,323 | 4.225% | $2,837,355 | $78,837,355 | 3.585% | $2,407,554 | 5.000% | $3,357,816 | $5,765,370 |
| 2020 | $76,000,000 | 122.68 | 490.72 | 895,418 | $100 | $89,541,765 | 4.225% | $3,783,140 | $79,783,140 | 3.585% | $3,210,072 | 5.000% | $4,477,088 | $7,687,160 |
| 2021 | $76,000,000 | 122.68 | 613.40 | 1,119,272 | $100 | $111,927,206 | 4.225% | $4,728,924 | $80,728,924 | 3.585% | $4,012,590 | 5.000% | $5,596,360 | $9,608,951 |
| 2022 | $76,000,000 | 122.68 | 736.08 | 1,343,126 | $100 | $134,312,647 | 4.225% | $5,674,709 | $81,674,709 | 3.585% | $4,815,108 | 5.000% | $6,715,632 | $11,530,741 |
| | | | | | | | | **Total State Tax Burden** | **$475,861,483** | | **Total Local Tax Burden (Sales + Franchise)** | | **$40,357,593** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

**Brightergy Renewable Tax Credit Fiscal Analysis (50 Million Tax Credit Cap) - Initiative Petitions 203 and 205**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 80.71 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $50,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 147,273 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $50,000,000 | 80.71 | 80.71 | 147,273 | $100 | $14,727,264 | 4.225% | $622,227 | $50,622,227 | 3.585% | $527,972 | 5.000% | $736,363 | $1,264,336 |
| 2018 | $50,000,000 | 80.71 | 161.42 | 294,545 | $100 | $29,454,528 | 4.225% | $1,244,454 | $51,244,454 | 3.585% | $1,055,945 | 5.000% | $1,472,726 | $2,528,671 |
| 2019 | $50,000,000 | 80.71 | 242.13 | 441,818 | $100 | $44,181,792 | 4.225% | $1,866,681 | $51,866,681 | 3.585% | $1,583,917 | 5.000% | $2,209,090 | $3,793,007 |
| 2020 | $50,000,000 | 80.71 | 322.84 | 589,091 | $100 | $58,909,056 | 4.225% | $2,488,908 | $52,488,908 | 3.585% | $2,111,890 | 5.000% | $2,945,453 | $5,057,342 |
| 2021 | $50,000,000 | 80.71 | 403.55 | 736,363 | $100 | $73,636,320 | 4.225% | $3,111,135 | $53,111,135 | 3.585% | $2,639,862 | 5.000% | $3,681,816 | $6,321,678 |
| 2022 | $50,000,000 | 80.71 | 484.26 | 883,636 | $100 | $88,363,584 | 4.225% | $3,733,361 | $53,733,361 | 3.585% | $3,167,834 | 5.000% | $4,418,179 | $7,586,014 |
| | | | | | | | | **Total State Tax Burden** | **$313,066,765** | | **Total Local Tax Burden (Sales + Franchise)** | | **$26,551,048** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State government revenue may decrease up to $76 million annually until June 30, 2022 with approximately $660,000 net annual increased operating costs. Local government electric revenue may decrease $23.9 million annually with $3.4 million increased operating costs. Other resulting economic activity will have an unknown impact on state and local governments.

STATE AUDITOR'S OFFICE
RECEIVED
JAN 04 2016

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

16-203

January 4, 2016

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 38 (2016-203)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 31, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-203

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 31 AM 8:49
MO SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-203

*Be it enacted by the people of the state of Missouri:*

Section A: Section 386.890 is amended and sections 386.860, 386.900 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.900 to 386.1000 shall be known and may be cited as the "Clean Energy Independence and Investment Act of 2016".

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any [municipal electric utility,] rural electric cooperative as provided in chapter 394[, or electrical corporation as provided in this chapter];

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of natural resources;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical

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energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any [municipal utility, electrical corporation regulated under this chapter, or] rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which [the commission for a public utility or] the governing body for the supplier[other electric utilities] may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices

for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) [For any rural electric cooperative under chapter 394, or municipal utility, u]Upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, [the commission for public utilities and] the governing body for the supplier[other utilities] shall, by rule or equivalent formal action[ by each respective governing body]:

(a) Set forth safety, performance, and reliability standards and requirements; and

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(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. [Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated s]Suppliers shall submit [the same] an annual net metering report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. [The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10.] The governing body of a supplier [rural electric cooperative or municipal utility] shall[, within nine months of January 1, 2008,] adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process

shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

[11.] 10. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

[12.] 11. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

[13.] 12. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

[14.] 13. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

[15.] 14. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

[16.] 15. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

[17.] 16. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.900. 1. This section shall be known and may be cited as the "Enhanced Net Metering and Easy Connection Act". It shall be the policy of the state to facilitate the use of customer-sited or controlled clean energy resources.

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal utility or electrical corporation as provided in this chapter;

(2) "Clean energy resource", electrical energy produced from:

(a) Wind;

(b) Solar thermal sources;

(c) Hydroelectric sources;

(d) Photovoltaic cells and panels;

(e) Fuel cells using hydrogen produced by a source listed in paragraphs (a) through (d) of this subdivision; or

(f) Other sources of energy that become available after January 1, 2017, and are certified as clean by the department.

(3) "Commission", the public service commission of the state of Missouri;

(4) "Customer-generator", the owner, lessee or operator of a qualified electric energy generation unit which:

(a) Is powered by a clean energy resource or micro CHP;

(b) Has an electrical generating system with a capacity of not more than five hundred kilowatts, measured in alternating current;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(5) "Department", the department of economic development;

(6) "Micro CHP", combined heat and power or cogeneration systems that simultaneously generate electricity and thermal energy in a single integrated system with a nameplate rated capacity equal to or lower than 130 kilowatts, measured in alternating current;

(7) "Net excess energy", the amount of energy expressed in kilowatt hours delivered by a customer-generator to a supplier that exceeds the amount of energy delivered by the supplier to the customer-generator over a single billing period;

(8) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

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(9) "Retail electric supplier" or "supplier", any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals seven percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for a municipal utility may increase the total rated generating capacity of net metering systems to an amount above seven percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds two percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the retail electric supplier shall pay for the costs to purchase and install the necessary additional equipment, unless the commission or governing body makes a determination that the customer-generator is the only customer benefiting from the additional distribution equipment. If the commission or governing body determines the customer-generator is the only customer benefiting, such customer-generator shall reimburse the electric supplier for reasonably incurred equipment expenses. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subdivision (2) of subsection 3 of this section and all net excess energy shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent months;

(4) Any net excess energy credits carried forward under subdivision (3) of this subsection shall expire without any compensation at the earlier of either the next subsequent March billing period or when the customer-generator disconnects service or otherwise terminates the net metering relationship with the supplier;

(5) For any municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (4) of subsection 2 of this section to the

distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems one hundred kilowatts or less and within sixty days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application. Retail electric suppliers shall interconnect qualified energy generation units within thirty days of being notified the generation unit is installed and meets the requirements of this section.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for notifying the retail electric supplier.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other suppliers shall submit the same report to their respective governing body and make said report available to a customer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall by June 1, 2017 promulgate any rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after June 1, 2017, shall be invalid and void.

10. The governing body of a municipal utility shall by June 1, 2017 adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs incurred under this section by a retail electric supplier shall be recoverable in that utility's rate structure.

15. No customer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a customer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said customer and terminate said customer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall be eligible to receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the clean energy tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy

resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

2. The department of economic development shall certify when the tax credits provided in this section have resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. The total amount of clean energy tax credits provided in this section allocated annually shall not exceed fifty million dollars in the aggregate per fiscal year. The aggregate amount of the clean energy resources tax credits available annually as specified in this section shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. If the amount of the clean energy tax credits offered in any fiscal year, other than 2017, is less than the annual statutory cap contained in this section then the cap for the following fiscal year shall be increased by that amount. The carryover of any unused clean energy tax credit authority shall extend until it is used, however in no fiscal year shall the total offered be greater than seventy million dollars. The provisions of this section notwithstanding, a claimant may apply for and receive the credit authorized by this section only for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

4. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

5. To obtain initial approval for tax credits allowed under this section, a taxpayer shall submit an application for tax credits to the department of economic development. Each application shall be reviewed in the order of the date on which the application was received, with the oldest received date receiving highest priority in the queue. Applications received on the same day, that are not time-stamped, shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. The department may retain, for the purposes of administering this section, up to half of each application deposit, which shall not be subject to refund and shall not exceed one hundred dollars for residential taxpayers and two hundred and fifty dollars for all other taxpayers. Such application deposit, except the portion retained for administration purposes by the department, shall be refunded at completion of the project or in the event the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. The taxpayer may request a refund of the application deposit; however, any refunds of the deposit for an application shall cause such application to lose its spot in the application queue. If the taxpayer wants to maintain its position in the application queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

6. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 5 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

7. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision of its intent to disapprove, including the reasons for intending to disapprove, and to remove such application from the application queue. The taxpayer shall have one opportunity, not to exceed fifteen days of notification of intent to disapprove, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

8. If the department of economic development deems the initial application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the date the department received the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 5 of this section.

9. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for approval shall be notified by the department of economic development that the maximum amount of credits authorized for the program have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available.

10. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial approval for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available, then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development, to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be

notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

11. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1and 3 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

12. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by postal or electronic letter and shall issue, to the taxpayer, a tax credit certificate within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

13. If the amount of the credit under subsection 12 of this section exceeds the taxpayer's total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

14. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsections 8 or 9 of this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

15. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created

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under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536. Such rules may include repayment provisions necessary to recover tax credit benefits from taxpayers found to have used fraud or misrepresentations of fact on applications, and other anti-fraud and compliance measures as may be required by the department and the provisions of sections 135.800 to 135.830.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-203)**

## Subject

Initiative petition from Andy Zellers regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received January 04, 2016)

## Date

January 25, 2016

## Description

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **Public Service Commission,** and the **Missouri Joint Municipal Electric Utility Commission**.

**Mark R. Reading** provided information to the State Auditor's Office as a proponent of this initiative petition.

**Edward D. Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Assumptions**

Officials from the **Attorney General's office** indicated Section 386.900.13, RSMo, of the proposal assigns new rulemaking responsibility to their office regarding mandatory disclosures of information by sellers of qualified electric generation units, as well as new investigatory and litigation duties. They assume they would need 1/4 full-time employee (FTE) to handle the complaints, enforcement and the rulemaking responsibilities assigned to their office, resulting in increased operating expenses of $13,890 for fiscal year 2017, $16,810 for fiscal year 2018, and $16,952 for fiscal year 2019.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** (DED) provided the following information:

The Division of Energy (DE) indicated this petition will result in increased operating expenses of $723,522 for fiscal year 2017, $792,438 for fiscal year 2018, and $800,141 for fiscal year 2019. These costs will be offset by additional revenues to the Clean Energy Fund of $0 for fiscal year 2017, $355,548 for fiscal year 2018, and $355,548 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Section 386.900 – Enhanced Net Metering and Easy Connection Act

DE participates in Public Service Commission (PSC) regulatory cases to evaluate issues from a formal state policy and planning perspective consistent with its interests in clean, affordable, abundant energy, and its efficient use. DE is active in cases before the PSC related to energy efficiency and renewable energy. As such, DE assumes it would be involved in the implementation of this provision that modifies the existing net metering and interconnection requirements for regulated electric utilities. It is assumed there would be a rulemaking docket to set the process and details associated with this proposal. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where enhanced net metering provisions are considered.

Section 386.1000 – Clean Energy Tax Credit

DE is required to administer the Clean Energy Fund created by this section and promulgate rules to implement the Clean Energy Tax Credit. The proposal requires DE to receive applications and deposits, review and initially approve applications and required

information within 30 days, review final approval applications, issue certificates and provide notifications, refund deposits for completed and disapproved projects, at least quarterly publish a list of the amount of tax credits initially and finally approved for each fiscal year and amounts reserved for future years, notify individual applicants of disapproved applications and approval within specified timeframes, notify applicants if the maximum amount of credits authorized have been allocated for the fiscal year and grant three-month extensions if needed for project completion with additional deposit payments.

**Long-range implications**

Fiscal impacts associated with the Clean Energy Tax Credits could continue until June 30, 2022. The authorization for the tax credit would sunset sooner if the 1,000 megawatt limit is reached. Economic benefits associated with construction of solar facilities would also have long-range implications.

**Assumptions and methodology used in arriving at state fiscal impact**

Section 386.900 – Enhanced Net Metering and Easy Connection Act
For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

Section 386.1000 – Clean Energy Tax Credit
The proposal provides for the total amount of tax credits of up to $50 million in the aggregate per fiscal year. This amount would be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. If the amount of the clean energy tax credits offered in any fiscal year, other than 2017, is less than the annual statutory cap, the cap for the following fiscal year would be increased by that amount with the carryover of any unused clean energy tax credit authority extending until it is used, with a maximum in any fiscal year of $70 million. For purposes of this fiscal note, it is assumed there would be a decrease in general revenues of $50 million per fiscal year. The tax credits would have unknown economic benefits from the construction and installation of solar energy systems.

If all tax credits were used up to the cap of $50 million per year, and with consideration to the estimated cost and size of the projects, it is estimated there would be 4,718 residential project applications and 271 commercial project applications submitted for tax credit reviews (Source: Mark Reading). DE assumes that it would take approximately 2 hours each to do the initial review/approval of each application and another 2 hours to do the review and issuance of a certification after a project is completed for residential projects. Each of these would include clerical time for input/issuing letters/filing, etc. For larger commercial projects, an estimated 8 hours is anticipated for each of these two steps. See response above for detailed tasks required by the proposal.

18,872 hours for residential applications
4,336 hours for commercial applications
23,208 hours total

DE assumes it will need a total of 11 FTE to implement the clean energy tax credit provision of this proposal as follows:
6 – Energy Specialist I/II
2 – Energy Engineer II
1 – Energy Engineer III
2 – Administrative Office Support Assistant (AOSA)

- Energy Specialist I/II - Professional level staff to review the renewable energy project applications and to complete project evaluation activities.
- Energy Engineer II/III - Professional staff with expertise in engineering aspects of renewable energy projects to review the technical aspects of the projects, review of projects related to the Renewable Energy Standard and Renewable Energy Certificates and familiar with environmental impacts of renewable electric generation.
- AOSA - Staff to assist with the administrative requirements of the reviews such as drafting and sending communication to applicants, maintaining the database of applicants, and tracking status of applications.

An application deposit of 2 cents/watt is required to be paid to DE and deposited in the Clean Energy Fund. The proposal provides that DE may retain, for the purposes of administering this section, up to half of each application deposit to administer the provisions of this proposal but would not exceed one hundred dollars for residential taxpayers and two hundred and fifty dollars for all other taxpayers. Using the assumption above, if the full amount of tax credits were used each year and with consideration to the estimated cost and size of the projects, it is estimated there would be 4,718 residential project applications (at an average size of 6.1 kilowatts (kW)) and 271 commercial project applications (at an average size of 200 kW) submitted for tax credit reviews. The application deposit for a residential project would be $122 and DE could retain 50% or $61 for a total of $287,798. The application deposit for a commercial project would be $4,000 and DE could retain a maximum of $250/application for a total of $67,750.

For purposes of this fiscal note, DE assumes there could be up to $355,548 per year available from the Clean Energy Fund to administer the provisions of this proposal. As this is less than the estimated costs to implement the provisions of the proposal, DE assumes the shortfall would be from General Revenue funds. It is also assumed that General Revenue funds would be necessary to cover all DE's costs in FY 2017 until such time as sufficient application deposits are received.

DE also assumes that the Department of Economic Development's existing tax credit database will be used to track the applications. Some IT costs to generate the necessary reports are estimated.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated the responsibilities of this proposal appear to fall under the Division of Energy. With Executive Order 13-03 the Division of Energy was transferred from their department to the Missouri Department of Economic Development, by Type I transfer. Therefore, they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** estimate this petition will result in increased operating expenses of $243,282 for fiscal year 2017, $181,985 for fiscal year 2018, and $183,470 for fiscal year 2019.

The legislation creates a negative impact of up to $50 million per fiscal year to total state revenue by creating a new tax credit.

**Section 386.1000**
The provisions of this section authorize the issuance of a clean energy tax credit to taxpayers incurring costs for the installation of a clean energy resource project. The taxpayer may claim 35 percent (35%) of the total cost of the project. The aggregate amount of tax credits cannot exceed $50 million per fiscal year, which will be increased or decreased each year by the Consumer Price Index.

**Section 386.1000.13**
The department suggests changing the provisions pertaining to the transfer of the tax credit to the Department of Revenue because this is currently the department's responsibility based on a previously issued executive order.

**Administrative Impact:**

**Personal Tax:**

Personal Tax requires one (1) Revenue Processing Technician I (Range 10, Step L) for every 6,000 credits claimed.

**Corporate Tax:**

Corporate Tax requires three (3) Revenue Processing Technicians I (Range 10, Step L) for every 4,000 credits redeemed, 4,000 credits transferred, and for every 520 SB 1099 compliance mailings and correspondence.

**Integrated Tax System:**

The integrated tax system incurs additional costs of $43,680 to implement the provisions of this petition.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** (OA) indicated the proposal:

- Authorizes the use of net-metering, with certain limits to facilitate the use of customer-sited or controlled clean energy resources.
- Enacts a “Clean Energy” income tax credit for an amount equal to 35% of the total cost of the clean energy project. The annual cap on the credits is $50 million, with any unused portion added to the next year's cap. In addition, the cap can be adjusted based on the Consumer Price Index. The tax credit has a 3-year carry-back and a 10-year carry-forward provision and is transferable. This will result in a total state revenue reduction up to $50 million or the adjusted cap amount. This would also impact the calculation under Article X, Section 18(e), of the Missouri Constitution.
- Establishes the Clean Energy Fund, which is to be used to advance clean energy through the efficient administration of the Clean Energy Tax Credit Program. This will result in an increase to total state revenue. The revenue in the fund will come from various application deposits, but could also come from appropriated moneys, gifts, contributions, grants or bequests. The DED will administer this fund. OA does not have the data necessary to estimate the fiscal impact of this provision.

- Allows retain electric suppliers to recover any costs incurred in this act in that utility's rate structure. To the extent any such costs are recovered, this could impact total state revenue. OA does not have the data necessary to estimate the fiscal impact of this provision.

This proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson** indicated because their city does not own any utility except for wastewater, there would be no fiscal impact should this petition become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from **University of Missouri** indicated they have not seen cost impact studies on this initiative from their electric utility suppliers, but they do not believe this will have a significant impact on their university.

Officials from the **Public Service Commission** (PSC) indicated:

Section 386.890 defines "department" as the department of natural resources. Since other changes are being made to this section, "department" should be defined as the department of economic development, division of energy.

Sections 386.890 and 386.900 both use the terms "Retail electric supplier" or "supplier", but in Section 386.890 a "retail electric supplier" or "supplier" is any rural electric cooperative under Chapter 394 that provides retail electric service in this state and in Section 386.900 a "retail electric supplier" or "supplier" is any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state. Although the terms are in different statutes, it may be confusing to define the same term in a different manner. It may be clearer to use different terms applicable to the respective intent. Further since Section 386.890 is only applicable to rural electric cooperatives, it may make sense to move the entire provision to Chapter 394.

Sections 386.890 and 386.900 use the term "wholesale generator". The PSC respectfully suggests this term be defined.

Section 386.900 requires the PSC to promulgate rules by June 1, 2017. The PSC respectfully suggests these dates may be aggressive for final rules to be effective.

Section 386.900.6.(2) references "subsection 4 of this section". This appears to be an inaccurate cross-reference as there is no subsection 4 of the section.

Section 386.900.12 says the estimated generating capacity of all net metering systems shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate, but the renewable energy portfolio deals with "energy" not "capacity".

Section 386.1000 discusses a "clean energy tax credit". It is not clear why the tax credit is in the PSC statute and not in a tax-related statute.

Officials from the **Missouri Joint Municipal Electric Utility Commission** (MJMEUC) indicated:

Missouri Public Utility Alliance (MJMEUC is part of the alliance) through its electric division represents 65 of the 86 cities with municipal electric utilities.

After careful review and analysis, they believe that implementation would reduce municipal electric utility revenues somewhere between $17,000,000 and $23,900,000 annually based on:

1. Varying changes to the state's net metering law.
2. Greater penetration of solar panels throughout the state because of a state funded tax rebate for their purchase and installation.

Other proposed changes would increase the cost of city operations by approximately $3,435,000.

Several of these proposals modify the state's net metering law to require cities to carry forward to subsequent months excess customer generation. Current software is not designed to provide this functionality and each city would have to contract with their own vendor to modify their billing software. In addition several petition versions require the PSC to approve municipal rate increases by class based on actual expenses. This will necessitate regular cost of service studies and for cities to hire attorneys with experience before the PSC to present their cases for rate increases. In order to calculate costs they have contacted firms in both disciplines to provide estimated costs for these services.

Total estimated costs are as follows:

| | |
|---|---|
| Lost Revenues: | $23,900,000 |
| Service Study: | 1,505,000 |
| Attorney, PSC Experience: | 410,000 |
| Billing Modification: | 1,520,000 |
| TOTAL | $27,335,000 |

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art X Sec 16) that reduces income or increases costs without "full state financing", they anticipate that the costs would be reflected in the final state cost when the fiscal note is completed. They have no idea what litigation costs might be necessary.

They would offer the following for potential utilization in the final fiscal note:

"….. *reduce revenues for municipal electric utilities by (fill in the blank), increase operational costs by approximately (fill in the blank) and create unknown litigation costs at both the state and local level over Mo. Const. Art. X Sec. 16."*

**Mark R. Reading** provided the following information as a proponent of this initiative petition.

Submitted by:

_____

Mark R. Reading
2604 Lakeland Drive
Jefferson City, MO 65109
(573) 694-6828
*Primary Contact Person*

**Clean Energy Independence and Investment Act of 2016 - Version 38**
**Sec. of State # 203**

**Proposed Statement of Fiscal Impact**
**for Clean Energy Independence and Investment Act of 2016 - Version 38**
**Sec. of State # 203**

**Fiscal Impact Information Submitted Pursuant to Section 23.140.2**

The amendment's estimated impact decreases state revenue between $21 to $60 million depending upon the speed of up to $200 million in additional clean energy project construction and implementation by the Department of Economic Development, residential homeowners, and businesses. Local revenue is estimated to grow between $1.1 to $3.1 million.

| ESTIMATED NET EFFECT ON STATE FUNDS | | |
|---|---|---|
| **Fund Affected** | **FY 2017** | **FY 2018** |
| **General Revenue** | $0 | From ($22,196,429) to ($62,150,000) |
| | | |
| **Total Estimated Net Effect on All State Funds** | $0 | From ($21,407,279) to ($59,940,558) |
| **ESTIMATED NET EFFECT ON LOCAL FUNDS** | | |
| Local Funds | $0 | From $1,108,571 to $3,104,000 |
| | | |
| **Total Estimated Net Effect on All Local Funds** | $0 | From $1,108,571 to $3,104,000 |

**SUMMARY OF VERSIONS OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT**

Nine additional versions of the Clean Energy Independence and Investment Act of 2016 have been submitted for review. A summary of which topics are in each version is provided below.

**CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT OF 2016**
**SUMMARY OF VERSIONS**

| Petition version | 386.870 - Electric vehicle | 386.890 - Net metering | 386.900 - Enhanced net metering | 386.910 - Community Solar | 386.1000 - Tax credits |
|---|---|---|---|---|---|
| | | | | | |
| **1% Electric Versions** | | | | | |
| Version 37 | N/A | X | X | X | X |
| Version 39 | X | X | X | X | X |
| Version 41 | X | Deletes | X | X | X |
| Version 42 | N/A | N/A | N/A | N/A | X |
| Version 43 | X | N/A | N/A | X | X |
| Version 44 | X | X | X | N/A | X |
| Version 45 | N/A | X | X | X | X |
| | | | | | |
| **$50 million cap Versions** | | | | | |
| Version 38 | N/A | X | X | N/A | X |
| Version 40 | X | X | X | X | X |

## ANALYSIS OF FISCAL IMPACT OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT

The fiscal impact analysis contained herein focuses on estimating the fee and tax revenue resulting from the statutory changes proposed in the initiative petition. Table 1 summarizes the revenue estimated by source and by fiscal year. Page and Table numbers are provided to help readers find specific subjects.

**Table 1 - Summary of Fiscal Impact by Fund**

| Page # | Table # | Purpose | FY 2017 | FY 2018 - low range | FY 2018 - high range | Revenue Type |
|---|---|---|---|---|---|---|
| 9 | Table 9 | Tax credit | $0 | ($25,000,000) | ($70,000,000) | Income |
| 12-14 | Table 14 | Taxes from clean energy tax credit construction | $0 | $2,803,571 | $7,850,000 | Various |
| 14-16 | Table 17 | Taxes from community solar construction | N/A | N/A | N/A | Various |
| | | subtotal General Revenue Fund | $0 | ($22,196,429) | ($62,150,000) | |
| | | | | | | |
| 5-11 | Table 11 | Clean Energy Fund | $0 | $117,721 | $329,442 | Application deposit |
| | | | | | | |
| 12-14 | Table 14 | Prop C sales tax - clean energy | $0 | $285,714 | $800,000 | Sales tax |
| 14-16 | Table 17 | Prop C sales tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Prop C | $0 | $285,714 | $800,000 | |
| | | | | | | |
| 12-14 | Table 14 | Conservation sales tax - clean energy | $0 | $35,714 | $100,000 | Sales tax |
| 14-16 | Table 17 | Conservation sales tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Conservation | $0 | $35,714 | $100,000 | |
| | | | | | | |
| 12-14 | Table 14 | Parks and Soils sales tax - clean energy | $0 | $28,571 | $80,000 | Sales tax |
| 14-16 | Table 17 | Parks and Soils sales tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Parks and Soils | $0 | $28,571 | $80,000 | |
| | | | | | | |
| | | subtotal Other State Funds | $0 | $789,150 | $2,209,442 | |
| | | | | | | |
| | | subtotal all state funds | $0 | ($21,407,279) | ($59,940,558) | |
| | | | | | | |
| 12-14 | Table 14 | Local Sales Tax - clean energy | $0 | $1,108,571 | $3,104,000 | Sales tax |
| 14-16 | Table 17 | Local Sales Tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Local Funds | $0 | $1,108,571 | $3,104,000 | |
| | | Grand Total State and Local | $0 | ($20,298,708) | ($56,836,558) | |

**Clean Energy tax credits**

The proposal creates a clean energy tax credit in Chapter 386 RSMo. The annual level of tax credits shall be $50 million at the beginning of the program. The proposal also provides that the tax credit cap shall be increased or decreased each year by the percentage increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency.

Table 2 shows the CPI values reported for December from 2000 to 2014. The annual average growth over the period was 2.16%. Recent CPI increases have been lower than the early part of the series due to the most recent recession and concerted action by the Federal Reserve to keep interest rates low. The Federal Reserve is expected to raise interest rates in the near future. This is likely to raise CPI inflation. To ensure a better prediction of future anticipated CPI the longer time period is used to determine the average annual increase.

**Table 2**
**Consumer Price Index (CPI-U) History**
**December Reported**

| Year | CPI value | Increase | % increase |
|---|---|---|---|
| 2000 | 174.000 | | |
| 2001 | 176.700 | 2.700 | 1.6% |
| 2002 | 180.900 | 4.200 | 2.4% |
| 2003 | 184.300 | 3.400 | 1.9% |
| 2004 | 190.300 | 6.000 | 3.3% |
| 2005 | 196.800 | 6.500 | 3.4% |
| 2006 | 201.800 | 5.000 | 2.5% |
| 2007 | 210.036 | 8.236 | 4.1% |
| 2008 | 210.228 | 0.192 | 0.1% |
| 2009 | 215.949 | 5.721 | 2.7% |
| 2010 | 219.179 | 3.230 | 1.5% |
| 2011 | 225.672 | 6.493 | 3.0% |
| 2012 | 229.601 | 3.929 | 1.7% |
| 2013 | 233.049 | 3.448 | 1.5% |
| 2014 | 234.812 | 1.763 | 0.8% |
| | Avg. annual increase | | 2.16% |

Table 3 uses the average annual growth rate for 2000 to 2014 to project the tax credit cap into the future. The election date of November 2016 on the proposal is in the State's FY 2017. Therefore, FY 2017 is the base year for the $50 million clean energy tax credit cap. The clean energy tax credits cap is estimated at $50 million for FY 2017, $51.1 million for FY 2018 and $52.2 million for FY 2019.

**Table 3**
**Clean Energy Tax Credit Estimate of Cap**

| Fiscal Year | Clean Energy Tax Credit Cap |
|---|---|
| FY 2017 | $50,000,000 |
| FY 2018 | $51,082,005 |
| FY 2019 | $52,187,425 |

For purposes of the fiscal note the State Auditor's office asks that estimates be provided for the first two fiscal years of implementation which are FY 2017 and FY 2018 since the provisions of the proposal would go into effect in December 2016. Almost all taxpayers file their taxes on the April 15th deadline. Therefore, CY 2016 taxes would be due on April 15, 2017 which is in FY 2017.

The provisions of the act will go into effect in December 2016. Paragraph 11 of the proposed section 386.1000 states that any taxpayer verified by the Department of Economic Development to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with the provisions shall be deemed eligible for the tax credit. This allows for the Department of Economic Development to include projects in 2016 before its processes are in place. Paragraph 15 of the proposed section 386.1000 provides that the Department of Economic Development shall issue rules necessary to administer the act. In addition, paragraph 8 gives the Department of Economic Development 45 days to notify an applicant of approval after the application is submitted.

Issuing rules is at best a months long process. The 45 day processing time allowed for any completed application filed after the rules are adopted makes it very unlikely that the Department of Economic Development will issue any FY 2017 tax credits before April 15, 2017 that would affect the taxpayers initial tax filing and reduce taxes paid during FY 2017. Tax credits issued between April 15 and June 30, 2017 would require an amended filing which also would be unlikely to be completed by June 30, 2017. Thus, this fiscal analysis assumes a de minimis or no impact on FY 2017 general revenue tax collections. Any CY 2016 project with tax credit impact would at most impact the FY 2018 tax collections through amended returns or through CY 2017 taxes paid in FY 2018.

Paragraph 3 of the proposed section 386.1000 provides for the carryover of any unused clean energy tax credit authority until it is used. If the Department of Economic Development is slow to issue clean energy tax credits in FY 2017 at the beginning of the program then the unused authority of the cap carries over to FY 2018. Table 4 shows what the FY 2018 clean energy tax credit cap would be if all of the FY 2017 tax credit authority provided carries over - $101.1 million. This does not mean that the State's general revenue fund collections would be affected by $101.1 million. Paragraph 3 also limits the department to a total offer of no more than $70 million in tax credits. Clean energy construction of $200 million would be necessary to qualify for the entire $70 million in tax credits that are allowed.

**Table 4**
**FY 2018 Tax Credit Cap with FY 2017 Possible Carryover**

| Fiscal Year | FY 2018 |
|---|---|
| Original cap | $51,082,005 |
| Carry over from previous year | $50,000,000 |
| Total | $101,082,005 |

**Application Deposit revenue**

The proposed Section 386.1000 RSMo requires that taxpayers submit an application to the Department of Economic Development to receive approval for tax credits (paragraph 5). Each application must include a two cent per watt application deposit. The total revenue from application deposits is dependent upon:

- the number of projects that will be submitted;
- the number of watts generated from all of those projects

Each of these is affected by the:

- percentage of residential v commercial projects
- number of kW generated by residential v commercial projects
- cost of residential and commercial projects
- total construction completed
- any phase-in period as the Department of Economic Development institutes rules and prepares the program
- any phase-in period as the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available

All of these factors must be estimated and evaluated in order to calculate the amount of application deposit revenue that will be received by the Department of Economic Development.

Tax credits are available to both residential and commercial projects. Paragraph 2 of the proposed Section 386.1000 RSMo provides that no electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit.

The Missouri Department of Economic Development, Division of Energy published a Missouri Comprehensive State Energy Plan in October 2015. The report states that half of the installed net-metered PV solar is residential and the other half commercial customers.[1] However, the report also indicates that there are challenges that face residential customers making it more difficult and expensive to install solar projects. These challenges include local ordinances or homeowner's association rules the may prohibit installation or require design changes that decrease efficiency or add to the cost.[2] In addition, over the past decade an industry has developed to assist with the financing of solar projects. Such financing alternatives are easier to obtain by commercial projects because of their size, scope, and estimated return on investment.[3] Commercial projects can have a longer-term outlook than homeowners who may not know how long they may live in their current house. The Missouri State Energy Plan indicates that residential rooftop solar is a relatively expensive energy option due to these and other factors.[4]

For all of the reasons identified in the preceding paragraph, for purposes of this fiscal analysis residential solar installation is assumed to be 40% of the total solar construction. Commercial solar installation is assumed to be 60% of the total solar construction. This fiscal analysis has already indicated that CY 2016 solar construction will likely not be affected by the approval of the petition by voters in November 2016. Thus, CY 2017 is the first full year of impact. Tax credits resulting from such construction will first affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office.

The next factor to consider is the number of kW generated by residential and commercial projects. A recent report on photovoltaic system pricing trends published by the U.S. Department of Energy indicates that the median residential project is 6.1 kW while the modeled commercial system is 200 kW. Paragraph 2 of the proposed section 386.1000 establishes a 200 kW limit on installations that are authorized for tax credits.[5] For purposes of this fiscal analysis it is assumed that all commercial projects will be at the 200 kW size and that residential projects will be 6.1 kW. Paragraph 5 of the proposed section 386.1000 requires a two cent per watt application deposit fee. Table 5 shows that there would be a $122 application deposit required for the median residential project. There would be a $4,000 application deposit required for the 200 kW commercial project. A portion of this revenue will be available to the department for operational purposes as shown later in Table 11.

**Table 5**
**Application Deposit Required for Projects**

| Construction type | Project size in kW | Project size in watts | Application deposit for project at 2 cents per watt |
|---|---|---|---|
| Residential | 6.1 | 6,100 | $122 |
| Commercial | 200.0 | 200,000 | $4,000 |

The recent report on photovoltaic system pricing trends published by the U.S. Department of Energy also discusses the historical, recent, and near-term pricing of solar projects.[6] Project cost information was obtained on more than 400,000 systems in 42 states. The modeled system prices identified in the report showed a Q1 2015 residential system price of $3.12/watt and a commercial 200 kW system cost of $2.17/watt. These were reductions in price of from Q4 2013 of 7% and 19% respectively. The report also indicates that prices for residential and commercial PV systems have decreased by 6-12% per year, on

average, from 1998-2014. In addition, the report indicates that analysts project the system prices will fall 16-33% for residential systems between 2014-2020.

Table 6 projects residential solar project costs. Projections are made to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 6 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $3,000/kW for residential solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 6.1 kW residential project is estimated at $18,300.

**Table 6**
**Residential Solar Project Estimate**

| | Cost of Residential project per kW | Cost of Residential project at 6.1 kW project size |
|---|---|---|
| CY 2015 | $3,120 | $19,032 |
| CY 2016 | $3,039 | $18,538 |
| CY 2017 | $2,960 | $18,056 |
| average cost of CY16 and CY17 estimates | $3,000 | $18,300 |

The modeled commercial system price identified in the report showed a Q1 2015 commercial 200 kW system cost of $2.17/watt. However, the national average cost of commercial projects is affected by states with more mature solar markets and industries and large companies, like Wal-Mart and Ikea, that have moved to install significant solar projects on their facilities. The first Missouri commercial systems are less likely to meet the $2.17/watt cost projections. Table 7 uses other data in the report to amend the estimate of commercial solar project costs. The report shows that the price of the modeled 200 kW commercial system has fallen from $2.68/watt to $2.17 between 2013 Q4 and 2015 Q1. The mid-point of that decrease is $2.425/watt. Further, it is assumed that the cost of Missouri projects will be higher by 2.6%, or one-year's worth of the low end of the price declines found in the report. The result is that this analysis will assume that the Missouri 2015 Q1 price is $2.488/watt.

**Table 7**
**Commercial Solar Project Cost Estimate per kW**

| | |
|---|---|
| 2013 Q4 | $2,680 |
| 2015 Q5 | $2,170 |
| Mid-point | $2,425 |
| One-year behind (2.6%) | $2,488 |

Table 8 then projects the $2,488/kW 2015 Q1 cost to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 8 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $2,392/kW for commercial solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 200 kW commercial project is estimated at $478,400.

**Table 8**
**Commercial Solar Project Estimate**

| | Cost of Commercial project per kW | Cost of Commercial project at 200 kW project size |
|---|---|---|
| CY 2015 | $2,488 | $497,600 |
| CY 2016 | $2,423 | $484,600 |
| CY 2017 | $2,360 | $472,000 |
| average cost of CY16 and CY17 estimates | $2,392 | $478,400 |

The analysis so far has identified:

- estimates of $50 million in FY 2017 and $51.1 million in FY 2018 clean energy tax credits in accordance with paragraph 2 of the proposed section 386.1000. The FY 2018 clean energy tax credit limit may be higher depending on any unused authority that is carried over from FY 2017.
- an estimate that 40% of total solar construction would be residential and 60% commercial
- project cost estimates of $18,300 for 6.1 kW residential projects and $478,400 for 200 kW commercial projects

The final factor to calculate before arriving at the amount of application deposit revenue is any phase-in period as the Department of Economic Development issues rules and prepares its processes and the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available. The Missouri State Energy plan reports that Missouri currently has 111 MW of installed solar PV capacity. The plan also reports that there is 42.8 MW of installed net-metered PV solar developed over the years largely as a result of rebates from large utility companies in Missouri.

The proposal being analyzed establishes a statutory program of clean energy tax credits that will sunset after the Department of Economic Development certifies that 1,000 MW of capacity has been added as a result of the tax credits but no later than June 30, 2022. The 1,000 MW target represents a dramatic increase in current capacity.

The Missouri State Energy plan provides a wealth of information about the current state of "green jobs" and the solar industry in Missouri. The report includes the following along with other findings about the industry.

- Missouri had over 100,000 "green jobs" according to a 2009 study.[7]
- Missouri was identified as 10th in the nation for growth in clean energy and clean transportation jobs in 2013.[8]
- $187 million was invested by Missouri's solar industry in 2014 to install solar photovoltaic systems for residential, commercial, and utility use.[9]
- There are more than 97 solar companies at work throughout the supply chain in Missouri, employing 2,500 people including manufacturers, contractors, installers, project developers, distributors.[10]
- Missouri could create 8,500 new jobs to design, install, and operate energy efficiency measures by 2025 according to a 2011 study.[11]
- In 2010 Missouri ranked 6th in the nation in photovoltaic jobs.[12]

The clean energy tax credit does not sunset until the 1,000 MW target of additional capacity is met but no later than June 30, 2022. The size and the long-term nature of the 1,000 MW target should encourage the development of the Missouri solar industry even after it sunsets. It should also result in long-term planning and the build out of a native Missouri solar industry. The target also provides an incentive for the industry to meet the growth potential described in the Missouri State Energy Plan.

In the long-term the impact of the 1,000 MW target will grow and build the industry. In addition, investment in solar will allow longer term benefits in reduced fuel usage, cleaner air, better health and the resulting lower costs among other things. The Missouri State Energy Plan identifies the public health impacts of various energy sources with clean energy sources providing significant positive benefits over other sources.[13] A 2013 study of Hawaii's solar tax credit program found that the State recovered the full cost of the tax credit in 9 to 11 years - a rate of return on its investment ranging from 8.9% to 10.3%.[14] In addition, the study found that for each dollar spent by Hawaii on tax credits the amount of additional sales stimulated was $34.69 for residential solar PV and $55.03 for commercial PV.

However, the fiscal note format required for initiative petitions focuses on the short-term revenue and costs. Thus, the longer-term benefits are not included in this fiscal analysis. As explained elsewhere in this fiscal analysis the impact of the availability of tax credits is somewhat dependent upon the speed with which the Department of Economic Development issues the necessary rules and regulations, develops and makes available the application forms, and the industry's reaction to voter approval and the department's actions. Thus, two alternatives are calculated to create a possible range for the likely outcome in the short-term.

Table 9 shows two possible alternatives estimating the effect on FY 2018.

- Construction leading to use of **half** the available FY 2017 tax credits ($25 million) - These tax credits would cover any CY 2016 clean energy construction allowed under paragraph 11 of the proposal and any CY 2017 clean energy construction that qualifies for FY 2017 tax credits that the Department of Economic Development could process by the end of CY 2017 in order to affect FY 2018 state tax collections. It is assumed that the Department of Economic Development would most likely issue such tax credits during the last half of CY 2017 after its processes are in place. Table 10 shows that total of $71.4 million in construction would be required to generate $25 million in tax credits. Residential construction of $28.6 million (assuming 40% of construction) would result in $10.0 million in tax credits. Commercial construction of $42.9 million (assuming 60% share of construction) would result in $15.0 million in tax credits.

- Construction leading to use of **all** the available FY 2017 tax credits and the amount necessary of the FY 2018 tax credits to meet the maximum cap allowed to the department ($70.0 million) - These tax credits would cover any CY 2016 clean energy construction allowed under paragraph 11 of the proposal and any CY 2017 clean energy construction that qualifies for FY 2017 tax credits that the Department of Economic Development could process by the end of CY 2017 in order to affect FY 2018 state tax collections. It is assumed that even the Department of Economic Development would most likely issue such tax credits during the last half of CY 2017 after its processes are in place that the department would be able to authorize all of the FY 2017 credits and half the FY 2018 credits. **Table 10 shows that a total of $200 million in construction would be required to generate $70 million in tax credits.** Residential construction of $80 million (assuming 40% of construction) would result in $28 million in tax credits. Commercial construction of $120 million (assuming 60% share of construction) would result in $42 million in tax credits.

**Table 9**
**FY 2018 Tax Credit Effect - Possible Range**

| Fiscal Year | Low range | Higher range |
|---|---|---|
| FY 2017 credits | $25,000,000 | $50,000,000 |
| FY 2018 credits | $0 | $20,000,000 |
| Total | $25,000,000 | $70,000,000 |

**Table 10 Number of Projects - Low Range v Higher Range**

| | Low Range | Higher Range |
|---|---|---|
| Tax credits estimate | $25,000,000 | $70,000,000 |
| Amount of construction value needed to generate value of 35% tax credits | $71,428,571 | $200,000,000 |
| - | | |
| % of residential per year of credits issued | 40.0% | 40.0% |
| % of commercial per year of credits issued | 60.0% | 60.0% |
| | | |
| Tax credits by type of construction | | |
| Residential | $10,000,000 | $28,000,000 |
| Commercial | $15,000,000 | $42,000,000 |
| Total amount by type | $25,000,000 | $70,000,000 |
| - | | |
| Construction value by type of construction | | |
| Residential | $28,571,428 | $80,000,000 |
| Commercial | $42,857,143 | $120,000,000 |
| Total amount by type | $71,428,571 | $200,000,000 |
| | | |
| Cost of solar projects per project | | |
| Residential (6.1 kW/project) | $18,300 | $18,300 |
| Commercial (200 kW/project) | $478,400 | $478,400 |
| | | |
| # of projects | | |
| Residential | 1,561 | 4,372 |
| Commercial | 90 | 251 |
| Total amount by type | 1,651 | 4,623 |

In addition, using the average cost and size of projects it is possible to compute the number of residential and commercial projects that will be constructed. Table 10 shows a total of 1,651 projects would be constructed at the low range of the tax credits (1,561 residential, 90 commercial). A total of 4,623 projects would be constructed at the higher range of the tax credits (4,372 residential, 251 commercial).

Table 10 shows a significant number of projects that would be completed throughout the state as a result of the clean energy tax credit. These numbers are possible for a variety of reasons identified in the Missouri State Energy Plan.

- Missouri households use about 12% more than the average U.S. household, thus projects would put real dollars into Missourians pockets for other uses and spending.[15]
- Nationally about ten percent of small business owners state that energy is their single biggest cost according to the National Federation of Independent Business. The same report indicates that an additional 25% of small business owners claim that energy is one of their top three business costs.[16] Thus, clean energy projects that reduce energy usage make businesses more profitable, allow for expansion, and could lead to higher wages for employees.
- Businesses can lower costs through on-site generation while also achieving other benefits.[17]
- Significant operational savings are possible through energy efficiency projects with rates of return as high as 25%.[18]
- A wealth of financing alternatives now exist for clean energy projects.[19]
- "Approximately 60% of the largest U.S. businesses have set public climate and energy goals to increase their use of renewable energy."[20]

Table 11 calculates the amount of application deposit revenue that the Department of Economic Development would receive given the number of projects identified in Table 10. If applications are submitted for projects equivalent to half the available tax credits then the department would receive $0.6 million in application deposit revenue. If applications are submitted for projects equivalent to all the available tax credits then the department would receive $1.5 million in application deposit revenue. The proposal allows the department to keep some of the revenue for its operational purposes. Table 11 shows that it can keep up to $61 for residential applications (half of the anticipated deposit in this analysis) and up to $250 for all other applications. The net non-refunded revenue that the department will have available for its operations is $117,721 or $329,442.

**Table 11**
**Application Deposit Revenue**

| | Application Deposit Estimate for half of tax credits for applications FY 2018 | Application Deposit Estimate for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 1,561 | 4,372 |
| Commercial | 90 | 251 |
| Total amount by type | 1,651 | 4,623 |
| | | |
| Application deposit required per project | | |
| Residential | $122 | $122 |
| Commercial | $4,000 | $4,000 |
| | | |
| Application deposit revenue | | |
| Residential | $190,442 | $533,384 |
| Commercial | $360,000 | $1,004,000 |
| Total amount by type | $550,442 | $1,537,384 |
| | | |
| | | |
| Application revenue kept per project for Department Operations | | |
| Residential | $61 | $61 |
| Commercial | $250 | $250 |
| | | |
| Application deposit revenue available for Department Operations | | |
| Residential | $95,221 | $266,692 |
| Commercial | $22,500 | $62,750 |
| Total amount by type | $117,721 | $329,442 |

Table 12 shows the amount of solar capacity added by the number of projects identified in the previous tables given the given size of residential and commercial projects. A total of 27.5 MW would be added in solar capacity as a result of projects equivalent to half the available tax credits which would be 2.8% of

the 1,000 MW goal. A total of 83.0 MW would be added in solar capacity as a result of projects equivalent to all the available tax credits which would be 7.7% of the 1,000 MW goal.

**Table 12**
**Amount of Solar Capacity Added**

| | Capacity added for half of tax credits for applications FY 2018 | Capacity added for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 1,561.0 | 4,372.0 |
| Commercial | 90.0 | 251.0 |
| Total amount by type | 1,651.0 | 4,623.0 |
| | | |
| kW generated by construction | | |
| Residential (6.1 kW/project) | 9,522.1 | 26,669.2 |
| Commercial (200 kW/project) | 18,000.0 | 50,200.0 |
| Total amount by type | 27,522.1 | 76,869.2 |
| | | |
| MW generated by construction | | |
| Residential | 9.5 | 26.7 |
| Commercial | 18.0 | 50.2 |
| Total amount by type | 27.5 | 76.9 |
| | | |
| % of 1,000 MW goal achieved | 2.8% | 7.7% |

**Taxes**

As noted on pages 10-11 of this fiscal analysis, the Missouri State Energy Plan published in October 2015 describes the current capacity, industry size, and investments being made in Missouri. The plan also describes the potential for jobs and economic development in the state. The 1,000 MW target represents a dramatic increase in current capacity. The following analysis assumes that due to the dramatic size of the 1,000 MW target that the investments driven by the clean energy tax credits will result in new jobs and industry expansion.

Table 13 shows the cost components of a solar construction project. Labor is assumed to be 35% of the project costs, materials 40%, and Profit 10%. It is assumed that 15% of the project cost is overhead and it is assumed that no taxes would be applied. Since Missouri already has a base of manufacturers and distributors it is assumed that all materials will be Missouri taxed.

**Table 13**
**Construction Project Components, Tax Type, and Tax Rate**

| Project components | % of job | Missouri tax rate | Type tax |
|---|---|---|---|
| Labor | 35.0% | 6.00% | Income tax |
| Materials and local materials | 40.0% | 4.225% | Sales |
| Profit | 10.0% | 6.25% | Corporate |
| Overhead | 15.0% | 0.00% | N/A |
| subtotal by taxable type | 100.0% | | |

Table 14 computes the state and local taxes based on the value of construction and the project components and tax rates shown in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $2.8 million to $7.9 million in FY 2018. The other three state funds

(Prop C, Conservation, Parks/Soils) are estimated to receive between $0.4 million to $1.0 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $1.1 million to $3.1 million in local sales tax revenue in FY 2018.

**Table 14**
**State and Local Taxes Generated by Construction**

| | Low Range | Higher Range |
|---|---|---|
| Amount of construction value needed to generate value of 35% tax credits | $71,428,571 | $200,000,000 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $25,000,000 | $70,000,000 |
| Materials and local materials | $28,571,428 | $80,000,000 |
| Profit | $7,142,857 | $20,000,000 |
| subtotal by taxable type | $60,714,285 | $170,000,000 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $1,500,000 | $4,200,000 |
| Materials and local materials - Sales/Use Tax | $857,143 | $2,400,000 |
| Profit - General Revenue Corporate Tax | $446,429 | $1,250,000 |
| subtotal GR | $2,803,571 | $7,850,000 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $285,714 | $800,000 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $35,714 | $100,000 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $28,571 | $80,000 |
| subtotal State Taxes | $3,153,571 | $8,830,000 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $1,108,571 | $3,104,000 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $4,262,143 | $11,934,000 |

The taxes generated from the construction activity shown in Table 14 likely underestimate the state revenue that will be generated by the construction of clean energy projects even within the short time period allowed in the fiscal note. As noted earlier there are multiplier effects that ripple through the economy. The Department of Economic Development through MERIC has a sophisticated model that it uses to evaluate the impact of tax credits and other business investments made in the State of Missouri. Using the information in this fiscal analysis MERIC should be able to provide supplementary information regarding the extra economic activity and increased revenues.

Similarly, generating additional clean energy within the State of Missouri will result in a decrease in the importation of power and energy producing raw materials from other states. Such money leakage from the state, businesses and citizens, decreases the amount of purchasing could be done for other purposes such as increased jobs within the state and thus the tax revenues that would be generated. For example, the Missouri State Energy Plan notes that Missouri is the sixth largest consumer of coal in the country and 92.5% of the coal used in 2013 was imported from Wyoming.[21] The plan reports that the state sends billions of dollars out of state for purchases of imported coal, natural gas, and transportation fuels.[22]

**Community Solar Act** - Applies to Versions 28, 30, 31, 32, 34, and 36
The Community Solar Act, section 386.910 of the proposal, directs the Missouri Public Service Commission to establish rules allowing customers to participate in a "community solar facility." Community solar facilities allow participants to benefit from solar energy and receive electric bill credits substantially similar to net metering.

Paragraph 3 of that section states that the "aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous fiscal year." Table 15 shows the total peak demand data compiled by the Public Service Commission for the four utilities affected by this section. The report shows that using peak demand leads to a cap of 504.5 MW on the amount of aggregated capacity of community solar facilities statewide.

**Table 15 - Peak Demand for Community Solar**

| Utility Name | Peak Demand |
|---|---|
| Union Electric Co - (MO) | 7,713.0 |
| Kansas City Power & Light Co | 1,878.0 |
| KCP&L Greater Missouri Operations Co. | 1,860.0 |
| Empire District Electric Co | 1,162.0 |
| Total | 12,613.0 |
| 4% overall cap | 504.5 |

Paragraph 2 of that section defines a community solar facility as a photovoltaic electric generation facility with a capacity of between 100 and 1,000 kW. For purposes of this fiscal note it is assumed that all community solar projects will be the same as the 200 kW project limit established in the clean energy tax credit language of 386.1000. In Table 12 above a low and high range was calculated for the percentage of solar capacity added through the tax credits based on the expectations of the phase-in necessary for the Department of Economic Development's implementation of the clean energy tax credits. The same percentage is used - 2.8% low range and 7.7% higher range. Similarly, for the purposes of this fiscal note the cost per kW will be $2,392 for a total project cost of $478,400 as shown in Table 9.

Table 16 shows the data and calculations needed to identify the number of projects. At the low end of the range 14.1 MW of added community solar capacity would be created which would require 71 projects of 200 kW. At the higher range 38.8 MW of added community solar capacity would be created which would require 194 projects of 200 kW.

Table 16 also shows that at an average project cost of $478,400 the low range results in $34.0 million in construction spending. The higher range results in $92.8 million in construction spending.

**Table 16**
**Community Solar Capacity and Projects**

| | Low Range | Higher Range |
|---|---|---|
| Assumed % of aggregate capacity | 2.8% | 7.7% |
| Added capacity - MW | 14.13 | 38.85 |
| Added capacity - kW | 14,126.56 | 38,848.04 |
| # projects at commercial 200 kW per project | 71 | 194 |
| Construction cost - commercial project per 200 Kw project | $478,400 | $478,400 |
| Construction value | $33,966,400 | $92,809,600 |

Table 17 computes the state and local taxes based on the value of construction and the project components and tax rates shown earlier in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $1.3 million to $3.6 million in FY 2018. The other three state funds (Prop C, Conservation, Parks/Soils) are estimated to receive between $0.2 million to $0.5 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $0.5 million to $1.4 million in local sales tax revenue in FY 2018.

**Table 17**
**State and Local Taxes Generated by Construction of Community Solar Projects**

| | Low range | Higher range |
|---|---|---|
| Amount of construction value needed to generate estimated MW | $33,966,400 | $92,809,600 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $11,888,240 | $32,483,360 |
| Materials and local materials | $13,586,560 | $37,123,840 |
| Profit | $3,396,640 | $9,280,960 |
| subtotal by taxable type | $28,871,440 | $78,888,160 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $713,294 | $1,949,002 |
| Materials and local materials - Sales/Use Tax | $407,597 | $1,113,715 |
| Profit - General Revenue Corporate Tax | $212,290 | $580,060 |
| subtotal GR | $1,333,181 | $3,642,777 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $135,866 | $371,238 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $16,983 | $46,405 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $13,587 | $37,124 |
| subtotal State Taxes | $1,499,617 | $4,097,544 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $527,159 | $1,440,405 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $2,026,775 | $5,537,949 |

**Net metering bills** - Applies to Versions 28, 29, 30, 31, 32, 35, and 36
The Missouri General Assembly has considered six net metering bills over the past three legislative sessions. Table 14 below identifies the bills and provides links to the fiscal note and bill summary prepared for each bill. All of the fiscal notes prepared and available indicated that there was no state impact from the net metering bills.

**Table 14**
**NET METERING**
**2013, 2014, AND 2015 LEGISLATIVE SESSIONS**

| Session | Bill | Sponsor | Fiscal Note Impact | Fiscal Note Summary Link | Bill Summary Link |
|---|---|---|---|---|---|
| 2015 | SB 75 | Holsman | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0622-01N.ORG.pdf | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=82&BillID=174 |
| 2015 | SB 509 | Holsman | No impact | N/A | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=664&BillID=4599469 |
| 2015 | HB 481 | Berry (38) | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0502-01N.ORG.pdf | http://house.mo.gov/billtracking/bills151/sumpdf/HB0481C.pdf |
| 2014 | HB 1795 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER14/fishtm/5552-02N.ORG.htm | http://house.mo.gov/billtracking/bills141/sumpdf/HB1795I.pdf |
| 2013 | HB 119 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/0794-02N.ORG.htm | http://house.mo.gov/billtracking/bills131/sumpdf/HB0119I.pdf |
| 2013 | SB 396 | Holsman | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/1078-07N.ORG.htm | http://www.senate.mo.gov/13info/BTS_Web/Bill.aspx?SessionType=R&BillID=19218703 |

**Electric Vehicle Charging Stations** - Applies to Versions 30, 31, 32, 34, and 35
The petition authorizes investor-owned utilities to recover costs for infrastructure investments in electric vehicle charging stations, provided the energy output from the stations is offset in part by clean energy. There should be no fiscal impact to the state.

ENDNOTES

[1] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25
https://energy.mo.gov/energy/docs/MCSEP.pdf

[2] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25-26
https://energy.mo.gov/energy/docs/MCSEP.pdf

[3] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[4] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 200
https://energy.mo.gov/energy/docs/MCSEP.pdf

[5] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 5
http://www.nrel.gov/docs/fy15osti/64898.pdf

[6] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 4
http://www.nrel.gov/docs/fy15osti/64898.pdf

[7] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 172
https://energy.mo.gov/energy/docs/MCSEP.pdf

[8] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 173
https://energy.mo.gov/energy/docs/MCSEP.pdf

[9] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[10] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[11] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 174
https://energy.mo.gov/energy/docs/MCSEP.pdf

[12] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 175
https://energy.mo.gov/energy/docs/MCSEP.pdf

[13] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 190-191, 193, 195-199, 201, 203
https://energy.mo.gov/energy/docs/MCSEP.pdf

[14] Thomas A Loudat, Blue Planet Foundation. "*The Economic and Fiscal Effects of Hawaii's Solar Tax Credit*" - January 2013.
http://blueplanetfoundation.org/renewable-energy-tax-credit-2013.html?highlight=WyJsb3VkYXQiXQ==

[15] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 154
https://energy.mo.gov/energy/docs/MCSEP.pdf

[16] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 165 for both sentences in this bullet point
https://energy.mo.gov/energy/docs/MCSEP.pdf

[17] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[18] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[19] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[20] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 178
https://energy.mo.gov/energy/docs/MCSEP.pdf

[21] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 20-21
https://energy.mo.gov/energy/docs/MCSEP.pdf

[22] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 42
https://energy.mo.gov/energy/docs/MCSEP.pdf

**Edward D. Greim** provided the following information as an opponent of this initiative petition.

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January 11, 2016

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Re: *Fiscal Note in Initiative Petitions 2016-202 through 210*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petitions 202, 204, 206, and 210:

> Lost revenue to state government is $3.04 billion over the tax credit period, with annual losses of $9.5 million to $11.5 million thereafter. Lost revenue to local government is $189.1 million over the tax credit period, with annual losses of $31.5 million to $33.9 million thereafter.

We propose the following fiscal note summary for petition 203:

> Lost revenue to state government is $320.9 million over the tax credit period, with annual losses of $5.6 million to $9.6 million thereafter. Lost revenue to local government is $100.9 million over the tax credit period, with annual losses of $20 million to $28.1 million thereafter.

We propose the following fiscal note summary for petition 205:

> Lost revenue to state government is $328.8 million over the tax credit period, with annual losses of $7.5 million to $11.5 million thereafter. Lost revenue to local government is $175.3 million over the tax credit period, with annual losses of $32.4 million to $40.5 million thereafter.

We propose the following fiscal note summary for petition 207:

> Lost revenue to state government is $3.02 billion over the tax credit period, with annual losses of $5.7 million to $7.7 million thereafter. Lost revenue to local government is $40.4 million over the tax credit period, with annual losses of $11.5 million to $15.7 million thereafter.

We propose the following fiscal note summary for petitions 208 and 209:

> Lost revenue to state government is $3.03 billion over the tax credit period, with annual losses of $7.6 million to $9.6 million thereafter. Lost revenue to local government is $114.8 million over the tax credit period, with annual losses of $23.9 million to $28.1 million thereafter.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments; taxes that do not apply whenever electricity is never sold due to customer-generator production encouraged by the initiative petitions. Petition signers and voters must be informed that any positive fiscal impacts of the initiative petitions are speculative. Likewise, petition signers and voters must be informed that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume.

**Description of Policy**

Initiative Petitions 202 – 210 contain one or more of three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of the "Community Solar Act"; and (3) A state tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, or certain natural gas technologies.

1. Changes to Net Metering for Investor-owned electric utilities and municipal electric utilities, and, in 206, rural electric cooperatives
    A. Raise net metering cap to 7% (is currently 5%);
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);



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   D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.
2. Community Solar Act
   A. PSC adopts rules and regulations allowing groups of 5 or more electrical corporation customers to offset energy usage with solar located in the service territory of the electrical corporation where they have an account;
   B. Facilities are 100 kilowatts to 1 megawatt;
   C. Community solar facilities may, in total, generate electricity of 4% or less of single-hour peak load, but that amount does not count toward net metering; Electrical corporations can own half (max of 2%), which may be included in the rate base. Others may own the other half (max of 2%);
   D. Community Solar facilities are not eligible for tax credits provided in the petition;
   E. Commission sets a community solar rate, not less than electrical corporation's average retail rate;
   F. Value of allocated solar bill credits reduces customer's total bill;
   G. The current value-of-community-solar rate may be locked in for 20 years beginning when a community solar facility is put in operation.
3. Tax credit
   A. 35% tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, etc.
   B. Total value of eligible credits shall not exceed 1% of the value of electricity used in Missouri[1] – defined as revenue from sale of electricity in Missouri; or tax credits are capped at$50 million each year. Unused credits carryover year to year until June 30, 2022
   C. No tax credits after June 30, 2022, or after 1000 megawatts of new generation have been installed using the tax credits.

**Burdens on State Government**

In determining the fiscal impact of each petition it is generally reasonable to assume that the various statutory changes in the petitions will have independent fiscal impacts. The reasonableness of this assumption is buoyed by the various iterations of the petitions themselves, some of which propose tax credits with no proposed changes to the Net Metering and Easy Connection Act. See Petitions 207 and 208.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 202-207 and 209-210*

[1] The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. See U.S. Energy Information Administration – Independent Statistics and Analysis.



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Raising the net metering cap from the current 5% of peak hour demand to 7% of peak hour demand will, conservatively, result in a 2% decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase from 5% to 7%. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in the petition provides a strong financial incentive to solar or wind energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[2], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, the net-metering cap applies to single-hour peak load, determined yearly, which means that the cap is a higher percentage of the single hour average load. This fact means that the total increase in generation is higher than it appears. Fourth, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[3] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by approximately $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities. The additional decreases in sales tax revenues from municipal electric utilities and, in petition 206, from electric cooperatives, are unknown but substantial.[4]

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 202, 204-206, 208, and 210*

Community solar facilities are in addition to net metering and represent an additional capacity amounting to 4% of each electrical corporation's single-hour peak load. Energy generated from the community solar facility is allocated pro rata by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. There is the potential for such bill

[2] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[3] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.
[4] Assuming $7.6 billion in electricity is sold in Missouri per year (the actual 2014 figure), a 2% decrease will decrease overall state sales tax revenues by 6.4 million annually, but some petitions enact net metering changes on rural electric cooperatives, and some do not.



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credits to decrease overall electrical bills by more than 4% because the "bill credits" are calculated using a "value of solar rate" which is at least as high as the retail rate for electricity, but may be higher. If, for example, solar energy received a 50% rate premium due to its benefits, the amount of bill credits would increase and sales would decrease by more than the 6%, rather than 4% figure. Half of these community solar facilities—the half not owned by electrical corporations—may be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoid property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership model, similar to net metering, because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%).

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by approximately $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities.

*iii. Tax credits – Initiative Petitions 202-210*

*a. Decreased tax collections due to tax credits – Credits capped at 1% of value of electricity sold in Missouri, annually ($76 million based on 2014 figures) – Initiative Petitions 202, 204, 206-210*

According to 2014 figures, Missouri retail customers bought 7.6 billion dollars' worth of electricity in 2014. It is very conservative to estimate that Missouri retail customers will continue to buy the same value of electricity. Accordingly, the 35% tax credits in these petitions will, conservatively, directly result in a loss of state income of up to $76 million, annually. However, electricity rates are volatile, and rates may react violently given market changes and legal changes proposed by the initiative petitions. As stated by the Department of Economic Development, the total loss to state revenue in a single year could be $429.3 million, annually, and $3 billion in total.

*b. Decreased tax collections due to tax credits – Credits capped at $50 million annually – Initiative Petitions 203 and 205*

Similar to the loss described in subpart a, the 35% tax credits in these petitions will directly result in a loss of state income of up to $50 million, annually.

*c. Cost of eroding tax base due to new energy generation – Initiative Petitions 202-210*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer-generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in



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Missouri. Accordingly, if the tax credits were phased out due to reaching the 1000 MWh/1,000,000 kWh maximum on new electricity generation, new production from such tax credits would produce approximately 1,825,000 MWh per year, also expressed as 1,825,000,000 KWh, or 1,825 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour [5], this new production is valued at $182,500,000.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

In practice, the 1 gigawatt limit on new customer-generated energy production may never be met. Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[6] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for renewable energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology. The petition itself limits tax credits to a maximum of $3.00 per watt, but market forces should make rates in Missouri similar to those in other states, at or around $1.77.

For Initiative Petitions 202, 204, and 206-210, the total, annual loss to state governments *due to the tax credits* is 76.9 million to 435 million over the tax credit period. There is an annual loss in perpetuity after the tax credit period of 5.7 to 7.7 million, depending on how much new customer-generation is developed. See attached table.

For Initiative Petitions 203 and 205, the total, annual loss to state governments *due to the tax credits* is 50.6 million to 53.7 million over the tax credit period. There is an annual loss in perpetuity after the tax credit period of 3.7 to 7.7 million, depending on how much new customer-generation is developed. See attached table.

**Burdens on Local Governments**

[5] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.

[6] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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Local governments face similar losses in revenue from the various petition provisions as state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 202-206 and 209-210*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 202, 204-206, 208, and 210*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*iii. Tax credits – Cost of eroding tax base due to new energy generation – Initiative Petitions 202-210*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petitions may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to local governments, all of which may be reduced or discontinued if the initiative petitions are enacted.



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The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[7] Based on this estimate, the population-weighted combined average local sales tax is 3.585%. Assuming the tax credits sunset due to reaching the 1 Gigawatt production cap, the yearly loss to local governments from lost sales tax from the tax credit is $6,541,578. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,123,540.

For petitions 202, 204, and 206-210, the loss to local governments due to the tax credits is $40.4 million over the tax credit period, then $11.5 to $15.7 million annually. For initiative petitions 203 and 205, the loss to local governments due to the tax credits is $26.6 million over the tax credit period, then $7.5 to $15.7 million annually.

**In Conclusion**

The initiative petitions will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petitions, such as increases in net metering and community solar. The total tax burden on state government imposed by the petitions range from $313 million over the tax credit period, with $3.7 to $7.7 million in lost revenues in perpetuity, to approximately $498.6 million over the tax credit period,[8] with $9.5 million to 11.5 million in lost revenues in perpetuity thereafter.

Sincerely,

Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0

[7] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.
[8] $475.8 million + [(1.9 million + 1.9 million)*6 years]



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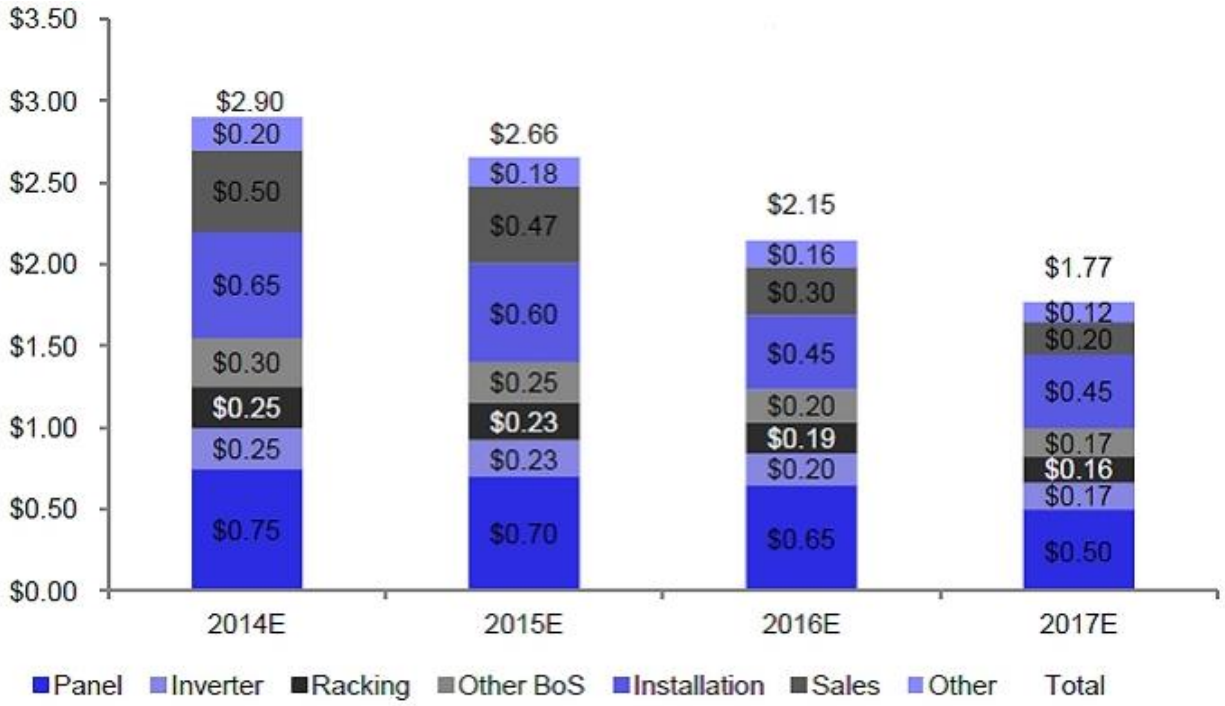
Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017
https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm



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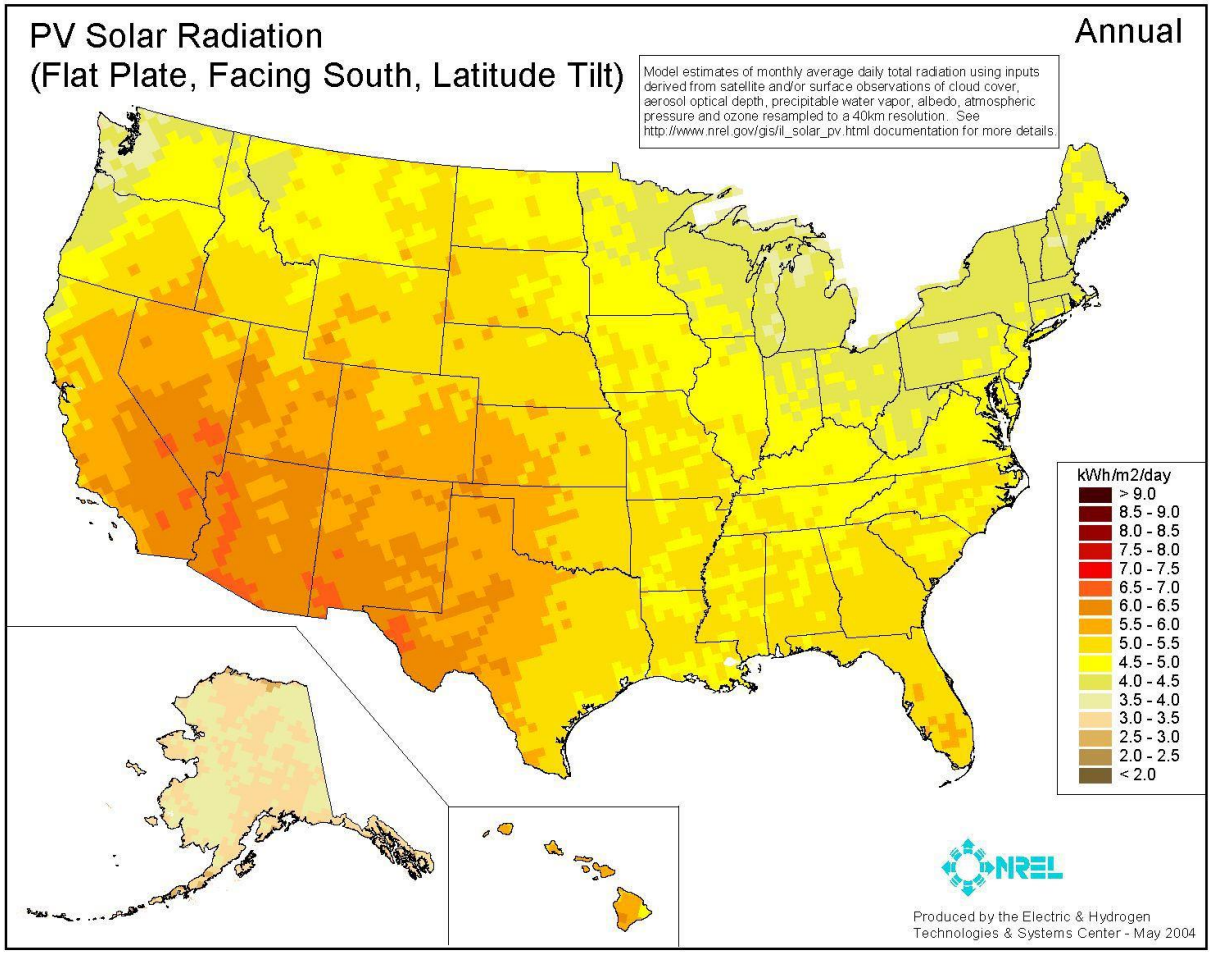
National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Brightergy Renewable Tax Credit Fiscal Analysis (1% Value of Electricity Cap) - Initiative Petitions 202, 204, and 206-210**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 122.68 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $76,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 223,854 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $76,000,000 | 122.68 | 122.68 | 223,854 | $100 | $22,385,441 | 4.225% | $945,785 | $76,945,785 | 3.585% | $802,518 | 5.000% | $1,119,272 | $1,921,790 |
| 2018 | $76,000,000 | 122.68 | 245.36 | 447,709 | $100 | $44,770,882 | 4.225% | $1,891,570 | $77,891,570 | 3.585% | $1,605,036 | 5.000% | $2,238,544 | $3,843,580 |
| 2019 | $76,000,000 | 122.68 | 368.04 | 671,563 | $100 | $67,156,323 | 4.225% | $2,837,355 | $78,837,355 | 3.585% | $2,407,554 | 5.000% | $3,357,816 | $5,765,370 |
| 2020 | $76,000,000 | 122.68 | 490.72 | 895,418 | $100 | $89,541,765 | 4.225% | $3,783,140 | $79,783,140 | 3.585% | $3,210,072 | 5.000% | $4,477,088 | $7,687,160 |
| 2021 | $76,000,000 | 122.68 | 613.40 | 1,119,272 | $100 | $111,927,206 | 4.225% | $4,728,924 | $80,728,924 | 3.585% | $4,012,590 | 5.000% | $5,596,360 | $9,608,951 |
| 2022 | $76,000,000 | 122.68 | 736.08 | 1,343,126 | $100 | $134,312,647 | 4.225% | $5,674,709 | $81,674,709 | 3.585% | $4,815,108 | 5.000% | $6,715,632 | $11,530,741 |
| | | | | | | | | **Total State Tax Burden** | **$475,861,483** | | **Total Local Tax Burden (Sales + Franchise)** | | **$40,357,593** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

**Brightergy Renewable Tax Credit Fiscal Analysis (50 Million Tax Credit Cap) - Initiative Petitions 203 and 205**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 80.71 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $50,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 147,273 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $50,000,000 | 80.71 | 80.71 | 147,273 | $100 | $14,727,264 | 4.225% | $622,227 | $50,622,227 | 3.585% | $527,972 | 5.000% | $736,363 | $1,264,336 |
| 2018 | $50,000,000 | 80.71 | 161.42 | 294,545 | $100 | $29,454,528 | 4.225% | $1,244,454 | $51,244,454 | 3.585% | $1,055,945 | 5.000% | $1,472,726 | $2,528,671 |
| 2019 | $50,000,000 | 80.71 | 242.13 | 441,818 | $100 | $44,181,792 | 4.225% | $1,866,681 | $51,866,681 | 3.585% | $1,583,917 | 5.000% | $2,209,090 | $3,793,007 |
| 2020 | $50,000,000 | 80.71 | 322.84 | 589,091 | $100 | $58,909,056 | 4.225% | $2,488,908 | $52,488,908 | 3.585% | $2,111,890 | 5.000% | $2,945,453 | $5,057,342 |
| 2021 | $50,000,000 | 80.71 | 403.55 | 736,363 | $100 | $73,636,320 | 4.225% | $3,111,135 | $53,111,135 | 3.585% | $2,639,862 | 5.000% | $3,681,816 | $6,321,678 |
| 2022 | $50,000,000 | 80.71 | 484.26 | 883,636 | $100 | $88,363,584 | 4.225% | $3,733,361 | $53,733,361 | 3.585% | $3,167,834 | 5.000% | $4,418,179 | $7,586,014 |
| | | | | | | | | **Total State Tax Burden** | **$313,066,765** | | **Total Local Tax Burden (Sales + Franchise)** | | **$26,551,048** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State government revenue may decrease up to $50 million annually until June 30, 2022 with approximately $640,000 net annual increased operating costs. Local government electric revenue may decrease $23.9 million annually with $3.4 million increased operating costs. Other resulting economic activity will have an unknown impact on state and local governments.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
JAN 04 2016

16-202

January 4, 2016

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 37 (2016-202)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 31, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-202

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 31 AM 8:48
SECRETARY OF STATE
MO SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-202

*Be it enacted by the people of the state of Missouri:*

Section A: Section 386.890 is amended and sections 386.860, 386.900, 386.910 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.900 to 386.1000 shall be known and may be cited as the "Clean Energy Independence and Investment Act of 2016".

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any [municipal electric utility,] rural electric cooperative as provided in chapter 394[, or electrical corporation as provided in this chapter];

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of natural resources;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical

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energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any [municipal utility, electrical corporation regulated under this chapter, or] rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which [the commission for a public utility or] the governing body for the supplier[other electric utilities] may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices

for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) [For any rural electric cooperative under chapter 394, or municipal utility, u]Upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, [the commission for public utilities and] the governing body for the supplier[other utilities] shall, by rule or equivalent formal action[ by each respective governing body]:

(a) Set forth safety, performance, and reliability standards and requirements; and

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(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. [Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated s]Suppliers shall submit [the same] an annual net metering report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. [The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10.] The governing body of a supplier [rural electric cooperative or municipal utility] shall[, within nine months of January 1, 2008,] adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process

shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

[11.] 10. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

[12.] 11. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

[13.] 12. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

[14.] 13. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

[15.] 14. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

[16.] 15. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

[17.] 16. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.900. 1. This section shall be known and may be cited as the "Enhanced Net Metering and Easy Connection Act". It shall be the policy of the state to facilitate the use of customer-sited or controlled clean energy resources.

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal utility or electrical corporation as provided in this chapter;

(2) "Clean energy resource", electrical energy produced from:

(a) Wind;

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(b) Solar thermal sources;

(c) Hydroelectric sources;

(d) Photovoltaic cells and panels;

(e) Fuel cells using hydrogen produced by a source listed in paragraphs (a) through (d) of this subdivision; or

(f) Other sources of energy that become available after January 1, 2017, and are certified as clean by the department.

(3) "Commission", the public service commission of the state of Missouri;

(4) "Customer-generator", the owner, lessee or operator of a qualified electric energy generation unit which:

(a) Is powered by a clean energy resource or micro CHP;

(b) Has an electrical generating system with a capacity of not more than five hundred kilowatts, measured in alternating current;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(5) "Department", the department of economic development;

(6) "Micro CHP", combined heat and power or cogeneration systems that simultaneously generate electricity and thermal energy in a single integrated system with a nameplate rated capacity equal to or lower than 130 kilowatts, measured in alternating current;

(7) "Net excess energy", the amount of energy expressed in kilowatt hours delivered by a customer-generator to a supplier that exceeds the amount of energy delivered by the supplier to the customer-generator over a single billing period;

(8) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

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(9) "Retail electric supplier" or "supplier", any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals seven percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for a municipal utility may increase the total rated generating capacity of net metering systems to an amount above seven percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds two percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the retail electric supplier shall pay for the costs to purchase and install the necessary additional equipment, unless the commission or governing body makes a determination that the customer-generator is the only customer benefiting from the additional distribution equipment. If the commission or governing body determines the customer-generator is the only customer benefiting, such customer-generator shall reimburse the electric supplier for reasonably incurred equipment expenses. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

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(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subdivision (2) of subsection 3 of this section and all net excess energy shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent months;

(4) Any net excess energy credits carried forward under subdivision (3) of this subsection shall expire without any compensation at the earlier of either the next subsequent March billing period or when the customer-generator disconnects service or otherwise terminates the net metering relationship with the supplier;

(5) For any municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (4) of subsection 2 of this section to the

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distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems one hundred kilowatts or less and within sixty days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application. Retail electric suppliers shall interconnect qualified energy generation units within thirty days of being notified the generation unit is installed and meets the requirements of this section.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for notifying the retail electric supplier.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other suppliers shall submit the same report to their respective governing body and make said report available to a customer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall by June 1, 2017 promulgate any rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after June 1, 2017, shall be invalid and void.

10. The governing body of a municipal utility shall by June 1, 2017 adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

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12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs incurred under this section by a retail electric supplier shall be recoverable in that utility's rate structure.

15. No customer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a customer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said customer and terminate said customer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.910. 1. This section shall be known and may be cited as the "Community Solar Act."

2. Within thirty days of enactment of this section, the commission shall open a docket and by August 1, 2017, the commission shall adopt rules and regulations allowing customers to participate in community solar facilities and set a value-of-community-solar rate as described in subsection 5 of this section. For purposes of this section, a "community solar facility" is a photovoltaic electric generation facility with a capacity of between one hundred and one thousand kilowatts, measured in alternating current, that allows five or more customers of an electrical corporation to offset their energy usage with solar energy and such facility is located within the Missouri service territory of the electrical corporation where such customers have one or more electrical accounts. For the purposes of this section, an electrical corporation is as defined in 386.020.

3. The aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous calendar year, and such capacity of community solar facilities shall not count towards the system-wide net metering cap defined in

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subsection 3 of section 386.900. Electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. Entities or individuals that are not electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of an electrical corporation's single-hour peak load during the previous year. The commission shall allow prudently incurred costs and expenses for community solar facilities owned by an electrical corporation to be included in such electrical corporation's rate base. Once the four percent aggregate cap is reached for community solar facilities, the commission shall open a docket to determine whether or not the community solar program shall be expanded, and the commission may increase the aggregate capacity cap above four percent. The commission shall consider benefits and costs of such an expansion when making its decision. Community solar facilities shall not be eligible for tax credits under section 386.1000.

4. For any community solar facility that is owned or operated by an entity other than an electrical corporation, the energy generated by such community solar facility shall be provided to the electrical corporation to which it is interconnected in exchange for the allocation and facilitation of bill credits as provided in subsection 5 of this section.

5. Kilowatt hours generated from community solar facilities shall be allocated, on a pro rata basis, to the designated subscribers of the community solar facility at the direction of the community solar facility owner or operator. Allocated bill credits shall be set at a value-of-community-solar rate per kilowatt hour determined by the commission. The commission shall determine the value of bill credits per kilowatt hour taking into consideration costs and benefits of solar energy including but not limited to energy value, generation value, environmental value, transmission and distribution system value, disaster recovery value, reactive power value and other grid benefit value, but such bill credits shall not be less than the electrical corporation's average retail rate. The value of allocated community solar bill credits shall be used to reduce the customer's total bill. When a community solar facility is placed in service it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years.

6. Owners and operators of community solar facilities shall not be considered a public utility as defined in section 386.020, except that this provision shall not apply to any owner or operator who is an electrical corporation.

7. The commission shall promulgate rules and regulations it deems necessary to carry out the provisions of this section. The commission's rules shall: allow electrical corporations to recover costs; provide earning opportunities for electrical corporations; provide an orderly process, including a reservation system, to allow potential community solar facility owners and operators to develop projects within the capacity limits in subsection 3 of this section; and provide options, which may include financial incentives, to encourage low-income participation.

8. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is

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subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section, shall be invalid and void.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall be eligible to receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. The total amount of clean energy tax credits offered annually shall not exceed one percent of the value of electricity used in Missouri as determined in subsection 4 of this section.

2. The department of economic development shall certify when the tax credits provided in this section have cumulatively resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the clean energy tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.890 and 386.900, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on available reports, including FERC Form Number 1 as allowed by 18 CFR § 141, or an equivalent as determined by the commission, of megawatt hours sales of retail electricity and corresponding revenues for the preceding year or most current reporting period as determined by the commission. The commission shall publish the value of

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electricity used in Missouri to the public and department of economic development within sixty days of the enactment of this section and at least forty-five days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may apply for and receive the credit authorized by this section only for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

7. To obtain initial approval for tax credits allowed under this section, a taxpayer shall submit an application for tax credits to the department of economic development. Each application shall be reviewed in the order of the date on which the application was received, with the oldest received date receiving highest priority in the queue. Applications received on the same day, that are not time-stamped, shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. The department may retain, for the purposes of administering this section, up to half of each application deposit, which shall not be subject to refund and shall not exceed one hundred dollars for residential taxpayers and two hundred and fifty dollars for all other taxpayers. Such application deposit, except the portion retained for administration purposes by the department, shall be refunded at completion of the project or in the event the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. The taxpayer may request a refund of the application

deposit; however, any refunds of the deposit for an application shall cause such application to lose its spot in the application queue. If the taxpayer wants to maintain its position in the application queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

9. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision of its intent to disapprove, including the reasons for intending to disapprove, and to remove such application from the application queue. The taxpayer shall have one opportunity, not to exceed fifteen days of notification of intent to disapprove, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

10. If the department of economic development deems the initial application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the date the department received the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for approval shall be notified by

the department of economic development that the maximum amount of credits authorized for the program have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available.

12. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial approval for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available, then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development, to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1, 3 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by postal or electronic letter and shall issue, to the taxpayer, a tax credit certificate within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

15. If the amount of the credit under subsection 14 of this section exceeds the taxpayer's total tax liability for the year in which the clean energy resource installation is placed in service, the

amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

16. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsections 10 or 11 of this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

17. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536. Such rules may include repayment provisions necessary to recover tax credit benefits from taxpayers found to have used fraud or misrepresentations of fact on applications, and other anti-fraud and compliance measures as may be required by the department and the provisions of sections 135.800 to 135.830.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-202)**

## Subject

Initiative petition from Andy Zellers regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received January 04, 2016)

## Date

January 25, 2016

## Description

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **Public Service Commission,** and the **Missouri Joint Municipal Electric Utility Commission**.

**Mark R. Reading** provided information to the State Auditor's Office as a proponent of this initiative petition.

**Edward D. Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Assumptions**

Officials from the **Attorney General's office** indicated Section 386.900.13, RSMo, of the proposal assigns new rulemaking responsibility to their office regarding mandatory disclosures of information by sellers of qualified electric generation units, as well as new investigatory and litigation duties. They assume they would need 1/4 full-time employee (FTE) to handle the complaints, enforcement and the rulemaking responsibilities assigned to their office, resulting in increased operating expenses of $13,890 for fiscal year 2017, $16,810 for fiscal year 2018, and $16,952 for fiscal year 2019.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** (DED) provided the following information:

The Division of Energy (DE) indicated this petition will result in increased operating expenses of $759,071 for fiscal year 2017, $827,781 for fiscal year 2018, and $835,826 for fiscal year 2019. These costs will be offset by additional revenues to the Clean Energy Fund of $0 for fiscal year 2017, $370,943 for fiscal year 2018, and $370,943 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Section 386.900 – Enhanced Net Metering and Easy Connection Act

DE participates in Public Service Commission (PSC) regulatory cases to evaluate issues from a formal state policy and planning perspective consistent with its interests in clean, affordable, abundant energy, and its efficient use. DE is active in cases before the PSC related to energy efficiency and renewable energy. As such, DE assumes it would be involved in the implementation of this provision that modifies the existing net metering and interconnection requirements for regulated electric utilities. It is assumed there would be a rulemaking docket to set the process and details associated with this proposal. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where enhanced net metering provisions are considered.

Section 386.910 – Community Solar Act

DE assumes it would be involved in the implementation of the Community Solar Act provisions. It is assumed there would be a rulemaking docket to set the process and details associated with this section. Similar to above, DE assumes it would be involved in

the implementation of this provision by participating in a rulemaking docket to set the process and details associated with this proposal and by monitoring and participating in tariff and other related cases. DE assumes this provision would result in additional Missouri Renewable Energy Standard (RES) certifications that would need to be performed.

Section 386.1000 – Clean Energy Tax Credit
DE is required to administer the Clean Energy Fund created by this section and promulgate rules to implement the Clean Energy Tax Credit. The proposal requires DE to receive applications and deposits, review and initially approve applications and required information within 30 days, review final approval applications, issue certificates and provide notifications, refund deposits for completed and disapproved projects, at least quarterly publish a list of the amount of tax credits initially and finally approved for each fiscal year and amounts reserved for future years, notify individual applicants of disapproved applications and approval within specified timeframes, notify applicants if the maximum amount of credits authorized have been allocated for the fiscal year and grant three-month extensions if needed for project completion with additional deposit payments.

**Long-range implications**

Fiscal impacts associated with the Clean Energy Tax Credits could continue until June 30, 2022. The authorization for the tax credit would sunset sooner if the 1,000 megawatt limit is reached. Economic benefits associated with construction of solar facilities would also have long-range implications.

**Assumptions and methodology used in arriving at state fiscal impact**

Section 386.900 – Enhanced Net Metering and Easy Connection Act
For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

386.910-Community Solar Act
For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

The RES requires investor-owned utilities in Missouri to either produce green power or purchase Renewable Energy Certificates (RECs) for compliance. One REC represents 1 megawatt-hour of electricity generated from an eligible renewable energy resource. The in-state renewable energy generation can receive a multiplier of 1.25 for RES compliance purpose. DE has statutory authority to certify eligible renewable energy resources before

RECs associated with those renewable energy resources can be used for RES compliance. DE does not charge any certification fees.

A community solar facility is defined as a solar photovoltaics facility with a capacity of 100-1000 kilowatts (kW) under this section. DE anticipates that in-state community solar facilities will request DE to certify their renewable energy resources/projects for the purpose of generating additional revenue from REC sales. DE's review primarily focuses on environmental impacts of renewable electric generation facilities on air, water or land use. The actual staff time spent on each application varies from one project to another. Solar photovoltaics facilities with a larger capacity typically require more staff time for reviewing their third-party environmental impact assessments in addition to verifying applicable environmental permits. Staff time will be also needed for data requests and discussion, data collection, database management, report production and website maintenance.

Current average staff time to review and certify renewable energy facilities ranges from 2 hours for small projects of a few hundred kW and 8-10 hours for larger projects of a few hundred kW to 1000 kW. It is assumed that small projects will account for two-thirds of the total community solar facilities and one-third will be larger projects. The weighted average of staff time (based on 2 hours for smaller projects and 8 hours for larger projects) is 4 hours (calculation: 2*{2/3}+8*{1/3)}). The number of projects at the assumed 200 kW ranges from 71 to 209 if the full amount of tax credits are used (Source: Mark Reading). By multiplying the average staff time of 4 hours, the annual staff time will range from 284 to 836 hours. For purposes of this fiscal note, DE assumes it could implement the provisions of this section related to RES environmental certifications with staff requested to implement the clean energy tax credit in Section 386.1000, RSMo (see below).

Section 386.1000 – Clean Energy Tax Credit

Retail sales of Missouri's utilities totaled $7.6 billion in 2014 (Source: Mark Reading; U.S. DOE/EIA). If all tax credits were used each year up to the cap of 1% of the annual statewide Missouri revenue of Missouri's retail electric suppliers, the decrease in the state's general revenues would be approximately $76 million/year from the effective date through June 30, 2022, depending on the schedule of implementation and applications submitted and approved. If the tax credits cumulatively result in installations of 1,000 megawatts prior to June 30, 2022, the tax credits would sunset. Note the actual tax credit cap would be based on revenues as determined by the Public Service Commission pursuant to Section 386.1000.4, RSMo, of this proposal. The tax credits would have unknown economic benefits from the construction and installation of solar energy systems.

If the full amount of tax credits were used each year and with consideration to the estimated cost and size of the projects, it is estimated there would be 4,933 residential project applications and 283 commercial project applications submitted for tax credit reviews (Source: Mark Reading). DE assumes that it would take approximately 2 hours each to do the initial review/approval of each application and another 2 hours to do the

review and issuance of a certification after a project is completed for residential projects. Each of these would include clerical time for input/issuing letters/filing, etc. For larger commercial projects, an estimated 8 hours is anticipated for each of these two steps. See response above for detailed tasks required by the proposal.

19,732 hours for residential applications
4,528 hours for commercial applications
24,260 hours total

To implement this provision, DE assumes it will need a total of 12 FTE (including a portion of an FTE to implement Community Solar provisions, Section 386.910, RSMo, above) as follows:
8 – Energy Specialist I/II
2 – Energy Engineer II
2 – Administrative Office Support Assistant (AOSA)

- Energy Specialist I/II - Professional level staff to review the renewable energy project applications and to complete project evaluation activities.
- Energy Engineer II - Professional staff with expertise in engineering aspects of renewable energy projects to review the technical aspects of the projects, review of projects related to the Renewable Energy Standard and Renewable Energy Certificates and familiar with environmental impacts of renewable electric generation.
- AOSA - Staff to assist with the administrative requirements of the reviews such as drafting and sending communication to applicants, maintaining the database of applicants, and tracking status of applications.

An application deposit of 2 cents/watt is required to be paid to DE and deposited in the Clean Energy Fund. The proposal provides that DE may retain, for the purposes of administering this section, up to half of each application deposit to administer the provisions of this proposal but would not exceed one hundred dollars for residential taxpayers and two hundred and fifty dollars for all other taxpayers. Using the assumption above, if the full amount of tax credits were used each year and with consideration to the estimated cost and size of the projects, it is estimated there would be 4,933 residential project applications (at an average size of 6.1 kW) and 283 commercial project applications (at an average size of 200 kW) submitted for tax credit reviews. The application deposit for a residential project would be $122 and DE could retain 50% or $61 for a total of $300,913. The application deposit for a commercial project would be $4,000 and DE could retain a maximum of $250/application for a total of $70,750.

For purposes of this fiscal note, DE assumes there could be up to $370,943 per year available from the Clean Energy Fund to administer the provisions of this proposal. As this is less than the estimated costs to implement the provisions of the proposal, DE assumes the shortfall would be from General Revenue funds. It is also assumed that General Revenue funds would be necessary to cover all DE's costs in FY 2017 until such time as sufficient application deposits are received.

DE also assumes that the Department of Economic Development's existing tax credit database will be used to track the applications. Some IT costs to generate the necessary reports are estimated.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated the responsibilities of this proposal appear to fall under the Division of Energy. With Executive Order 13-03 the Division of Energy was transferred from their department to the Missouri Department of Economic Development, by Type I transfer. Therefore, they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** estimate this petition will result in increased operating expenses of $243,282 for fiscal year 2017, $181,985 for fiscal year 2018, and $183,470 for fiscal year 2019.

The legislation creates an unknown, negative impact to total state revenue by creating a new tax credit.

**Section 386.1000**
The provisions of this section authorize the issuance of a clean energy tax credit to taxpayers incurring costs for the installation of a clean energy resource project. The taxpayer may claim 35 percent (35%) of the total cost of the project. The legislation caps the amount of tax credits at not more than one percent (1%) of the value of the electricity used in Missouri.

**Section 386.1000.15**
The department suggests changing the provisions pertaining to the transfer of the tax credit to the Department of Revenue because this is currently the department's responsibility based on a previously issued executive order.

**Administrative Impact:**

**Personal Tax:**

Personal Tax requires one (1) Revenue Processing Technician I (Range 10, Step L) for every 6,000 credits claimed.

**Corporate Tax:**

Corporate Tax requires three (3) Revenue Processing Technicians I (Range 10, Step L) for every 4,000 credits redeemed, 4,000 credits transferred, and for every 520 SB 1099 compliance mailings and correspondence.

**Integrated Tax System:**

The integrated tax system incurs additional costs of $43,680 to implement the provisions of this petition.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** (OA) indicated the proposal:

- Allows retail electric suppliers to recover any costs incurred in this act in that utility's rate structure. OA defers to the PSC for the specific impact.
- Allows participation in community solar facilities.
- Enacts a "Clean Energy" income tax credit for an amount equal to 35% of the total cost of the clean energy project. The annual cap on the credits is 1% of the value of electricity used in Missouri as determined by the PSC. This could result in a significant total state revenue reduction. This would also impact the calculation under Article X, Section 18(e), of the Missouri Constitution. OA understands that the DED and the PSC may have the data to estimate the impact, therefore OA defers to DED and the PSC.
- Establishes the Clean Energy Fund, which is to be used to advance clean energy through the efficient administration of the Clean Energy Tax Credit Program. This will result in an increase to total state revenue. The revenue in the fund will come from various application deposits, but could also come from appropriated moneys,

gifts, contributions, grants or bequests. The DED will administer this fund. OA defers to the DED and the PSC for the estimated impact of the application deposits.

This proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson** indicated because their city does not own any utility except for wastewater, there would be no fiscal impact should this petition become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from **University of Missouri** indicated they have not seen cost impact studies on this initiative from their electric utility suppliers, but they do not believe this will have a significant impact on their university.

Officials from the **Public Service Commission** (PSC) indicated:

Section 386.890 defines "department" as the department of natural resources. Since other changes are being made to this section, "department" should be defined as the department of economic development, division of energy.

Sections 386.890 and 386.900 both use the terms "Retail electric supplier" or "supplier", but in Section 386.890 a "retail electric supplier" or "supplier" is any rural electric cooperative under Chapter 394 that provides retail electric service in this state and in Section 386.900 a "retail electric supplier" or "supplier" is any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state. Although the terms are in different statutes, it may be confusing to define the same term in a different manner. It may be clearer to use different terms applicable to the respective intent. Further since Section 386.890 is only applicable to rural electric cooperatives, it may make sense to move the entire provision to Chapter 394.

Sections 386.890 and 386.900 use the term "wholesale generator". The PSC respectfully suggests this term be defined.

Section 386.900 uses terms such as "commission-regulated supplier" and "public utilities" to describe suppliers that are subject to PSC jurisdiction. The PSC respectfully suggests the terms be used consistently.

Section 386.900 requires the PSC to promulgate rules by June 1, 2017 and Section 386.910 requires the PSC to adopt rules by August 1, 2017. The PSC respectfully suggests these dates may be aggressive for final rules to be effective.

Section 386.900.6.(2) references "subsection 4 of this section". This appears to be an inaccurate cross-reference as there is no subsection 4 of the section.

Section 386.900.12 says the estimated generating capacity of all net metering systems shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate, but the renewable energy portfolio deals with "energy" not "capacity".

Section 386.910.5 states that when a community solar facility is placed in service, it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years. It appears this provision would require the utility ratepayers to fund the

facility at the current rate for 20 years without adjustment for changes in the utility's costs or revenues that would occur over the 20 year period. It is also not clear if the cost-of-solar value contemplates an earnings opportunity for the Commission-regulated utility.

Section 386.1000 discusses a "clean energy tax credit". It is not clear why the tax credit is in the PSC statute and not in a tax-related statute.

Officials from the **Missouri Joint Municipal Electric Utility Commission** (MJMEUC) indicated:

Missouri Public Utility Alliance (MJMEUC is part of the alliance) through its electric division represents 65 of the 86 cities with municipal electric utilities.

After careful review and analysis, they believe that implementation would reduce municipal electric utility revenues somewhere between $17,000,000 and $23,900,000 annually based on:

1. Varying changes to the state's net metering law.
2. Greater penetration of solar panels throughout the state because of a state funded tax rebate for their purchase and installation.

Other proposed changes would increase the cost of city operations by approximately $3,435,000.

Several of these proposals modify the state's net metering law to require cities to carry forward to subsequent months excess customer generation. Current software is not designed to provide this functionality and each city would have to contract with their own vendor to modify their billing software. In addition several petition versions require the PSC to approve municipal rate increases by class based on actual expenses. This will necessitate regular cost of service studies and for cities to hire attorneys with experience before the PSC to present their cases for rate increases. In order to calculate costs they have contacted firms in both disciplines to provide estimated costs for these services.

Total estimated costs are as follows:

| | |
|---|---|
| Lost Revenues: | $23,900,000 |
| Service Study: | 1,505,000 |
| Attorney, PSC Experience: | 410,000 |
| Billing Modification: | 1,520,000 |
| TOTAL | $27,335,000 |

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art X Sec 16) that reduces income or increases costs without "full state financing", they anticipate that the costs would be reflected in the final state cost when the fiscal note is completed. They have no idea what litigation costs might be necessary.

They would offer the following for potential utilization in the final fiscal note:

"….. *reduce revenues for municipal electric utilities by (fill in the blank), increase operational costs by approximately (fill in the blank) and create unknown litigation costs at both the state and local level over Mo. Const. Art. X Sec. 16."*

**Mark R. Reading** provided the following information as a proponent of this initiative petition.

Submitted by:

_____

Mark R. Reading
2604 Lakeland Drive
Jefferson City, MO 65109
(573) 694-6828
*Primary Contact Person*

**Clean Energy Independence and Investment Act of 2016 - Versions 37, 39, 41, 43, and 45**
**Sec. of State # 202, 204, 206, 208, 210**

**Proposed Statement of Fiscal Impact**
**for Clean Energy Independence and Investment Act of 2016 - Versions 37, 39, 41, 43, and 45**
**Sec. of State # 202, 204, 206, 208, 210**

**Fiscal Impact Information Submitted Pursuant to Section 23.140.2**

The amendment's estimated impact decreases state revenue between $32 to $64 million depending upon the speed of up to $225 million in additional clean energy project construction and implementation by the Department of Economic Development, residential homeowners, and businesses. Local revenue is estimated to grow between $2.6 to $5.1 million.

| ESTIMATED NET EFFECT ON STATE FUNDS | | |
|---|---|---|
| **Fund Affected** | **FY 2017** | **FY 2018** |
| **General Revenue** | $0 | From ($33,037,828) to ($66,019,325) |
| | | |
| **Total Estimated Net Effect on All State Funds** | $0 | From ($32,045,806) to ($64,028,436) |
| **ESTIMATED NET EFFECT ON LOCAL FUNDS** | | |
| Local Funds | $0 | From $2,553,188 to $5,128,651 |
| | | |
| **Total Estimated Net Effect on All Local Funds** | $0 | From $2,553,188 to $5,128,651 |

**SUMMARY OF VERSIONS OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT**

Nine additional versions of the Clean Energy Independence and Investment Act of 2016 have been submitted for review. A summary of which topics are in each version is provided below.

Two additional versions of the Clean Energy Independence and Investment Act of 2016 have been submitted for review. A summary of which topics are in each version is provided below.

**CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT OF 2016**
**SUMMARY OF VERSIONS**

| Petition version | 386.870 - Electric vehicle | 386.890 - Net metering | 386.900 - Enhanced net metering | 386.910 - Community Solar | 386.1000 - Tax credits |
|---|---|---|---|---|---|
| | | | | | |
| **1% Electric Versions** | | | | | |
| Version 37 | N/A | X | X | X | X |
| Version 39 | X | X | X | X | X |
| Version 41 | X | Deletes | X | X | X |
| Version 42 | N/A | N/A | N/A | N/A | X |
| Version 43 | X | N/A | N/A | X | X |
| Version 44 | X | X | X | N/A | X |
| Version 45 | N/A | X | X | X | X |
| | | | | | |
| **$50 million cap Versions** | | | | | |
| Version 38 | N/A | X | X | N/A | X |
| Version 40 | X | X | X | X | X |

## ANALYSIS OF FISCAL IMPACT OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT

The fiscal impact analysis contained herein focuses on estimating the fee and tax revenue resulting from the statutory changes proposed in the initiative petition. Table 1 summarizes the revenue estimated by source and by fiscal year. Page and Table numbers are provided to help readers find specific subjects.

**Table 1 - Summary of Fiscal Impact by Fund**

| Page # | Table # | Purpose | FY 2017 | FY 2018 - low range | FY 2018 - high range | Revenue Type |
|---|---|---|---|---|---|---|
| 4-12 | Table 10 | Tax credit | $0 | ($39,494,829) | ($78,989,658) | Income |
| 14-15 | Table 14 | Taxes from clean energy tax credit construction | $0 | $4,429,063 | $8,858,126 | Various |
| 16-18 | Table 17 | Taxes from community solar construction | $0 | $2,027,938 | $4,112,207 | Various |
| | | subtotal General Revenue Fund | $0 | ($33,037,828) | ($66,019,325) | |
| | | | | | | |
| 8-13 | Table 11 | Clean Energy Fund | $0 | $185,926 | $371,663 | Application deposit |
| | | | | | | |
| 14-15 | Table 14 | Prop C sales tax - clean energy | $0 | $451,369 | $902,739 | Sales tax |
| 16-18 | Table 17 | Prop C sales tax - community solar | $0 | $206,669 | $419,078 | Sales tax |
| | | subtotal Prop C | $0 | $658,038 | $1,321,817 | |
| | | | | | | |
| 14-15 | Table 14 | Conservation sales tax - clean energy | $0 | $56,421 | $112,842 | Sales tax |
| 16-18 | Table 17 | Conservation sales tax - community solar | $0 | $25,834 | $52,385 | Sales tax |
| | | subtotal Conservation | $0 | $82,255 | $165,227 | |
| | | | | | | |
| 14-15 | Table 14 | Parks and Soils sales tax - clean energy | $0 | $45,137 | $90,274 | Sales tax |
| 16-18 | Table 17 | Parks and Soils sales tax - community solar | $0 | $20,667 | $41,908 | Sales tax |
| | | subtotal Parks and Soils | $0 | $65,804 | $132,182 | |
| | | | | | | |
| | | subtotal Other State Funds | $0 | $992,023 | $1,990,889 | |
| | | | | | | |
| | | subtotal all state funds | $0 | ($32,045,806) | ($64,028,436) | |
| | | | | | | |
| 14-15 | Table 14 | Local Sales Tax - clean energy | $0 | $1,751,314 | $3,502,627 | Sales tax |
| 16-18 | Table 17 | Local Sales Tax - community solar | $0 | $801,875 | $1,626,024 | Sales tax |
| | | subtotal Local Funds | $0 | $2,553,188 | $5,128,651 | |
| | | | | | | |
| | | Grand Total State and Local | $0 | ($29,492,617) | ($58,899,785) | |

**Clean Energy tax credits**

The proposal creates a clean energy tax credit in Chapter 386 RSMo. The annual level of tax credits for each calendar year shall not exceed one percent of the annual statewide Missouri revenue of Missouri retail electric suppliers. The Public Service Commission (PSC) is required to determine the revenue for retail electric suppliers using available reports, including FERC Form Number 1 as allowed by 18 CFR § 141 or an equivalent determined by the PSC.

The data for this calculation is gathered and published by the U.S. Energy Information Administration on its website.[1] Table 2 shows the revenues reported by each Missouri entity in 2014. Retail sales totaled $7.6 billion in 2014 for the 74 entities.

**Table 2**
**2014 Utility Bundled Retail Sales - Total**
(Data from forms EIA-861- schedules 4A & 4D and EIA-861S)

| Entity | Ownership | Revenues (Thousands Dollars) |
|---|---|---|
| Atchison-Holt Electric Coop | Cooperative | $6,727 |
| Barry Electric Coop | Cooperative | $16,654 |
| Barton County Elec Coop, Inc | Cooperative | $16,262 |
| Black River Electric Coop - (MO) | Cooperative | $42,554 |
| Boone Electric Coop | Cooperative | $55,335 |
| Callaway Electric Cooperative | Cooperative | $24,618 |
| Carroll Electric Coop Corp - (AR) | Cooperative | $14,104 |
| Central Missouri Elec Coop Inc | Cooperative | $25,350 |
| Chillicothe Municipal Utils | Municipal | $10,035 |
| Citizens Electric Corporation - (MO) | Cooperative | $123,087 |
| City Utilities of Springfield - (MO) | Municipal | $249,286 |
| City of Ava - (MO) | Municipal | $2,894 |
| City of Cameron | Municipal | $7,728 |
| City of Carthage - (MO) | Municipal | $24,493 |
| City of Columbia - (MO) | Municipal | $109,927 |
| City of Farmington - (MO) | Municipal | $18,390 |
| City of Fulton - (MO) | Municipal | $14,228 |
| City of Hannibal - (MO) | Municipal | $25,785 |
| City of Harrisonville - (MO) | Municipal | $12,072 |
| City of Independence - (MO) | Municipal | $135,338 |
| City of Jackson - (MO) | Municipal | $16,281 |
| City of Kennett - (MO) | Municipal | $10,988 |
| City of Kirkwood - (MO) | Municipal | $21,547 |
| City of Lamar - (MO) | Municipal | $6,961 |
| City of Lebanon - (MO) | Municipal | $22,949 |
| City of Macon - (MO) | Municipal | $9,740 |
| City of Marshall - (MO) | Municipal | $17,390 |
| City of Monett - (MO) | Municipal | $20,534 |
| City of Mount Vernon - (MO) | Municipal | $6,790 |
| City of Nixa - (MO) | Municipal | $14,132 |
| City of Poplar Bluff - (MO) | Municipal | $31,686 |
| City of Rolla - (MO) | Municipal | $27,694 |
| City of Sikeston - (MO) | Municipal | $17,528 |

| | | |
|---|---|---|
| City of Sullivan - (MO) | Municipal | $9,645 |
| City of West Plains - (MO) | Municipal | $15,208 |
| Clay County Electric Coop Corp | Cooperative | $96 |
| Co-Mo Electric Coop Inc | Cooperative | $46,302 |
| Consolidated Electric Coop | Cooperative | $21,936 |
| Crawford Electric Coop, Inc | Cooperative | $30,705 |
| Cuivre River Electric Coop Inc | Cooperative | $105,621 |
| Empire District Electric Co | Investor Owned | $456,324 |
| Farmers Electric Coop, Inc - (MO) | Cooperative | $28,697 |
| Gascosage Electric Coop | Cooperative | $17,074 |
| Grundy Electric Coop, Inc | Cooperative | $12,214 |
| Howard Electric Coop | Cooperative | $6,057 |
| Howell-Oregon Elec Coop, Inc | Cooperative | $38,226 |
| Intercounty Electric Coop Assn | Cooperative | $53,855 |
| KCP&L Greater Missouri Operations Co. | Investor Owned | $802,845 |
| Kansas City Power & Light Co | Investor Owned | $824,706 |
| Laclede Electric Coop, Inc | Cooperative | $63,330 |
| Lewis County Rural E C A | Cooperative | $13,534 |
| Macon Electric Coop | Cooperative | $23,795 |
| Missouri Rural Electric Coop | Cooperative | $17,812 |
| New-Mac Electric Coop, Inc | Cooperative | $38,876 |
| North Central MO Elec Coop Inc | Cooperative | $14,098 |
| Osage Valley Elec Coop Assn | Cooperative | $28,034 |
| Ozark Border Electric Coop | Cooperative | $68,293 |
| Ozark Electric Coop Inc - (MO) | Cooperative | $52,354 |
| Pemiscot-Dunklin Elec Coop Inc | Cooperative | $19,856 |
| Platte-Clay Electric Coop, Inc | Cooperative | $51,737 |
| Ralls County Electric Coop | Cooperative | $12,711 |
| SE-MA-NO Electric Coop | Cooperative | $9,438 |
| SEMO Electric Cooperative | Cooperative | $33,195 |
| Sac-Osage Electric Coop Inc | Cooperative | $16,676 |
| Southwest Electric Coop, Inc | Cooperative | $58,853 |
| Sunnova | Behind the Meter | $1 |
| Three Rivers Electric Coop | Cooperative | $36,751 |
| Trenton Municipal Utilities - (MO) | Municipal | $8,647 |
| Tri-County Electric Coop Assn | Cooperative | $12,512 |
| Union Electric Co - (MO) | Investor Owned | $3,112,534 |
| United Electric Coop, Inc - (MO) | Cooperative | $21,579 |
| Webster Electric Coop | Cooperative | $28,828 |
| West Central Electric Coop Inc - (MO) | Cooperative | $25,967 |
| White River Valley El Coop Inc | Cooperative | $86,488 |
| Adjustment 2014 | Other | $159,914 |
| Total | | $7,644,407 |

Source: http://www.eia.gov/electricity/sales_revenue_price/
Table 10: All Sectors - Class of ownership, number of consumers, sales, revenue, and average retail price by State and utility:

Table 3 shows the data series by year from 1990 through 2014 reported by the U.S. Energy Information Administration.[2] The average annual increase in these revenues is 3.33 percent.

**Table 3**
**Revenue from Sales to Ultimate Customers**
**(Thousand Dollars) for Missouri, 1990-2014**

| Year | Total Revenue | $ Growth over previous year | % Growth over previous year |
|---|---|---|---|
| 1990 | $3,484,572,000 | | |
| 1991 | $3,653,391,000 | $1,688,190 | 4.8% |
| 1992 | $3,489,099,000 | ($1,642,920) | (4.5%) |
| 1993 | $3,709,661,000 | $2,205,620 | 6.3% |
| 1994 | $3,749,115,000 | $394,540 | 1.1% |
| 1995 | $3,891,751,000 | $1,426,360 | 3.8% |
| 1996 | $3,961,895,000 | $701,440 | 1.8% |
| 1997 | $4,005,066,000 | $431,710 | 1.1% |
| 1998 | $4,196,674,000 | $1,916,080 | 4.8% |
| 1999 | $4,185,713,000 | ($109,610) | (0.3%) |
| 2000 | $4,370,246,000 | $1,845,330 | 4.4% |
| 2001 | $4,414,434,000 | $441,880 | 1.0% |
| 2002 | $4,565,227,000 | $1,507,930 | 3.4% |
| 2003 | $4,470,188,000 | ($950,390) | (2.1%) |
| 2004 | $4,494,108,000 | $239,200 | 0.5% |
| 2005 | $4,959,849,000 | $4,657,410 | 10.4% |
| 2006 | $5,169,747,000 | $2,098,980 | 4.2% |
| 2007 | $5,614,317,000 | $4,445,700 | 8.6% |
| 2008 | $5,768,459,000 | $1,541,420 | 2.7% |
| 2009 | $5,871,973,000 | $1,035,140 | 1.8% |
| 2010 | $6,698,608,000 | $8,266,350 | 14.1% |
| 2011 | $7,008,476,000 | $3,098,680 | 4.6% |
| 2012 | $7,029,475,000 | $209,990 | 0.3% |
| 2013 | $7,538,092,000 | $5,086,170 | 7.2% |
| 2014 | $7,644,407,000 | $1,063,150 | 1.4% |
| | | Avg. annual growth | 3.33% |

Source: http://www.eia.gov/electricity/sales_revenue_price/
Supplemental Data: 1990 - 2013 Revenue from Retail Sales of Electricity by State by Sector by Provider (EIA-861)

For purposes of this fiscal analysis it is assumed that the Public Service Commission will use the most recent available data for establishing the annual cap. The state is currently in FY 2016 and the most recent available data is from 2014. Thus, for the fiscal periods included for consideration by the State Auditor's Office the FY 2017 cap will be established using 2015 data published by the U.S. Energy Information Administration. Similarly, the FY 2018 cap will be established using 2016 data. In this manner the cap for each calendar year will be established eight months before it begins instead of four months after it starts.

**Table 4**
**Data and Timeline for Establishing Annual Tax Credit Cap**

| Data available | Time period of data | CY year for the cap |
|---|---|---|
| April 2015 | 2014 actual data | CY 2016 |
| April 2016 | 2015 actual data | CY 2017 |
| April 2017 | 2016 actual data | CY 2018 |

As shown in Table 3 the average annual growth rate from 1990 to 2014 was 3.33 percent. Table 5 assumes that the average annual growth rate will carry forward for the next several years. The clean energy tax credits cap is estimated at $76.4 million for CY 2016, $79 million for CY 2017 and $81.6 million for CY 2018.

**Table 5**
**Clean Energy Tax Credit Estimate of Cap**

| Calendar Year for cap | Fiscal Year for likely redemption of credits | Revenue data | Total Revenue | Tax credit at 1.0% |
|---|---|---|---|---|
| CY 2016 | FY 2017 | 2014 actual data | $7,644,407,000 | $76,444,070 |
| CY 2017 | FY 2018 | 2015 projection | $7,898,965,753 | $78,989,658 |
| CY 2018 | FY 2019 | 2016 projection | $8,162,001,313 | $81,620,013 |

For purposes of the fiscal note the State Auditor's office asks that estimates be provided for the first two fiscal years of implementation which are FY 2017 and FY 2018 since the provisions of the proposal would go into effect in December 2016. Almost all taxpayers file their taxes on the April 15th deadline. Therefore, CY 2016 taxes would be due on April 15, 2017 which is in FY 2017 as shown in Table 5.

The proposal establishes a cap beginning for CY 2016. However, the provisions of the act will go into effect in December 2016. Paragraph 13 of the proposed section 386.1000 states that any taxpayer verified by the Department of Economic Development to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with the provisions shall be deemed eligible for the tax credit. This allows for the Department of Economic Development to include projects in 2016 before its processes are in place. Paragraph 17 of the proposed section 386.1000 provides that the Department of Economic Development shall issue rules necessary to administer the act. In addition, paragraph 10 gives the Department of Economic Development 45 days to notify an applicant of approval after the application is submitted.

Issuing rules is at best a months long process. The 45 day processing time allowed for any completed application filed after the rules are adopted makes it very unlikely that the Department of Economic Development will issue any CY 2016 tax credits before April 15, 2017 that would affect the taxpayers initial tax filing and reduce taxes paid during FY 2017. Tax credits issued between April 15 and June 30, 2017 would require an amended filing which also would be unlikely to be completed by June 30, 2017. Thus, this fiscal analysis assumes a de minimis or no impact on FY 2017 general revenue tax collections. Any CY 2016 tax credit impact would at most impact the FY 2018 tax collections through amended returns or through CY 2017 taxes.

**Application Deposit revenue**

The proposed Section 386.1000 RSMo requires that taxpayers submit an application to the Department of Economic Development to receive approval for tax credits (paragraph 7). Each application must include a two cent per watt application deposit. The total revenue from application deposits is dependent upon:

- the number of projects that will be submitted;
- the number of watts generated from all of those projects

Each of these is affected by the:

- percentage of residential v commercial projects
- number of kW generated by residential v commercial projects
- cost of residential and commercial projects
- total construction completed
- any phase-in period as the Department of Economic Development institutes rules and prepares the program
- any phase-in period as the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available

All of these factors must be estimated and evaluated in order to calculate the amount of application deposit revenue that will be received by the Department of Economic Development.

Tax credits are available to both residential and commercial projects. Paragraph 5 of the proposed Section 386.1000 RSMo provides that no electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit.

The Missouri Department of Economic Development, Division of Energy published a Missouri Comprehensive State Energy Plan in October 2015. The report states that half of the installed net-metered PV solar is residential and the other half commercial customers.[3] However, the report also indicates that there are challenges that face residential customers making it more difficult and expensive to install solar projects. These challenges include local ordinances or homeowner's association rules the may prohibit installation or require design changes that decrease efficiency or add to the cost.[4] In addition, over the past decade an industry has developed to assist with the financing of solar projects. Such financing alternatives are easier to obtain by commercial projects because of their size, scope, and estimated return on investment.[5] Commercial projects can have a longer-term outlook than homeowners who may not know how long they may live in their current house. The Missouri State Energy Plan indicates that residential rooftop solar is a relatively expensive energy option due to these and other factors.[6]

For all of the reasons identified in the preceding paragraph, for purposes of this fiscal analysis residential solar installation is assumed to be 40% of the total solar construction. Commercial solar installation is assumed to be 60% of the total solar construction. This fiscal analysis has already indicated that 2016 solar construction will likely not be affected by the approval of the petition by voters in November 2016. Thus, CY 2017 is the first full year of impact. Tax credits resulting from such construction will first affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office.

The next factor to consider is the number of kW generated by residential and commercial projects. A recent report on photovoltaic system pricing trends published by the U.S. Department of Energy indicates that the median residential project is 6.1 kW while the modeled commercial system is 200 kW. Paragraph 5 of the proposed section 386.1000 establishes a 200 kW limit on installations that are authorized for tax credits.[7] For purposes of this fiscal analysis it is assumed that all commercial projects will be at the 200 kW size and that residential projects will be 6.1 kW. Paragraph 7 of the proposed section 386.1000 requires a two cent per watt application deposit fee. Table 6 shows that there would be a $122 application deposit required for the median residential project. There would be a $4,000 application

deposit required for the 200 kW commercial project. A portion of this revenue will be available to the department for operational purposes as shown later in Table 11.

**Table 6**
**Application Deposit Required for Projects**

| Construction type | Project size in kW | Project size in watts | Application deposit for project at 2 cents per watt |
|---|---|---|---|
| Residential | 6.1 | 6,100 | $122 |
| Commercial | 200.0 | 200,000 | $4,000 |

The recent report on photovoltaic system pricing trends published by the U.S. Department of Energy also discusses the historical, recent, and near-term pricing of solar projects.[8] Project cost information was obtained on more than 400,000 systems in 42 states. The modeled system prices identified in the report showed a Q1 2015 residential system price of $3.12/watt and a commercial 200 kW system cost of $2.17/watt. These were reductions in price of from Q4 2013 of 7% and 19% respectively. The report also indicates that prices for residential and commercial PV systems have decreased by 6-12% per year, on average, from 1998-2014. In addition, the report indicates that analysts project the system prices will fall 16-33% for residential systems between 2014-2020.

Table 7 projects residential solar project costs. Projections are made to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 7 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $3,000/kW for residential solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 6.1 kW residential project is estimated at $18,300.

**Table 7**
**Residential Solar Project Estimate**

| | Cost of Residential project per kW | Cost of Residential project at 6.1 kW project size |
|---|---|---|
| CY 2015 | $3,120 | $19,032 |
| CY 2016 | $3,039 | $18,538 |
| CY 2017 | $2,960 | $18,056 |
| average cost of CY16 and CY17 estimates | $3,000 | $18,300 |

The modeled commercial system price identified in the report showed a Q1 2015 commercial 200 kW system cost of $2.17/watt. However, the national average cost of commercial projects is affected by states with more mature solar markets and industries and large companies, like Wal-Mart and Ikea, that have moved to install significant solar projects on their facilities. The first Missouri commercial systems are less likely to meet the $2.17/watt cost projections. Table 8 uses other data in the report to amend the estimate of commercial solar project costs. The report shows that the price of the modeled 200 kW commercial system has fallen from $2.68/watt to $2.17 between 2013 Q4 and 2015 Q1. The mid-point of that decrease is $2.425/watt. Further, it is assumed that the cost of Missouri projects will be higher by 2.6%, or one-year's worth of the low end of the price declines found in the report. The result is that this analysis will assume that the Missouri 2015 Q1 price is $2.488/watt.

**Table 8**
**Commercial Solar Project Cost Estimate per kW**

| | |
|---|---|
| 2013 Q4 | $2,680 |
| 2015 Q5 | $2,170 |
| Mid-point | $2,425 |
| One-year behind (2.6%) | $2,488 |

Table 9 then projects the $2,488/kW 2015 Q1 cost to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 9 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $2,392/kW for commercial solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 200 kW commercial project is estimated at $478,400.

**Table 9**
**Commercial Solar Project Estimate**

| | Cost of Commercial project per kW | Cost of Commercial project at 200 kW project size |
|---|---|---|
| CY 2015 | $2,488 | $497,600 |
| CY 2016 | $2,423 | $484,600 |
| CY 2017 | $2,360 | $472,000 |
| average cost of CY16 and CY17 estimates | $2,392 | $478,400 |

The analysis so far has identified:

- a $79 million estimate of the maximum clean energy tax credits using one percent of the annual statewide Missouri revenue of Missouri retail electric suppliers as directed by paragraph 1 of the proposed section 386.1000.
- an estimate that 40% of total solar construction would be residential and 60% commercial
- project cost estimates of $18,300 for 6.1 kW residential projects and $478,400 for 200 kW commercial projects

The final factor to calculate before arriving at the amount of application deposit revenue is any phase-in period as the Department of Economic Development issues rules and prepares its processes and the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available. The Missouri State Energy plan reports that Missouri currently has 111 MW of installed solar PV capacity. The plan also reports that there is 42.8 MW of installed net-metered PV solar developed over the years largely as a result of rebates from large utility companies in Missouri.

The proposal being analyzed establishes a statutory program of clean energy tax credits that will sunset after the Department of Economic Development certifies that 1,000 MW of capacity has been added as a result of the tax credits but no later than June 30, 2022. The 1,000 MW target represents a dramatic increase in current capacity.

The Missouri State Energy plan provides a wealth of information about the current state of "green jobs" and the solar industry in Missouri. The report includes the following along with other findings about the industry.

- Missouri had over 100,000 "green jobs" according to a 2009 study.[9]
- Missouri was identified as 10th in the nation for growth in clean energy and clean transportation jobs in 2013.[10]

- $187 million was invested by Missouri's solar industry in 2014 to install solar photovoltaic systems for residential, commercial, and utility use.[11]
- There are more than 97 solar companies at work throughout the supply chain in Missouri, employing 2,500 people including manufacturers, contractors, installers, project developers, distributors.[12]
- Missouri could create 8,500 new jobs to design, install, and operate energy efficiency measures by 2025 according to a 2011 study.[13]
- In 2010 Missouri ranked 6th in the nation in photovoltaic jobs.[14]

The clean energy tax credit does not sunset until the 1,000 MW target of additional capacity is met but no later than June 30, 2022. The size and the long-term nature of the 1,000 MW target should encourage the development of the Missouri solar industry even after it sunsets. It should also result in long-term planning and the build out of a native Missouri solar industry. The target also provides an incentive for the industry to meet the growth potential described in the Missouri State Energy Plan.

In the long-term the impact of the 1,000 MW target will grow and build the industry. In addition, investment in solar will allow longer term benefits in reduced fuel usage, cleaner air, better health and the resulting lower costs among other things. The Missouri State Energy Plan identifies the public health impacts of various energy sources with clean energy sources providing significant positive benefits over other sources.[15] A 2013 study of Hawaii's solar tax credit program found that the State recovered the full cost of the tax credit in 9 to 11 years - a rate of return on its investment ranging from 8.9% to 10.3%.[16] In addition, the study found that for each dollar spent by Hawaii on tax credits the amount of additional sales stimulated was $34.69 for residential solar PV and $55.03 for commercial PV.

However, the fiscal note format required for initiative petitions focuses on the short-term revenue and costs. Thus, the longer-term benefits are not included in this fiscal analysis. As explained elsewhere in this fiscal analysis the impact of the availability of tax credits is somewhat dependent upon the speed with which the Department of Economic Development issues the necessary rules and regulations, develops and makes available the application forms, and the industry's reaction to voter approval and the department's actions. Thus, two alternatives are calculated to create a possible range for the likely outcome in the short-term.

The first alternative assumes that construction will be sufficient to use half of the $79 million in possible tax credits. The first alternative assumes that the program is not implemented until July 2017 thus reducing its effect by half in CY 2017. The second alternative assumes that construction will be sufficient to use all of the $79 million in possible tax credits. The second alternative assumes that the industry is energized by the tax credit and pushes forward with construction under the assumption that the Department of Economic Development will recognize all projects that have been started after voter approval of the proposal.

Table 10 takes that information and shows two possible alternatives for CY 2017.

- Construction leading to use of **half** the available tax credits ($39.5 million) - A total of $112.8 million in construction would be required to generate $39.5 million in tax credits. Residential construction of $45.1 million (assuming 40% of construction) would result in $15.8 million in tax credits. Commercial construction of $67.7 million (assuming 60% share of construction) would result in $23.7 million in tax credits.

- Construction leading to use of **all** the available tax credits ($79 million) - **A total of $225.7 million in construction would be required to generate $79 million in tax credits**. Residential construction of $90.3 million (assuming 40% of construction) would result in $31.6 million in tax credits. Commercial construction of $135.4 million (assuming 60% share of construction) would result in $47.4 million in tax credits.

In addition, using the average cost and size of projects it is possible to compute the number of residential and commercial projects that will be constructed. A total of 2,608 projects would be constructed with half

the tax credits (2,466 residential, 142 commercial). A total of 5,216 projects would be constructed with all the tax credits (4,933 residential, 283 commercial).

**Table 10**
**Number of Projects using Half or All of Tax Credit Cap**

| | CY 2017 construction needed for half of tax credits to be used in FY 2018 | CY 2017 construction needed for all of tax credits to be used in FY 2018 |
|---|---|---|
| Tax credits estimate from CY 2017 construction | $39,494,829 | $78,989,658 |
| Amount of construction value needed to generate value of 35% tax credits | $112,842,369 | $225,684,737 |
| | | |
| % of residential per year of credits issued | 40.0% | 40.0% |
| % of commercial per year of credits issued | 60.0% | 60.0% |
| | | |
| Tax credits by type of construction | | |
| Residential | $15,797,932 | $31,595,863 |
| Commercial | $23,696,897 | $47,393,795 |
| Total amount by type | $39,494,829 | $78,989,658 |
| | | |
| Construction value by type of construction | | |
| Residential | $45,136,948 | $90,273,895 |
| Commercial | $67,705,421 | $135,410,842 |
| Total amount by type | $112,842,369 | $225,684,737 |
| | | |
| Cost of solar projects per project | | |
| Residential (6.1 kW/project) | $18,300 | $18,300 |
| Commercial (200 kW/project) | $478,400 | $478,400 |
| | | |
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |

Table 10 shows a significant number of projects that would be completed throughout the state as a result of the clean energy tax credit. These numbers are possible for a variety of reasons identified in the Missouri State Energy Plan.

- Missouri households use about 12% more than the average U.S. household, thus projects would put real dollars into Missourians pockets for other uses and spending.[17]
- Nationally about ten percent of small business owners state that energy is their single biggest cost according to the National Federation of Independent Business. The same report indicates that an additional 25% of small business owners claim that energy is one of their top three business costs.[18] Thus, clean energy projects that reduce energy usage make businesses more profitable, allow for expansion, and could lead to higher wages for employees.
- Businesses can lower costs through on-site generation while also achieving other benefits.[19]
- Significant operational savings are possible through energy efficiency projects with rates of return as high as 25%.[20]

- A wealth of financing alternatives now exist for clean energy projects.[21]
- "Approximately 60% of the largest U.S. businesses have set public climate and energy goals to increase their use of renewable energy."[22]

Table 11 calculates the amount of application deposit revenue that the Department of Economic Development would receive given the number of projects identified in Table 10. If applications are submitted for projects equivalent to half the available tax credits then the department would receive $0.9 million in application deposit revenue. If applications are submitted for projects equivalent to all the available tax credits then the department would receive $1.7 million in application deposit revenue. The proposal allows the department to keep some of the revenue for its operational purposes. Table 11 shows that it can keep up to $61 for residential applications (half of the anticipated deposit in this analysis) and up to $250 for all other applications. The net non-refunded revenue that the department will have available for its operations is $185,926 or $371,663.

**Table 11**
**Application Deposit Revenue**

| | Application Deposit Estimate for half of tax credits for applications FY 2018 | Application Deposit Estimate for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |
| | | |
| Application deposit required per project | | |
| Residential | $122 | $122 |
| Commercial | $4,000 | $4,000 |
| | | |
| Application deposit revenue | | |
| Residential | $300,852 | $601,826 |
| Commercial | $568,000 | $1,132,000 |
| Total revenue by type | $868,852 | $1,733,826 |
| | | |
| | | |
| Application revenue kept per project for Department Operations | | |
| Residential | $61 | $61 |
| Commercial | $250 | $250 |
| | | |
| Application deposit revenue available for Department Operations | | |
| Residential | $150,426 | $300,913 |
| Commercial | $35,500 | $70,750 |
| Total amount by type | $185,926 | $371,663 |

Table 12 shows the amount of solar capacity added by the number of projects identified in the previous tables given the given size of residential and commercial projects. A total of 43.4 MW would be added in solar capacity as a result of projects equivalent to half the available tax credits which would be 4.3% of the 1,000 MW goal that when achieved will sunset the tax credits. A total of 86.7 MW would be added in

solar capacity as a result of projects equivalent to all the available tax credits which would be 8.7% of the 1,000 MW goal that when achieved will sunset the tax credits.

**Table 12 Amount of Solar Capacity Added**

| | Capacity added for half of tax credits for applications FY 2018 | Capacity added for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |
| | | |
| kW generated by construction | | |
| Residential (6.1 kW/project) | 15,043 | 30,091 |
| Commercial (200 kW/project) | 28,400 | 56,600 |
| Total amount by type | 43,443 | 86,691 |
| | | |
| MW generated by construction | | |
| Residential | 15.0 | 30.1 |
| Commercial | 28.4 | 56.6 |
| Total amount by type | 43.4 | 86.7 |
| | | |
| % of 1,000 MW goal achieved | 4.3% | 8.7% |

**Taxes**

As noted on pages 10-11 of this fiscal analysis, the Missouri State Energy Plan published in October 2015 describes the current capacity, industry size, and investments being made in Missouri. The plan also describes the potential for jobs and economic development in the state. The 1,000 MW target represents a dramatic increase in current capacity. The following analysis assumes that due to the dramatic size of the 1,000 MW target that the investments driven by the clean energy tax credits will result in new jobs and industry expansion.

Table 13 shows the cost components of a solar construction project. Labor is assumed to be 35% of the project costs, materials 40%, and Profit 10%. It is assumed that 15% of the project cost is overhead and it is assumed that no taxes would be applied. Since Missouri already has a base of manufacturers and distributors it is assumed that all materials will be Missouri taxed.

**Table 13**
**Construction Project Components, Tax Type, and Tax Rate**

| Project components | % of job | Missouri tax rate | Type tax |
|---|---|---|---|
| Labor | 35.0% | 6.00% | Income tax |
| Materials and local materials | 40.0% | 4.225% | Sales |
| Profit | 10.0% | 6.25% | Corporate |
| Overhead | 15.0% | 0.00% | N/A |
| subtotal by taxable type | 100.0% | | |

Table 14 computes the state and local taxes based on the value of construction and the project components and tax rates shown in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $4.4 million to $8.9 million in FY 2018. The other three state funds

(Prop C, Conservation, Parks/Soils) are estimated to receive between $0.6 million to $1.1 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $1.75 million to $3.5 million in local sales tax revenue in FY 2018.

**Table 14**
**State and Local Taxes Generated by Construction**

| | Half of tax credits used - CY 2017 | All of tax credits used - CY 2017 |
|---|---|---|
| Amount of construction value needed to generate value of 35% tax credits | $112,842,369 | $225,684,737 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $39,494,829 | $78,989,658 |
| Materials and local materials | $45,136,947 | $90,273,895 |
| Profit | $11,284,237 | $22,568,474 |
| subtotal by taxable type | $95,916,013 | $191,832,027 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $2,369,690 | $4,739,379 |
| Materials and local materials - Sales/Use Tax | $1,354,108 | $2,708,217 |
| Profit - General Revenue Corporate Tax | $705,265 | $1,410,530 |
| subtotal GR | $4,429,063 | $8,858,126 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $451,369 | $902,739 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $56,421 | $112,842 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $45,137 | $90,274 |
| subtotal State Taxes | $4,981,991 | $9,963,981 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $1,751,314 | $3,502,627 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $6,733,304 | $13,466,608 |

The taxes generated from the construction activity shown in Table 14 likely underestimate the state revenue that will be generated by the construction of clean energy projects even within the short time period allowed in the fiscal note. As noted earlier there are multiplier effects that ripple through the economy. The Department of Economic Development through MERIC has a sophisticated model that it uses to evaluate the impact of tax credits and other business investments made in the State of Missouri. Using the information in this fiscal analysis MERIC should be able to provide supplementary information regarding the extra economic activity and increased revenues.

Similarly, generating additional clean energy within the State of Missouri will result in a decrease in the importation of power and energy producing raw materials from other states. Such money leakage from the state, businesses and citizens, decreases the amount of purchasing could be done for other purposes such as increased jobs within the state and thus the tax revenues that would be generated. For example, the Missouri State Energy Plan notes that Missouri is the sixth largest consumer of coal in the country and 92.5% of the coal used in 2013 was imported from Wyoming.[23] The plan reports that the state sends billions of dollars out of state for purchases of imported coal, natural gas, and transportation fuels.[24]

**Community Solar Act** - Applies to Versions 28, 30, 31, 32, 34, and 36
The Community Solar Act, section 386.910 of the proposal, directs the Missouri Public Service Commission to establish rules allowing customers to participate in a "community solar facility." Community solar facilities allow participants to benefit from solar energy and receive electric bill credits substantially similar to net metering.

Paragraph 3 of that section states that the "aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous fiscal year." Table 15 shows the total peak demand data compiled by the Public Service Commission for the four utilities affected by this section. The report shows that using peak demand leads to a cap of 504.5 MW on the amount of aggregated capacity of community solar facilities statewide.

**Table 15 - Peak Demand for Community Solar**

| Utility Name | Peak Demand |
|---|---|
| Union Electric Co - (MO) | 7,713.0 |
| Kansas City Power & Light Co | 1,878.0 |
| KCP&L Greater Missouri Operations Co. | 1,860.0 |
| Empire District Electric Co | 1,162.0 |
| Total | 12,613.0 |
| 4% overall cap | 504.5 |

Paragraph 2 of that section defines a community solar facility as a photovoltaic electric generation facility with a capacity of between 100 and 1,000 kW. For purposes of this fiscal note it is assumed that all community solar projects will be the same as the 200 kW project limit established in the clean energy tax credit language of 386.1000. In Table 12 above a low and high range was calculated for the percentage of solar capacity added through the tax credits based on the expectations of the phase-in necessary for the Department of Economic Development's implementation of the clean energy tax credits. The same percentage is used - 4.3% low range and 8.7% higher range. Similarly, for the purposes of this fiscal note the cost per kW will be $2,392 for a total project cost of $478,400 as shown in Table 9.

Table 16 shows the data and calculations needed to identify the number of projects. At the low end of the range 21.7 MW of added community solar capacity would be created which would require 108 projects of 200 kW. At the higher range 43.9 MW of added community solar capacity would be created which would require 219 projects of 200 kW.

Table 16 also shows that at an average project cost of $478,400 the low range results in $51.7 million in construction spending. The higher range results in $104.8 million in construction spending.

**Table 16**
**Community Solar Capacity and Projects**

| | Low Range | Higher Range |
|---|---|---|
| Assumed % of aggregate capacity | 4.3% | 8.7% |
| Added capacity - MW | 21.69 | 43.89 |
| Added capacity - kW | 21,694.36 | 43,893.24 |
| # projects at commercial 200 kW per project | 108 | 219 |
| Construction cost - commercial project per 200 kW project | $478,400 | $478,400 |
| Construction value | $51,667,200 | $104,769,600 |

Table 17 computes the state and local taxes based on the value of construction and the project components and tax rates shown earlier in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $2.0 million to $4.1 million in FY 2018. The other three state funds (Prop C, Conservation, Parks/Soils) are estimated to receive between $0.2 million to $0.5 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $0.8 million to $1.6 million in local sales tax revenue in FY 2018.

**Table 17**
**State and Local Taxes Generated by Construction of Community Solar Projects**

| | Low range | Higher range |
|---|---|---|
| Amount of construction value needed to generate estimated MW | $51,667,200 | $104,769,600 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $18,083,520 | $36,669,360 |
| Materials and local materials | $20,666,880 | $41,907,840 |
| Profit | $5,166,720 | $10,476,960 |
| subtotal by taxable type | $43,917,120 | $89,054,160 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $1,085,011 | $2,200,162 |
| Materials and local materials - Sales/Use Tax | $620,006 | $1,257,235 |
| Profit - General Revenue Corporate Tax | $322,920 | $654,810 |
| subtotal GR | $2,027,938 | $4,112,207 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $206,669 | $419,078 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $25,834 | $52,385 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $20,667 | $41,908 |
| subtotal State Taxes | $2,281,107 | $4,625,578 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $801,875 | $1,626,024 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $3,082,982 | $6,251,602 |

**Net metering bills** - Applies to Versions 28, 29, 30, 31, 32, 35, and 36
The Missouri General Assembly has considered six net metering bills over the past three legislative sessions. Table 18 below identifies the bills and provides links to the fiscal note and bill summary prepared for each bill. All of the fiscal notes prepared and available indicated that there was no state impact from the net metering bills.

**Table 18**
**NET METERING**
**2013, 2014, AND 2015 LEGISLATIVE SESSIONS**

| Session | Bill | Sponsor | Fiscal Note Impact | Fiscal Note Summary Link | Bill Summary Link |
|---|---|---|---|---|---|
| 2015 | SB 75 | Holsman | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0622-01N.ORG.pdf | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=82&BillID=174 |
| 2015 | SB 509 | Holsman | No impact | N/A | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=664&BillID=4599469 |
| 2015 | HB 481 | Berry (38) | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0502-01N.ORG.pdf | http://house.mo.gov/billtracking/bills151/sumpdf/HB0481C.pdf |
| 2014 | HB 1795 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER14/fishtm/5552-02N.ORG.htm | http://house.mo.gov/billtracking/bills141/sumpdf/HB1795I.pdf |
| 2013 | HB 119 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/0794-02N.ORG.htm | http://house.mo.gov/billtracking/bills131/sumpdf/HB0119I.pdf |
| 2013 | SB 396 | Holsman | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/1078-07N.ORG.htm | http://www.senate.mo.gov/13info/BTS_Web/Bill.aspx?SessionType=R&BillID=19218703 |

**Electric Vehicle Charging Stations** - Applies to Versions 30, 31, 32, 34, and 35
The petition authorizes investor-owned utilities to recover costs for infrastructure investments in electric vehicle charging stations, provided the energy output from the stations is offset in part by clean energy. There should be no fiscal impact to the state. Utility investment in electric charging stations will result in positive economic activity similar to other capital investments. However, the range of the benefits is unknown at this time.

ENDNOTES

[1] U.S. Energy Information Administration: *Table 10: All Sectors - Class of ownership, number of consumers, sales, revenue, and average retail price by State and utility*
http://www.eia.gov/electricity/sales_revenue_price/

[2] U.S. Energy Information Administration: *Supplemental Data: 1990 - 2013 Revenue from Retail Sales of Electricity by State by Sector by Provider (EIA-861)*
http://www.eia.gov/electricity/sales_revenue_price/

[3] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25
https://energy.mo.gov/energy/docs/MCSEP.pdf

[4] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25-26
https://energy.mo.gov/energy/docs/MCSEP.pdf

[5] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[6] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 200
https://energy.mo.gov/energy/docs/MCSEP.pdf

[7] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 5
http://www.nrel.gov/docs/fy15osti/64898.pdf

[8] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 4
http://www.nrel.gov/docs/fy15osti/64898.pdf

[9] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 172
https://energy.mo.gov/energy/docs/MCSEP.pdf

[10] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 173
https://energy.mo.gov/energy/docs/MCSEP.pdf

[11] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[12] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[13] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 174
https://energy.mo.gov/energy/docs/MCSEP.pdf

[14] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 175
https://energy.mo.gov/energy/docs/MCSEP.pdf

[15] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 190-191, 193, 195-199, 201, 203
https://energy.mo.gov/energy/docs/MCSEP.pdf

[16] Thomas A Loudat, Blue Planet Foundation. "*The Economic and Fiscal Effects of Hawaii's Solar Tax Credit*" - January 2013.
http://blueplanetfoundation.org/renewable-energy-tax-credit-2013.html?highlight=WyJsb3VkYXQiXQ==

[17] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 154
https://energy.mo.gov/energy/docs/MCSEP.pdf

[18] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 165 for both sentences in this bullet point
https://energy.mo.gov/energy/docs/MCSEP.pdf

[19] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[20] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[21] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[22] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 178
https://energy.mo.gov/energy/docs/MCSEP.pdf

[23] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 20-21
https://energy.mo.gov/energy/docs/MCSEP.pdf

[24] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 42
https://energy.mo.gov/energy/docs/MCSEP.pdf

**Edward D. Greim** provided the following information as an opponent of this initiative petition.

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January 11, 2016

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Re: *Fiscal Note in Initiative Petitions 2016-202 through 210*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petitions 202, 204, 206, and 210:

> Lost revenue to state government is $3.04 billion over the tax credit period, with annual losses of $9.5 million to $11.5 million thereafter. Lost revenue to local government is $189.1 million over the tax credit period, with annual losses of $31.5 million to $33.9 million thereafter.

We propose the following fiscal note summary for petition 203:

> Lost revenue to state government is $320.9 million over the tax credit period, with annual losses of $5.6 million to $9.6 million thereafter. Lost revenue to local government is $100.9 million over the tax credit period, with annual losses of $20 million to $28.1 million thereafter.

We propose the following fiscal note summary for petition 205:

> Lost revenue to state government is $328.8 million over the tax credit period, with annual losses of $7.5 million to $11.5 million thereafter. Lost revenue to local government is $175.3 million over the tax credit period, with annual losses of $32.4 million to $40.5 million thereafter.

We propose the following fiscal note summary for petition 207:

> Lost revenue to state government is $3.02 billion over the tax credit period, with annual losses of $5.7 million to $7.7 million thereafter. Lost revenue to local government is $40.4 million over the tax credit period, with annual losses of $11.5 million to $15.7 million thereafter.

We propose the following fiscal note summary for petitions 208 and 209:

> Lost revenue to state government is $3.03 billion over the tax credit period, with annual losses of $7.6 million to $9.6 million thereafter. Lost revenue to local government is $114.8 million over the tax credit period, with annual losses of $23.9 million to $28.1 million thereafter.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments; taxes that do not apply whenever electricity is never sold due to customer-generator production encouraged by the initiative petitions. Petition signers and voters must be informed that any positive fiscal impacts of the initiative petitions are speculative. Likewise, petition signers and voters must be informed that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume.

**Description of Policy**

Initiative Petitions 202 – 210 contain one or more of three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of the "Community Solar Act"; and (3) A state tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, or certain natural gas technologies.

1. Changes to Net Metering for Investor-owned electric utilities and municipal electric utilities, and, in 206, rural electric cooperatives
    A. Raise net metering cap to 7% (is currently 5%);
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);



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   D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.
2. Community Solar Act
   A. PSC adopts rules and regulations allowing groups of 5 or more electrical corporation customers to offset energy usage with solar located in the service territory of the electrical corporation where they have an account;
   B. Facilities are 100 kilowatts to 1 megawatt;
   C. Community solar facilities may, in total, generate electricity of 4% or less of single-hour peak load, but that amount does not count toward net metering; Electrical corporations can own half (max of 2%), which may be included in the rate base. Others may own the other half (max of 2%);
   D. Community Solar facilities are not eligible for tax credits provided in the petition;
   E. Commission sets a community solar rate, not less than electrical corporation's average retail rate;
   F. Value of allocated solar bill credits reduces customer's total bill;
   G. The current value-of-community-solar rate may be locked in for 20 years beginning when a community solar facility is put in operation.
3. Tax credit
   A. 35% tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, etc.
   B. Total value of eligible credits shall not exceed 1% of the value of electricity used in Missouri[1] – defined as revenue from sale of electricity in Missouri; or tax credits are capped at$50 million each year. Unused credits carryover year to year until June 30, 2022
   C. No tax credits after June 30, 2022, or after 1000 megawatts of new generation have been installed using the tax credits.

**Burdens on State Government**

In determining the fiscal impact of each petition it is generally reasonable to assume that the various statutory changes in the petitions will have independent fiscal impacts. The reasonableness of this assumption is buoyed by the various iterations of the petitions themselves, some of which propose tax credits with no proposed changes to the Net Metering and Easy Connection Act. See Petitions 207 and 208.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 202-207 and 209-210*

[1] The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. See U.S. Energy Information Administration – Independent Statistics and Analysis.



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Raising the net metering cap from the current 5% of peak hour demand to 7% of peak hour demand will, conservatively, result in a 2% decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase from 5% to 7%. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in the petition provides a strong financial incentive to solar or wind energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[2], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, the net-metering cap applies to single-hour peak load, determined yearly, which means that the cap is a higher percentage of the single hour average load. This fact means that the total increase in generation is higher than it appears. Fourth, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[3] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by approximately $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities. The additional decreases in sales tax revenues from municipal electric utilities and, in petition 206, from electric cooperatives, are unknown but substantial.[4]

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 202, 204-206, 208, and 210*

Community solar facilities are in addition to net metering and represent an additional capacity amounting to 4% of each electrical corporation's single-hour peak load. Energy generated from the community solar facility is allocated pro rata by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. There is the potential for such bill

[2] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[3] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.
[4] Assuming $7.6 billion in electricity is sold in Missouri per year (the actual 2014 figure), a 2% decrease will decrease overall state sales tax revenues by 6.4 million annually, but some petitions enact net metering changes on rural electric cooperatives, and some do not.



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credits to decrease overall electrical bills by more than 4% because the "bill credits" are calculated using a "value of solar rate" which is at least as high as the retail rate for electricity, but may be higher. If, for example, solar energy received a 50% rate premium due to its benefits, the amount of bill credits would increase and sales would decrease by more than the 6%, rather than 4% figure. Half of these community solar facilities—the half not owned by electrical corporations—may be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoid property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership model, similar to net metering, because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%).

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by approximately $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities.

*iii. Tax credits – Initiative Petitions 202-210*

*a. Decreased tax collections due to tax credits – Credits capped at 1% of value of electricity sold in Missouri, annually ($76 million based on 2014 figures) – Initiative Petitions 202, 204, 206-210*

According to 2014 figures, Missouri retail customers bought 7.6 billion dollars' worth of electricity in 2014. It is very conservative to estimate that Missouri retail customers will continue to buy the same value of electricity. Accordingly, the 35% tax credits in these petitions will, conservatively, directly result in a loss of state income of up to $76 million, annually. However, electricity rates are volatile, and rates may react violently given market changes and legal changes proposed by the initiative petitions. As stated by the Department of Economic Development, the total loss to state revenue in a single year could be $429.3 million, annually, and $3 billion in total.

*b. Decreased tax collections due to tax credits – Credits capped at $50 million annually – Initiative Petitions 203 and 205*

Similar to the loss described in subpart a, the 35% tax credits in these petitions will directly result in a loss of state income of up to $50 million, annually.

*c. Cost of eroding tax base due to new energy generation – Initiative Petitions 202-210*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer-generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in



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Missouri. Accordingly, if the tax credits were phased out due to reaching the 1000 MWh/1,000,000 kWh maximum on new electricity generation, new production from such tax credits would produce approximately 1,825,000 MWh per year, also expressed as 1,825,000,000 KWh, or 1,825 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour [5], this new production is valued at $182,500,000.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

In practice, the 1 gigawatt limit on new customer-generated energy production may never be met. Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[6] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for renewable energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology. The petition itself limits tax credits to a maximum of $3.00 per watt, but market forces should make rates in Missouri similar to those in other states, at or around $1.77.

For Initiative Petitions 202, 204, and 206-210, the total, annual loss to state governments *due to the tax credits* is 76.9 million to 435 million over the tax credit period. There is an annual loss in perpetuity after the tax credit period of 5.7 to 7.7 million, depending on how much new customer-generation is developed. See attached table.

For Initiative Petitions 203 and 205, the total, annual loss to state governments *due to the tax credits* is 50.6 million to 53.7 million over the tax credit period. There is an annual loss in perpetuity after the tax credit period of 3.7 to 7.7 million, depending on how much new customer-generation is developed. See attached table.

**Burdens on Local Governments**

[5] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.

[6] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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Local governments face similar losses in revenue from the various petition provisions as state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 202-206 and 209-210*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 202, 204-206, 208, and 210*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*iii. Tax credits – Cost of eroding tax base due to new energy generation – Initiative Petitions 202-210*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petitions may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to local governments, all of which may be reduced or discontinued if the initiative petitions are enacted.



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The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[7] Based on this estimate, the population-weighted combined average local sales tax is 3.585%. Assuming the tax credits sunset due to reaching the 1 Gigawatt production cap, the yearly loss to local governments from lost sales tax from the tax credit is $6,541,578. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,123,540.

For petitions 202, 204, and 206-210, the loss to local governments due to the tax credits is $40.4 million over the tax credit period, then $11.5 to $15.7 million annually. For initiative petitions 203 and 205, the loss to local governments due to the tax credits is $26.6 million over the tax credit period, then $7.5 to $15.7 million annually.

**In Conclusion**

The initiative petitions will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petitions, such as increases in net metering and community solar. The total tax burden on state government imposed by the petitions range from $313 million over the tax credit period, with $3.7 to $7.7 million in lost revenues in perpetuity, to approximately $498.6 million over the tax credit period,[8] with $9.5 million to 11.5 million in lost revenues in perpetuity thereafter.

Sincerely,

Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0

[7] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.
[8] $475.8 million + [(1.9 million + 1.9 million)*6 years]



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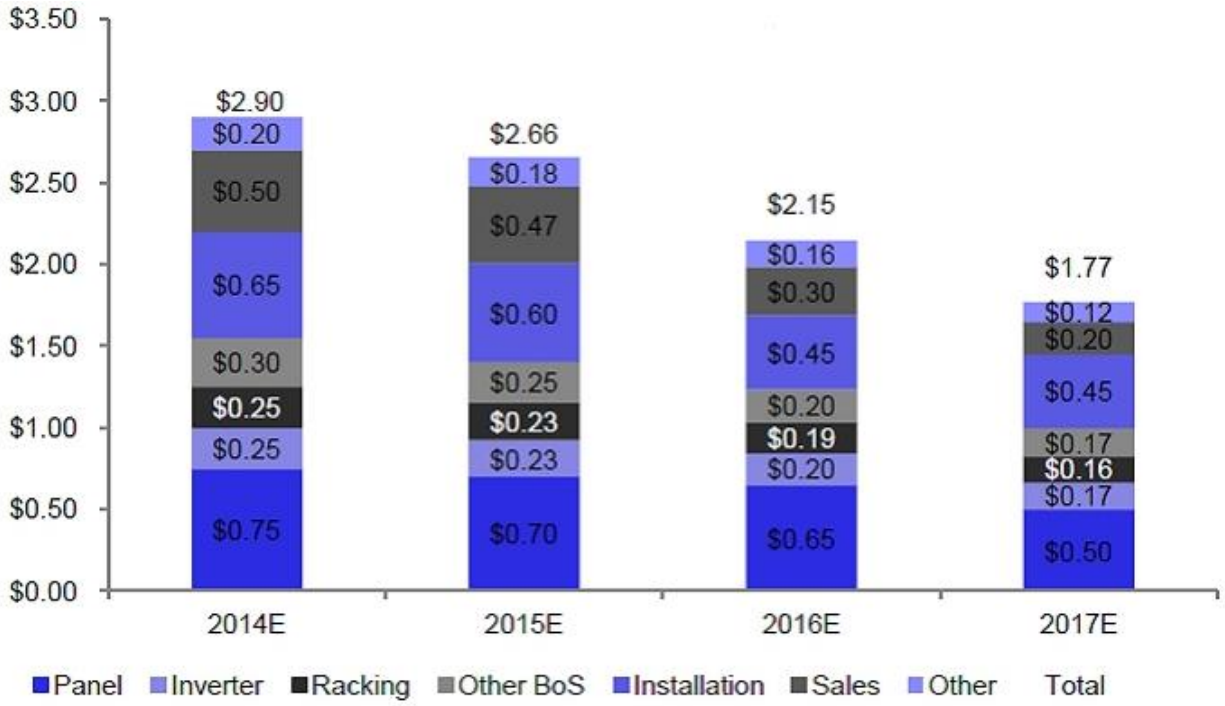
Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017
https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm



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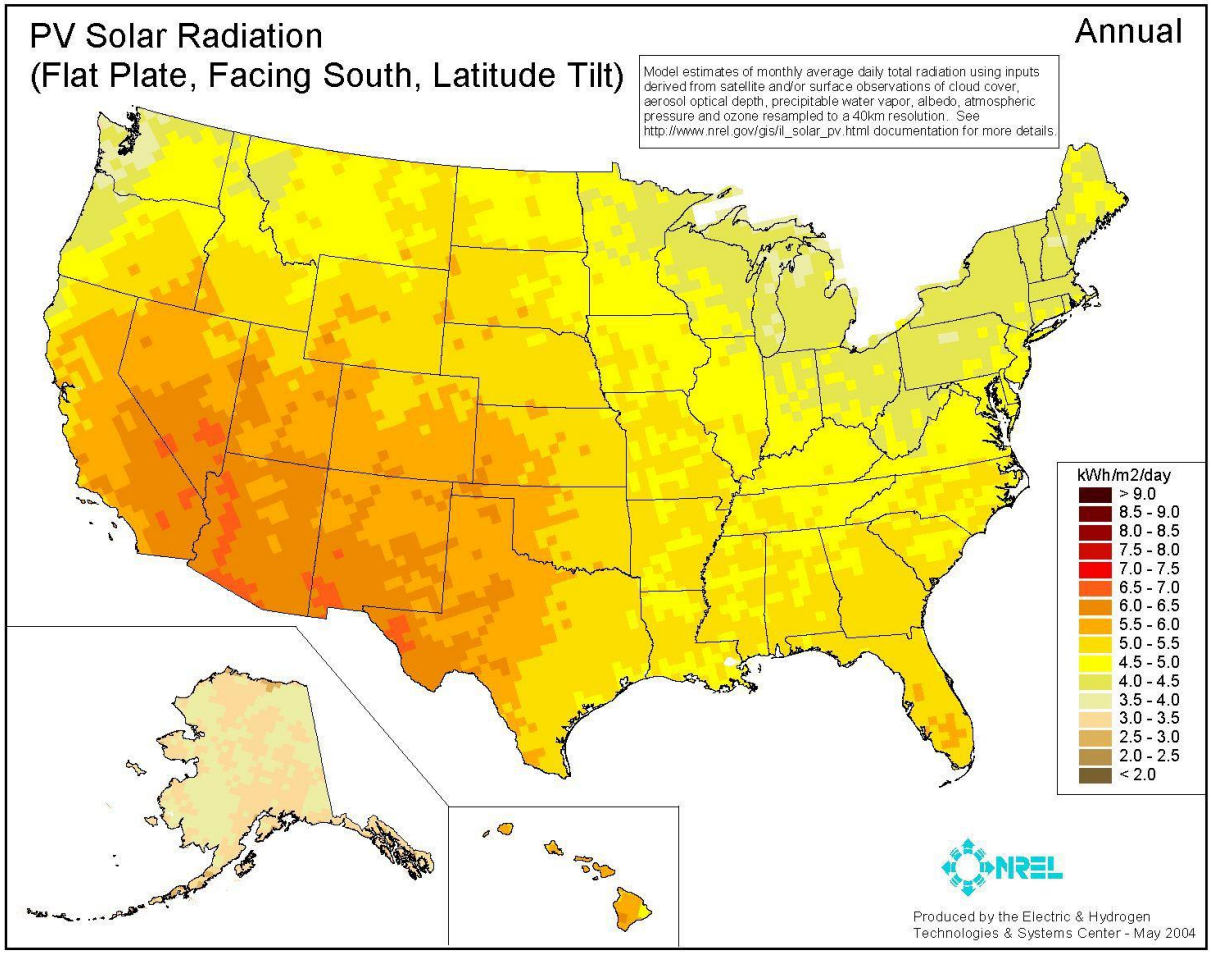
National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Brightergy Renewable Tax Credit Fiscal Analysis (1% Value of Electricity Cap) - Initiative Petitions 202, 204, and 206-210**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 122.68 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $76,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 223,854 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $76,000,000 | 122.68 | 122.68 | 223,854 | $100 | $22,385,441 | 4.225% | $945,785 | $76,945,785 | 3.585% | $802,518 | 5.000% | $1,119,272 | $1,921,790 |
| 2018 | $76,000,000 | 122.68 | 245.36 | 447,709 | $100 | $44,770,882 | 4.225% | $1,891,570 | $77,891,570 | 3.585% | $1,605,036 | 5.000% | $2,238,544 | $3,843,580 |
| 2019 | $76,000,000 | 122.68 | 368.04 | 671,563 | $100 | $67,156,323 | 4.225% | $2,837,355 | $78,837,355 | 3.585% | $2,407,554 | 5.000% | $3,357,816 | $5,765,370 |
| 2020 | $76,000,000 | 122.68 | 490.72 | 895,418 | $100 | $89,541,765 | 4.225% | $3,783,140 | $79,783,140 | 3.585% | $3,210,072 | 5.000% | $4,477,088 | $7,687,160 |
| 2021 | $76,000,000 | 122.68 | 613.40 | 1,119,272 | $100 | $111,927,206 | 4.225% | $4,728,924 | $80,728,924 | 3.585% | $4,012,590 | 5.000% | $5,596,360 | $9,608,951 |
| 2022 | $76,000,000 | 122.68 | 736.08 | 1,343,126 | $100 | $134,312,647 | 4.225% | $5,674,709 | $81,674,709 | 3.585% | $4,815,108 | 5.000% | $6,715,632 | $11,530,741 |
| | | | | | | | | **Total State Tax Burden** | **$475,861,483** | | **Total Local Tax Burden (Sales + Franchise)** | | **$40,357,593** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

**Brightergy Renewable Tax Credit Fiscal Analysis (50 Million Tax Credit Cap) - Initiative Petitions 203 and 205**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 80.71 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $50,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 147,273 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $50,000,000 | 80.71 | 80.71 | 147,273 | $100 | $14,727,264 | 4.225% | $622,227 | $50,622,227 | 3.585% | $527,972 | 5.000% | $736,363 | $1,264,336 |
| 2018 | $50,000,000 | 80.71 | 161.42 | 294,545 | $100 | $29,454,528 | 4.225% | $1,244,454 | $51,244,454 | 3.585% | $1,055,945 | 5.000% | $1,472,726 | $2,528,671 |
| 2019 | $50,000,000 | 80.71 | 242.13 | 441,818 | $100 | $44,181,792 | 4.225% | $1,866,681 | $51,866,681 | 3.585% | $1,583,917 | 5.000% | $2,209,090 | $3,793,007 |
| 2020 | $50,000,000 | 80.71 | 322.84 | 589,091 | $100 | $58,909,056 | 4.225% | $2,488,908 | $52,488,908 | 3.585% | $2,111,890 | 5.000% | $2,945,453 | $5,057,342 |
| 2021 | $50,000,000 | 80.71 | 403.55 | 736,363 | $100 | $73,636,320 | 4.225% | $3,111,135 | $53,111,135 | 3.585% | $2,639,862 | 5.000% | $3,681,816 | $6,321,678 |
| 2022 | $50,000,000 | 80.71 | 484.26 | 883,636 | $100 | $88,363,584 | 4.225% | $3,733,361 | $53,733,361 | 3.585% | $3,167,834 | 5.000% | $4,418,179 | $7,586,014 |
| | | | | | | | | **Total State Tax Burden** | **$313,066,765** | | **Total Local Tax Burden (Sales + Franchise)** | | **$26,551,048** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State government revenue may decrease up to $76 million annually until June 30, 2022 with approximately $660,000 net annual increased operating costs. Local government electric revenue may decrease $23.9 million annually with $3.4 million increased operating costs. Other resulting economic activity will have an unknown impact on state and local governments.

RECEIVED
DEC 23 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-201

December 23, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 36 (2016-201)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 23, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-201

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

RECEIVED
2015 DEC 23 AM 10:08
SEC. OF STATE

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-201

*Be it enacted by the people of the state of Missouri:*

Section A: Section 386.890 is amended and sections 386.860, 386.900, 386.910 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.900 to 386.1000 shall be known and may be cited as the "Clean Energy Independence and Investment Act of 2016".

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any [municipal electric utility,] rural electric cooperative as provided in chapter 394[, or electrical corporation as provided in this chapter];

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of natural resources;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical

energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any [municipal utility, electrical corporation regulated under this chapter, or] rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which [the commission for a public utility or] the governing body for the supplier[other electric utilities] may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices

16-201

for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) [For any rural electric cooperative under chapter 394, or municipal utility, u]Upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, [the commission for public utilities and] the governing body for the supplier[other utilities] shall, by rule or equivalent formal action[ by each respective governing body]:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. [Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated s]Suppliers shall submit [the same] an annual net metering report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. [The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10.] The governing body of a supplier [rural electric cooperative or municipal utility] shall[, within nine months of January 1, 2008,] adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process

shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

[11.] 10. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

[12.] 11. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

[13.] 12. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

[14.] 13. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

[15.] 14. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

[16.] 15. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

[17.] 16. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.900. 1. This section shall be known and may be cited as the "Enhanced Net Metering and Easy Connection Act". It shall be the policy of the state to facilitate the use of customer-sited or controlled clean energy resources.

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal utility or electrical corporation as provided in this chapter;

(2) "Clean energy resource", electrical energy produced from:

(a) Wind;

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(b) Solar thermal sources;

(c) Hydroelectric sources;

(d) Photovoltaic cells and panels;

(e) Fuel cells using hydrogen produced by a source listed in paragraphs (a) through (d) of this subdivision; or

(f) Other sources of energy that become available after January 1, 2017, and are certified as clean by the department.

(3) "Commission", the public service commission of the state of Missouri;

(4) "Customer-generator", the owner, lessee or operator of a qualified electric energy generation unit which:

(a) Is powered by a clean energy resource or micro CHP;

(b) Has an electrical generating system with a capacity of not more than five hundred kilowatts, measured in alternating current;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(5) "Department", the department of economic development;

(6) "Micro CHP", combined heat and power or cogeneration systems that simultaneously generate electricity and thermal energy in a single integrated system with a nameplate rated capacity equal to or lower than 130 kilowatts, measured in alternating current;

(7) "Net excess energy", the amount of energy expressed in kilowatt hours delivered by a customer-generator to a supplier that exceeds the amount of energy delivered by the supplier to the customer-generator over a single billing period;

(8) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

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(9) "Retail electric supplier" or "supplier", any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals seven percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for a municipal utility may increase the total rated generating capacity of net metering systems to an amount above seven percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds two percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the retail electric supplier shall pay for the costs to purchase and install the necessary additional equipment, unless the commission or governing body makes a determination that the customer-generator is the only customer benefiting from the additional distribution equipment. If the commission or governing body determines the customer-generator is the only customer benefiting, such customer-generator shall reimburse the electric supplier for reasonably incurred equipment expenses. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

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(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subdivision (2) of subsection 3 of this section and all net excess energy shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent months;

(4) Any net excess energy credits carried forward under subdivision (3) of this subsection shall expire without any compensation at the earlier of either the next subsequent March billing period or when the customer-generator disconnects service or otherwise terminates the net metering relationship with the supplier;

(5) For any municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (4) of subsection 2 of this section to the

distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems one hundred kilowatts or less and within sixty days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application. Retail electric suppliers shall interconnect qualified energy generation units within thirty days of being notified the generation unit is installed and meets the requirements of this section.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for notifying the retail electric supplier.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other suppliers shall submit the same report to their respective governing body and make said report available to a customer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall by June 1, 2017 promulgate any rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after June 1, 2017, shall be invalid and void.

10. The governing body of a municipal utility shall by June 1, 2017 adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

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12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs, including lost revenues and lost earnings opportunities associated with reduced demand or kilowatt hours sales, incurred under this section by a retail electric supplier shall be recovered in a timely manner in that utility's rate structure in the form of a tracker or other appropriate rate recovery mechanism. At the time of any general change in a supplier's rates, any over-recovery or under-recovery balance shall be included in the supplier's revenue requirement used to set rates as amortized over a period not exceeding three years, and shall be recovered from each rate class pursuant to the supplier's approved rate design. At the time any general change in prospective rates is proposed, the commission shall permit the supplier to estimate the total generation output from all customer-owned generation for each rate class for the twelve-month period following the effective date of any change in rates, and rates shall be set using energy and demand billing units that reflect the estimated reduction of energy and demand likely to occur due to customer-owned generation. When considering costs, the commission may evaluate the value of distributed generation and clean energy resources. To the extent any costs, lost revenues, or lost earnings are recovered under this section, they shall not raise the retail rates charged to the customers of any such electrical corporation by an average of more than one percent in any year. Any limitation on cost recovery shall not limit the availability of net metering except as provided in subsection 3 of this section.

15. No customer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a customer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said customer and terminate said customer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

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386.910. 1. This section shall be known and may be cited as the "Community Solar Act."

2. Within thirty days of enactment of this section, the commission shall open a docket and by August 1, 2017, the commission shall adopt rules and regulations allowing customers to participate in community solar facilities and set a value-of-community-solar rate as described in subsection 5 of this section. For purposes of this section, a "community solar facility" is a photovoltaic electric generation facility with a capacity of between one hundred and one thousand kilowatts, measured in alternating current, that allows five or more customers of an electrical corporation to offset their energy usage with solar energy and such facility is located within the Missouri service territory of the electrical corporation where such customers have one or more electrical accounts. For the purposes of this section, an electrical corporation is as defined in 386.020.

3. The aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous calendar year, and such capacity of community solar facilities shall not count towards the system-wide net metering cap defined in subsection 3 of section 386.900. Electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. Entities or individuals that are not electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of an electrical corporation's single-hour peak load during the previous year. The commission shall allow prudently incurred costs and expenses for community solar facilities owned by an electrical corporation to be included in such electrical corporation's rate base. Once the four percent aggregate cap is reached for community solar facilities, the commission shall open a docket to determine whether or not the community solar program shall be expanded, and the commission may increase the aggregate capacity cap above four percent. The commission shall consider benefits and costs of such an expansion when making its decision. Community solar facilities shall not be eligible for tax credits under section 386.1000.

4. For any community solar facility that is owned or operated by an entity other than an electrical corporation, the energy generated by such community solar facility shall be provided to the electrical corporation to which it is interconnected in exchange for the allocation and facilitation of bill credits as provided in subsection 5 of this section.

5. Kilowatt hours generated from community solar facilities shall be allocated, on a pro rata basis, to the designated subscribers of the community solar facility at the direction of the community solar facility owner or operator. Allocated bill credits shall be set at a value-of-community-solar rate per kilowatt hour determined by the commission. The commission shall determine the value of bill credits per kilowatt hour taking into consideration costs and benefits of solar energy including but not limited to energy value, generation value, environmental value, transmission and distribution system value, disaster recovery value, reactive power value and

other grid benefit value, but such bill credits shall not be less than the electrical corporation's average retail rate. The value of allocated community solar bill credits shall be used to reduce the customer's total bill. When a community solar facility is placed in service it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years.

6. Owners and operators of community solar facilities shall not be considered a public utility as defined in section 386.020, except that this provision shall not apply to any owner or operator who is an electrical corporation.

7. The commission shall promulgate rules and regulations it deems necessary to carry out the provisions of this section. The commission's rules shall: allow electrical corporations to recover costs; provide earning opportunities for electrical corporations; provide an orderly process, including a reservation system, to allow potential community solar facility owners and operators to develop projects within the capacity limits in subsection 3 of this section; and provide options, which may include financial incentives, to encourage low-income participation.

8. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section, shall be invalid and void.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall be eligible to receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. The total amount of clean energy tax credits offered annually shall not exceed one percent of the value of electricity used in Missouri as determined in subsection 4 of this section.

2. The department of economic development shall certify when the tax credits provided in this section have cumulatively resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the clean

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energy tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.890 and 386.900, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on available reports, including FERC Form Number 1 as allowed by 18 CFR § 141, or an equivalent as determined by the commission, of megawatt hours sales of retail electricity and corresponding revenues for the preceding year or most current reporting period as determined by the commission. The commission shall publish the value of electricity used in Missouri to the public and department of economic development within sixty days of the enactment of this section and at least forty-five days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may apply for and receive the credit authorized by this section only for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

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The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

7. To obtain initial approval for tax credits allowed under this section, a taxpayer shall submit an application for tax credits to the department of economic development. Each application shall be reviewed in the order of the date on which the application was received, with the oldest received date receiving highest priority in the queue. Applications received on the same day, that are not time-stamped, shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. The department may retain, for the purposes of administering this section, up to half of each application deposit, which shall not be subject to refund and shall not exceed one hundred dollars for residential taxpayers and two hundred and fifty dollars for all other taxpayers. Such application deposit, except the portion retained for administration purposes by the department, shall be refunded at completion of the project or in the event the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. The taxpayer may request a refund of the application deposit; however, any refunds of the deposit for an application shall cause such application to lose its spot in the application queue. If the taxpayer wants to maintain its position in the application queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

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(5) Any other information which the department of economic development may reasonably require to review the project for approval.

9. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision of its intent to disapprove, including the reasons for intending to disapprove, and to remove such application from the application queue. The taxpayer shall have one opportunity, not to exceed fifteen days of notification of intent to disapprove, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

10. If the department of economic development deems the initial application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the date the department received the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for approval shall be notified by the department of economic development that the maximum amount of credits authorized for the program have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available.

12. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial approval for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available, then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development, to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be

notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1, 3 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by postal or electronic letter and shall issue, to the taxpayer, a tax credit certificate within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

15. If the amount of the credit under subsection 14 of this section exceeds the taxpayer's total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

16. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsections 10 or 11 of this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

17. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created

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under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536. Such rules may include repayment provisions necessary to recover tax credit benefits from taxpayers found to have used fraud or misrepresentations of fact on applications, and other anti-fraud and compliance measures as may be required by the department and the provisions of sections 135.800 to 135.830.

RECEIVED
DEC 23 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-200

December 23, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 35 (2016-200)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 23, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-200

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2016 MAY 23 AM 10:07
SECRETARY OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
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| 5. | | | | | |
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| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____
(Name of payer) Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this _____day of _____, A.D. 201_____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

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*Be it enacted by the people of the state of Missouri:*

Section A: Section 386.890 is amended and sections 386.860, 386.870, 386.900 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.900 to 386.1000 shall be known and may be cited as the "Clean Energy Independence and Investment Act of 2016".

386.870. An electrical corporation shall be allowed to recover its costs and add in its rate base prudently incurred costs to purchase and install electric vehicle charging stations intended to recharge electric motor vehicles, provided the electricity consumed at such stations is partially powered by a clean energy resource, as defined in 386.900, or offset with renewable energy credits, as defined in 393.1025. Investments made pursuant to this section shall not raise the retail rates charged to the customers of any such electrical corporation by more than one-half of one percent in any year.

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any [municipal electric utility,] rural electric cooperative as provided in chapter 394[, or electrical corporation as provided in this chapter];

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

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(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of natural resources;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any [municipal utility, electrical corporation regulated under this chapter, or] rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which [the commission for a public utility or] the governing body for the supplier[other electric utilities] may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing,

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maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) [For any rural electric cooperative under chapter 394, or municipal utility, u]Upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional

liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, [the commission for public utilities and] the governing body for the supplier[other utilities] shall, by rule or equivalent formal action[ by each respective governing body]:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. [Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated s]Suppliers shall submit [the same] an annual net metering report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. [The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section

and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10.] The governing body of a supplier [rural electric cooperative or municipal utility] shall[, within nine months of January 1, 2008,] adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

[11.] 10. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

[12.] 11. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

[13.] 12. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

[14.] 13. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

[15.] 14. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

[16.] 15. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

[17.] 16. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.900. 1. This section shall be known and may be cited as the "Enhanced Net Metering and Easy Connection Act". It shall be the policy of the state to facilitate the use of customer-sited or controlled clean energy resources.

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2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal utility or electrical corporation as provided in this chapter;

(2) "Clean energy resource", electrical energy produced from:

(a) Wind;
(b) Solar thermal sources;
(c) Hydroelectric sources;
(d) Photovoltaic cells and panels;
(e) Fuel cells using hydrogen produced by a source listed in paragraphs (a) through (d) of this subdivision; or
(f) Other sources of energy that become available after January 1, 2017, and are certified as clean by the department.

(3) "Commission", the public service commission of the state of Missouri;

(4) "Customer-generator", the owner, lessee or operator of a qualified electric energy generation unit which:

(a) Is powered by a clean energy resource or micro CHP;

(b) Has an electrical generating system with a capacity of not more than five hundred kilowatts, measured in alternating current;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(5) "Department", the department of economic development;

(6) "Micro CHP", combined heat and power or cogeneration systems that simultaneously generate electricity and thermal energy in a single integrated system with a nameplate rated capacity equal to or lower than 130 kilowatts, measured in alternating current;

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(7) "Net excess energy", the amount of energy expressed in kilowatt hours delivered by a customer-generator to a supplier that exceeds the amount of energy delivered by the supplier to the customer-generator over a single billing period;

(8) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(9) "Retail electric supplier" or "supplier", any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals seven percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for a municipal utility may increase the total rated generating capacity of net metering systems to an amount above seven percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds two percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the retail electric supplier shall pay for the costs to purchase and install the necessary additional equipment, unless the commission or governing body makes a determination that the customer-generator is the only customer benefiting from the additional distribution equipment. If the commission or governing body determines the customer-generator is the only customer benefiting, such customer-generator shall reimburse the electric supplier for reasonably incurred equipment expenses. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

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(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subdivision (2) of subsection 3 of this section and all net excess energy shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent months;

(4) Any net excess energy credits carried forward under subdivision (3) of this subsection shall expire without any compensation at the earlier of either the next subsequent March billing period or when the customer-generator disconnects service or otherwise terminates the net metering relationship with the supplier;

(5) For any municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (4) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems one hundred kilowatts or less and within sixty days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application. Retail electric suppliers shall interconnect qualified energy generation units within thirty days of being notified the generation unit is installed and meets the requirements of this section.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for notifying the retail electric supplier.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other suppliers shall submit the same report to their respective governing body and make said report available to a customer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall by June 1, 2017 promulgate any rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after June 1, 2017, shall be invalid and void.

10. The governing body of a municipal utility shall by June 1, 2017 adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs, including lost revenues and lost earnings opportunities associated with reduced demand or kilowatt hours sales, incurred under this section by a retail electric supplier shall be recovered in a timely manner in that utility's rate structure in the form of a tracker or other appropriate rate recovery mechanism. At the time of any general change in a supplier's rates, any over-recovery or under-recovery balance shall be included in the supplier's revenue requirement used to set rates as amortized over a period not exceeding three years, and shall be recovered from each rate class pursuant to the supplier's approved rate design. At the time any general change in prospective rates is proposed, the commission shall permit the supplier to estimate the total generation output from all customer-owned generation for each rate class for the twelve-month period following the effective date of any change in rates, and rates shall be set using energy and demand billing units that reflect the estimated reduction of energy and demand likely to occur due to customer-owned generation. When considering costs, the commission may evaluate the value of distributed generation and clean energy resources. To the extent any costs, lost revenues, or lost earnings are recovered under this section, they shall not raise the retail rates charged to the customers of any such electrical corporation by an average of more than one percent in any year. Any limitation on cost recovery shall not limit the availability of net metering except as provided in subsection 3 of this section.

15. No customer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a customer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said customer and terminate said customer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall be eligible to receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. The total amount of clean energy tax credits offered annually shall not exceed one percent of the value of electricity used in Missouri as determined in subsection 4 of this section.

2. The department of economic development shall certify when the tax credits provided in this section have cumulatively resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the clean energy tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.890 and 386.900, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on available reports, including FERC Form Number 1 as allowed by 18 CFR § 141, or an equivalent as determined by the commission, of megawatt hours sales of retail electricity and corresponding revenues for the preceding year or most current

reporting period as determined by the commission. The commission shall publish the value of electricity used in Missouri to the public and department of economic development within sixty days of the enactment of this section and at least forty-five days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may apply for and receive the credit authorized by this section only for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

7. To obtain initial approval for tax credits allowed under this section, a taxpayer shall submit an application for tax credits to the department of economic development. Each application shall be reviewed in the order of the date on which the application was received, with the oldest received date receiving highest priority in the queue. Applications received on the same day, that are not time-stamped, shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. The department may retain, for the purposes of administering this section, up to half of each application deposit, which shall not be subject to refund and shall not exceed one hundred dollars for residential taxpayers and two hundred and fifty dollars for all other taxpayers. Such application deposit, except the portion retained for administration purposes by the department, shall be refunded at completion of the project or in the event the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed

within the time specified under this section. The taxpayer may request a refund of the application deposit; however, any refunds of the deposit for an application shall cause such application to lose its spot in the application queue. If the taxpayer wants to maintain its position in the application queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

9. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision of its intent to disapprove, including the reasons for intending to disapprove, and to remove such application from the application queue. The taxpayer shall have one opportunity, not to exceed fifteen days of notification of intent to disapprove, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

10. If the department of economic development deems the initial application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the date the department received the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications

for initial approval then awaiting review or thereafter submitted for approval shall be notified by the department of economic development that the maximum amount of credits authorized for the program have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available.

12. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial approval for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available, then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development, to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1, 3 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by postal or electronic letter and shall issue, to the taxpayer, a tax credit certificate within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

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15. If the amount of the credit under subsection 14 of this section exceeds the taxpayer's total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

16. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsections 10 or 11 of this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

17. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536. Such rules may include repayment provisions necessary to recover tax credit benefits from taxpayers found to have used fraud or misrepresentations of fact on applications, and other anti-fraud and compliance measures as may be required by the department and the provisions of sections 135.800 to 135.830.

RECEIVED
DEC 23 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-199

December 23, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 34 (2016-199)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 23, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-199

County _____
Page No. _____

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**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 23 AM 10:06
SECRETARY OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
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| 7. | | | | | |
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| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ (Name of payer)

_____ Signature of Affiant (Person obtaining signatures)

_____ Printed Name of Affiant

_____ Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____ Signature of Notary

_____ Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-199

*Be it enacted by the people of the state of Missouri:*

Section A: Sections 386.860, 386.870, 386.910 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.910 to 386.1000 shall be known and may be cited as the "Clean Energy Independence and Investment Act of 2016".

386.870. An electrical corporation shall be allowed to recover its costs and add in its rate base prudently incurred costs to purchase and install electric vehicle charging stations intended to recharge electric motor vehicles, provided the electricity consumed at such stations is partially powered by a clean energy resource, as defined in 386.900, or offset with renewable energy credits, as defined in 393.1025. Investments made pursuant to this section shall not raise the retail rates charged to the customers of any such electrical corporation by more than one-half of one percent in any year.

386.910. 1. This section shall be known and may be cited as the "Community Solar Act."

2. Within thirty days of enactment of this section, the commission shall open a docket and by August 1, 2017, the commission shall adopt rules and regulations allowing customers to participate in community solar facilities and set a value-of-community-solar rate as described in subsection 5 of this section. For purposes of this section, a "community solar facility" is a photovoltaic electric generation facility with a capacity of between one hundred and one thousand kilowatts, measured in alternating current, that allows five or more customers of an electrical corporation to offset their energy usage with solar energy and such facility is located within the Missouri service territory of the electrical corporation where such customers have one or more electrical accounts. For the purposes of this section, an electrical corporation is as defined in 386.020.

3. The aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous calendar year, and such capacity of community solar facilities shall not count towards the system-wide net metering cap defined in subsection 3 of section 386.900. Electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. Entities or individuals that are not electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of an electrical corporation's single-hour peak load during the previous year. The commission shall allow prudently incurred costs and expenses for community solar facilities owned by an electrical corporation to be included in such electrical corporation's rate base. Once the four percent aggregate cap is reached for community solar facilities, the commission shall open a docket to determine whether or not the community solar program shall be expanded, and the commission may increase the aggregate capacity cap above four percent. The commission shall consider benefits and costs of such an expansion when

making its decision. Community solar facilities shall not be eligible for tax credits under section 386.1000.

4. For any community solar facility that is owned or operated by an entity other than an electrical corporation, the energy generated by such community solar facility shall be provided to the electrical corporation to which it is interconnected in exchange for the allocation and facilitation of bill credits as provided in subsection 5 of this section.

5. Kilowatt hours generated from community solar facilities shall be allocated, on a pro rata basis, to the designated subscribers of the community solar facility at the direction of the community solar facility owner or operator. Allocated bill credits shall be set at a value-of-community-solar rate per kilowatt hour determined by the commission. The commission shall determine the value of bill credits per kilowatt hour taking into consideration costs and benefits of solar energy including but not limited to energy value, generation value, environmental value, transmission and distribution system value, disaster recovery value, reactive power value and other grid benefit value, but such bill credits shall not be less than the electrical corporation's average retail rate. The value of allocated community solar bill credits shall be used to reduce the customer's total bill. When a community solar facility is placed in service it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years.

6. Owners and operators of community solar facilities shall not be considered a public utility as defined in section 386.020, except that this provision shall not apply to any owner or operator who is an electrical corporation.

7. The commission shall promulgate rules and regulations it deems necessary to carry out the provisions of this section. The commission's rules shall: allow electrical corporations to recover costs; provide earning opportunities for electrical corporations; provide an orderly process, including a reservation system, to allow potential community solar facility owners and operators to develop projects within the capacity limits in subsection 3 of this section; and provide options, which may include financial incentives, to encourage low-income participation.

8. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section, shall be invalid and void.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall be eligible to receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. The total amount of clean energy tax credits offered annually shall not

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exceed one percent of the value of electricity used in Missouri as determined in subsection 4 of this section.

2. The department of economic development shall certify when the tax credits provided in this section have cumulatively resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the clean energy tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.890 and 386.900, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on available reports, including FERC Form Number 1 as allowed by 18 CFR § 141, or an equivalent as determined by the commission, of megawatt hours sales of retail electricity and corresponding revenues for the preceding year or most current reporting period as determined by the commission. The commission shall publish the value of electricity used in Missouri to the public and department of economic development within sixty days of the enactment of this section and at least forty-five days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may apply for and receive the credit authorized by this section only for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

7. To obtain initial approval for tax credits allowed under this section, a taxpayer shall submit an application for tax credits to the department of economic development. Each application shall be reviewed in the order of the date on which the application was received, with the oldest received date receiving highest priority in the queue. Applications received on the same day, that are not time-stamped, shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. The department may retain, for the purposes of administering this section, up to half of each application deposit, which shall not be subject to refund and shall not exceed one hundred dollars for residential taxpayers and two hundred and fifty dollars for all other taxpayers. Such application deposit, except the portion retained for administration purposes by the department, shall be refunded at completion of the project or in the event the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. The taxpayer may request a refund of the application deposit; however, any refunds of the deposit for an application shall cause such application to lose its spot in the application queue. If the taxpayer wants to maintain its position in the application queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

16-199

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

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(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

9. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision of its intent to disapprove, including the reasons for intending to disapprove, and to remove such application from the application queue. The taxpayer shall have one opportunity, not to exceed fifteen days of notification of intent to disapprove, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

10. If the department of economic development deems the initial application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the date the department received the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for approval shall be notified by the department of economic development that the maximum amount of credits authorized for the program have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available.

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13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1, 3 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by postal or electronic letter and shall issue, to the taxpayer, a tax credit certificate within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

15. If the amount of the credit under subsection 14 of this section exceeds the taxpayer's total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. For financial institutions,

credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

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RECEIVED
DEC 23 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-198

December 23, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

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Dear Auditor Galloway:

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Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-198

County _____
Page No. _____

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We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 23 AM 10:05
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this _____day of _____, A.D. 201_____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-198

*Be it enacted by the people of the state of Missouri:*

Section A: Sections 386.950 and 386.1000 are enacted to read as follows:

386.950. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, section 386.1000 shall be known and may be cited as the "Clean Energy Independence and Investment Act of 2016".

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall be eligible to receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. The total amount of clean energy tax credits offered annually shall not exceed one percent of the value of electricity used in Missouri as determined in subsection 4 of this section.

2. The department of economic development shall certify when the tax credits provided in this section have cumulatively resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.890 or other technology eligible for net metering as defined in 386.890. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the clean energy tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.890 and 386.900, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on available reports, including FERC Form Number 1 as

allowed by 18 CFR § 141, or an equivalent as determined by the commission, of megawatt hours sales of retail electricity and corresponding revenues for the preceding year or most current reporting period as determined by the commission. The commission shall publish the value of electricity used in Missouri to the public and department of economic development within sixty days of the enactment of this section and at least forty-five days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may apply for and receive the credit authorized by this section only for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

7. To obtain initial approval for tax credits allowed under this section, a taxpayer shall submit an application for tax credits to the department of economic development. Each application shall be reviewed in the order of the date on which the application was received, with the oldest received date receiving highest priority in the queue. Applications received on the same day, that are not time-stamped, shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. The department may retain, for the purposes of administering this section, up to half of each application deposit, which shall not be subject to refund and shall not exceed one hundred dollars for residential taxpayers and two hundred and fifty dollars for all other taxpayers. Such application deposit, except the portion retained for administration purposes by the department, shall be refunded at completion of the project or in the event the department of economic

development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. The taxpayer may request a refund of the application deposit; however, any refunds of the deposit for an application shall cause such application to lose its spot in the application queue. If the taxpayer wants to maintain its position in the application queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

9. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision of its intent to disapprove, including the reasons for intending to disapprove, and to remove such application from the application queue. The taxpayer shall have one opportunity, not to exceed fifteen days of notification of intent to disapprove, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

10. If the department of economic development deems the initial application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the date the department received the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for approval shall be notified by the department of economic development that the maximum amount of credits authorized for the program have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available.

12. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial approval for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available, then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development, to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1, 3 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by postal or electronic letter and shall issue, to the taxpayer, a tax credit certificate within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department

of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

15. If the amount of the credit under subsection 14 of this section exceeds the taxpayer's total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

16. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsections 10 or 11 of this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

17. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536. Such rules may include repayment provisions necessary to recover tax credit benefits from taxpayers found to have used fraud or misrepresentations of fact on applications, and other anti-fraud and compliance measures as may be required by the department and the provisions of sections 135.800 to 135.830.

RECEIVED
DEC 23 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-197

December 23, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 32 (2016-197)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 23, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-197

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 23 AM 10: 04
MO SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____
(Name of payer) Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-197

*Be it enacted by the people of the state of Missouri:*

Section A: Section 386.890 is repealed and sections 386.860, 386.870, 386.900, 386.910 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.900 to 386.1000 shall be known and may be cited as the "Clean Energy Independence and Investment Act of 2016".

386.870. An electrical corporation shall be allowed to recover its costs and add in its rate base prudently incurred costs to purchase and install electric vehicle charging stations intended to recharge electric motor vehicles, provided the electricity consumed at such stations is partially powered by a clean energy resource, as defined in 386.900, or offset with renewable energy credits, as defined in 393.1025. Investments made pursuant to this section shall not raise the retail rates charged to the customers of any such electrical corporation by more than one-half of one percent in any year.

[386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal electric utility, rural electric cooperative as provided in chapter 394, or electrical corporation as provided in this chapter;

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of natural resources;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical

energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any municipal utility, electrical corporation regulated under this chapter, or rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for other electric utilities may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

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(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) For any rural electric cooperative under chapter 394, or municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule or equivalent formal action by each respective governing body:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

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(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10. The governing body of a rural electric cooperative or municipal utility shall, within nine months of January 1, 2008, adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.]

386.900. 1. This section shall be known and may be cited as the "Enhanced Net Metering and Easy Connection Act". It shall be the policy of the state to facilitate the use of customer-sited or controlled clean energy resources.

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal utility, rural electric cooperative as provided in chapter 394, or electrical corporation as provided in this chapter;

(2) "Clean energy resource", electrical energy produced from:

(a) Wind;
(b) Solar thermal sources;
(c) Hydroelectric sources;
(d) Photovoltaic cells and panels;
(e) Fuel cells using hydrogen produced by one of the above-named electrical energy sources; or
(f) Other sources of energy that become available after January 1, 2017, and are certified as clean by the department.

(3) "Commission", the public service commission of the state of Missouri;

(4) "Customer-generator", the owner, lessee or operator of a qualified electric energy generation unit which:

(a) Is powered by a clean energy resource or micro CHP;

(b) Has an electrical generating system with a capacity of not more than five hundred kilowatts, measured in alternating current;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(5) "Department", the department of economic development;

(6) "Micro CHP", combined heat and power or cogeneration systems that simultaneously generate electricity and thermal energy in a single integrated system with a nameplate rated capacity equal to or lower than 130 kilowatts, measured in alternating current;

(7) "Net excess energy", the amount of energy expressed in kilowatt hours delivered by a customer-generator to a supplier that exceeds the amount of energy delivered by the supplier to the customer-generator over a single billing period;

(8) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(9) "Retail electric supplier" or "supplier", any municipal utility, rural electric cooperative under chapter 394 or electrical corporation regulated under this chapter that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals seven percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for other electric utilities may increase the total rated generating capacity of net metering systems to an amount above seven percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds two percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the retail electric supplier shall pay for the costs to purchase and install the necessary additional equipment, unless the commission or governing body makes a determination that the customer-generator is the only customer benefiting from the additional

distribution equipment. If the commission or governing body determines the customer-generator is the only customer benefiting, such customer-generator shall reimburse the electric supplier for reasonably incurred equipment expenses. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subdivision (2) of subsection 3 of this section and all net excess energy shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent months;

(4) Any net excess energy credits carried forward under subdivision (3) of this subsection shall expire without any compensation at the earlier of either the next subsequent March billing period or when the customer-generator disconnects service or otherwise terminates the net metering relationship with the supplier.

(5) For any rural electric cooperative under chapter 394, or municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a

utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule or equivalent formal action by each respective governing body:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (4) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems one hundred kilowatts or less and within sixty days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application. Retail electric suppliers shall interconnect qualified energy generation units within thirty days of being notified the generation unit is installed and meets the requirements of this section.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for notifying the retail electric supplier.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other suppliers shall submit the same report to their respective governing body and make said report available to a customer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall by June 1, 2017 promulgate any rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts

will be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after June 1, 2017, shall be invalid and void.

10. The governing body of a rural electric cooperative or municipal utility shall by June 1, 2017 adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs, including lost revenues and lost earnings opportunities associated with reduced demand or kilowatt hours sales, incurred under this section by a retail electric supplier shall be recovered in a timely manner in that utility's rate structure in the form of a tracker or other appropriate rate recovery mechanism. At the time of any general change in a supplier's rates, any over-recovery or under-recovery balance shall be included in the supplier's revenue requirement used to set rates as amortized over a period not exceeding three years, and shall be recovered from each rate class pursuant to the supplier's approved rate design. At the time any general change in prospective rates is proposed, the commission shall permit the supplier to estimate the total generation output from all customer-owned generation for each rate class for the twelve-month period following the effective date of any change in rates, and rates shall be set using energy and demand billing units that reflect the estimated reduction of energy and demand likely to occur due to customer-owned generation. When considering costs, the commission may evaluate the value of distributed generation and clean energy resources. To the extent any costs,

lost revenues, or lost earnings are recovered under this section, they shall not raise the retail rates charged to the customers of any such electrical corporation by an average of more than one percent in any year. Any limitation on cost recovery shall not limit the availability of net metering except as provided in subsection 3 of this section.

15. No customer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a customer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said customer and terminate said consumer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.910. 1. This section shall be known and may be cited as the "Community Solar Act."

2. Within thirty days of enactment of this section, the commission shall open a docket and by August 1, 2017, the commission shall adopt rules and regulations allowing customers to participate in community solar facilities and set a value-of-community-solar rate as described in subsection 5 of this section. For purposes of this section, a "community solar facility" is a photovoltaic electric generation facility with a capacity of between one hundred and one thousand kilowatts, measured in alternating current, that allows five or more customers of an electrical corporation to offset their energy usage with solar energy and such facility is located within the Missouri service territory of the electrical corporation where such customers have one or more electrical accounts. For the purposes of this section, an electrical corporation is as defined in 386.020.

3. The aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous calendar year, and such capacity of community solar facilities shall not count towards the system-wide net metering cap defined in subsection 3 of section 386.900. Electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. Entities or individuals that are not electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of an electrical corporation's single-hour peak load during the previous year. The commission shall allow prudently incurred costs and expenses for community solar facilities owned by an electrical corporation to be included in such electrical corporation's rate base. Once the four percent aggregate cap is reached for community solar facilities, the commission shall open a docket to determine whether or not the community solar program shall be expanded, and the commission may increase the aggregate capacity cap above

four percent. The commission shall consider benefits and costs of such an expansion when making its decision. Community solar facilities shall not be eligible for tax credits under section 386.1000.

4. For any community solar facility that is owned or operated by an entity other than an electrical corporation, the energy generated by such community solar facility shall be provided to the electrical corporation to which it is interconnected in exchange for the allocation and facilitation of bill credits as provided in subsection 5 of this section.

5. Kilowatt hours generated from community solar facilities shall be allocated, on a pro rata basis, to the designated subscribers of the community solar facility at the direction of the community solar facility owner or operator. Allocated bill credits shall be set at a value-of-community-solar rate per kilowatt hour determined by the commission. The commission shall determine the value of bill credits per kilowatt hour taking into consideration costs and benefits of solar energy including but not limited to energy value, generation value, environmental value, transmission and distribution system value, disaster recovery value, reactive power value and other grid benefit value, but such bill credits shall not be less than the electrical corporation's average retail rate. The value of allocated community solar bill credits shall be used to reduce the customer's total bill. When a community solar facility is placed in service it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years.

6. Owners and operators of community solar facilities shall not be considered a public utility as defined in section 386.020, except that this provision shall not apply to any owner or operator who is an electrical corporation.

7. The commission shall promulgate rules and regulations it deems necessary to carry out the provisions of this section. The commission's rules shall: allow electrical corporations to recover costs; provide earning opportunities for electrical corporations; provide an orderly process, including a reservation system, to allow potential community solar facility owners and operators to develop projects within the capacity limits in subsection 3 of this section; and provide options, which may include financial incentives, to encourage low-income participation.

8. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section, shall be invalid and void.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall be eligible to receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and

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expenses of the project. The total amount of clean energy tax credits offered annually shall not exceed one percent of the value of electricity used in Missouri as determined in subsection 4 of this section.

2. The department of economic development shall certify when the tax credits provided in this section have cumulatively resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the clean energy tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.900, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on available reports, including FERC Form Number 1 as allowed by 18 CFR § 141, or an equivalent as determined by the commission, of megawatt hours sales of retail electricity and corresponding revenues for the preceding year or most current reporting period as determined by the commission. The commission shall publish the value of electricity used in Missouri to the public and department of economic development within sixty days of the enactment of this section and at least forty-five days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may apply for and receive the credit authorized by this section only for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

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6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

7. To obtain initial approval for tax credits allowed under this section, a taxpayer shall submit an application for tax credits to the department of economic development. Each application shall be reviewed in the order of the date on which the application was received, with the oldest received date receiving highest priority in the queue. Applications received on the same day, that are not time-stamped, shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. The department may retain, for the purposes of administering this section, up to half of each application deposit, which shall not be subject to refund and shall not exceed one hundred dollars for residential taxpayers and two hundred and fifty dollars for all other taxpayers. Such application deposit, except the portion retained for administration purposes by the department, shall be refunded at completion of the project or in the event the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. The taxpayer may request a refund of the application deposit; however, any refunds of the deposit for an application shall cause such application to lose its spot in the application queue. If the taxpayer wants to maintain its position in the application queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

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8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

9. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision of its intent to disapprove, including the reasons for intending to disapprove, and to remove such application from the application queue. The taxpayer shall have one opportunity, not to exceed fifteen days of notification of intent to disapprove, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

10. If the department of economic development deems the initial application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the date the department received the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for approval shall be notified by the department of economic development that the maximum amount of credits authorized for the program have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available.

12. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial approval for tax credits. Completion shall include

certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available, then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development, to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1, 3 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by postal or electronic letter and shall issue, to the taxpayer, a tax credit certificate within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

15. If the amount of the credit under subsection 14 of this section exceeds the taxpayer's total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the

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transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

16. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsections 10 or 11 of this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

17. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536. Such rules may include repayment provisions necessary to recover tax credit benefits from taxpayers found to have used fraud or misrepresentations of fact on applications, and other anti-fraud and compliance measures as may be required by the department and the provisions of sections 135.800 to 135.830.

RECEIVED
DEC 23 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-196

December 23, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 31 (2016-196)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 23, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-196

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, by a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

RECEIVED
2016 DEC 23 AM 10:08
JASON KANDER
SEC. OF STATE

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

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*Be it enacted by the people of the state of Missouri:*

Section A: Section 386.890 is amended and sections 386.860, 386.870, 386.900, 386.910 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.900 to 386.1000 shall be known and may be cited as the "Clean Energy Independence and Investment Act of 2016".

386.870. An electrical corporation shall be allowed to recover its costs and add in its rate base prudently incurred costs to purchase and install electric vehicle charging stations intended to recharge electric motor vehicles, provided the electricity consumed at such stations is partially powered by a clean energy resource, as defined in 386.900, or offset with renewable energy credits, as defined in 393.1025. Investments made pursuant to this section shall not raise the retail rates charged to the customers of any such electrical corporation by more than one-half of one percent in any year.

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any [municipal electric utility,] rural electric cooperative as provided in chapter 394[, or electrical corporation as provided in this chapter];

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of natural resources;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any [municipal utility, electrical corporation regulated under this chapter, or] rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which [the commission for a public utility or] the governing body for the supplier[other electric utilities] may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing,

maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) [For any rural electric cooperative under chapter 394, or municipal utility, u]Upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional

liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, [the commission for public utilities and] the governing body for the supplier[other utilities] shall, by rule or equivalent formal action[ by each respective governing body]:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. [Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated s]Suppliers shall submit [the same] an annual net metering report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. [The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section

and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10.] The governing body of a supplier [rural electric cooperative or municipal utility] shall[, within nine months of January 1, 2008,] adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

[11.] 10. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

[12.] 11. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

[13.] 12. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

[14.] 13. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

[15.] 14. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

[16.] 15. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

[17.] 16. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.900. 1. This section shall be known and may be cited as the "Enhanced Net Metering and Easy Connection Act". It shall be the policy of the state to facilitate the use of customer-sited or controlled clean energy resources.

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2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal utility or electrical corporation as provided in this chapter;

(2) "Clean energy resource", electrical energy produced from:

(a) Wind;
(b) Solar thermal sources;
(c) Hydroelectric sources;
(d) Photovoltaic cells and panels;
(e) Fuel cells using hydrogen produced by a source listed in paragraphs (a) through (d) of this subdivision; or
(f) Other sources of energy that become available after January 1, 2017, and are certified as clean by the department.

(3) "Commission", the public service commission of the state of Missouri;

(4) "Customer-generator", the owner, lessee or operator of a qualified electric energy generation unit which:

(a) Is powered by a clean energy resource or micro CHP;

(b) Has an electrical generating system with a capacity of not more than five hundred kilowatts, measured in alternating current;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(5) "Department", the department of economic development;

(6) "Micro CHP", combined heat and power or cogeneration systems that simultaneously generate electricity and thermal energy in a single integrated system with a nameplate rated capacity equal to or lower than 130 kilowatts, measured in alternating current;

(7) "Net excess energy", the amount of energy expressed in kilowatt hours delivered by a customer-generator to a supplier that exceeds the amount of energy delivered by the supplier to the customer-generator over a single billing period;

(8) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(9) "Retail electric supplier" or "supplier", any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals seven percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for a municipal utility may increase the total rated generating capacity of net metering systems to an amount above seven percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds two percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the retail electric supplier shall pay for the costs to purchase and install the necessary additional equipment, unless the commission or governing body makes a determination that the customer-generator is the only customer benefiting from the additional distribution equipment. If the commission or governing body determines the customer-generator is the only customer benefiting, such customer-generator shall reimburse the electric supplier for reasonably incurred equipment expenses. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

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(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subdivision (2) of subsection 3 of this section and all net excess energy shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent months;

(4) Any net excess energy credits carried forward under subdivision (3) of this subsection shall expire without any compensation at the earlier of either the next subsequent March billing period or when the customer-generator disconnects service or otherwise terminates the net metering relationship with the supplier;

(5) For any municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule:

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(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (4) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems one hundred kilowatts or less and within sixty days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application. Retail electric suppliers shall interconnect qualified energy generation units within thirty days of being notified the generation unit is installed and meets the requirements of this section.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for notifying the retail electric supplier.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other suppliers shall submit the same report to their respective governing body and make said report available to a customer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall by June 1, 2017 promulgate any rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after June 1, 2017, shall be invalid and void.

10. The governing body of a municipal utility shall by June 1, 2017 adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs, including lost revenues and lost earnings opportunities associated with reduced demand or kilowatt hours sales, incurred under this section by a retail electric supplier shall be recovered in a timely manner in that utility's rate structure in the form of a tracker or other appropriate rate recovery mechanism. At the time of any general change in a supplier's rates, any over-recovery or under-recovery balance shall be included in the supplier's revenue requirement used to set rates as amortized over a period not exceeding three years, and shall be recovered from each rate class pursuant to the supplier's approved rate design. At the time any general change in prospective rates is proposed, the commission shall permit the supplier to estimate the total generation output from all customer-owned generation for each rate class for the twelve-month period following the effective date of any change in rates, and rates shall be set using energy and demand billing units that reflect the estimated reduction of energy and demand likely to occur due to customer-owned generation. When considering costs, the commission may evaluate the value of distributed generation and clean energy resources. To the extent any costs, lost revenues, or lost earnings are recovered under this section, they shall not raise the retail rates charged to the customers of any such electrical corporation by an average of more than one percent in any year. Any limitation on cost recovery shall not limit the availability of net metering except as provided in subsection 3 of this section.

15. No customer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a customer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said customer and terminate said customer's electric service.

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16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.910. 1. This section shall be known and may be cited as the "Community Solar Act."

2. Within thirty days of enactment of this section, the commission shall open a docket and by August 1, 2017, the commission shall adopt rules and regulations allowing customers to participate in community solar facilities and set a value-of-community-solar rate as described in subsection 5 of this section. For purposes of this section, a "community solar facility" is a photovoltaic electric generation facility with a capacity of between one hundred and one thousand kilowatts, measured in alternating current, that allows five or more customers of an electrical corporation to offset their energy usage with solar energy and such facility is located within the Missouri service territory of the electrical corporation where such customers have one or more electrical accounts. For the purposes of this section, an electrical corporation is as defined in 386.020.

3. The aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous calendar year, and such capacity of community solar facilities shall not count towards the system-wide net metering cap defined in subsection 3 of section 386.900. Electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. Entities or individuals that are not electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of an electrical corporation's single-hour peak load during the previous year. The commission shall allow prudently incurred costs and expenses for community solar facilities owned by an electrical corporation to be included in such electrical corporation's rate base. Once the four percent aggregate cap is reached for community solar facilities, the commission shall open a docket to determine whether or not the community solar program shall be expanded, and the commission may increase the aggregate capacity cap above four percent. The commission shall consider benefits and costs of such an expansion when making its decision. Community solar facilities shall not be eligible for tax credits under section 386.1000.

4. For any community solar facility that is owned or operated by an entity other than an electrical corporation, the energy generated by such community solar facility shall be provided to the electrical corporation to which it is interconnected in exchange for the allocation and facilitation of bill credits as provided in subsection 5 of this section.

5. Kilowatt hours generated from community solar facilities shall be allocated, on a pro rata basis, to the designated subscribers of the community solar facility at the direction of the community solar facility owner or operator. Allocated bill credits shall be set at a value-of-community-solar rate per kilowatt hour determined by the commission. The commission shall determine the value of bill credits per kilowatt hour taking into consideration costs and benefits of solar energy including but not limited to energy value, generation value, environmental value, transmission and distribution system value, disaster recovery value, reactive power value and other grid benefit value, but such bill credits shall not be less than the electrical corporation's average retail rate. The value of allocated community solar bill credits shall be used to reduce the customer's total bill. When a community solar facility is placed in service it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years.

6. Owners and operators of community solar facilities shall not be considered a public utility as defined in section 386.020, except that this provision shall not apply to any owner or operator who is an electrical corporation.

7. The commission shall promulgate rules and regulations it deems necessary to carry out the provisions of this section. The commission's rules shall: allow electrical corporations to recover costs; provide earning opportunities for electrical corporations; provide an orderly process, including a reservation system, to allow potential community solar facility owners and operators to develop projects within the capacity limits in subsection 3 of this section; and provide options, which may include financial incentives, to encourage low-income participation.

8. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section, shall be invalid and void.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall be eligible to receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the clean energy tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project

installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

2. The department of economic development shall certify when the tax credits provided in this section have resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. The total amount of clean energy tax credits provided in this section allocated annually shall not exceed fifty million dollars in the aggregate per fiscal year. The aggregate amount of the clean energy resources tax credits available annually as specified in this section shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. If the amount of the clean energy tax credits offered in any fiscal year, other than 2017, is less than the annual statutory cap contained in this section then the cap for the following fiscal year shall be increased by that amount. The carryover of any unused clean energy tax credit authority shall extend until it is used, however in no fiscal year shall the total offered be greater than seventy million dollars. The provisions of this section notwithstanding, a claimant may apply for and receive the credit authorized by this section only for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

4. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such

balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

5. To obtain initial approval for tax credits allowed under this section, a taxpayer shall submit an application for tax credits to the department of economic development. Each application shall be reviewed in the order of the date on which the application was received, with the oldest received date receiving highest priority in the queue. Applications received on the same day, that are not time-stamped, shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. The department may retain, for the purposes of administering this section, up to half of each application deposit, which shall not be subject to refund and shall not exceed one hundred dollars for residential taxpayers and two hundred and fifty dollars for all other taxpayers. Such application deposit, except the portion retained for administration purposes by the department, shall be refunded at completion of the project or in the event the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. The taxpayer may request a refund of the application deposit; however, any refunds of the deposit for an application shall cause such application to lose its spot in the application queue. If the taxpayer wants to maintain its position in the application queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

6. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 5 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

7. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision of its intent to disapprove, including the reasons for intending to disapprove, and to remove such application from the application queue. The taxpayer shall have one opportunity, not to exceed fifteen days of notification of intent to disapprove, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

8. If the department of economic development deems the initial application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the date the department received the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 5 of this section.

9. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for approval shall be notified by the department of economic development that the maximum amount of credits authorized for the program have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available.

10. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial approval for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available, then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development, to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits

shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

11. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1and 3 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

12. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by postal or electronic letter and shall issue, to the taxpayer, a tax credit certificate within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

13. If the amount of the credit under subsection 12 of this section exceeds the taxpayer's total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

14. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsections 8 or 9 of this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

16-196

15. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536. Such rules may include repayment provisions necessary to recover tax credit benefits from taxpayers found to have used fraud or misrepresentations of fact on applications, and other anti-fraud and compliance measures as may be required by the department and the provisions of sections 135.800 to 135.830.

RECEIVED
DEC 23 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-195

December 23, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 30 (2016-195)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 23, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-195

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

RECEIVED
2015 DEC 23 AM 10:0
MO SEC. OF STATE

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
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| 7. | | | | | |
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| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this _____day of _____, A.D. 201_____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-195

*Be it enacted by the people of the state of Missouri:*

Section A: Section 386.890 is amended and sections 386.860, 386.870, 386.900, 386.910 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.900 to 386.1000 shall be known and may be cited as the "Clean Energy Independence and Investment Act of 2016".

386.870. An electrical corporation shall be allowed to recover its costs and add in its rate base prudently incurred costs to purchase and install electric vehicle charging stations intended to recharge electric motor vehicles, provided the electricity consumed at such stations is partially powered by a clean energy resource, as defined in 386.900, or offset with renewable energy credits, as defined in 393.1025. Investments made pursuant to this section shall not raise the retail rates charged to the customers of any such electrical corporation by more than one-half of one percent in any year.

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any [municipal electric utility,] rural electric cooperative as provided in chapter 394[, or electrical corporation as provided in this chapter];

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of natural resources;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any [municipal utility, electrical corporation regulated under this chapter, or] rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which [the commission for a public utility or] the governing body for the supplier[other electric utilities] may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing,

maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) [For any rural electric cooperative under chapter 394, or municipal utility, u]Upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional

liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, [the commission for public utilities and] the governing body for the supplier[other utilities] shall, by rule or equivalent formal action[ by each respective governing body]:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. [Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated s]Suppliers shall submit [the same] an annual net metering report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. [The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section

and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10.] The governing body of a supplier [rural electric cooperative or municipal utility] shall[, within nine months of January 1, 2008,] adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

[11.] 10. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

[12.] 11. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

[13.] 12. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

[14.] 13. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

[15.] 14. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

[16.] 15. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

[17.] 16. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.900. 1. This section shall be known and may be cited as the "Enhanced Net Metering and Easy Connection Act". It shall be the policy of the state to facilitate the use of customer-sited or controlled clean energy resources.

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal utility or electrical corporation as provided in this chapter;

(2) "Clean energy resource", electrical energy produced from:

(a) Wind;
(b) Solar thermal sources;
(c) Hydroelectric sources;
(d) Photovoltaic cells and panels;
(e) Fuel cells using hydrogen produced by a source listed in paragraphs (a) through (d) of this subdivision; or
(f) Other sources of energy that become available after January 1, 2017, and are certified as clean by the department.

(3) "Commission", the public service commission of the state of Missouri;

(4) "Customer-generator", the owner, lessee or operator of a qualified electric energy generation unit which:

(a) Is powered by a clean energy resource or micro CHP;

(b) Has an electrical generating system with a capacity of not more than five hundred kilowatts, measured in alternating current;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(5) "Department", the department of economic development;

(6) "Micro CHP", combined heat and power or cogeneration systems that simultaneously generate electricity and thermal energy in a single integrated system with a nameplate rated capacity equal to or lower than 130 kilowatts, measured in alternating current;

(7) "Net excess energy", the amount of energy expressed in kilowatt hours delivered by a customer-generator to a supplier that exceeds the amount of energy delivered by the supplier to the customer-generator over a single billing period;

(8) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(9) "Retail electric supplier" or "supplier", any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals seven percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for a municipal utility may increase the total rated generating capacity of net metering systems to an amount above seven percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds two percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the retail electric supplier shall pay for the costs to purchase and install the necessary additional equipment, unless the commission or governing body makes a determination that the customer-generator is the only customer benefiting from the additional distribution equipment. If the commission or governing body determines the customer-generator is the only customer benefiting, such customer-generator shall reimburse the electric supplier for reasonably incurred equipment expenses. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subdivision (2) of subsection 3 of this section and all net excess energy shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent months;

(4) Any net excess energy credits carried forward under subdivision (3) of this subsection shall expire without any compensation at the earlier of either the next subsequent March billing period or when the customer-generator disconnects service or otherwise terminates the net metering relationship with the supplier;

(5) For any municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (4) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems one hundred kilowatts or less and within sixty days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application. Retail electric suppliers shall interconnect qualified energy generation units within thirty days of being notified the generation unit is installed and meets the requirements of this section.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for notifying the retail electric supplier.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other suppliers shall submit the same report to their respective governing body and make said report available to a customer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall by June 1, 2017 promulgate any rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after June 1, 2017, shall be invalid and void.

10. The governing body of a municipal utility shall by June 1, 2017 adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs, including lost revenues and lost earnings opportunities associated with reduced demand or kilowatt hours sales, incurred under this section by a retail electric supplier shall be recovered in a timely manner in that utility's rate structure in the form of a tracker or other appropriate rate recovery mechanism. At the time of any general change in a supplier's rates, any over-recovery or under-recovery balance shall be included in the supplier's revenue requirement used to set rates as amortized over a period not exceeding three years, and shall be recovered from each rate class pursuant to the supplier's approved rate design. At the time any general change in prospective rates is proposed, the commission shall permit the supplier to estimate the total generation output from all customer-owned generation for each rate class for the twelve-month period following the effective date of any change in rates, and rates shall be set using energy and demand billing units that reflect the estimated reduction of energy and demand likely to occur due to customer-owned generation. When considering costs, the commission may evaluate the value of distributed generation and clean energy resources. To the extent any costs, lost revenues, or lost earnings are recovered under this section, they shall not raise the retail rates charged to the customers of any such electrical corporation by an average of more than one percent in any year. Any limitation on cost recovery shall not limit the availability of net metering except as provided in subsection 3 of this section.

15. No customer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a customer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said customer and terminate said customer's electric service.

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16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.910. 1. This section shall be known and may be cited as the "Community Solar Act."

2. Within thirty days of enactment of this section, the commission shall open a docket and by August 1, 2017, the commission shall adopt rules and regulations allowing customers to participate in community solar facilities and set a value-of-community-solar rate as described in subsection 5 of this section. For purposes of this section, a "community solar facility" is a photovoltaic electric generation facility with a capacity of between one hundred and one thousand kilowatts, measured in alternating current, that allows five or more customers of an electrical corporation to offset their energy usage with solar energy and such facility is located within the Missouri service territory of the electrical corporation where such customers have one or more electrical accounts. For the purposes of this section, an electrical corporation is as defined in 386.020.

3. The aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous calendar year, and such capacity of community solar facilities shall not count towards the system-wide net metering cap defined in subsection 3 of section 386.900. Electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. Entities or individuals that are not electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of an electrical corporation's single-hour peak load during the previous year. The commission shall allow prudently incurred costs and expenses for community solar facilities owned by an electrical corporation to be included in such electrical corporation's rate base. Once the four percent aggregate cap is reached for community solar facilities, the commission shall open a docket to determine whether or not the community solar program shall be expanded, and the commission may increase the aggregate capacity cap above four percent. The commission shall consider benefits and costs of such an expansion when making its decision. Community solar facilities shall not be eligible for tax credits under section 386.1000.

4. For any community solar facility that is owned or operated by an entity other than an electrical corporation, the energy generated by such community solar facility shall be provided to the electrical corporation to which it is interconnected in exchange for the allocation and facilitation of bill credits as provided in subsection 5 of this section.

5. Kilowatt hours generated from community solar facilities shall be allocated, on a pro rata basis, to the designated subscribers of the community solar facility at the direction of the community solar facility owner or operator. Allocated bill credits shall be set at a value-of-community-solar rate per kilowatt hour determined by the commission. The commission shall determine the value of bill credits per kilowatt hour taking into consideration costs and benefits of solar energy including but not limited to energy value, generation value, environmental value, transmission and distribution system value, disaster recovery value, reactive power value and other grid benefit value, but such bill credits shall not be less than the electrical corporation's average retail rate. The value of allocated community solar bill credits shall be used to reduce the customer's total bill. When a community solar facility is placed in service it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years.

6. Owners and operators of community solar facilities shall not be considered a public utility as defined in section 386.020, except that this provision shall not apply to any owner or operator who is an electrical corporation.

7. The commission shall promulgate rules and regulations it deems necessary to carry out the provisions of this section. The commission's rules shall: allow electrical corporations to recover costs; provide earning opportunities for electrical corporations; provide an orderly process, including a reservation system, to allow potential community solar facility owners and operators to develop projects within the capacity limits in subsection 3 of this section; and provide options, which may include financial incentives, to encourage low-income participation.

8. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section, shall be invalid and void.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall be eligible to receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. The total amount of clean energy tax credits offered annually shall not exceed one percent of the value of electricity used in Missouri as determined in subsection 4 of this section.

2. The department of economic development shall certify when the tax credits provided in this section have cumulatively resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each

taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the clean energy tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.890 and 386.900, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on available reports, including FERC Form Number 1 as allowed by 18 CFR § 141, or an equivalent as determined by the commission, of megawatt hours sales of retail electricity and corresponding revenues for the preceding year or most current reporting period as determined by the commission. The commission shall publish the value of electricity used in Missouri to the public and department of economic development within sixty days of the enactment of this section and at least forty-five days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may apply for and receive the credit authorized by this section only for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to

the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

7. To obtain initial approval for tax credits allowed under this section, a taxpayer shall submit an application for tax credits to the department of economic development. Each application shall be reviewed in the order of the date on which the application was received, with the oldest received date receiving highest priority in the queue. Applications received on the same day, that are not time-stamped, shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. The department may retain, for the purposes of administering this section, up to half of each application deposit, which shall not be subject to refund and shall not exceed one hundred dollars for residential taxpayers and two hundred and fifty dollars for all other taxpayers. Such application deposit, except the portion retained for administration purposes by the department, shall be refunded at completion of the project or in the event the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. The taxpayer may request a refund of the application deposit; however, any refunds of the deposit for an application shall cause such application to lose its spot in the application queue. If the taxpayer wants to maintain its position in the application queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

9. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision of its intent to disapprove, including the reasons for intending to disapprove, and to remove such application from the application queue. The taxpayer shall have one opportunity, not to exceed fifteen days of notification of intent to disapprove, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

10. If the department of economic development deems the initial application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the date the department received the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for approval shall be notified by the department of economic development that the maximum amount of credits authorized for the program have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available.

12. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial approval for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available, then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development, to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be

completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1, 3 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by postal or electronic letter and shall issue, to the taxpayer, a tax credit certificate within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

15. If the amount of the credit under subsection 14 of this section exceeds the taxpayer's total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

16. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsections 10 or 11 of this section, such taxpayer may not apply to the department for issuance of tax credits in an

amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

17. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536. Such rules may include repayment provisions necessary to recover tax credit benefits from taxpayers found to have used fraud or misrepresentations of fact on applications, and other anti-fraud and compliance measures as may be required by the department and the provisions of sections 135.800 to 135.830.

RECEIVED
DEC 23 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-194

December 23, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 29 (2016-194)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 23, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-194

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 23 AM 10:01
MO SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
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| 7. | | | | | |
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| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-194

*Be it enacted by the people of the state of Missouri:*

Section A: Section 386.890 is amended and sections 386.860, 386.900 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.900 to 386.1000 shall be known and may be cited as the "Clean Energy Independence and Investment Act of 2016".

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any [municipal electric utility,] rural electric cooperative as provided in chapter 394[, or electrical corporation as provided in this chapter];

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of natural resources;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical

energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any [municipal utility, electrical corporation regulated under this chapter, or] rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which [the commission for a public utility or] the governing body for the supplier[other electric utilities] may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices

for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) [For any rural electric cooperative under chapter 394, or municipal utility, u]Upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, [the commission for public utilities and] the governing body for the supplier[other utilities] shall, by rule or equivalent formal action[ by each respective governing body]:

(a) Set forth safety, performance, and reliability standards and requirements; and

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(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. [Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated s]Suppliers shall submit [the same] an annual net metering report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. [The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10.] The governing body of a supplier [rural electric cooperative or municipal utility] shall[, within nine months of January 1, 2008,] adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process

shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

[11.] 10. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

[12.] 11. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

[13.] 12. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

[14.] 13. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

[15.] 14. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

[16.] 15. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

[17.] 16. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.900. 1. This section shall be known and may be cited as the "Enhanced Net Metering and Easy Connection Act". It shall be the policy of the state to facilitate the use of customer-sited or controlled clean energy resources.

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal utility or electrical corporation as provided in this chapter;

(2) "Clean energy resource", electrical energy produced from:

(a) Wind;

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(b) Solar thermal sources;

(c) Hydroelectric sources;

(d) Photovoltaic cells and panels;

(e) Fuel cells using hydrogen produced by a source listed in paragraphs (a) through (d) of this subdivision; or

(f) Other sources of energy that become available after January 1, 2017, and are certified as clean by the department.

(3) "Commission", the public service commission of the state of Missouri;

(4) "Customer-generator", the owner, lessee or operator of a qualified electric energy generation unit which:

(a) Is powered by a clean energy resource or micro CHP;

(b) Has an electrical generating system with a capacity of not more than five hundred kilowatts, measured in alternating current;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(5) "Department", the department of economic development;

(6) "Micro CHP", combined heat and power or cogeneration systems that simultaneously generate electricity and thermal energy in a single integrated system with a nameplate rated capacity equal to or lower than 130 kilowatts, measured in alternating current;

(7) "Net excess energy", the amount of energy expressed in kilowatt hours delivered by a customer-generator to a supplier that exceeds the amount of energy delivered by the supplier to the customer-generator over a single billing period;

(8) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

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(9) "Retail electric supplier" or "supplier", any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals seven percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for a municipal utility may increase the total rated generating capacity of net metering systems to an amount above seven percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds two percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the retail electric supplier shall pay for the costs to purchase and install the necessary additional equipment, unless the commission or governing body makes a determination that the customer-generator is the only customer benefiting from the additional distribution equipment. If the commission or governing body determines the customer-generator is the only customer benefiting, such customer-generator shall reimburse the electric supplier for reasonably incurred equipment expenses. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subdivision (2) of subsection 3 of this section and all net excess energy shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent months;

(4) Any net excess energy credits carried forward under subdivision (3) of this subsection shall expire without any compensation at the earlier of either the next subsequent March billing period or when the customer-generator disconnects service or otherwise terminates the net metering relationship with the supplier;

(5) For any municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (4) of subsection 2 of this section to the

distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems one hundred kilowatts or less and within sixty days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application. Retail electric suppliers shall interconnect qualified energy generation units within thirty days of being notified the generation unit is installed and meets the requirements of this section.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for notifying the retail electric supplier.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other suppliers shall submit the same report to their respective governing body and make said report available to a customer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall by June 1, 2017 promulgate any rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after June 1, 2017, shall be invalid and void.

10. The governing body of a municipal utility shall by June 1, 2017 adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

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12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs incurred under this section by a retail electric supplier shall be recoverable in that utility's rate structure.

15. No customer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a customer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said customer and terminate said customer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall be eligible to receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the clean energy tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy

resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

2. The department of economic development shall certify when the tax credits provided in this section have resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. The total amount of clean energy tax credits provided in this section allocated annually shall not exceed fifty million dollars in the aggregate per fiscal year. The aggregate amount of the clean energy resources tax credits available annually as specified in this section shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. If the amount of the clean energy tax credits offered in any fiscal year, other than 2017, is less than the annual statutory cap contained in this section then the cap for the following fiscal year shall be increased by that amount. The carryover of any unused clean energy tax credit authority shall extend until it is used, however in no fiscal year shall the total offered be greater than seventy million dollars. The provisions of this section notwithstanding, a claimant may apply for and receive the credit authorized by this section only for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

4. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

5. To obtain initial approval for tax credits allowed under this section, a taxpayer shall submit an application for tax credits to the department of economic development. Each application shall be reviewed in the order of the date on which the application was received, with the oldest received date receiving highest priority in the queue. Applications received on the same day, that are not time-stamped, shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. The department may retain, for the purposes of administering this section, up to half of each application deposit, which shall not be subject to refund and shall not exceed one hundred dollars for residential taxpayers and two hundred and fifty dollars for all other taxpayers. Such application deposit, except the portion retained for administration purposes by the department, shall be refunded at completion of the project or in the event the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. The taxpayer may request a refund of the application deposit; however, any refunds of the deposit for an application shall cause such application to lose its spot in the application queue. If the taxpayer wants to maintain its position in the application queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

6. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 5 of this section, to be deposited in the Clean Energy Fund; and

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(5) Any other information which the department of economic development may reasonably require to review the project for approval.

7. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision of its intent to disapprove, including the reasons for intending to disapprove, and to remove such application from the application queue. The taxpayer shall have one opportunity, not to exceed fifteen days of notification of intent to disapprove, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

8. If the department of economic development deems the initial application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the date the department received the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 5 of this section.

9. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for approval shall be notified by the department of economic development that the maximum amount of credits authorized for the program have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available.

10. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial approval for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available, then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development, to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be

notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

11. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1and 3 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

12. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by postal or electronic letter and shall issue, to the taxpayer, a tax credit certificate within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

13. If the amount of the credit under subsection 12 of this section exceeds the taxpayer's total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

14. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsections 8 or 9 of this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

15. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created

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under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536. Such rules may include repayment provisions necessary to recover tax credit benefits from taxpayers found to have used fraud or misrepresentations of fact on applications, and other anti-fraud and compliance measures as may be required by the department and the provisions of sections 135.800 to 135.830.

RECEIVED
DEC 23 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-193

December 23, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 28 (2016-193)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 23, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-193

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 23 AM 10:00
MO SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
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| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____
(Name of payer) Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this _____day of _____, A.D. 201_____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

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*Be it enacted by the people of the state of Missouri:*

Section A: Section 386.890 is amended and sections 386.860, 386.900, 386.910 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.900 to 386.1000 shall be known and may be cited as the "Clean Energy Independence and Investment Act of 2016".

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any [municipal electric utility,] rural electric cooperative as provided in chapter 394[, or electrical corporation as provided in this chapter];

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of natural resources;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical

energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any [municipal utility, electrical corporation regulated under this chapter, or] rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which [the commission for a public utility or] the governing body for the supplier[other electric utilities] may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices

for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) [For any rural electric cooperative under chapter 394, or municipal utility, u]Upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, [the commission for public utilities and] the governing body for the supplier[other utilities] shall, by rule or equivalent formal action[ by each respective governing body]:

(a) Set forth safety, performance, and reliability standards and requirements; and

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(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. [Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated s]Suppliers shall submit [the same] an annual net metering report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. [The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10.] The governing body of a supplier [rural electric cooperative or municipal utility] shall[, within nine months of January 1, 2008,] adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process

shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

[11.] 10. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

[12.] 11. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

[13.] 12. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

[14.] 13. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

[15.] 14. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

[16.] 15. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

[17.] 16. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.900. 1. This section shall be known and may be cited as the "Enhanced Net Metering and Easy Connection Act". It shall be the policy of the state to facilitate the use of customer-sited or controlled clean energy resources.

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal utility or electrical corporation as provided in this chapter;

(2) "Clean energy resource", electrical energy produced from:

(a) Wind;

(b) Solar thermal sources;

(c) Hydroelectric sources;

(d) Photovoltaic cells and panels;

(e) Fuel cells using hydrogen produced by a source listed in paragraphs (a) through (d) of this subdivision; or

(f) Other sources of energy that become available after January 1, 2017, and are certified as clean by the department.

(3) "Commission", the public service commission of the state of Missouri;

(4) "Customer-generator", the owner, lessee or operator of a qualified electric energy generation unit which:

(a) Is powered by a clean energy resource or micro CHP;

(b) Has an electrical generating system with a capacity of not more than five hundred kilowatts, measured in alternating current;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(5) "Department", the department of economic development;

(6) "Micro CHP", combined heat and power or cogeneration systems that simultaneously generate electricity and thermal energy in a single integrated system with a nameplate rated capacity equal to or lower than 130 kilowatts, measured in alternating current;

(7) "Net excess energy", the amount of energy expressed in kilowatt hours delivered by a customer-generator to a supplier that exceeds the amount of energy delivered by the supplier to the customer-generator over a single billing period;

(8) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(9) "Retail electric supplier" or "supplier", any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals seven percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for a municipal utility may increase the total rated generating capacity of net metering systems to an amount above seven percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds two percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the retail electric supplier shall pay for the costs to purchase and install the necessary additional equipment, unless the commission or governing body makes a determination that the customer-generator is the only customer benefiting from the additional distribution equipment. If the commission or governing body determines the customer-generator is the only customer benefiting, such customer-generator shall reimburse the electric supplier for reasonably incurred equipment expenses. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subdivision (2) of subsection 3 of this section and all net excess energy shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent months;

(4) Any net excess energy credits carried forward under subdivision (3) of this subsection shall expire without any compensation at the earlier of either the next subsequent March billing period or when the customer-generator disconnects service or otherwise terminates the net metering relationship with the supplier;

(5) For any municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (4) of subsection 2 of this section to the

distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems one hundred kilowatts or less and within sixty days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application. Retail electric suppliers shall interconnect qualified energy generation units within thirty days of being notified the generation unit is installed and meets the requirements of this section.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for notifying the retail electric supplier.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other suppliers shall submit the same report to their respective governing body and make said report available to a customer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall by June 1, 2017 promulgate any rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after June 1, 2017, shall be invalid and void.

10. The governing body of a municipal utility shall by June 1, 2017 adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs incurred under this section by a retail electric supplier shall be recoverable in that utility's rate structure.

15. No customer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a customer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said customer and terminate said customer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.910. 1. This section shall be known and may be cited as the "Community Solar Act."

2. Within thirty days of enactment of this section, the commission shall open a docket and by August 1, 2017, the commission shall adopt rules and regulations allowing customers to participate in community solar facilities and set a value-of-community-solar rate as described in subsection 5 of this section. For purposes of this section, a "community solar facility" is a photovoltaic electric generation facility with a capacity of between one hundred and one thousand kilowatts, measured in alternating current, that allows five or more customers of an electrical corporation to offset their energy usage with solar energy and such facility is located within the Missouri service territory of the electrical corporation where such customers have one or more electrical accounts. For the purposes of this section, an electrical corporation is as defined in 386.020.

3. The aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous calendar year, and such capacity of community solar facilities shall not count towards the system-wide net metering cap defined in

subsection 3 of section 386.900. Electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. Entities or individuals that are not electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of an electrical corporation's single-hour peak load during the previous year. The commission shall allow prudently incurred costs and expenses for community solar facilities owned by an electrical corporation to be included in such electrical corporation's rate base. Once the four percent aggregate cap is reached for community solar facilities, the commission shall open a docket to determine whether or not the community solar program shall be expanded, and the commission may increase the aggregate capacity cap above four percent. The commission shall consider benefits and costs of such an expansion when making its decision. Community solar facilities shall not be eligible for tax credits under section 386.1000.

4. For any community solar facility that is owned or operated by an entity other than an electrical corporation, the energy generated by such community solar facility shall be provided to the electrical corporation to which it is interconnected in exchange for the allocation and facilitation of bill credits as provided in subsection 5 of this section.

5. Kilowatt hours generated from community solar facilities shall be allocated, on a pro rata basis, to the designated subscribers of the community solar facility at the direction of the community solar facility owner or operator. Allocated bill credits shall be set at a value-of-community-solar rate per kilowatt hour determined by the commission. The commission shall determine the value of bill credits per kilowatt hour taking into consideration costs and benefits of solar energy including but not limited to energy value, generation value, environmental value, transmission and distribution system value, disaster recovery value, reactive power value and other grid benefit value, but such bill credits shall not be less than the electrical corporation's average retail rate. The value of allocated community solar bill credits shall be used to reduce the customer's total bill. When a community solar facility is placed in service it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years.

6. Owners and operators of community solar facilities shall not be considered a public utility as defined in section 386.020, except that this provision shall not apply to any owner or operator who is an electrical corporation.

7. The commission shall promulgate rules and regulations it deems necessary to carry out the provisions of this section. The commission's rules shall: allow electrical corporations to recover costs; provide earning opportunities for electrical corporations; provide an orderly process, including a reservation system, to allow potential community solar facility owners and operators to develop projects within the capacity limits in subsection 3 of this section; and provide options, which may include financial incentives, to encourage low-income participation.

8. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is

subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section, shall be invalid and void.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall be eligible to receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. The total amount of clean energy tax credits offered annually shall not exceed one percent of the value of electricity used in Missouri as determined in subsection 4 of this section.

2. The department of economic development shall certify when the tax credits provided in this section have cumulatively resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the clean energy tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.890 and 386.900, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on available reports, including FERC Form Number 1 as allowed by 18 CFR § 141, or an equivalent as determined by the commission, of megawatt hours sales of retail electricity and corresponding revenues for the preceding year or most current reporting period as determined by the commission. The commission shall publish the value of

electricity used in Missouri to the public and department of economic development within sixty days of the enactment of this section and at least forty-five days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may apply for and receive the credit authorized by this section only for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

7. To obtain initial approval for tax credits allowed under this section, a taxpayer shall submit an application for tax credits to the department of economic development. Each application shall be reviewed in the order of the date on which the application was received, with the oldest received date receiving highest priority in the queue. Applications received on the same day, that are not time-stamped, shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. The department may retain, for the purposes of administering this section, up to half of each application deposit, which shall not be subject to refund and shall not exceed one hundred dollars for residential taxpayers and two hundred and fifty dollars for all other taxpayers. Such application deposit, except the portion retained for administration purposes by the department, shall be refunded at completion of the project or in the event the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. The taxpayer may request a refund of the application

deposit; however, any refunds of the deposit for an application shall cause such application to lose its spot in the application queue. If the taxpayer wants to maintain its position in the application queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

9. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision of its intent to disapprove, including the reasons for intending to disapprove, and to remove such application from the application queue. The taxpayer shall have one opportunity, not to exceed fifteen days of notification of intent to disapprove, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

10. If the department of economic development deems the initial application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the date the department received the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for approval shall be notified by

the department of economic development that the maximum amount of credits authorized for the program have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available.

12. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial approval for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available, then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development, to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1, 3 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by postal or electronic letter and shall issue, to the taxpayer, a tax credit certificate within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

15. If the amount of the credit under subsection 14 of this section exceeds the taxpayer's total tax liability for the year in which the clean energy resource installation is placed in service, the

amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

16. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsections 10 or 11 of this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

17. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536. Such rules may include repayment provisions necessary to recover tax credit benefits from taxpayers found to have used fraud or misrepresentations of fact on applications, and other anti-fraud and compliance measures as may be required by the department and the provisions of sections 135.800 to 135.830.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

16-192

December 23, 2015

RECEIVED
DEC 23 2015
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed statutory amendment to Chapters 196 & 210, version 3 (2016-192)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Bradley Ketcher on December 22, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-192

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 22 AM 9:32
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
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| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this _____day of _____, A.D. 201_____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

16-192

*Be it enacted by the people of the State of Missouri:*

Section 196.1131 is enacted and Sections 196.1003, 210.170, 210.171 and 210.172 of the Revised Statues of Missouri are amended to read as follows:

196.1131. 1. For the sole and exclusive purpose of providing funding for treatment and prevention of childhood cancer, on and after January 1, 2017, a tax equal to ten cents before discounts and deals shall be levied and imposed upon the sale of each package of twenty cigarettes, or lesser portion thereof. The tax imposed by this section shall be in addition to other taxes imposed by law on the sale of cigarette packages and shall be collected in the same manner and at the same time as the taxes imposed by law upon the sale of packages of cigarettes.

2. The Childhood Cancer Treatment and Prevention Fund is hereby created within the state treasury which shall consist of funds from the taxes established in subsection 1 of this section, appropriated moneys, gifts, contributions, grants, or bequests.

3. Beginning January 1, 2017, the state treasurer without legislative action shall credit to and place in the Childhood Cancer Treatment and Prevention Fund all moneys collected as a result of the tax imposed by subsection 1 of this section as said moneys are received. All of the moneys from the tax imposed by this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Childhood Cancer Treatment and Prevention Fund and the accounts created within the Childhood Cancer Treatment and Prevention Fund. Any moneys credited to and placed in the Childhood Cancer Treatment and Prevention Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Childhood Cancer Treatment and Prevention Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Childhood Cancer Treatment and Prevention Fund shall be added to such account and shall not be credited to the general revenue fund. Except as otherwise provided in this section, generally applicable laws concerning use of public funds shall apply to the Childhood Cancer Treatment and Prevention Fund.

4. The Children's Trust Fund Board shall administer the fund. The fund shall be used exclusively for the treatment and prevention of childhood cancers, including through grants and contracts with the Childrens Health Insurance Program, other state agencies, political subdivisions and health care services providers.

5. No funding from the Childhood Cancer Treatment and Prevention Fund shall be used to fund abortion or any similar procedures. No funding from the Childhood Cancer Treatment and Prevention Fund shall be used to pay for research which is banned by Missouri law.

6. (1) The actual costs of collecting the tax imposed by this section shall be paid from the moneys in the Childhood Cancer Treatment and Prevention Fund as may be provided by law, not to exceed five percent of the total moneys collected;

(2) The department of revenue shall refund moneys overpaid or erroneously paid pursuant to this section as may be provided by law; and

(3) On a fiscal year basis, the director of the department of revenue shall determine by estimate whether the tax imposed by this section has caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to chapter 149, RSMo. If an estimated reduction in the amount of moneys collected and deposited into any of those funds pursuant to chapter 149, RSMo has been caused by the tax imposed by this section, an amount equal to the estimated amount of moneys that were not collected and deposited into that fund or funds because of the tax imposed by this section shall be transferred from the Childhood Cancer Treatment and Prevention Fund to the appropriate fund or funds. The aggregate amount transferred to the fair share fund, the health initiatives fund, and the state school moneys fund from the Childhood Cancer Treatment and Prevention Fund for any fiscal year shall not exceed three percent of the total moneys collected pursuant to this section during that same fiscal year.

7. The state auditor shall perform an annual audit of the funds and initiatives undertaken pursuant to this section, which shall include an evaluation of whether pre-existing funding for programs or initiatives has been reduced because of the new funding for such purposes provided through the Childhood Cancer Treatment and Prevention Fund or any of its accounts. Such audit shall be performed on a fiscal year basis. The state auditor shall make copies of each audit available to the public. Every three years the state auditor shall prepare a comprehensive report assessing the

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work and progress of initiatives undertaken pursuant to this section. Such assessment report shall analyze the impact of the programs, grants, and contracts performed, shall be provided to the governor and the general assembly, and shall be available to the public.

8. The tax imposed by this section shall be imposed on all cigarettes in the possession or under the control of any dealer or distributor on and after 12:01 a.m. on January 1, 2017, as determined by department of revenue rule. The initiatives and programs authorized under this section shall be implemented as soon as reasonably practicable, but at least by July 1, 2017.

9. The additional revenue provided by the provisions of this section shall not be part of the "total state revenue" within the meaning of article X of the constitution. The expenditure of this additional revenue shall not be an "expense of state government" under article X of the constitution.

10. The net proceeds from the tax imposed by this section shall constitute new and additional funding for the initiatives and programs described in this section and shall not be used to replace existing funding as of July 1, 2016 for the same or similar initiatives and programs.

11. All of the provisions of this section shall be self-enforcing. All of the provisions of this section are severable. If any provision of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this section shall be and remain valid.

RECEIVED
2015 DEC 22 AM 9:32
OFFICE OF SECRETARY OF STATE

196.1003. Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this Act shall do one of the following:

(a) become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

(b) (1) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts (as such amounts are adjusted for inflation)

| | |
|---|---|
| 1999: | $.0094241 per unit sold after the date of enactment of this Act; |
| 2000: | $.0104712 per unit sold; |
| for each of 2001 and 2002: | $.0136125 per unit sold; |
| for each of 2003 through 2006: | $.0167539 per unit sold; |
| for each of 2007 and each year thereafter: | $.0188482 per unit sold. |

(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances

(A) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (i) in the order in which they were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow on account of units sold in the state in a particular year was greater than the [State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment)] Master Settlement Agreement payments, as determined under section IX(i) of that agreement, including after final determination of all adjustments such manufacturer would have been required to make on account of such units sold had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(C) to the extent not released from escrow under subparagraphs (A) or (B), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

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(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this section shall

(A) be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this subsection, may impose a civil penalty to be paid to the State's general revenue fund in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;

(B) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this subsection, may impose a civil penalty to be paid to the State's general revenue fund in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

(C) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years.

Each failure to make an annual deposit required under this section shall constitute a separate violation. Any tobacco product manufacturer that violates the provisions of this section shall pay the State's cost and attorney's fees incurred during a successful prosecution under this section.

210.170. 1. There is hereby created within the office of administration of the state of Missouri the "Children's Trust Fund Board", which shall be composed of twenty-one members as follows:

(1) Twelve public members to be appointed by the governor by and with the advice and consent of the senate. As a group, the public members appointed pursuant to this subdivision shall demonstrate knowledge in the areas of prevention programs and children's health care, shall be representative of the demographic composition of this state, and, to the extent practicable, shall be representative of all of the following categories:

(a) Organized labor;

(b) The business community;

(c) The educational community;

(d) The religious community;

(e) The legal community;

(f) Professional providers of prevention services to families and children;

(g) Volunteers in prevention services;

(h) Social services;

(i) Health care services; and

(j) Mental health services;

(2) A physician licensed pursuant to chapter 334;

(3) Two members of the Missouri house of representatives, who shall be appointed by the speaker of the house of representatives and shall be members of two different political parties;

(4) Two members of the Missouri senate, who shall be appointed by the president pro tem of the senate and who shall be members of two different political parties; and

(5) Four members chosen and appointed by the governor.

2. All members of the board appointed by the speaker of the house or the president pro tem of the senate shall serve until their term in the house or senate during which they were appointed to the board expires. All public members of the board shall serve for terms of three years; except, that of the public members first appointed, four shall serve for terms of three years, four shall

serve for terms of two years, and three shall serve for terms of one year. No public members may serve more than two consecutive terms, regardless of whether such terms were full or partial terms. Each member shall serve until his successor is appointed. All vacancies on the board shall be filled for the balance of the unexpired term in the same manner in which the board membership which is vacant was originally filled.

3. Any public member of the board may be removed by the governor for misconduct, incompetency, or neglect of duty after first being given the opportunity to be heard in his or her own behalf.

4. The board may employ an executive director who shall be charged with carrying out the duties and responsibilities assigned to him or her by the board. The executive director may obtain all necessary office space, facilities, and equipment, and may hire and set the compensation of such staff as is approved by the board and within the limitations of appropriations for the purpose. All staff members, except the executive director, shall be employed pursuant to chapter 36.

5. Each member of the board may be reimbursed for all actual and necessary expenses incurred by the member in the performance of his or her official duties. All reimbursements made pursuant to this subsection shall be made from funds in the children's trust fund or the Childhood Cancer Treatment and Prevention Fund appropriated for that purpose.

6. All business transactions of the board shall be conducted in public meetings in accordance with sections 610.010 to 610.030.

7. The board may accept federal funds for the purposes of sections 210.170 to 210.173 and section 143.1000 as well as gifts and donations from individuals, private organizations, and foundations. The acceptance and use of federal funds shall not commit any state funds nor place any obligation upon the general assembly to continue the programs or activities for which the federal funds are made available. All funds received in the manner described in this subsection shall be transmitted to the state treasurer for deposit in the state treasury to the credit of the children's trust fund or the Childhood Cancer Treatment and Prevention Fund, as appropriate.

8. The board shall elect a chairperson from among the public members, who shall serve for a term of two years. The board may elect such other officers and establish such committees as it deems appropriate.

9. The board shall exercise its powers and duties independently of the office of administration except that budgetary, procurement, accounting, and other related management functions shall be performed by the office of administration.

210.171. As used in sections 210.170 to 210.173 and section 143.1000, the following terms shall mean:

(1) "Board", the children's trust fund board created in section 210.170;

(2) "Prevention program", any community-based educational or service program designed to prevent or alleviate child abuse or neglect.

(3) "Childhood cancer treatment and prevention," the treatment and prevention of childhood cancer.

210.172. The board shall have the following powers and duties:

(1) To meet not less than twice annually at the call of the chairperson to conduct its official business;

(2) To require that at least eight of the board members authorize the disbursement of funds from the children's trust fund;

(3) To, one year after the appointment of the original board and annually thereafter, develop a state plan for the distribution and disbursement of funds in the children's trust fund. The plan developed under this subdivision shall assure that an equal opportunity exists for the establishment of prevention programs and the receipt of moneys from the children's trust fund in all geographic areas of this state. Such plan shall be transmitted to the governor, the president pro tem of the senate, the speaker of the Missouri house of representatives, and the appropriation committees of the Missouri senate and Missouri house of representatives, and shall be made available to the general public. In carrying out a plan developed under this subdivision, the board shall establish procedures to:

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(a) Enter into contracts with public or private agencies, schools, or qualified individuals to establish community-based educational and service prevention programs with or without using the procurement procedures of the office of administration. Such prevention programs shall focus on the prevention of child abuse and neglect. Community-based service prevention programs shall include programs such as crisis care, parent aides, counseling, and support groups. Participation by individuals in any community-based educational or service prevention program shall be strictly voluntary. In awarding contracts under this paragraph, consideration shall be given by the board to factors such as need, geographic location diversity, coordination with or improvement of existing services, and extensive use of volunteers;

(b) Develop and publicize criteria for the awarding of contracts for programs to be supported with money from the children's trust fund within the limits of appropriations made for that purpose;

(c) Review and monitor expenditures of moneys from the children's trust fund on a periodic basis;

(d) Consult with applicable state agencies, commissions, and boards to help determine probable effectiveness, fiscal soundness, and need for proposed community-based educational and service prevention programs;

(e) Facilitate information exchange between groups concerned with prevention programs;

(f) Provide for statewide educational and public informational conferences and workshops for the purpose of developing appropriate public awareness regarding the problems of families and children, of encouraging professional persons and groups to recognize and deal with problems of families and children, of making information regarding the problems of families and children and their prevention available to the general public in order to encourage citizens to become involved in the prevention of such problems, and of encouraging the development of community prevention programs; and

(g) Establish a procedure for an annual internal evaluation of the functions, responsibilities, and performance of the board, which evaluation shall be coordinated with the annual state plan of the board.

(h) Using only monies appropriated from the Childhood Cancer Treatment and Prevention Fund and not from the Children's Trust Fund, carry out grants and contracts for childhood cancer treatment and prevention consistent with section 196.1131, RSMo. The Board and its staff may consult with other public entities in carry out its childhood cancer treatment and prevention responsibilities.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-192)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed amendment to Chapters 196 and 210 of the Revised Statutes of Missouri. (Received December 23, 2015)

## Date

January 12, 2016

## Description

This proposal would amend Chapters 196 and 210 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College, Children's Trust Fund,** and the **State Auditor's office.**

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** (DOR) indicated this petition will increase revenues to the Childhood Cancer Treatment and Prevention Fund by $49.7 million per year.

**Section 196.1131**
Effective January 1, 2017, this section imposes an additional tax of ten cents per pack of cigarettes before discounts and deals. The DOR collects the tax in the same manner and at same time as the current taxes.

Based on 496.5 million packs of cigarettes stamped in Tax Year 2014 the DOR estimates total revenues of $49.7 million.

The DOR must refund moneys overpaid or erroneously paid pursuant to this section as provided by law. Each month, the Department Director must determine whether the tax imposed by this section caused a reduction in the amount of money collected and

deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to Chapter 149, RSMo. If a reduction exists, a like amount not collected and deposited into that fund or funds shall be transferred from the Childhood Cancer Treatment and Prevention Fund to the appropriate fund or funds.

The DOR will have approximately 45 days to implement the petition which may be insufficient time to design and purchase new stamps.

The DOR suggests adding language to allow for the applicable provisions contained in Chapter 149 governing the administration, collections, and enforcement of the state cigarette tax to apply to the collecting of the tax imposed in this section. This provides the DOR the ability to enforce collection of the tax and allows for credit for returns of damaged or unusable stamps.

**Administrative Impact:**

**Business Tax:**

Business Tax requires a floor stock tax form and cigarette stamp order forms be updated. Additionally, the SAGE 50 accounting system and cashiering records requires change. The DOR web pages will need to be updated and licensed wholesalers will need to be notified of the tax increase and the floor stock tax.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** (OA) indicated the proposal amends Sections 196.1003, 210.170, 210.171 and 210.172, RSMo, and Chapter 196 by adding Section 196.113, RSMo.

Section 196.1131 – enacts an additional $0.10/pack tax increase on cigarettes. The monies collected from this new tax would be deposited in the Childhood Cancer Treatment and Prevention Fund to be administered by the Children's Trust Fund Board. These funds will be used for the treatment and prevention of childhood cancers. The proposal allows up to 5% of the collections to be used for collection costs. On a fiscal year basis, the Director of the Department of Revenue shall determine if the new tax has caused a reduction in the amount of moneys collected and deposited in to the Fair Share, Health Initiatives or State School Moneys Funds. If so, up to three percent of the total moneys collected from the new tax shall be transferred to these funds.

The State Auditor shall perform an annual audit of the fund, which shall include an evaluation of whether preexisting funding for programs or initiatives has been reduced because of the new funding. Every three years, the auditor shall prepare a comprehensive report assessing work and progress of initiatives undertaken pursuant to the proposed new sections.

The new taxes shall not be part of total state revenues and the expenditure of this additional revenue shall not be an "expense of state government".

Section 196.1003 – changes escrow requirements for the Tobacco Master Settlement Agreement, with provisions to remove references to the state's allocable share of the total payments the manufacturer would have been required to make under the Master Settlement Agreement; it could adversely impact future Nonparticipating Manufacturer (NPM) adjustment arbitrations.

Section 210.170-210.172 – authorizes the Children's Trust Fund Board to administer the Childhood Cancer Treatment and Prevention Fund.

FISCAL IMPACT:
In fiscal year (FY) 2015, there was $81.7 million in cigarette excise taxes collected. OA assumes that the average pack of cigarettes retails for $4.50, translating to roughly 480.9 million packs sold in Missouri. OA further assumes that cigarette sales have a (0.8) elasticity. Therefore, OA estimates a tax increase of $0.10 in January 2017 will increase the "Childhood Cancer Treatment and Prevention Fund" by $22.9 million in FY17 and $45.8 million once fully implemented in FY18.

There is no way to truly know what impact these tax increases will have on demand due to smoking cessation efforts, other state and federal regulations, and the increase in sales of e-cigarettes. However, OA estimates that the tax increase will decrease the Fair Share Fund by $0.1 million in FY17 and $0.3 million in FY18 and thereafter; the Health Initiatives Fund by $0.2 million in FY17 and $0.3 million in FY18 and thereafter; and the State School Moneys Fund by $0.4 million in FY17 and $0.8 million in FY18 and thereafter.

Further, since cigarette sales will decrease slightly, General Revenue will be reduced by $1.1 million, the School District Trust Fund will be reduced by $0.4 million, and local sales tax will be reduced by $1.5 million once fully implemented in FY18, from the loss of sales tax.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed

by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated the initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated that there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **University of Missouri** indicated the University of Missouri Health Care has reviewed the proposed legislation and has determined that as written it should not create additional expenses in excess of $100,000.

Officials from the **Children's Trust Fund** indicated costs to the Children's Trust Fund is estimated at $198,000 - $235,000 annually to implement and manage the Childhood Cancer Treatment and Prevention Fund. Included in this estimate is:

A minimum of 2-2.5 additional full-time employees (FTE's) totaling $110,000 - $135,000 needed (includes salary and benefits package). FTE's include Program Grants Manager and assistant with fiscal/accounting background/skills, as well as a Public

Information Officer (.5). FTE positions and salaries are based upon existing positions that perform like functions for child abuse and neglect prevention fund. These are only estimates and could be higher depending upon necessary qualifications and expertise required as a result of the technical medical nature of the proposed fund.

Additional costs estimated at $40,000 annually for existing personnel – Executive Director and Executive Assistant for fund/program oversight estimated at .33 % of current salary rate.

Additional expenses/costs for grant selection and review process, program implementation, grant evaluation, ongoing monitoring, and other necessary expenses directly related to implementation of this new fund, required office space & equipment for new FTE's, and to Office of Administration for procurement, budgetary and other functions estimated at $50,000 - $60,000 annually.

Monies to implement and operate the Childhood Cancer Treatment and Prevention Fund including cost of added FTE's would need to come directly from monies deposited by the State Treasurer into the specific fund proposed or from another source other than existing funds from the Children's Trust Fund which are dedicated solely for the purpose of child abuse/neglect prevention.

Officials from the **State Auditor's office** (SAO) indicated they believe that the audit required under the petition would require approximately 1 FTE. However, given the SAO has consistently lapsed funds in recent years, the SAO believes it could absorb these costs within its current appropriation authority.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Public Safety,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College**.

**Fiscal Note Summary**

Estimated additional revenue to state government is $42 million to $50 million annually with up to $100,000 in additional costs. The revenue will fund only programs and services allowed by the proposal. Local government revenues could decrease $1.5 million annually due to decreased cigarette sales.

16-191

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

December 23, 2015

RECEIVED
DEC 23 2015
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed statutory amendment to Chapters 196 & 210, version 2 (2016-191)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Bradley Ketcher on December 22, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-191

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 22 AM 9:31
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____

16-191

*Be it enacted by the people of the State of Missouri:*

Section 196.1131 is enacted and Sections 196.1003, 210.170, 210.171 and 210.172 of the Revised Statues of Missouri are amended to read as follows:

196.1131. 1. For the sole and exclusive purpose of providing funding for treatment and prevention of childhood cancer, on and after January 1, 2017, a tax equal to five cents before discounts and deals shall be levied and imposed upon the sale of each package of twenty cigarettes, or lesser portion thereof. The tax imposed by this section shall be in addition to other taxes imposed by law on the sale of cigarette packages and shall be collected in the same manner and at the same time as the taxes imposed by law upon the sale of packages of cigarettes.

2. The Childhood Cancer Treatment and Prevention Fund is hereby created within the state treasury which shall consist of funds from the taxes established in subsection 1 of this section, appropriated moneys, gifts, contributions, grants, or bequests.

3. Beginning January 1, 2017, the state treasurer without legislative action shall credit to and place in the Childhood Cancer Treatment and Prevention Fund all moneys collected as a result of the tax imposed by subsection 1 of this section as said moneys are received. All of the moneys from the tax imposed by this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Childhood Cancer Treatment and Prevention Fund and the accounts created within the Childhood Cancer Treatment and Prevention Fund. Any moneys credited to and placed in the Childhood Cancer Treatment and Prevention Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Childhood Cancer Treatment and Prevention Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Childhood Cancer Treatment and Prevention Fund shall be added to such account and shall not be credited to the general revenue fund. Except as otherwise provided in this section, generally applicable laws concerning use of public funds shall apply to the Childhood Cancer Treatment and Prevention Fund.

4. The Children's Trust Fund Board shall administer the fund. The fund shall be used exclusively for the treatment and prevention of childhood cancers, including through grants and contracts with the Childrens Health Insurance Program, other state agencies, political subdivisions and health care services providers.

5. No funding from the Childhood Cancer Treatment and Prevention Fund shall be used to fund abortion or any similar procedures. No funding from the Childhood Cancer Treatment and Prevention Fund shall be used to pay for research which is banned by Missouri law.

6. (1) The actual costs of collecting the tax imposed by this section shall be paid from the moneys in the Childhood Cancer Treatment and Prevention Fund as may be provided by law, not to exceed five percent of the total moneys collected;

(2) The department of revenue shall refund moneys overpaid or erroneously paid pursuant to this section as may be provided by law; and

(3) On a fiscal year basis, the director of the department of revenue shall determine by estimate whether the tax imposed by this section has caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to chapter 149, RSMo. If an estimated reduction in the amount of moneys collected and deposited into any of those funds pursuant to chapter 149, RSMo has been caused by the tax imposed by this section, an amount equal to the estimated amount of moneys that were not collected and deposited into that fund or funds because of the tax imposed by this section shall be transferred from the Childhood Cancer Treatment and Prevention Fund to the appropriate fund or funds. The aggregate amount transferred to the fair share fund, the health initiatives fund, and the state school moneys fund from the Childhood Cancer Treatment and Prevention Fund for any fiscal year shall not exceed three percent of the total moneys collected pursuant to this section during that same fiscal year.

7. The state auditor shall perform an annual audit of the funds and initiatives undertaken pursuant to this section, which shall include an evaluation of whether pre-existing funding for programs or initiatives has been reduced because of the new funding for such purposes provided through the Childhood Cancer Treatment and Prevention Fund or any of its accounts. Such audit shall be performed on a fiscal year basis. The state auditor shall make copies of each audit available to the public. Every three years the state auditor shall prepare a comprehensive report assessing the

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work and progress of initiatives undertaken pursuant to this section. Such assessment report shall analyze the impact of the programs, grants, and contracts performed, shall be provided to the governor and the general assembly, and shall be available to the public.

8. The tax imposed by this section shall be imposed on all cigarettes in the possession or under the control of any dealer or distributor on and after 12:01 a.m. on January 1, 2017, as determined by department of revenue rule. The initiatives and programs authorized under this section shall be implemented as soon as reasonably practicable, but at least by July 1, 2017.

9. The additional revenue provided by the provisions of this section shall not be part of the "total state revenue" within the meaning of article X of the constitution. The expenditure of this additional revenue shall not be an "expense of state government" under article X of the constitution.

10. The net proceeds from the tax imposed by this section shall constitute new and additional funding for the initiatives and programs described in this section and shall not be used to replace existing funding as of July 1, 2016 for the same or similar initiatives and programs.

11. All of the provisions of this section shall be self-enforcing. All of the provisions of this section are severable. If any provision of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this section shall be and remain valid.

196.1003. Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this Act shall do one of the following:

(a) become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

(b) (1) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts (as such amounts are adjusted for inflation)

| | |
|---|---|
| 1999: | $.0094241 per unit sold after the date of enactment of this Act; |
| 2000: | $.0104712 per unit sold; |
| for each of 2001 and 2002: | $.0136125 per unit sold; |
| for each of 2003 through 2006: | $.0167539 per unit sold; |
| for each of 2007 and each year thereafter: | $.0188482 per unit sold. |

(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances

(A) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (i) in the order in which they were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow on account of units sold in the state in a particular year was greater than the [State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment)] Master Settlement Agreement payments, as determined under section IX(i) of that agreement, including after final determination of all adjustments such manufacturer would have been required to make on account of such units sold had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(C) to the extent not released from escrow under subparagraphs (A) or (B), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this section shall

(A) be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this subsection, may impose a civil penalty to be paid to the State's general revenue fund in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;

(B) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this subsection, may impose a civil penalty to be paid to the State's general revenue fund in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

(C) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years.

Each failure to make an annual deposit required under this section shall constitute a separate violation. Any tobacco product manufacturer that violates the provisions of this section shall pay the State's cost and attorney's fees incurred during a successful prosecution under this section.

210.170. 1. There is hereby created within the office of administration of the state of Missouri the "Children's Trust Fund Board", which shall be composed of twenty-one members as follows:

(1) Twelve public members to be appointed by the governor by and with the advice and consent of the senate. As a group, the public members appointed pursuant to this subdivision shall demonstrate knowledge in the areas of prevention programs and children's health care, shall be representative of the demographic composition of this state, and, to the extent practicable, shall be representative of all of the following categories:

(a) Organized labor;

(b) The business community;

(c) The educational community;

(d) The religious community;

(e) The legal community;

(f) Professional providers of prevention services to families and children;

(g) Volunteers in prevention services;

(h) Social services;

(i) Health care services; and

(j) Mental health services;

(2) A physician licensed pursuant to chapter 334;

(3) Two members of the Missouri house of representatives, who shall be appointed by the speaker of the house of representatives and shall be members of two different political parties;

(4) Two members of the Missouri senate, who shall be appointed by the president pro tem of the senate and who shall be members of two different political parties; and

(5) Four members chosen and appointed by the governor.

2. All members of the board appointed by the speaker of the house or the president pro tem of the senate shall serve until their term in the house or senate during which they were appointed to the board expires. All public members of the board shall serve for terms of three years; except, that of the public members first appointed, four shall serve for terms of three years, four shall

serve for terms of two years, and three shall serve for terms of one year. No public members may serve more than two consecutive terms, regardless of whether such terms were full or partial terms. Each member shall serve until his successor is appointed. All vacancies on the board shall be filled for the balance of the unexpired term in the same manner in which the board membership which is vacant was originally filled.

3. Any public member of the board may be removed by the governor for misconduct, incompetency, or neglect of duty after first being given the opportunity to be heard in his or her own behalf.

4. The board may employ an executive director who shall be charged with carrying out the duties and responsibilities assigned to him or her by the board. The executive director may obtain all necessary office space, facilities, and equipment, and may hire and set the compensation of such staff as is approved by the board and within the limitations of appropriations for the purpose. All staff members, except the executive director, shall be employed pursuant to chapter 36.

5. Each member of the board may be reimbursed for all actual and necessary expenses incurred by the member in the performance of his or her official duties. All reimbursements made pursuant to this subsection shall be made from funds in the children's trust fund or the Childhood Cancer Treatment and Prevention Fund appropriated for that purpose.

6. All business transactions of the board shall be conducted in public meetings in accordance with sections 610.010 to 610.030.

7. The board may accept federal funds for the purposes of sections 210.170 to 210.173 and section 143.1000 as well as gifts and donations from individuals, private organizations, and foundations. The acceptance and use of federal funds shall not commit any state funds nor place any obligation upon the general assembly to continue the programs or activities for which the federal funds are made available. All funds received in the manner described in this subsection shall be transmitted to the state treasurer for deposit in the state treasury to the credit of the children's trust fund or the Childhood Cancer Treatment and Prevention Fund, as appropriate.

8. The board shall elect a chairperson from among the public members, who shall serve for a term of two years. The board may elect such other officers and establish such committees as it deems appropriate.

9. The board shall exercise its powers and duties independently of the office of administration except that budgetary, procurement, accounting, and other related management functions shall be performed by the office of administration.

210.171. As used in sections 210.170 to 210.173 and section 143.1000, the following terms shall mean:

(1) "Board", the children's trust fund board created in section 210.170;

(2) "Prevention program", any community-based educational or service program designed to prevent or alleviate child abuse or neglect.

(3) "Childhood cancer treatment and prevention," the treatment and prevention of childhood cancer.

210.172. The board shall have the following powers and duties:

(1) To meet not less than twice annually at the call of the chairperson to conduct its official business;

(2) To require that at least eight of the board members authorize the disbursement of funds from the children's trust fund;

(3) To, one year after the appointment of the original board and annually thereafter, develop a state plan for the distribution and disbursement of funds in the children's trust fund. The plan developed under this subdivision shall assure that an equal opportunity exists for the establishment of prevention programs and the receipt of moneys from the children's trust fund in all geographic areas of this state. Such plan shall be transmitted to the governor, the president pro tem of the senate, the speaker of the Missouri house of representatives, and the appropriation committees of the Missouri senate and Missouri house of representatives, and shall be made available to the general public. In carrying out a plan developed under this subdivision, the board shall establish procedures to:

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(a) Enter into contracts with public or private agencies, schools, or qualified individuals to establish community-based educational and service prevention programs with or without using the procurement procedures of the office of administration. Such prevention programs shall focus on the prevention of child abuse and neglect. Community-based service prevention programs shall include programs such as crisis care, parent aides, counseling, and support groups. Participation by individuals in any community-based educational or service prevention program shall be strictly voluntary. In awarding contracts under this paragraph, consideration shall be given by the board to factors such as need, geographic location diversity, coordination with or improvement of existing services, and extensive use of volunteers;

(b) Develop and publicize criteria for the awarding of contracts for programs to be supported with money from the children's trust fund within the limits of appropriations made for that purpose;

(c) Review and monitor expenditures of moneys from the children's trust fund on a periodic basis;

(d) Consult with applicable state agencies, commissions, and boards to help determine probable effectiveness, fiscal soundness, and need for proposed community-based educational and service prevention programs;

(e) Facilitate information exchange between groups concerned with prevention programs;

(f) Provide for statewide educational and public informational conferences and workshops for the purpose of developing appropriate public awareness regarding the problems of families and children, of encouraging professional persons and groups to recognize and deal with problems of families and children, of making information regarding the problems of families and children and their prevention available to the general public in order to encourage citizens to become involved in the prevention of such problems, and of encouraging the development of community prevention programs; and

(g) Establish a procedure for an annual internal evaluation of the functions, responsibilities, and performance of the board, which evaluation shall be coordinated with the annual state plan of the board.

(h) Using only monies appropriated from the Childhood Cancer Treatment and Prevention Fund and not from the Children's Trust Fund, carry out grants and contracts for childhood cancer treatment and prevention consistent with section 196.1131, RSMo. The Board and its staff may consult with other public entities in carry out its childhood cancer treatment and prevention responsibilities.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-191)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed amendment to Chapters 196 and 210 of the Revised Statutes of Missouri. (Received December 23, 2015)

## Date

January 12, 2016

## Description

This proposal would amend Chapters 196 and 210 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College, Children's Trust Fund,** and the **State Auditor's office.**

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** (DOR) indicated this petition will increase revenues to the Childhood Cancer Treatment and Prevention Fund by $24.8 million per year.

**Section 196.1131**
Effective January 1, 2017, this section imposes an additional tax of five cents per pack of cigarettes before discounts and deals. The DOR collects the tax in the same manner and at same time as the current taxes.

Based on 496.5 million packs of cigarettes stamped in Tax Year 2014 the DOR estimates total revenues of $24.8 million.

The DOR must refund moneys overpaid or erroneously paid pursuant to this section as provided by law. Each month, the Department Director must determine whether the tax imposed by this section caused a reduction in the amount of money collected and

deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to Chapter 149, RSMo. If a reduction exists, a like amount not collected and deposited into that fund or funds shall be transferred from the Childhood Cancer Treatment and Prevention Fund to the appropriate fund or funds.

The DOR will have approximately 45 days to implement the petition which may be insufficient time to design and purchase new stamps.

The DOR suggests adding language to allow for the applicable provisions contained in Chapter 149 governing the administration, collections, and enforcement of the state cigarette tax to apply to the collecting of the tax imposed in this section. This provides the DOR the ability to enforce collection of the tax and allows for credit for returns of damaged or unusable stamps.

**Administrative Impact:**

**Business Tax:**

Business Tax requires a floor stock tax form and cigarette stamp order forms be updated. Additionally, the SAGE 50 accounting system and cashiering records requires change. The DOR web pages will need to be updated and licensed wholesalers will need to be notified of the tax increase and the floor stock tax.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** (OA) indicated the proposal amends Sections 196.1003, 210.170, 210.171 and 210.172, RSMo, and Chapter 196 by adding Section 196.113, RSMo.

Section 196.1131 – enacts an additional $0.05/pack tax increase on cigarettes. The monies collected from this new tax would be deposited in the Childhood Cancer Treatment and Prevention Fund to be administered by the Children's Trust Fund Board. These funds will be used for the treatment and prevention of childhood cancers. The proposal allows up to 5% of the collections to be used for collection costs. On a fiscal year basis, the Director of the Department of Revenue shall determine if the new tax has caused a reduction in the amount of moneys collected and deposited in to the Fair Share, Health Initiatives or State School Moneys Funds. If so, up to three percent of the total moneys collected from the new tax shall be transferred to these funds.

The State Auditor shall perform an annual audit of the fund, which shall include an evaluation of whether preexisting funding for programs or initiatives has been reduced because of the new funding. Every three years, the auditor shall prepare a comprehensive report assessing work and progress of initiatives undertaken pursuant to the proposed new sections.

The new taxes shall not be part of total state revenues and the expenditure of this additional revenue shall not be an "expense of state government".

Section 196.1003 – changes escrow requirements for the Tobacco Master Settlement Agreement, with provisions to remove references to the state's allocable share of the total payments the manufacturer would have been required to make under the Master Settlement Agreement; it could adversely impact future Nonparticipating Manufacturer (NPM) adjustment arbitrations.

Section 210.170-210.172 – authorizes the Children's Trust Fund Board to administer the Childhood Cancer Treatment and Prevention Fund.

FISCAL IMPACT:
In fiscal year (FY) 2015, there was $81.7 million in cigarette excise taxes collected. OA assumes that the average pack of cigarettes retails for $4.50, translating to roughly 480.9 million packs sold in Missouri. OA further assumes that cigarette sales have a (0.8) elasticity. Therefore, OA estimates a tax increase of $0.05 in January 2017 will increase the "Childhood Cancer Treatment and Prevention Fund" by $11.6 million in FY17 and $23.1 million once fully implemented in FY18.

There is no way to truly know what impact these tax increases will have on demand due to smoking cessation efforts, other state and federal regulations, and the increase in sales of e-cigarettes. However, OA estimates that the tax increase will decrease the Fair Share Fund by $0.1 million in FY17 and $0.2 million in FY18 and thereafter; the Health Initiatives Fund by $0.1 million in FY17 and $0.2 million in FY18 and thereafter; and the State School Moneys Fund by $0.2 million in FY17 and $0.4 million in FY18 and thereafter.

Further, since cigarette sales will decrease slightly, General Revenue will be reduced by $0.5 million, the School District Trust Fund will be reduced by $0.2 million, and local sales tax will be reduced by $0.8 million once fully implemented in FY18, from the loss of sales tax.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact beyond existing appropriations.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated the initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated that there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **University of Missouri** indicated the University of Missouri Health Care has reviewed the proposed legislation and has determined that as written it should not create additional expenses in excess of $100,000.

Officials from the **Children's Trust Fund** indicated costs to the Children's Trust Fund is estimated at $198,000 - $235,000 annually to implement and manage the Childhood Cancer Treatment and Prevention Fund. Included in this estimate is:

A minimum of 2-2.5 additional full-time employees (FTE's) totaling $110,000 - $135,000 needed (includes salary and benefits package). FTE's include Program Grants Manager and assistant with fiscal/accounting background/skills, as well as a Public Information Officer (.5). FTE positions and salaries are based upon existing positions that perform like functions for child abuse and neglect prevention fund. These are only estimates and could be higher depending upon necessary qualifications and expertise required as a result of the technical medical nature of the proposed fund.

Additional costs estimated at $40,000 annually for existing personnel – Executive Director and Executive Assistant for fund/program oversight estimated at .33 % of current salary rate.

Additional expenses/costs for grant selection and review process, program implementation, grant evaluation, ongoing monitoring, and other necessary expenses directly related to implementation of this new fund, required office space & equipment for new FTE's, and to Office of Administration for procurement, budgetary and other functions estimated at $50,000 - $60,000 annually.

Monies to implement and operate the Childhood Cancer Treatment and Prevention Fund including cost of added FTE's would need to come directly from monies deposited by the State Treasurer into the specific fund proposed or from another source other than existing funds from the Children's Trust Fund which are dedicated solely for the purpose of child abuse/neglect prevention.

Officials from the **State Auditor's office** (SAO) indicated they believe that the audit required under the petition would require approximately 1 FTE. However, given the SAO has consistently lapsed funds in recent years, the SAO believes it could absorb these costs within its current appropriation authority.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Public Safety,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College**.

**Fiscal Note Summary**

Estimated additional revenue to state government is $21 million to $25 million annually with up to $100,000 in additional costs. The revenue will fund only programs and

services allowed by the proposal. Local government revenues could decrease $800,000 annually due to decreased cigarette sales.

STATE AUDITOR'S OFFICE
RECEIVED
DEC 18 2015

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

16-190

December 18, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 18 (2016-190)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 17, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-190 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 17 PM 3:19
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
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| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____
(Name of payer) Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

My commission expires _____ _____
Address of Notary (Street, City, State & Zip Code)

16-190

*Be it enacted by the people of the state of Missouri:*

Section A: Sections 386.860, 386.870, 386.910 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.900 to 386.1000 shall be known and cited as the "Clean Energy Independence and Investment Act of 2016".

386.870. An electrical corporation shall be allowed to recover its costs and add in its rate base prudently incurred costs to install electric vehicle charging stations intended to recharge electric motor vehicles, provided the energy consumed at such stations is partially powered by a clean energy resource, as defined in 386.900, or offset with renewable energy credits, as defined in 393.1025. Investments made pursuant to this section shall not raise the retail rates charged to the customers of electrical corporations by more than one half of one percent in any year.

386.910. 1. This section shall be known and cited as the "Community Solar Act."

2. Within thirty days of enactment of this section, the commission shall open a docket and by August 1, 2017, the commission shall adopt rules and regulations allowing customers to participate in community solar facilities and set a value-of-community-solar rate. For purposes of this section, a "community solar facility" is a photovoltaic electric generation facility with a capacity of between one hundred and one thousand kilowatts, measured in alternating current, that allows five or more customers of an electrical corporation to offset their energy usage with solar energy and such facility is located within the Missouri service territory of the electrical corporation where such customers have one or more electrical accounts. For the purposes of this section, an electrical corporation is as defined in 386.020.

3. The aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous calendar year, and such capacity of community solar facilities shall not count towards the system-wide net metering cap defined in subsection 3 of section 386.900. Electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. Entities or individuals that are not electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of an electrical corporation's single-hour peak load during the previous year. The commission shall allow prudently incurred costs and expenses for community solar facilities owned by an electrical corporation to be included in such electrical corporation's rate base. Once a four percent aggregate cap is reached for community solar facilities, the commission shall open a docket to determine whether or not the community solar program shall be expanded, and the commission may increase the aggregate capacity cap above four percent, or adjust the percentage cap of electrical corporations owning community solar facilities. The commission shall consider all benefits and costs of such an expansion when

making its decision. Community solar facilities shall not be eligible for tax credits under section 386.1000.

4. For any community solar facility that is owned or operated by an entity other than an electrical corporation, the energy generated by such community solar facility shall be provided to the electrical corporation to which it is interconnected in exchange for the allocation and facilitation of bill credits as provided in subsection 5 of this section.

5. Kilowatt hours generated from community solar facilities shall be allocated, on a pro rata basis, to the designated subscribers of the community solar facility at the direction of the community solar facility owner or operator. Allocated bill credits shall be set at a community solar rate per kilowatt hour determined by the commission. The commission shall determine the value of bill credits per kilowatt hour taking into consideration costs and benefits of solar energy including but not limited to energy value, generation value, environmental value, transmission and distribution system value, disaster recovery value, reactive power value and other grid benefit value, but such bill credits shall not be less than the electrical corporation's average retail rate. The value of allocated community solar bill credits shall be used to reduce the customer's total bill. Owners and operators of community solar facilities shall not be considered a public utility as defined in section 386.020, except that this provision shall not apply to any owner or operator who is an electrical corporation. When a community solar facility is placed in service it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years.

6. The commission shall promulgate rules and regulations it deems necessary to carry out the provisions of this section. The commission's rules shall: allow electrical corporations to recover costs; provide earning opportunities for electrical corporations; provide an orderly process, including a reservation system, to allow potential community solar facility owners and operators to develop projects within the capacity limits in subsection 2 of this section; and provide options, which may include financial incentives, to encourage low-income participation.

7. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section, shall be invalid and void.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the

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project. The total amount of clean energy tax credits offered annually shall not exceed one percent of the value of electricity used in Missouri as determined in subsection 4 of this section.

2. The department of economic development shall certify when the tax credits provided in this section have resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.890 and 386.900, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on available reports, including FERC Form Number 1 as allowed by 18 CFR § 141 or an equivalent as determined by the commission, of megawatt hours sales of retail electricity and corresponding revenues for the preceding year or most current reporting period as determined by the commission. The commission shall publish the value of electricity used in Missouri to the public and department of economic development within forty-five days of the enactment of this section and at least sixty days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may only apply for and receive the credit authorized by this section for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

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The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

7. To obtain approval for tax credits allowed under this section, a taxpayer shall submit an initial application for tax credits to the department of economic development. Each application shall be prioritized for review and approval, in the order of the date on which the application was received, with the oldest received date receiving priority. Applications received on the same day shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. Such application deposit shall be refunded at completion of the project or if the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. The taxpayer may request a refund of the application deposit; however, any refunds of the deposit for an application shall cause such application to lose its spot in the priority queue. If the taxpayer wants to maintain its position in the priority queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

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(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

9. Disapproved applications shall lose priority in the review process. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision of its intent to disapprove and to remove such application. The taxpayer shall have one opportunity, not to exceed ten days of notification of intent to disapprove, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

10. If the department of economic development deems the application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for initial approval shall be notified by the department of economic development that the maximum amount of credits authorized have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available due to the rescission of approvals or reserved for a future fiscal year.

12. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial approval for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development to be credited to the Clean Energy Fund,

the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by letter and shall issue, to the taxpayer, a tax credit certificate within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

15. If the amount of the credit under subsection 14 of this section exceeds the taxpayer's total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. The state tax credit shall not be subject to recapture provisions. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

16. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs

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and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsections 10 or 11 of this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

17. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-190)**

## Subject

Initiative petition from Andy Zellers regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received December 18, 2015)

## Date

January 6, 2016

## Description

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Public Service Commission.**

**Mark R. Reading** provided information to the State Auditor's Office as a proponent of this initiative petition.

**Edward D, Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Brent Stewart** of Association of Missouri Electric Cooperatives provided information to the State Auditor's Office as an opponent of this initiative petition.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** (DED) provided the following information:

The Division of Energy (DE) indicated this petition will result in increased operating expenses of $759,071 for fiscal year 2017, $827,781 for fiscal year 2018, and $835,826 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Section 386.900 – Enhanced Net Metering and Easy Connection Act
DE participates in PSC regulatory cases to evaluate issues from a formal state policy and planning perspective consistent with its interests in clean, affordable, abundant energy, and its efficient use. DE is active in cases before the PSC related to energy efficiency and renewable energy and assumes it would be involved in the implementation of this provision that modifies the existing net metering and interconnection requirements for regulated electric utilities. It is assumed there would be a rulemaking docket to set the process and details associated with this proposal. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where enhanced net metering provisions are considered.

Section 386.910 – Community Solar Act
DE assumes it would be involved in the implementation of the Community Solar Act provisions. It is assumed there would be a rulemaking docket to set the process and details associated with this section. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where community solar facilities are established for purposes of determination of

eligibility and certification under the Renewable Energy Standard. DE assumes this provision would result in additional RES certifications that would need to be performed.

Section 386.1000 – Clean Energy Tax Credit
DE is required to administer the Clean Energy Fund created by this section and promulgate rules to implement the Clean Energy Tax Credit. The proposal requires DE to receive applications and deposits, review and initially approve applications and required information within 30 days, review final approval applications, issue certificates and provide notifications, refund deposits for completed and disapproved projects, at least quarterly publish a list of the amount of tax credits initially and finally approved for each fiscal year and amounts reserved for future years, notify individual applicants of disapproved applications and approval within specified timeframes, notify applicants if the maximum amount of credits authorized have been allocated for the fiscal year and grant three-month extensions if needed for project completion with additional deposit payments.

**Long-range implications**

Fiscal impacts associated with the Clean Energy Tax Credits could continue until June 30, 2022. The authorization for the tax credit would sunset sooner if the 1,000 megawatt limit is reached. Economic benefits associated with construction of solar facilities would also have long-range implications.

**Assumptions and methodology used in arriving at state fiscal impact**

Section 386.900 – Enhanced Net Metering and Easy Connection Act
For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

386.910-Community Solar Act
The Missouri Renewable Energy Standard (RES) requires investor-owned utilities in Missouri to either produce green power or purchase Renewable Energy Certificates (RECs) for compliance. One REC represents 1 megawatt-hour (MWh) of electricity generated from an eligible renewable energy resource. The in-state renewable energy generation can receive a multiplier of 1.25 for RES compliance purpose. DE has statutory authority to certify eligible renewable energy resources before RECs associated with those renewable energy resources can be used for RES compliance. DE does not charge any certification fees.

A community solar facility is defined as a solar photovoltaic facility with a capacity of 100-1000 kilowatts (kW) under this section. DE anticipates that enactment of a tax credit in Section 386.1000, RSMo, will result in an increase in community solar facilities constructed and that in-state community solar facilities will request DE to certify their renewable energy resources/projects for the purpose of generating additional revenue

from REC sales. DE's review primarily focuses on environmental impacts of renewable electric generation facilities on air, water or land use. The actual staff time spent on each application varies from one project to another. Solar photovoltaic facilities with a larger capacity typically require more staff time for reviewing their third-party environmental impact assessments in addition to verifying applicable environmental permits. Staff time will be also needed for data requests and discussion, data collection, database management, report production and website maintenance.

Current average staff time to review and certify renewable energy facilities ranges from 2 hours for small projects of a few hundred kW and 8-10 hours for larger projects of a few hundred kW to 1000 kW. It is assumed that small projects will account for two-thirds of the total community solar facilities and one-third will be larger projects. The weighted average of staff time (based on 2 hours for smaller projects and 8 hours for larger projects) is 4 hours (calculation: 2*{2/3}+8*{1/3}). The number of projects at the assumed 200 kW ranges from 71 to 209 if the full amount of tax credits are used (Source: Mark Reading). By multiplying the average staff time of 4 hours, the annual staff time will range from 284 to 836 hours. For purposes of this fiscal note, DE assumes it could implement the provisions of this section with staff requested to implement the clean energy tax credit in Section 386.1000, RSMo (see below).

Section 386.1000 – Clean Energy Tax Credit

Retail sales of Missouri's utilities totaled $7.6 billion in 2014 (Source: Mark Reading; U.S. DOE/EIA). If all tax credits were used up to the cap of 1% of the annual statewide Missouri revenue of Missouri's retail electric suppliers (approximately $76 million/year), and with consideration to the estimated cost and size of the projects, it is estimated there would be 4,933 residential project applications and 283 commercial project applications submitted for tax credit reviews (Source: Mark Reading). DE assumes that it would take approximately 2 hours each to do the initial review/approval of each application and another 2 hours to do the review and issuance of a certification after a project is completed for residential projects. Each of these would include clerical time for input/issuing letters/filing, etc. For larger commercial projects, an estimated 8 hours is anticipated for each of these two steps. See response above for detailed tasks required by the proposal.

19,732 hours for residential applications
4,528 hours for commercial applications
24,260 hours total

To implement this provision, DE assumes it will need a total of 12 full-time employees (FTE) (including a portion of an FTE to implement Community Solar provisions, Section 386.910, RSMo) as follows:

8 – Energy Specialist I/II
2 – Energy Engineer II
2 – Administrative Office Support Assistant (AOSA)

- Energy Specialist I/II - Professional level staff to review the renewable energy project applications and to complete project evaluation activities.

- Energy Engineer II - Professional staff with expertise in engineering aspects of renewable energy projects to review the technical aspects of the projects, review of projects related to the Renewable Energy Standard and Renewable Energy Certificates and familiar with environmental impacts of renewable electric generation.
- AOSA - Staff to assist with the administrative requirements of the reviews such as drafting and sending communication to applicants, maintaining the database of applicants, and tracking status of applications.

DE also assumes that the DED's existing tax credit database will be used to track the applications. Some IT costs to generate the necessary reports are estimated.

Note that although an application deposit is required to be paid to DE and deposited in the Clean Energy Fund, because the deposit must be refunded to the applicant upon completion of the project or if the project is disapproved, DE assumes it is unable to use these funds to administer the proposal. Therefore, General Revenue funds are requested. Based on the estimated number of residential and commercial projects, application deposits at 2 cents/watt to the Clean Energy Fund would total approximately $1.7 million/year.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** estimate this petition will result in increased operating expenses of $243,282 for fiscal year 2017, $181,985 for fiscal year 2018, and $183,470 for fiscal year 2019.

The legislation creates an unknown, negative impact to total state revenue by authorizing a clean energy tax credit.

**Section 386.1000**
The provisions of this section authorize the issuance of a clean energy tax credit to taxpayers incurring costs for the installation of a clean energy resource project. The taxpayer may claim 35 percent of the total cost of the project. The legislation caps the amount of tax credits at not more than one percent of the value of the electricity used in Missouri.

**Administrative Impact:**
**Personal Tax:**
Personal Tax requires one (1) Revenue Processing Technician I (Range 10, Step L) for every 6,000 credits claimed.

**Corporate Tax:**
Corporate Tax requires three (3) Revenue Processing Technicians I (Range 10, Step L) for every 4,000 credits redeemed, 4,000 credits transferred, and for every 520 SB 1099 compliance mailings and correspondence.

**Integrated Tax System:**
The integrated tax system incurs additional costs of $43,680 to implement the provisions of this petition.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of West Plains** indicated the 86 cities with municipal electric utilities depend on the revenues of this service for their citizen/owners to off-set the cost of electric service and operation to citizens as well as to support the activities of city government.

Based primarily on data from the Federal Department of Energy's (DOE) Energy Information Administration (EIA) Table 6 plus additional data gleaned from the National Renewable Energy Lab's Photovoltaic Calculator and the Missouri Association of Municipal Utilities for peak loads in 73 cities, they have determined that municipalities in

Missouri face a loss of at least $23.9 million in revenue should this initiative petition become law. The impact alone to the City of West Plains appears to be $352,000 annually, or over 6.5% of their annual electric utility revenue budget. This figure does not reflect any additional costs they will be required to incur for required pleadings before the state Public Service Commission or local compliance costs for other requirements contained in this proposal.

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art. X, Sec. 16) that reduces income or increases costs without "full state financing," they anticipate that local government costs would be reflected in the final state cost when the fiscal note is completed. Necessary litigation costs incurred for Mo. Const. Art. X, Sec. 16 and other potential legal inconsistencies are unknown.

Methodology for City Loss Calculation
Renewable Energy Initiative Petitions

| **Assumptions and Methods** | **Information Source** |
|---|---|
| 1. A combined federal and state tax credit of 60% of installation costs, would prompt city customers to achieve the 7% capacity cap in a reasonable period of time | Proposed Legislation |
| 2. 1 kW solar panel at this latitude would generate 1350 kWHr per year | National Renewable Energy Lab's PV Calculator |
| 3. Annual Peaks | Municipal reports to the Missouri Association of Municipal Utilities |
| 4. Current City Electric Rates | DOE EIA Database (Table 6 for 2010) |

5. Calculation:
   Annual Peak
   7% of Annual Peak for Capacity Cap
   Total Solar Generation = (Capacity Cap * 1350 kWHrs)*1000
   City's lost revenue: City rate * Solar Generation

6. State calculation based on the sum of "Assumption 5" calculations for
   73 reporting cities (out of 86)
      Total ≥ $23.8 million

**Calculation for City of West Plains**

| | |
|---|---|
| 44.453 | Annual Peak (MW) |
| 3.11171 | 7% of Annual Peak for Capacity Cap MW |
| 4,200,809 | Total Solar Generation (KWHR) |
| 8.38 | City Rate (cents per kWHR) |
| $352,028 | Lost Revenue |

Officials from **University of Missouri** indicated they have not seen cost impact studies on this initiative from their electric utility suppliers, but they do not believe this will have a significant impact on their university.

Officials from the **Public Service Commission** (PSC) indicated:

Section 386.870, RSMo, allows an electrical corporation to recover its costs and add in its rate base prudently incurred costs to install electric vehicle charging stations provided the energy consumed is partially powered by a clean energy resource or offset with renewable energy credits. It is not clear if the renewable energy credits can be used to meet Section 386.870, RSMo, and also used to meet the utility's renewable portfolio standard in Section 393.1030, RSMo.

Section 386.870, RSMo, also states investments made pursuant to this section shall not raise the retail rates charged to customers of electrical corporations by more than one half of one percent in any year. The PSC suggests this requirement be clarified. A similar cap is placed on the renewable mandate of Section 393.1045, RSMo. It has been over 7 years since the enactment of this provision and parties continue to argue its meaning before the PSC.

Section 386.910.5, RSMo, states that when a community solar facility is placed in service, it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years. It appears this provision would require the utility ratepayers to fund the facility at the current rate for 20 years without adjustment for changes in the utility's costs or revenues that would occur over the 20 year period. It is also not clear if the cost-of-solar value contemplates an earnings opportunity for the commission-regulated utility.

Section 386.1000, RSMo, discusses a "clean energy tax credit". It is not clear why the tax credit is in the PSC statute and not in a tax-related statute.

**Mark R. Reading** provided the following information as a proponent of this initiative petition.

Submitted by:

_____

Mark R. Reading
2604 Lakeland Drive
Jefferson City, MO 65109
(573) 694-6828
*Primary Contact Person*

**Clean Energy Independence and Investment Act of 2016 - Versions 10, 12, 14, 16, and 18**
**Sec. of State # 173, 175, 177, 190, and 180**

**Proposed Statement of Fiscal Impact**
**for Clean Energy Independence and Investment Act of 2016 - Versions 10, 12, 14, 16, and 18**
**Sec. of State # 173, 175, 177, 190, and 180**

**Fiscal Impact Information Submitted Pursuant to Section 23.140.2**

The amendment's estimated impact decreases state revenue between $31 to $63 million depending upon the speed of up to $225 million in additional clean energy project construction and implementation by the Department of Economic Development, residential homeowners, and businesses. Local revenue is estimated to grow between $2.6 to $5.1 million.

| ESTIMATED NET EFFECT ON STATE FUNDS | | |
|---|---|---|
| **Fund Affected** | **FY 2017** | **FY 2018** |
| **General Revenue** | $0 | From ($33,037,828) to ($66,019,325) |
| | | |
| **Total Estimated Net Effect on All State Funds** | $0 | From ($31,362,880) to ($62,666,273) |
| **ESTIMATED NET EFFECT ON LOCAL FUNDS** | | |
| Local Funds | $0 | From $2,553,188 to $5,128,651 |
| | | |
| **Total Estimated Net Effect on All Local Funds** | $0 | From $2,553,188 to $5,128,651 |

**SUMMARY OF VERSIONS OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT**

Nine versions of the Clean Energy Independence and Investment Act of 2016 have been submitted for review. A summary of which topics are in each version is provided below.

**CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT OF 2016**
**SUMMARY OF VERSIONS**

| Petition version | 386.870 - Electric vehicle | 386.890 - Net metering | 386.900 - Enhanced net metering | 386.910 - Community Solar | 386.1000 - Tax credits |
|---|---|---|---|---|---|
| | | | | | |
| **1% Electric Versions** | | | | | |
| Version 10 | N/A | X | X | X | X |
| Version 12 | X | X | X | X | X |
| Version 14 | X | Deletes | X | X | X |
| Version 15 | N/A | N/A | N/A | N/A | X |
| Version 16 | X | N/A | N/A | X | X |
| Version 17 | X | X | X | N/A | X |
| Version 18 | N/A | X | X | X | X |
| | | | | | |
| **$50 million cap Versions** | | | | | |
| Version 11 | N/A | X | X | N/A | X |
| Version 13 | X | X | X | X | X |

## ANALYSIS OF FISCAL IMPACT OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT

The fiscal impact analysis contained herein focuses on estimating the fee and tax revenue resulting from the statutory changes proposed in the initiative petition. Table 1 summarizes the revenue estimated by source and by fiscal year. Page and Table numbers are provided to help readers find specific subjects.

**Table 1 -**
**Summary of Fiscal Impact by Fund**

| Page # | Table # | Purpose | FY 2017 | FY 2018 - low range | FY 2018 - high range | Revenue Type |
|---|---|---|---|---|---|---|
| 9-12 | Table 10 | Tax credit | $0 | ($39,494,829) | ($78,989,658) | Income |
| 13-15 | Table 14 | Taxes from clean energy tax credit construction | $0 | $4,429,063 | $8,858,126 | Various |
| 16-17 | Table 17 | Taxes from community solar construction | $0 | $2,027,938 | $4,112,207 | Various |
| | | subtotal General Revenue Fund | $0 | ($33,037,828) | ($66,019,325) | |
| | | | | | | |
| 8-13 | Table 11 | Clean Energy Fund | $0 | $868,852 | $1,733,826 | Application deposit |
| | | | | | | |
| 13-15 | Table 14 | Prop C sales tax - clean energy | $0 | $451,369 | $902,739 | Sales tax |
| 16-18 | Table 17 | Prop C sales tax - community solar | $0 | $206,669 | $419,078 | Sales tax |
| | | subtotal Prop C | $0 | $658,038 | $1,321,817 | |
| | | | | | | |
| 13-15 | Table 14 | Conservation sales tax - clean energy | $0 | $56,421 | $112,842 | Sales tax |
| 16-18 | Table 17 | Conservation sales tax - community solar | $0 | $25,834 | $52,385 | Sales tax |
| | | subtotal Conservation | $0 | $82,255 | $165,227 | |
| | | | | | | |
| 13-15 | Table 14 | Parks and Soils sales tax - clean energy | $0 | $45,137 | $90,274 | Sales tax |
| 16-18 | Table 17 | Parks and Soils sales tax - community solar | $0 | $20,667 | $41,908 | Sales tax |
| | | subtotal Parks and Soils | $0 | $65,804 | $132,182 | |
| | | | | | | |
| | | subtotal Other State Funds | $0 | $1,674,949 | $3,353,052 | |
| | | | | | | |
| | | subtotal all state funds | $0 | ($31,362,880) | ($62,666,273) | |
| | | | | | | |
| 13-15 | Table 14 | Local Sales Tax - clean energy | $0 | $1,751,314 | $3,502,627 | Sales tax |
| 16-18 | Table 17 | Local Sales Tax - community solar | $0 | $801,875 | $1,626,024 | Sales tax |
| | | subtotal Local Funds | $0 | $2,553,188 | $5,128,651 | |
| | | Grand Total State and Local | $0 | ($28,809,691) | ($57,537,622) | |

**Clean Energy tax credits**

The proposal creates a clean energy tax credit in Chapter 386 RSMo. The annual level of tax credits for each calendar year shall not exceed one percent of the annual statewide Missouri revenue of Missouri retail electric suppliers. The Public Service Commission (PSC) is required to determine the revenue for retail electric suppliers using available reports, including FERC Form Number 1 as allowed by 18 CFR § 141 or an equivalent determined by the PSC.

The data for this calculation is gathered and published by the U.S. Energy Information Administration on its website.[1] Table 2 shows the revenues reported by each Missouri entity in 2014. Retail sales totaled $7.6 billion in 2014 for the 74 entities.

**Table 2**
**2014 Utility Bundled Retail Sales - Total**
(Data from forms EIA-861- schedules 4A & 4D and EIA-861S)

| Entity | Ownership | Revenues (Thousands Dollars) |
|---|---|---|
| Atchison-Holt Electric Coop | Cooperative | $6,727 |
| Barry Electric Coop | Cooperative | $16,654 |
| Barton County Elec Coop, Inc | Cooperative | $16,262 |
| Black River Electric Coop - (MO) | Cooperative | $42,554 |
| Boone Electric Coop | Cooperative | $55,335 |
| Callaway Electric Cooperative | Cooperative | $24,618 |
| Carroll Electric Coop Corp - (AR) | Cooperative | $14,104 |
| Central Missouri Elec Coop Inc | Cooperative | $25,350 |
| Chillicothe Municipal Utils | Municipal | $10,035 |
| Citizens Electric Corporation - (MO) | Cooperative | $123,087 |
| City Utilities of Springfield - (MO) | Municipal | $249,286 |
| City of Ava - (MO) | Municipal | $2,894 |
| City of Cameron | Municipal | $7,728 |
| City of Carthage - (MO) | Municipal | $24,493 |
| City of Columbia - (MO) | Municipal | $109,927 |
| City of Farmington - (MO) | Municipal | $18,390 |
| City of Fulton - (MO) | Municipal | $14,228 |
| City of Hannibal - (MO) | Municipal | $25,785 |
| City of Harrisonville - (MO) | Municipal | $12,072 |
| City of Independence - (MO) | Municipal | $135,338 |
| City of Jackson - (MO) | Municipal | $16,281 |
| City of Kennett - (MO) | Municipal | $10,988 |
| City of Kirkwood - (MO) | Municipal | $21,547 |
| City of Lamar - (MO) | Municipal | $6,961 |
| City of Lebanon - (MO) | Municipal | $22,949 |
| City of Macon - (MO) | Municipal | $9,740 |
| City of Marshall - (MO) | Municipal | $17,390 |
| City of Monett - (MO) | Municipal | $20,534 |
| City of Mount Vernon - (MO) | Municipal | $6,790 |
| City of Nixa - (MO) | Municipal | $14,132 |
| City of Poplar Bluff - (MO) | Municipal | $31,686 |
| City of Rolla - (MO) | Municipal | $27,694 |
| City of Sikeston - (MO) | Municipal | $17,528 |

| | | |
|---|---|---|
| City of Sullivan - (MO) | Municipal | $9,645 |
| City of West Plains - (MO) | Municipal | $15,208 |
| Clay County Electric Coop Corp | Cooperative | $96 |
| Co-Mo Electric Coop Inc | Cooperative | $46,302 |
| Consolidated Electric Coop | Cooperative | $21,936 |
| Crawford Electric Coop, Inc | Cooperative | $30,705 |
| Cuivre River Electric Coop Inc | Cooperative | $105,621 |
| Empire District Electric Co | Investor Owned | $456,324 |
| Farmers Electric Coop, Inc - (MO) | Cooperative | $28,697 |
| Gascosage Electric Coop | Cooperative | $17,074 |
| Grundy Electric Coop, Inc | Cooperative | $12,214 |
| Howard Electric Coop | Cooperative | $6,057 |
| Howell-Oregon Elec Coop, Inc | Cooperative | $38,226 |
| Intercounty Electric Coop Assn | Cooperative | $53,855 |
| KCP&L Greater Missouri Operations Co. | Investor Owned | $802,845 |
| Kansas City Power & Light Co | Investor Owned | $824,706 |
| Laclede Electric Coop, Inc | Cooperative | $63,330 |
| Lewis County Rural E C A | Cooperative | $13,534 |
| Macon Electric Coop | Cooperative | $23,795 |
| Missouri Rural Electric Coop | Cooperative | $17,812 |
| New-Mac Electric Coop, Inc | Cooperative | $38,876 |
| North Central MO Elec Coop Inc | Cooperative | $14,098 |
| Osage Valley Elec Coop Assn | Cooperative | $28,034 |
| Ozark Border Electric Coop | Cooperative | $68,293 |
| Ozark Electric Coop Inc - (MO) | Cooperative | $52,354 |
| Pemiscot-Dunklin Elec Coop Inc | Cooperative | $19,856 |
| Platte-Clay Electric Coop, Inc | Cooperative | $51,737 |
| Ralls County Electric Coop | Cooperative | $12,711 |
| SE-MA-NO Electric Coop | Cooperative | $9,438 |
| SEMO Electric Cooperative | Cooperative | $33,195 |
| Sac-Osage Electric Coop Inc | Cooperative | $16,676 |
| Southwest Electric Coop, Inc | Cooperative | $58,853 |
| Sunnova | Behind the Meter | $1 |
| Three Rivers Electric Coop | Cooperative | $36,751 |
| Trenton Municipal Utilities - (MO) | Municipal | $8,647 |
| Tri-County Electric Coop Assn | Cooperative | $12,512 |
| Union Electric Co - (MO) | Investor Owned | $3,112,534 |
| United Electric Coop, Inc - (MO) | Cooperative | $21,579 |
| Webster Electric Coop | Cooperative | $28,828 |
| West Central Electric Coop Inc - (MO) | Cooperative | $25,967 |
| White River Valley El Coop Inc | Cooperative | $86,488 |
| Adjustment 2014 | Other | $159,914 |
| Total | | $7,644,407 |

Source: http://www.eia.gov/electricity/sales_revenue_price/
Table 10: All Sectors - Class of ownership, number of consumers, sales, revenue, and average retail price by State and utility:

Table 3 shows the data series by year from 1990 through 2014 reported by the U.S. Energy Information Administration.[2] The average annual increase in these revenues is 3.33 percent.

**Table 3**
**Revenue from Sales to Ultimate Customers**
**(Thousand Dollars) for Missouri, 1990-2014**

| Year | Total Revenue | $ Growth over previous year | % Growth over previous year |
|---|---|---|---|
| 1990 | $3,484,572,000 | | |
| 1991 | $3,653,391,000 | $1,688,190 | 4.8% |
| 1992 | $3,489,099,000 | ($1,642,920) | (4.5%) |
| 1993 | $3,709,661,000 | $2,205,620 | 6.3% |
| 1994 | $3,749,115,000 | $394,540 | 1.1% |
| 1995 | $3,891,751,000 | $1,426,360 | 3.8% |
| 1996 | $3,961,895,000 | $701,440 | 1.8% |
| 1997 | $4,005,066,000 | $431,710 | 1.1% |
| 1998 | $4,196,674,000 | $1,916,080 | 4.8% |
| 1999 | $4,185,713,000 | ($109,610) | (0.3%) |
| 2000 | $4,370,246,000 | $1,845,330 | 4.4% |
| 2001 | $4,414,434,000 | $441,880 | 1.0% |
| 2002 | $4,565,227,000 | $1,507,930 | 3.4% |
| 2003 | $4,470,188,000 | ($950,390) | (2.1%) |
| 2004 | $4,494,108,000 | $239,200 | 0.5% |
| 2005 | $4,959,849,000 | $4,657,410 | 10.4% |
| 2006 | $5,169,747,000 | $2,098,980 | 4.2% |
| 2007 | $5,614,317,000 | $4,445,700 | 8.6% |
| 2008 | $5,768,459,000 | $1,541,420 | 2.7% |
| 2009 | $5,871,973,000 | $1,035,140 | 1.8% |
| 2010 | $6,698,608,000 | $8,266,350 | 14.1% |
| 2011 | $7,008,476,000 | $3,098,680 | 4.6% |
| 2012 | $7,029,475,000 | $209,990 | 0.3% |
| 2013 | $7,538,092,000 | $5,086,170 | 7.2% |
| 2014 | $7,644,407,000 | $1,063,150 | 1.4% |
| | | Avg. annual growth | 3.33% |

Source: http://www.eia.gov/electricity/sales_revenue_price/
Supplemental Data: 1990 - 2013 Revenue from Retail Sales of Electricity by State by Sector by Provider (EIA-861)

For purposes of this fiscal analysis it is assumed that the Public Service Commission will use the most recent available data for establishing the annual cap. The state is currently in FY 2016 and the most recent available data is from 2014. Thus, for the fiscal periods included for consideration by the State Auditor's Office the FY 2017 cap will be established using 2015 data published by the U.S. Energy Information Administration. Similarly, the FY 2018 cap will be established using 2016 data. In this manner the cap for each calendar year will be established eight months before it begins instead of four months after it starts.

**Table 4**
**Data and Timeline for Establishing Annual Tax Credit Cap**

| Data available | Time period of data | CY year for the cap |
|---|---|---|
| April 2015 | 2014 actual data | CY 2016 |
| April 2016 | 2015 actual data | CY 2017 |
| April 2017 | 2016 actual data | CY 2018 |

As shown in Table 3 the average annual growth rate from 1990 to 2014 was 3.33 percent. Table 5 assumes that the average annual growth rate will carry forward for the next several years. The clean energy tax credits cap is estimated at $76.4 million for CY 2016, $79 million for CY 2017 and $81.6 million for CY 2018.

**Table 5**
**Clean Energy Tax Credit Estimate of Cap**

| Calendar Year for cap | Fiscal Year for likely redemption of credits | Revenue data | Total Revenue | Tax credit at 1.0% |
|---|---|---|---|---|
| CY 2016 | FY 2017 | 2014 actual data | $7,644,407,000 | $76,444,070 |
| CY 2017 | FY 2018 | 2015 projection | $7,898,965,753 | $78,989,658 |
| CY 2018 | FY 2019 | 2016 projection | $8,162,001,313 | $81,620,013 |

For purposes of the fiscal note the State Auditor's office asks that estimates be provided for the first two fiscal years of implementation which are FY 2017 and FY 2018 since the provisions of the proposal would go into effect in December 2016. Almost all taxpayers file their taxes on the April 15th deadline. Therefore, CY 2016 taxes would be due on April 15, 2017 which is in FY 2017 as shown in Table 5.

The proposal establishes a cap beginning for CY 2016. However, the provisions of the act will go into effect in December 2016. Paragraph 13 of the proposed section 386.1000 states that any taxpayer verified by the Department of Economic Development to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with the provisions shall be deemed eligible for the tax credit. This allows for the Department of Economic Development to include projects in 2016 before its processes are in place. Paragraph 17 of the proposed section 386.1000 provides that the Department of Economic Development shall issue rules necessary to administer the act. In addition, paragraph 10 gives the Department of Economic Development 45 days to notify an applicant of approval after the application is submitted.

Issuing rules is at best a months long process. The 45 day processing time allowed for any completed application filed after the rules are adopted makes it very unlikely that the Department of Economic Development will issue any CY 2016 tax credits before April 15, 2017 that would affect the taxpayers initial tax filing and reduce taxes paid during FY 2017. Tax credits issued between April 15 and June 30, 2017 would require an amended filing which also would be unlikely to be completed by June 30, 2017. Thus, this fiscal analysis assumes a de minimis or no impact on FY 2017 general revenue tax collections. Any CY 2016 tax credit impact would at most impact the FY 2018 tax collections through amended returns or through CY 2017 taxes.

**Application Deposit revenue**

The proposed Section 386.1000 RSMo requires that taxpayers submit an application to the Department of Economic Development to receive approval for tax credits (paragraph 7). Each application must include a two cent per watt application deposit. The total revenue from application deposits is dependent upon:

- the number of projects that will be submitted;
- the number of watts generated from all of those projects

Each of these is affected by the:

- percentage of residential v commercial projects
- number of kW generated by residential v commercial projects
- cost of residential and commercial projects
- total construction completed
- any phase-in period as the Department of Economic Development institutes rules and prepares the program
- any phase-in period as the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available

All of these factors must be estimated and evaluated in order to calculate the amount of application deposit revenue that will be received by the Department of Economic Development.

Tax credits are available to both residential and commercial projects. Paragraph 5 of the proposed Section 386.1000 RSMo provides that no electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit.

The Missouri Department of Economic Development, Division of Energy published a Missouri Comprehensive State Energy Plan in October 2015. The report states that half of the installed net-metered PV solar is residential and the other half commercial customers.[3] However, the report also indicates that there are challenges that face residential customers making it more difficult and expensive to install solar projects. These challenges include local ordinances or homeowner's association rules the may prohibit installation or require design changes that decrease efficiency or add to the cost.[4] In addition, over the past decade an industry has developed to assist with the financing of solar projects. Such financing alternatives are easier to obtain by commercial projects because of their size, scope, and estimated return on investment.[5] Commercial projects can have a longer-term outlook than homeowners who may not know how long they may live in their current house. The Missouri State Energy Plan indicates that residential rooftop solar is a relatively expensive energy option due to these and other factors.[6]

For all of the reasons identified in the preceding paragraph, for purposes of this fiscal analysis residential solar installation is assumed to be 40% of the total solar construction. Commercial solar installation is assumed to be 60% of the total solar construction. This fiscal analysis has already indicated that 2016 solar construction will likely not be affected by the approval of the petition by voters in November 2016. Thus, CY 2017 is the first full year of impact. Tax credits resulting from such construction will first affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office.

The next factor to consider is the number of kW generated by residential and commercial projects. A recent report on photovoltaic system pricing trends published by the U.S. Department of Energy indicates that the median residential project is 6.1 kW while the modeled commercial system is 200 kW. Paragraph 5 of the proposed section 386.1000 establishes a 200 kW limit on installations that are authorized for tax credits.[7] For purposes of this fiscal analysis it is assumed that all commercial projects will be at the 200 kW size and that residential projects will be 6.1 kW. Paragraph 7 of the proposed section 386.1000 requires a two cent per watt application deposit fee. Table 6 shows that there would be a $122

application deposit required for the median residential project. There would be a $4,000 application deposit required for the 200 kW commercial project.

**Table 6**
**Application Deposit Required for Projects**

| Construction type | Project size in kW | Project size in watts | Application deposit for project at 2 cents per watt |
|---|---|---|---|
| Residential | 6.1 | 6,100 | $122 |
| Commercial | 200.0 | 200,000 | $4,000 |

The recent report on photovoltaic system pricing trends published by the U.S. Department of Energy also discusses the historical, recent, and near-term pricing of solar projects.[8] Project cost information was obtained on more than 400,000 systems in 42 states. The modeled system prices identified in the report showed a Q1 2015 residential system price of $3.12/watt and a commercial 200 kW system cost of $2.17/watt. These were reductions in price of from Q4 2013 of 7% and 19% respectively. The report also indicates that prices for residential and commercial PV systems have decreased by 6-12% per year, on average, from 1998-2014. In addition, the report indicates that analysts project the system prices will fall 16-33% for residential systems between 2014-2020.

Table 7 projects residential solar project costs. Projections are made to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 7 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $3,000/kW for residential solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 6.1 kW residential project is estimated at $18,300.

**Table 7**
**Residential Solar Project Estimate**

| | Cost of Residential project per kW | Cost of Residential project at 6.1 kW project size |
|---|---|---|
| CY 2015 | $3,120 | $19,032 |
| CY 2016 | $3,039 | $18,538 |
| CY 2017 | $2,960 | $18,056 |
| average cost of CY16 and CY17 estimates | $3,000 | $18,300 |

The modeled commercial system price identified in the report showed a Q1 2015 commercial 200 kW system cost of $2.17/watt. However, the national average cost of commercial projects is affected by states with more mature solar markets and industries and large companies, like Wal-Mart and Ikea, that have moved to install significant solar projects on their facilities. The first Missouri commercial systems are less likely to meet the $2.17/watt cost projections. Table 8 uses other data in the report to amend the estimate of commercial solar project costs. The report shows that the price of the modeled 200 kW commercial system has fallen from $2.68/watt to $2.17 between 2013 Q4 and 2015 Q1. The mid-point of that decrease is $2.425/watt. Further, it is assumed that the cost of Missouri projects will be higher by 2.6%, or one-year's worth of the low end of the price declines found in the report. The result is that this analysis will assume that the Missouri 2015 Q1 price is $2.488/watt.

**Table 8**
**Commercial Solar Project Cost Estimate per kW**

| | |
|---|---|
| 2013 Q4 | $2,680 |
| 2015 Q5 | $2,170 |
| Mid-point | $2,425 |
| One-year behind (2.6%) | $2,488 |

Table 9 then projects the $2,488/kW 2015 Q1 cost to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 9 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $2,392/kW for commercial solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 200 kW commercial project is estimated at $478,400.

**Table 9**
**Commercial Solar Project Estimate**

| | Cost of Commercial project per kW | Cost of Commercial project at 200 kW project size |
|---|---|---|
| CY 2015 | $2,488 | $497,600 |
| CY 2016 | $2,423 | $484,600 |
| CY 2017 | $2,360 | $472,000 |
| average cost of CY16 and CY17 estimates | $2,392 | $478,400 |

The analysis so far has identified:

- a $79 million estimate of the maximum clean energy tax credits using one percent of the annual statewide Missouri revenue of Missouri retail electric suppliers as directed by paragraph 1 of the proposed section 386.1000.
- an estimate that 40% of total solar construction would be residential and 60% commercial
- project cost estimates of $18,300 for 6.1 kW residential projects and $478,400 for 200 kW commercial projects

The final factor to calculate before arriving at the amount of application deposit revenue is any phase-in period as the Department of Economic Development issues rules and prepares its processes and the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available. The Missouri State Energy plan reports that Missouri currently has 111 MW of installed solar PV capacity. The plan also reports that there is 42.8 MW of installed net-metered PV solar developed over the years largely as a result of rebates from large utility companies in Missouri.

The proposal being analyzed establishes a statutory program of clean energy tax credits that will sunset after the Department of Economic Development certifies that 1,000 MW of capacity has been added as a result of the tax credits but no later than June 30, 2022. The 1,000 MW target represents a dramatic increase in current capacity.

The Missouri State Energy plan provides a wealth of information about the current state of "green jobs" and the solar industry in Missouri. The report includes the following along with other findings about the industry.

- Missouri had over 100,000 "green jobs" according to a 2009 study.[9]
- Missouri was identified as 10th in the nation for growth in clean energy and clean transportation jobs in 2013.[10]

- $187 million was invested by Missouri's solar industry in 2014 to install solar photovoltaic systems for residential, commercial, and utility use.[11]
- There are more than 97 solar companies at work throughout the supply chain in Missouri, employing 2,500 people including manufacturers, contractors, installers, project developers, distributors.[12]
- Missouri could create 8,500 new jobs to design, install, and operate energy efficiency measures by 2025 according to a 2011 study.[13]
- In 2010 Missouri ranked 6th in the nation in photovoltaic jobs.[14]

The clean energy tax credit does not sunset until the 1,000 MW target of additional capacity is met but no later than June 30, 2022. The size and the long-term nature of the 1,000 MW target should encourage the development of the Missouri solar industry even after it sunsets. It should also result in long-term planning and the build out of a native Missouri solar industry. The target also provides an incentive for the industry to meet the growth potential described in the Missouri State Energy Plan.

In the long-term the impact of the 1,000 MW target will grow and build the industry. In addition, investment in solar will allow longer term benefits in reduced fuel usage, cleaner air, better health and the resulting lower costs among other things. The Missouri State Energy Plan identifies the public health impacts of various energy sources with clean energy sources providing significant positive benefits over other sources.[15] A 2013 study of Hawaii's solar tax credit program found that the State recovered the full cost of the tax credit in 9 to 11 years - a rate of return on its investment ranging from 8.9% to 10.3%.[16] In addition, the study found that for each dollar spent by Hawaii on tax credits the amount of additional sales stimulated was $34.69 for residential solar PV and $55.03 for commercial PV.

However, the fiscal note format required for initiative petitions focuses on the short-term revenue and costs. Thus, the longer-term benefits are not included in this fiscal analysis. As explained elsewhere in this fiscal analysis the impact of the availability of tax credits is somewhat dependent upon the speed with which the Department of Economic Development issues the necessary rules and regulations, develops and makes available the application forms, and the industry's reaction to voter approval and the department's actions. Thus, two alternatives are calculated to create a possible range for the likely outcome in the short-term.

The first alternative assumes that construction will be sufficient to use half of the $79 million in possible tax credits. The first alternative assumes that the program is not implemented until July 2017 thus reducing its effect by half in CY 2017. The second alternative assumes that construction will be sufficient to use all of the $79 million in possible tax credits. The second alternative assumes that the industry is energized by the tax credit and pushes forward with construction under the assumption that the Department of Economic Development will recognize all projects that have been started after voter approval of the proposal.

Table 10 takes that information and shows two possible alternatives for CY 2017.

- Construction leading to use of **half** the available tax credits ($39.5 million) - A total of $112.8 million in construction would be required to generate $39.5 million in tax credits. Residential construction of $45.1 million (assuming 40% of construction) would result in $15.8 million in tax credits. Commercial construction of $67.7 million (assuming 60% share of construction) would result in $23.7 million in tax credits.

- Construction leading to use of **all** the available tax credits ($79 million) - **A total of $225.7 million in construction would be required to generate $79 million in tax credits**. Residential construction of $90.3 million (assuming 40% of construction) would result in $31.6 million in tax credits. Commercial construction of $135.4 million (assuming 60% share of construction) would result in $47.4 million in tax credits.

In addition, using the average cost and size of projects it is possible to compute the number of residential and commercial projects that will be constructed. A total of 2,608 projects would be constructed with half

the tax credits (2,466 residential, 142 commercial). A total of 5,216 projects would be constructed with all the tax credits (4,933 residential, 283 commercial).

**Table 10**
**Number of Projects using Half or All of Tax Credit Cap**

| | CY 2017 construction needed for half of tax credits to be used in FY 2018 | CY 2017 construction needed for all of tax credits to be used in FY 2018 |
|---|---|---|
| Tax credits estimate from CY 2017 construction | $39,494,829 | $78,989,658 |
| Amount of construction value needed to generate value of 35% tax credits | $112,842,369 | $225,684,737 |
| | | |
| % of residential per year of credits issued | 40.0% | 40.0% |
| % of commercial per year of credits issued | 60.0% | 60.0% |
| | | |
| Tax credits by type of construction | | |
| Residential | $15,797,932 | $31,595,863 |
| Commercial | $23,696,897 | $47,393,795 |
| Total amount by type | $39,494,829 | $78,989,658 |
| | | |
| Construction value by type of construction | | |
| Residential | $45,136,948 | $90,273,895 |
| Commercial | $67,705,421 | $135,410,842 |
| Total amount by type | $112,842,369 | $225,684,737 |
| | | |
| Cost of solar projects per project | | |
| Residential (6.1 kW/project) | $18,300 | $18,300 |
| Commercial (200 kW/project) | $478,400 | $478,400 |
| | | |
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |

Table 10 shows a significant number of projects that would be completed throughout the state as a result of the clean energy tax credit. These numbers are possible for a variety of reasons identified in the Missouri State Energy Plan.

- Missouri households use about 12% more than the average U.S. household, thus projects would put real dollars into Missourians pockets for other uses and spending.[17]
- Nationally about ten percent of small business owners state that energy is their single biggest cost according to the National Federation of Independent Business. The same report indicates that an additional 25% of small business owners claim that energy is one of their top three business costs.[18] Thus, clean energy projects that reduce energy usage make businesses more profitable, allow for expansion, and could lead to higher wages for employees.
- Businesses can lower costs through on-site generation while also achieving other benefits.[19]
- Significant operational savings are possible through energy efficiency projects with rates of return as high as 25%.[20]

- A wealth of financing alternatives now exist for clean energy projects.[21]
- "Approximately 60% of the largest U.S. businesses have set public climate and energy goals to increase their use of renewable energy."[22]

Table 11 calculates the amount of application deposit revenue that the Department of Economic Development would receive given the number of projects identified in Table 10. If applications are submitted for projects equivalent to half the available tax credits then the department would receive $0.9 million in application deposit revenue. If applications are submitted for projects equivalent to all the available tax credits then the department would receive $1.7 million in application deposit revenue.

**Table 11**
**Application Deposit Revenue**

| | Application Deposit Estimate for half of tax credits for applications FY 2018 | Application Deposit Estimate for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |
| | | |
| Application deposit required per project | | |
| Residential | $122 | $122 |
| Commercial | $4,000 | $4,000 |
| | | |
| Application deposit revenue | | |
| Residential | $300,852 | $601,826 |
| Commercial | $568,000 | $1,132,000 |
| Total amount by type | $868,852 | $1,733,826 |

Table 12 shows the amount of solar capacity added by the number of projects identified in the previous tables given the given size of residential and commercial projects. A total of 43.4 MW would be added in solar capacity as a result of projects equivalent to half the available tax credits which would be 4.3% of the 1,000 MW goal that when achieved will sunset the tax credits. A total of 86.7 MW would be added in solar capacity as a result of projects equivalent to all the available tax credits which would be 8.7% of the 1,000 MW goal that when achieved will sunset the tax credits.

**Table 12 Amount of Solar Capacity Added**

| | Capacity added for half of tax credits for applications FY 2018 | Capacity added for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 2,466.00 | 4,933.00 |
| Commercial | 142.00 | 283.00 |
| Total amount by type | 2,608 | 5,216 |
| | | |
| kW generated by construction | | |
| Residential (6.1 kW/project) | 15,043 | 30,091 |
| Commercial (200 kW/project) | 28,400 | 56,600 |
| Total amount by type | 43,443 | 86,691 |
| | | |
| MW generated by construction | | |
| Residential | 15.0 | 30.1 |
| Commercial | 28.4 | 56.6 |
| Total amount by type | 43.4 | 86.7 |
| | | |
| % of 1,000 MW goal achieved | 4.3% | 8.7% |

**Taxes**

As noted on pages 10-11 of this fiscal analysis, the Missouri State Energy Plan published in October 2015 describes the current capacity, industry size, and investments being made in Missouri. The plan also describes the potential for jobs and economic development in the state. The 1,000 MW target represents a dramatic increase in current capacity. The following analysis assumes that due to the dramatic size of the 1,000 MW target that the investments driven by the clean energy tax credits will result in new jobs and industry expansion.

Table 13 shows the cost components of a solar construction project. Labor is assumed to be 35% of the project costs, materials 40%, and Profit 10%. It is assumed that 15% of the project cost is overhead and it is assumed that no taxes would be applied. Since Missouri already has a base of manufacturers and distributors it is assumed that all materials will be Missouri taxed.

**Table 13**
**Construction Project Components, Tax Type, and Tax Rate**

| Project components | % of job | Missouri tax rate | Type tax |
|---|---|---|---|
| Labor | 35.0% | 6.00% | Income tax |
| Materials and local materials | 40.0% | 4.225% | Sales |
| Profit | 10.0% | 6.25% | Corporate |
| Overhead | 15.0% | 0.00% | N/A |
| subtotal by taxable type | 100.0% | | |

Table 14 computes the state and local taxes based on the value of construction and the project components and tax rates shown in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $4.4 million to $8.9 million in FY 2018. The other three state funds (Prop C, Conservation, Parks/Soils) are estimated to receive between $0.6 million to $1.1 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $1.75 million to $3.5 million in local sales tax revenue in FY 2018.

**Table 14**
**State and Local Taxes Generated by Construction**

| | Half of tax credits used - CY 2017 | All of tax credits used - CY 2017 |
|---|---|---|
| Amount of construction value needed to generate value of 35% tax credits | $112,842,369 | $225,684,737 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $39,494,829 | $78,989,658 |
| Materials and local materials | $45,136,947 | $90,273,895 |
| Profit | $11,284,237 | $22,568,474 |
| subtotal by taxable type | $95,916,013 | $191,832,027 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $2,369,690 | $4,739,379 |
| Materials and local materials - Sales/Use Tax | $1,354,108 | $2,708,217 |
| Profit - General Revenue Corporate Tax | $705,265 | $1,410,530 |
| subtotal GR | $4,429,063 | $8,858,126 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $451,369 | $902,739 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $56,421 | $112,842 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $45,137 | $90,274 |
| subtotal State Taxes | $4,981,991 | $9,963,981 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $1,751,314 | $3,502,627 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $6,733,304 | $13,466,608 |

The taxes generated from the construction activity shown in Table 14 likely underestimate the state revenue that will be generated by the construction of clean energy projects even within the short time period allowed in the fiscal note. As noted earlier there are multiplier effects that ripple through the economy. The Department of Economic Development through MERIC has a sophisticated model that it uses to evaluate the impact of tax credits and other business investments made in the State of Missouri. Using the information in this fiscal analysis MERIC should be able to provide supplementary information regarding the extra economic activity and increased revenues.

Similarly, generating additional clean energy within the State of Missouri will result in a decrease in the importation of power and energy producing raw materials from other states. Such money leakage from the state, businesses and citizens, decreases the amount of purchasing could be done for other purposes such as increased jobs within the state and thus the tax revenues that would be generated. For example, the Missouri State Energy Plan notes that Missouri is the sixth largest consumer of coal in the country and 92.5% of the coal used in 2013 was imported from Wyoming.[23] The plan reports that the state sends billions of dollars out of state for purchases of imported coal, natural gas, and transportation fuels.[24]

**Community Solar Act** - Applies to Versions 10, 12, 13, 14, 16, and 18
The Community Solar Act, section 386.910 of the proposal, directs the Missouri Public Service Commission to establish rules allowing customers to participate in a “community solar facility.” Community solar facilities allow participants to benefit from solar energy and receive electric bill credits substantially similar to net metering.

Paragraph 3 of that section states that the "aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous fiscal year." Table 15 shows the total peak demand data compiled by the Public Service Commission for the four utilities affected by this section. The report shows that using peak demand leads to a cap of 504.5 MW on the amount of aggregated capacity of community solar facilities statewide.

**Table 15 - Peak Demand for Community Solar**

| Utility Name | Peak Demand |
|---|---|
| Union Electric Co - (MO) | 7,713.0 |
| Kansas City Power & Light Co | 1,878.0 |
| KCP&L Greater Missouri Operations Co. | 1,860.0 |
| Empire District Electric Co | 1,162.0 |
| Total | 12,613.0 |
| 4% overall cap | 504.5 |

Paragraph 2 of that section defines a community solar facility as a photovoltaic electric generation facility with a capacity of between 100 and 1,000 kW. For purposes of this fiscal note it is assumed that all community solar projects will be the same as the 200 kW project limit established in the clean energy tax credit language of 386.1000. In Table 12 above a low and high range was calculated for the percentage of solar capacity added through the tax credits based on the expectations of the phase-in necessary for the Department of Economic Development's implementation of the clean energy tax credits. The same percentage is used - 4.3% low range and 8.7% higher range. Similarly, for the purposes of this fiscal note the cost per kW will be $2,392 for a total project cost of $478,400 as shown in Table 9.

Table 16 shows the data and calculations needed to identify the number of projects. At the low end of the range 21.7 MW of added community solar capacity would be created which would require 108 projects of 200 kW. At the higher range 43.9 MW of added community solar capacity would be created which would require 219 projects of 200 kW.

Table 16 also shows that at an average project cost of $478,400 the low range results in $51.7 million in construction spending. The higher range results in $104.8 million in construction spending.

**Table 16**
**Community Solar Capacity and Projects**

| | Low Range | Higher Range |
|---|---|---|
| Assumed % of aggregate capacity | 4.3% | 8.7% |
| Added capacity - MW | 21.69 | 43.89 |
| Added capacity - kW | 21,694.36 | 43,893.24 |
| # projects at commercial 200 kW per project | 108 | 219 |
| Construction cost - commercial project per 200 kW project | $478,400 | $478,400 |
| Construction value | $51,667,200 | $104,769,600 |

Table 17 computes the state and local taxes based on the value of construction and the project components and tax rates shown earlier in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $2.0 million to $4.1 million in FY 2018. The other three state funds (Prop C, Conservation, Parks/Soils) are estimated to receive between $0.2 million to $0.5 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $0.8 million to $1.6 million in local sales tax revenue in FY 2018.

**Table 17**
**State and Local Taxes Generated by Construction of Community Solar Projects**

| | Low range | Higher range |
|---|---|---|
| Amount of construction value needed to generate estimated MW | $51,667,200 | $104,769,600 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $18,083,520 | $36,669,360 |
| Materials and local materials | $20,666,880 | $41,907,840 |
| Profit | $5,166,720 | $10,476,960 |
| subtotal by taxable type | $43,917,120 | $89,054,160 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $1,085,011 | $2,200,162 |
| Materials and local materials - Sales/Use Tax | $620,006 | $1,257,235 |
| Profit - General Revenue Corporate Tax | $322,920 | $654,810 |
| subtotal GR | $2,027,938 | $4,112,207 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $206,669 | $419,078 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $25,834 | $52,385 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $20,667 | $41,908 |
| subtotal State Taxes | $2,281,107 | $4,625,578 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $801,875 | $1,626,024 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $3,082,982 | $6,251,602 |

**Net metering bills** - Applies to Versions 10, 11, 12, 13, 14, 17 and 18
The Missouri General Assembly has considered six net metering bills over the past three legislative sessions. Table 18 below identifies the bills and provides links to the fiscal note and bill summary prepared for each bill. All of the fiscal notes prepared and available indicated that there was no state impact from the net metering bills.

**Table 18**
**NET METERING**
**2013, 2014, AND 2015 LEGISLATIVE SESSIONS**

| Session | Bill | Sponsor | Fiscal Note Impact | Fiscal Note Summary Link | Bill Summary Link |
|---|---|---|---|---|---|
| 2015 | SB 75 | Holsman | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0622-01N.ORG.pdf | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=82&BillID=174 |
| 2015 | SB 509 | Holsman | No impact | N/A | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=664&BillID=4599469 |
| 2015 | HB 481 | Berry (38) | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0502-01N.ORG.pdf | http://house.mo.gov/billtracking/bills151/sumpdf/HB0481C.pdf |
| 2014 | HB 1795 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER14/fishtm/5552-02N.ORG.htm | http://house.mo.gov/billtracking/bills141/sumpdf/HB1795I.pdf |
| 2013 | HB 119 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/0794-02N.ORG.htm | http://house.mo.gov/billtracking/bills131/sumpdf/HB0119I.pdf |
| 2013 | SB 396 | Holsman | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/1078-07N.ORG.htm | http://www.senate.mo.gov/13info/BTS_Web/Bill.aspx?SessionType=R&BillID=19218703 |

**Electric Vehicle Charging Stations** - Applies to Versions 12, 13, 14, 16, and 17
The petition authorizes investor-owned utilities to recover costs for infrastructure investments in electric vehicle charging stations, provided the energy output from the stations is offset in part by clean energy. There should be no fiscal impact to the state. Utility investment in electric charging stations will result in positive economic activity similar to other capital investments. However, the range of the benefits is unknown at this time.

ENDNOTES

[1] U.S. Energy Information Administration: *Table 10: All Sectors - Class of ownership, number of consumers, sales, revenue, and average retail price by State and utility*
http://www.eia.gov/electricity/sales_revenue_price/

[2] U.S. Energy Information Administration: *Supplemental Data: 1990 - 2013 Revenue from Retail Sales of Electricity by State by Sector by Provider (EIA-861)*
http://www.eia.gov/electricity/sales_revenue_price/

[3] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25
https://energy.mo.gov/energy/docs/MCSEP.pdf

[4] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25-26
https://energy.mo.gov/energy/docs/MCSEP.pdf

[5] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[6] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 200
https://energy.mo.gov/energy/docs/MCSEP.pdf

[7] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 5
http://www.nrel.gov/docs/fy15osti/64898.pdf

[8] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 4
http://www.nrel.gov/docs/fy15osti/64898.pdf

[9] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 172
https://energy.mo.gov/energy/docs/MCSEP.pdf

[10] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 173
https://energy.mo.gov/energy/docs/MCSEP.pdf

[11] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[12] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[13] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 174
https://energy.mo.gov/energy/docs/MCSEP.pdf

[14] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 175
https://energy.mo.gov/energy/docs/MCSEP.pdf

[15] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 190-191, 193, 195-199, 201, 203
https://energy.mo.gov/energy/docs/MCSEP.pdf

[16] Thomas A Loudat, Blue Planet Foundation. "*The Economic and Fiscal Effects of Hawaii's Solar Tax Credit*" - January 2013.
http://blueplanetfoundation.org/renewable-energy-tax-credit-2013.html?highlight=WyJsb3VkYXQiXQ==

[17] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 154
https://energy.mo.gov/energy/docs/MCSEP.pdf

[18] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 165 for both sentences in this bullet point
https://energy.mo.gov/energy/docs/MCSEP.pdf

[19] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[20] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[21] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[22] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 178
https://energy.mo.gov/energy/docs/MCSEP.pdf

[23] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 20-21
https://energy.mo.gov/energy/docs/MCSEP.pdf

[24] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 42
https://energy.mo.gov/energy/docs/MCSEP.pdf

**Edward D, Greim** provided the following information as an opponent of this initiative petition.

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December 28, 2015

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Re: *Fiscal Note in Initiative Petitions 2016-173 through 2016-180 and 2016-190*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petitions 173, 175, 177, and 180:

> Lost revenue to state government is $498 million over the tax credit period, with annual losses of $9.5 million to $11.5 million thereafter. Lost revenue to local government is $189.1 million over the tax credit period, with annual losses of $31.5 million to $33.9 million thereafter.

We propose the following fiscal note summary for petition 174:

> Lost revenue to state government is $320.9 million over the tax credit period, with annual losses of $5.6 million to $9.6 million thereafter. Lost revenue to local government is $100.9 million over the tax credit period, with annual losses of $20 million to $28.1 million thereafter.

We propose the following fiscal note summary for petition 176:

> Lost revenue to state government is $328.8 million over the tax credit period, with annual losses of $7.5 million to $11.5 million thereafter. Lost revenue to local government is $175.3 million over the tax credit period, with annual losses of $32.4 million to $40.5 million thereafter.

We propose the following fiscal note summary for petition 178:

> Lost revenue to state government is $475.8 million over the tax credit period, with annual losses of $5.7 million to $7.7 million thereafter. Lost revenue to local government is $40.4 million over the tax credit period, with annual losses of $11.5 million to $15.7 million thereafter.

We propose the following fiscal note summary for petitions 179 and 190:

> Lost revenue to state government is $483.7 million over the tax credit period, with annual losses of $7.6 million to $9.6 million thereafter. Lost revenue to local government is $114.8 million over the tax credit period, with annual losses of $23.9 million to $28.1 million thereafter.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments. These taxes, however, will no longer be collected for electricity that is never sold due to the customer-generator production and community solar encouraged by the initiative petitions. Petition signers and voters must be informed of the certainty that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume. On the other hand, any positive fiscal impacts of the initiative petitions are speculative.

**Description of Policy**

Initiative Petitions 173 – 180 and 190 contains one or more of three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of the "Community Solar Act"; and (3) A state tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, or certain natural gas technologies.

1. Changes to Net Metering for Investor-owned electric utilities and municipal electric utilities, and, in 177, rural electric cooperatives
    A. Raise net metering cap to 7% (is currently 5%);
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);



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D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

2. Community Solar Act
   A. The Missouri Public Service Commission ("PSC") adopts rules and regulations allowing groups of 5 or more electrical corporation customers to offset energy usage with solar located in the service territory of the electrical corporation where they have an account;
   B. Facilities are 100 kilowatts to 1 megawatt;
   C. Community solar facilities may, in total, generate electricity of 4% or less of single-hour peak load, but that amount does not count toward net metering; Electrical corporations can own half (max of 2%), which may be included in the rate base. Others may own the other half (max of 2%);
   D. Community Solar facilities are not eligible for tax credits provided in the petition;
   E. Commission sets a community solar rate, not less than electrical corporation's average retail rate;
   F. Value of allocated solar bill credits reduces customer's total bill;
   G. The current value-of-community-solar rate may be locked in for 20 years beginning when a community solar facility is put in operation.

3. Tax credit
   A. 35% tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, etc.
   B. Total value of eligible credits shall not exceed 1% of the value of electricity used in Missouri[1] – defined as revenue from sale of electricity in Missouri; or tax credits are capped at$50 million each year. Unused credits carryover year to year until June 30, 2022
   C. No tax credits after June 30, 2022, or after 1000 megawatts of new generation have been installed using the tax credits.

**Burdens on State Government**

In determining the fiscal impact of each petition, it is generally reasonable to assume that the various statutory changes in the petitions will have independent fiscal impacts. The reasonableness of this assumption is demonstrated by the various iterations of the petitions themselves, some of which propose tax credits with no proposed changes to the Net Metering and Easy Connection Act. *See* Petitions 178 and 190.

[1] The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. *See* U.S. Energy Information Administration – Independent Statistics and Analysis.



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*i. Decreased tax collection due to changes to net metering – Initiative Petitions 173-177 and 179-180*

Raising the net metering cap from the current 5% of peak hour demand to 7% of peak hour demand will, conservatively, result in a 2% decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase from 5% to 7%. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in the petition provides a strong financial incentive to solar or wind energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[2], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, the net-metering cap applies to single-hour peak load, determined yearly, which means that the cap is a higher percentage of the single hour average load. This fact means that the total increase in generation is higher than it appears. Fourth, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[3] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by at least $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities. The additional decreases in sales tax revenues from municipal electric utilities and, in petition 177, from electric cooperatives, are unknown but substantial.[4]

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 173, 175-177, 180, and 190*

Community solar facilities are in addition to net metering and represent an additional capacity amounting to 4% of each electrical corporation's single-hour peak load. Energy

[2] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[3] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.
[4] Assuming $7.6 billion in electricity is sold in Missouri per year (the actual 2014 figure), a 2% decrease will decrease overall state sales tax revenues by 6.4 million annually, but some petitions enact net metering changes on rural electric cooperatives, and some do not.



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generated from the community solar facility is allocated pro rata by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. There is the potential for such bill credits to decrease overall electrical bills by more than 4% because the "bill credits" are calculated using a "value of solar rate" which is at least as high as the retail rate for electricity, but may be higher. If, for example, solar energy received a 50% rate premium due to its benefits, the amount of bill credits would increase and sales would decrease by more than the 6%, rather than 4% figure. Half of these community solar facilities—the half not owned by electrical corporations—may be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoid property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership model, similar to net metering, because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%).

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by at least $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities.

*iii. Tax credits – Initiative Petitions 173-180 and 190*

*a. Decreased tax collections due to tax credits – Credits capped at 1% of value of electricity sold in Missouri, annually ($76 million based on 2014 figures) – Initiative Petitions 173, 175, 177-180, and 190*

According to 2014 figures, Missouri retail customers bought 7.6 billion dollars worth of electricity in 2014. Accordingly, it is reasonable for fiscal note purposes to estimate that Missouri retail customer will continue to buy the same value of electricity. Electricity rates have historically risen over time, but the increasing price of electricity may be approximately the same over the relevant period as the decreases in quantity as a result of the initiative petitions. Accordingly, the 35% tax credits in these petitions will directly result in a loss of state income of approximately $76 million, annually.

*b. Decreased tax collections due to tax credits – Credits capped at $50 million annually – Initiative Petitions 174 and 176*

Similar to the loss described in subpart a, the 35% tax credits in these petitions will directly result in a loss of state income of approximately $50 million, annually.



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*c. Cost of eroding tax base due to new energy generation – Initiative Petitions 173-180 and 190*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer-generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in Missouri. Accordingly, if the tax credits were phased out due to reaching the 1000 MWh/1,000,000 kWh maximum on new electricity generation, new production from such tax credits would produce approximately 1,825,000 MWh per year, also expressed as 1,825,000,000 KWh, or 1,825 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour [5], this new production is valued at $182,500,000.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

In practice, the 1 gigawatt limit on new customer-generated energy production may never be met. Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[6] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for renewable energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology. The petition itself limits tax credits to a maximum of $3.00 per watt, but market forces should make rates in Missouri similar to those in other states, at or around $1.77.

For Initiative Petitions 173, 175, 177-180, and 190, the total, annual loss to state governments *due to the tax credits* is 76.9 million to 81.7 million over the tax credit period. There is an annual loss in perpetuity after the tax credit period of 5.7 to 7.7 million, depending on how much new customer-generation is developed. See attached table.

For Initiative Petitions 174 and 176, the total, annual loss to state governments *due to the tax credits* is 50.6 million to 53.7 million over the tax credit period. There is an annual loss in

[5] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.

[6] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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perpetuity after the tax credit period of 3.7 to 7.7 million, depending on how much new customer-generation is developed. *See* attached table.

**Burdens on Local Governments**

Local governments face losses in revenue from the various petition provisions that are similar to those faced by state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 173-177 and 179-180*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 173, 175-177, 180, and 190*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*iii. Tax credits – Cost of eroding tax base due to new energy generation – Initiative Petitions 173-180 and 190*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petitions may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to



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local governments, all of which may be reduced or discontinued if the initiative petitions are enacted.

The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[7] Based on this estimate, the population-weighted combined average local sales tax is 3.585%. Assuming the tax credits sunset due to reaching the 1 Gigawatt production cap, the yearly loss to local governments from lost sales tax from the tax credit is $6,541,578. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,123,540.

For petitions 173, 175, 177-180, and 190, the loss to local governments due to the tax credits is at least $40.4 million over the tax credit period, then $11.5 to $15.7 million annually. For initiative petitions 174 and 176, the loss to local governments due to the tax credits is at least $26.6 million over the tax credit period, then $7.5 to $15.7 million annually.

**In Conclusion**

The initiative petitions will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petitions, such as increases in net metering and community solar. The total tax burden on state government imposed by the petitions range from $313 million over the tax credit period, with $3.7 to $7.7 million in lost revenues in perpetuity, to approximately $498.6 million over the tax credit period,[8] with $9.5 million to 11.5 million in lost revenues in perpetuity thereafter.

Sincerely,

Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues

[7] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.
[8] $475.8 million + [(1.9 million + 1.9 million)*6 years]



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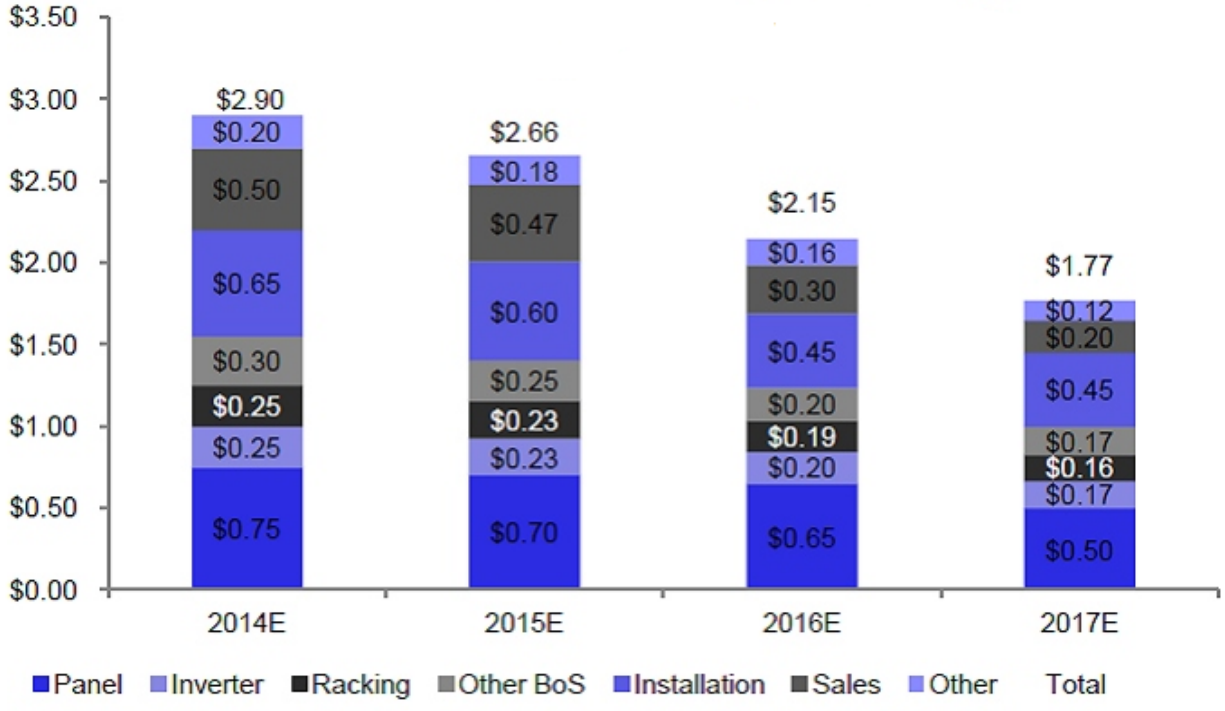
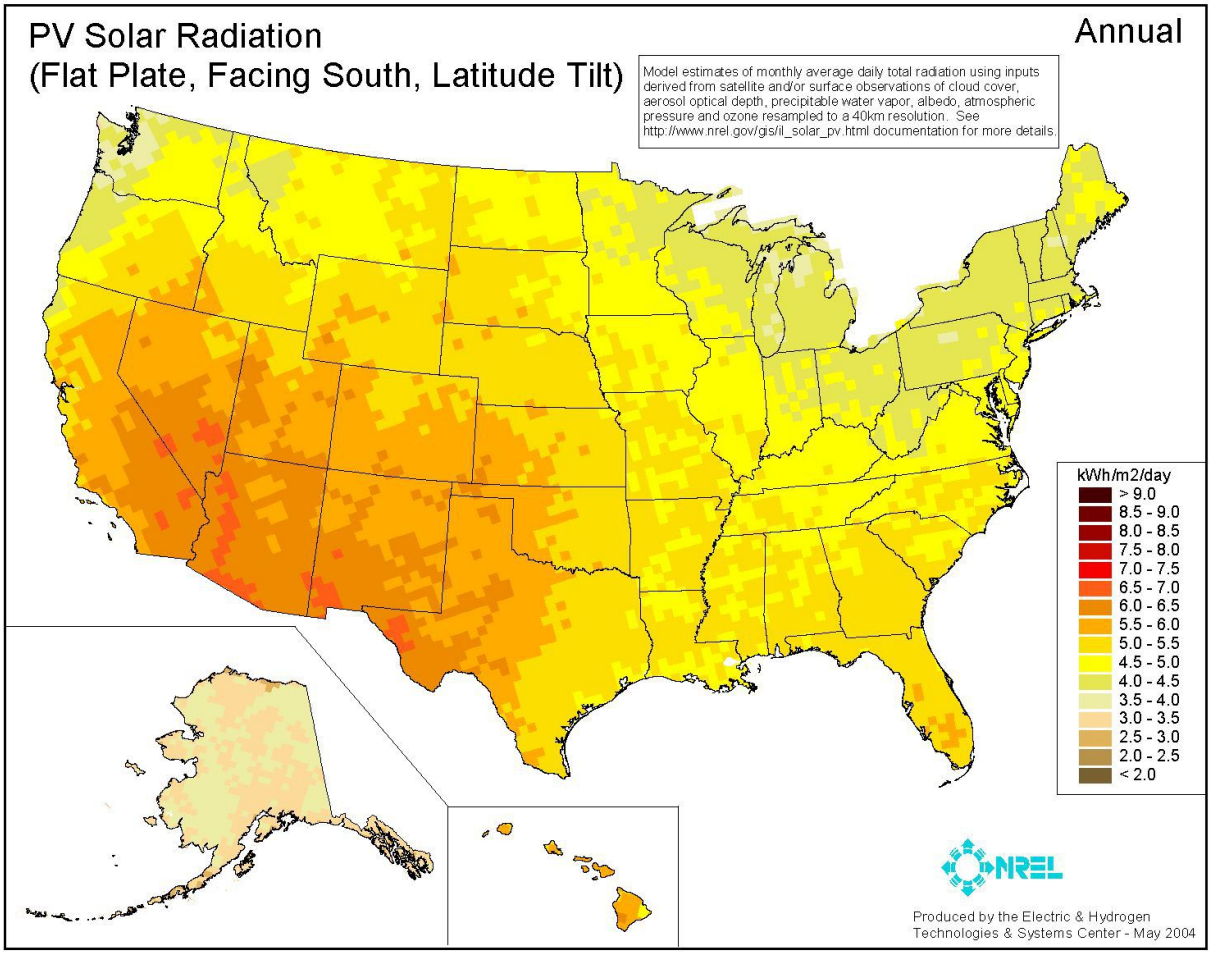
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0

Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017

https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm



National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Brightergy Renewable Tax Credit Fiscal Analysis (1% Value of Electricity Cap) - Initiative Petitions 173, 175, 177-180, and 190**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 122.68 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $76,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 223,854 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $76,000,000 | 122.68 | 122.68 | 223,854 | $100 | $22,385,441 | 4.225% | $945,785 | $76,945,785 | 3.585% | $802,518 | 5.000% | $1,119,272 | $1,921,790 |
| 2018 | $76,000,000 | 122.68 | 245.36 | 447,709 | $100 | $44,770,882 | 4.225% | $1,891,570 | $77,891,570 | 3.585% | $1,605,036 | 5.000% | $2,238,544 | $3,843,580 |
| 2019 | $76,000,000 | 122.68 | 368.04 | 671,563 | $100 | $67,156,323 | 4.225% | $2,837,355 | $78,837,355 | 3.585% | $2,407,554 | 5.000% | $3,357,816 | $5,765,370 |
| 2020 | $76,000,000 | 122.68 | 490.72 | 895,418 | $100 | $89,541,765 | 4.225% | $3,783,140 | $79,783,140 | 3.585% | $3,210,072 | 5.000% | $4,477,088 | $7,687,160 |
| 2021 | $76,000,000 | 122.68 | 613.40 | 1,119,272 | $100 | $111,927,206 | 4.225% | $4,728,924 | $80,728,924 | 3.585% | $4,012,590 | 5.000% | $5,596,360 | $9,608,951 |
| 2022 | $76,000,000 | 122.68 | 736.08 | 1,343,126 | $100 | $134,312,647 | 4.225% | $5,674,709 | $81,674,709 | 3.585% | $4,815,108 | 5.000% | $6,715,632 | $11,530,741 |
| | | | | | | | | **Total State Tax Burden** | **$475,861,483** | | **Total Local Tax Burden (Sales + Franchise)** | | **$40,357,593** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

**Brightergy Renewable Tax Credit Fiscal Analysis (50 Million Tax Credit Cap) - Initiative Petitions 174 and 176**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 80.71 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $50,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 147,273 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $50,000,000 | 80.71 | 80.71 | 147,273 | $100 | $14,727,264 | 4.225% | $622,227 | $50,622,227 | 3.585% | $527,972 | 5.000% | $736,363 | $1,264,336 |
| 2018 | $50,000,000 | 80.71 | 161.42 | 294,545 | $100 | $29,454,528 | 4.225% | $1,244,454 | $51,244,454 | 3.585% | $1,055,945 | 5.000% | $1,472,726 | $2,528,671 |
| 2019 | $50,000,000 | 80.71 | 242.13 | 441,818 | $100 | $44,181,792 | 4.225% | $1,866,681 | $51,866,681 | 3.585% | $1,583,917 | 5.000% | $2,209,090 | $3,793,007 |
| 2020 | $50,000,000 | 80.71 | 322.84 | 589,091 | $100 | $58,909,056 | 4.225% | $2,488,908 | $52,488,908 | 3.585% | $2,111,890 | 5.000% | $2,945,453 | $5,057,342 |
| 2021 | $50,000,000 | 80.71 | 403.55 | 736,363 | $100 | $73,636,320 | 4.225% | $3,111,135 | $53,111,135 | 3.585% | $2,639,862 | 5.000% | $3,681,816 | $6,321,678 |
| 2022 | $50,000,000 | 80.71 | 484.26 | 883,636 | $100 | $88,363,584 | 4.225% | $3,733,361 | $53,733,361 | 3.585% | $3,167,834 | 5.000% | $4,418,179 | $7,586,014 |
| | | | | | | | | **Total State Tax Burden** | **$313,066,765** | | **Total Local Tax Burden (Sales + Franchise)** | | **$26,551,048** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

**Brent Stewart** provided the following information as an opponent of this initiative petition.

**Association of Missouri Electric Cooperatives**

2722 East McCarty Street, P.O. Box 1645
Jefferson City, Missouri 65102
Telephone: (573) 635-6857
Fax: (573) 635-2314
www.amec.coop

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DEC 28 2015
STATE AUDITORS OFFICE

December 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: Fiscal Note in Initiative Petitions 2016-173 through 2016-190

To Whom It May Concern:

The Association of Missouri Electric Cooperatives (AMEC), representing the state's forty-seven member-owned, nonprofit rural electric cooperatives that serve close to one million electric consumers, respectfully submit the following brief comments to assist in your preparation of the fiscal notes on the above-mentioned initiative petitions.

All these petitions, in one way or another, involve solar and renewable energy mandates. The practical effect of each, to one extent or another, is to encourage consumers to substitute self-generation for traditional electric service, thereby creating an unfair electric rate subsidy in favor of those who can afford to install their own generation at the expense of the majority of the other consumers who cannot.

Missouri's forty distribution (retail level) cooperatives serve a wide variety of governmental entities throughout rural Missouri, including state facilities (e.g. prisons), local government facilities, hospitals, schools, rural water districts, regional sewer districts and others. To the extent these entities cannot afford to install their own generation, which most cannot, they necessarily will be forced to pay higher rates if these initiative petitions are enacted. Unfortunately, it is impossible without more time for AMEC to identify all those government-related entities and facilities or estimate with any accuracy the adverse fiscal impact. However, it is clear that even a modest rate increase necessarily will have a significant adverse fiscal impact on governmental entities, in millions of dollars, especially those in the primarily less affluent rural areas served by Missouri's nonprofit electric cooperatives.

Respectfully submitted,

Brent Stewart

Brent Stewart
AMEC Counsel

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State government revenue may decrease up to $456 million during the tax credit period with approximately $1 million annual increased operating costs. Local governmental entities estimate $23.9 million in annual electricity sales reductions. Other resulting economic activity will have an unknown impact on state and local governments.

STATE AUDITOR'S OFFICE
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JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-189

December 18, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andrew Linhares regarding a proposed statutory amendment to Chapter 386, version 9 (2016-189)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andrew Linhares on December 17, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-189

County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

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2016 DEC 17 PM 3:18
SEC. OF STATE

(Official Ballot Title)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
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| 15. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ___(check one) expect to be paid for circulating this petition. If paid, list the payer _____.

_____ Signature of Affiant (Person obtaining signatures)

_____ (Printed Name of Affiant)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201_.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

Be it enacted by the people of the state of Missouri: 16-189

Chapter 386 is amended by adding four new sections, to be known as sections 386.900, 386.910, 386.920, and 386.930, to read as follows:

386.900. Sections 386.900 through 386.930 shall be known as the "Missouri Energy Freedom Act". These sections reflect both the critical role that abundant, affordable, sustainable, and secure supplies of renewable energy have in advancing the economy of the State and the security, health and welfare of its citizens, and the intent of the people to promote the long term sustainability, security, and affordability of energy supply by encouraging the development and utilization of renewable energy by the people of this state. The right of citizens to directly invest in renewable energy sources to meet their own energy needs, while also connecting to the electric grid, shall not be limited more than is necessary to protect the safety and security of the electric grid.

386.910. As used in sections 386.900 through 386.930, the following terms shall mean:

(1) "Aggregated renewable facility metering", a rate and metering arrangement that allows a property owner with multiple utility accounts on one property or adjacent properties or contiguous properties, all of which are served by the same retail electric supplier, such as but not limited to, a group of university or hospital buildings, municipal or other publicly owned premises, a military base, public housing, shopping mall, or farm properties, to install and operate renewable energy facilities that together do not exceed 5 MW in capacity, on such property or on the adjacent or contiguous property, for the primary purpose of offsetting part or all of the electrical energy requirements associated with the utility accounts on such properties, and allocate the related community renewable energy credits among the utility accounts on such property or adjacent or contiguous property;

(2) "Community based renewable facility access", a rate and metering arrangement that allows for multiple retail customers who are located in a community such as, but not limited to, a condominium complex, industrial park, town, or city, to contract, over a minimum 15 year term for energy produced by a renewable energy facility that does not exceed 5 MW in capacity and that is interconnected to the same public utility distribution system that serves the premises of such retail customers, and allocates related community renewable energy credits among such retail customers, provided however that the 5MW limit in capacity shall not prevent multiple renewable energy facilities serving different retail customers from co-locating;

(3) "Community renewable access arrangements", aggregated renewable facility metering, and community-based renewable facility access;

(4) "Community renewable energy credits", either the per kilowatt-hour deduction in the metered usage used by the retail electric supplier to calculate the utility bill of a retail customer that is participating in a community renewable access arrangement, or a financial amount credited to the utility bill of such a retail customer, which shall be calculated by applying a specified amount per kilowatt-hour, determined as set forth in rules adopted by the commission or in the policies of the governing body of a municipal utility or retail electric supplier, to the energy generated by a renewable energy facility on behalf of such customers;

(5) "Renewable energy resources", the same meaning as set forth in subdivision (6) of subsection 2 of section 386.890;

(6) "Renewable energy facility", a facility that produces renewable energy resources;

(7) "Retail electric supplier", the same meaning as set forth in subdivision (7) of subsection 2 of section 386.890;

(8) "Utility account" or "retail customer" means a specific customer account that is receiving service and billed for such service by a retail electric supplier.

386.920. Notwithstanding any provision in this chapter or chapters 393 or 394 to the contrary, the owner or operator of a qualified electric generation unit serving a customer-generator as defined in section 386.890, or of a renewable energy facility that is used in a community renewable access arrangement, that provides renewable energy resources to a retail customer through a power purchase agreement, a sale and leaseback of equipment, or other form of contract between the retail customer and the owner or operator of such qualified electric generation unit or renewable energy facility, shall not be determined by reason of such ownership, operation, contract, or provision of energy, to be an electrical corporation or public utility as those terms are defined in section 386.020, nor shall such owner or operator be precluded from installing, owning or operating the qualified electric unit or renewable energy facility as allowed by section 386.910 or section 386.930 and providing the related renewable energy resources to a customer that is receiving utility service from a retail electric supplier. Nothing in this subsection shall be construed as amending or superseding the commission's authority to ensure safe operation of any electric plant as granted in and pursuant to subsection 1 of section 386.310.

386.930.1. Each retail electric supplier shall offer the interconnection and metering arrangements and community renewable energy credits necessary to facilitate and support the community renewable access arrangements.

2. Within 60 days of the effective date of this section, the commission shall promulgate initial rules to establish the terms and conditions under which the retail electric suppliers regulated under chapter 393, shall be required to interconnect with and support each of the community renewable access arrangements, including the determination of community renewable energy credits to be applied in such arrangements, and shall conclude such proceeding by adopting a proposed rule within 180 days of promulgating the initial rules. Within twelve months of the effective date of this section, the governing body of a municipal utility or rural electric cooperative shall also adopt policies establishing the terms and conditions under which such municipal utilities or rural electric cooperatives shall be required to interconnect with and support each of the community renewable access arrangements, including the determination of community renewable energy credits. Such rules or policies shall provide that retail electric suppliers shall recover the costs of any additional distribution equipment that the retail electric supplier is required to install to accommodate the installation of the renewable energy facility that is

part of a community renewable access arrangement from the owner or operator of such facility or from the customers participating in the community renewable access arrangement. The provisions of subsections 11, 13, 16, and 17 of section 386.890 shall also apply to renewable energy facilities used in community renewable access arrangements to the same extent they apply to the generation units of customer-generators under section 386.890.

3. In any rulemaking or other proceeding required by subsection 2 of this section, provisions equivalent to the interconnection provisions set forth in subsections 6, 7, and 15 of section 386.890, and provisions equivalent to those in subsection 5 of section 386.890 for the calculation of a net electrical energy measurement and application of credits for net excess energy generated, shall be presumed reasonable and shall apply to the utility bills of the retail customers in community renewable access arrangements unless alternate terms and conditions are shown by clear and convincing evidence to be necessary either to protect the safety and security of the electric grid or to better meet the criteria set forth in subsection 4 of this section. In no circumstance, however, shall the commission or governing body of a municipal utility or rural electric cooperative approve an alternate means of calculating community renewable energy credits that results in an amount less than the sum of the retail electric supplier's avoided energy and capacity costs, and any avoided transmission and distribution costs that result from the installation and operation of such facility, and other avoided costs identified by the commission or governing body of a municipal utility or rural electric cooperative.

4. In adopting the rules or policies provided for in this section, and when reviewing tariffs, contracts for service, interconnection agreements or rates, or deciding complaints relating to community renewable access arrangements, the commission or governing body of a municipal utility or retail electric supplier shall balance each of the following objectives:

(1) maximizing the use of in-state renewable energy resources by citizens of the state and removing or reducing existing barriers including, but not limited, to requirements for costly studies and other preconditions to interconnection or the lack of standardized terms, to the direct investment by individuals, businesses, and other entities in renewable energy resources;

(2) promoting private investment in renewable capacity in the state;

(3) promoting the diversification of the state's supply portfolio and reducing the state's dependence on fossil fuel energy sources;

(4) mitigating more costly transmission and distribution investments otherwise needed for system reliability;

(5) encouraging the growth of jobs and other economic development within the state;

(6) minimizing the long term costs associated with future additions of capacity needed to meet the state's energy requirements; and

(7) furthering the long term affordability, reliability, and security of energy supply.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-189)**

## Subject

Initiative petition from Andrew Linhares regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received December 18, 2015)

## Date

January 8, 2016

## Description

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Public Service Commission.**

**Edward D, Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Brent Stewart** of Association of Missouri Electric Cooperatives provided information to the State Auditor's Office as an opponent of this initiative petition.

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated:

**Summarize how this bill would affect the agency**

Section 386.900 – Community Renewable Energy
This section requires retail electric suppliers to offer interconnection and metering arrangements and community renewable energy credits for community renewable facilities up to 5 megawatts. This provision requires the PSC to promulgate rules. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. Division of Energy (DE) staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where net metering provisions are considered.

The existing Missouri Renewable Energy Standard (RES) requires investor-owned utilities in Missouri to either produce green power or purchase Renewable Energy Certificates (RECs) for compliance. The DE has statutory authority to certify that eligible renewable energy resources do not cause undue environmental impacts before RECs associated with those renewable energy resources can be used for RES compliance. There are no certification fees associated with this review. DE anticipates that the inclusion of aggregated renewable facility metering and community based renewable facility access up to 5 megawatts will result in an increase in renewable energy installations in Missouri which may be used for RES compliance.

**Long-range implications**

Economic benefits associated with construction of community renewable energy facilities would have long-range implications.

**Assumptions and methodology used in arriving at state fiscal impact**

Section 386.900– Community Renewable Energy
For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemakings and related cases to implement these provisions but could do so with existing resources.

However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

DE anticipates the authorization and requirement that retail electric suppliers offer access and metering to community renewable facilities would result in an increase in renewable energy installations in Missouri which may be used for RES compliance. For purposes of this fiscal note, DE assumes all applications for RES certification of no undue adverse environmental impacts are for solar projects and assumes that there would be a small number of additional community renewable systems up to 5 megawatts that will submit requests for RES certification to DE.

DE's review primarily focuses on environmental impacts of renewable electric generation facilities on air, water or land use. The actual staff time spent on each application varies. Solar photovoltaic and other renewable energy facilities with a larger capacity typically require more staff time for reviewing their third-party environmental impact assessments in addition to verifying applicable environmental permits, for data requests and discussion, data collection, database management, report production and website maintenance. For purposes of this fiscal note, DE assumes it could complete the additional RES environmental reviews/certifications anticipated from this proposal using existing resources.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements

if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of West Plains** indicated the 86 cities with municipal electric utilities depend on the revenues of this service for their citizen/owners to off-set the cost of electric service and operation to citizens as well as to support the activities of city government.

Based primarily on data from the Federal Department of Energy's (DOE) Energy Information Administration (EIA) Table 6 plus additional data gleaned from the National Renewable Energy Lab's Photovoltaic Calculator and the Missouri Association of Municipal Utilities for peak loads in 73 cities, they have determined that municipalities in Missouri face a loss of at least $23.9 million in revenue should this initiative petition become law. The impact alone to the City of West Plains appears to be $352,000 annually, or over 6.5% of their annual electric utility revenue budget. This figure does not reflect any additional costs they will be required to incur for required pleadings before the state Public Service Commission or local compliance costs for other requirements contained in this proposal.

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art. X, Sec. 16) that reduces income or increases costs without "full state financing," they anticipate that local government costs would be reflected in the final state cost when the fiscal note is completed. Necessary litigation costs incurred for Mo. Const. Art. X, Sec. 16 and other potential legal inconsistencies are unknown.

Methodology for City Loss Calculation
Renewable Energy Initiative Petitions

| **Assumptions and Methods** | **Information Source** |
| --- | --- |
| 1. A combined federal and state tax credit of 60% of installation costs, would prompt city customers to achieve the 7% capacity cap in a reasonable period of time | Proposed Legislation |

| | |
|---|---|
| 2. 1 kW solar panel at this latitude would generate 1350 kWHr per year | National Renewable Energy Lab's PV Calculator |
| 3. Annual Peaks | Municipal reports to the Missouri Association of Municipal Utilities |
| 4. Current City Electric Rates | DOE EIA Database (Table 6 for 2010) |

5. Calculation:
   Annual Peak
   7% of Annual Peak for Capacity Cap
   Total Solar Generation = (Capacity Cap * 1350 kWHrs)*1000
   City's lost revenue: City rate * Solar Generation

6. State calculation based on the sum of "Assumption 5" calculations for
   73 reporting cities (out of 86)
      Total ≥ $23.8 million

**Calculation for City of West Plains**

| | |
|---|---|
| 44.453 | Annual Peak (MW) |
| 3.11171 | 7% of Annual Peak for Capacity Cap MW |
| 4,200,809 | Total Solar Generation (KWHR) |
| 8.38 | City Rate (cents per kWHR) |
| $352,028 | Lost Revenue |

Officials from **University of Missouri** indicated they have not seen cost impact studies on this initiative from their electric utility suppliers, but they do not believe this will have a significant impact on their university.

Officials from the **Public Service Commission** (PSC) indicated proposed Section 386.920, RSMo, states "Notwithstanding any provision in this chapter or chapter 393 and 394 to the contrary, the owner or operator of a qualified electric generation unit serving a customer-generator…, shall not be determined by reason of such ownership, operation, contract, or provision of energy, to be an electrical corporation or public utility as those terms are defined by section 386.020…." This language suggests that any electrical corporation providing service to a customer-generator could be exempt from Section 386.020, RSMo, and potentially somehow exempt from commission regulation even if already regulated. To alleviate any possible confusion delete the words "the owner or operator of a qualified electric generation serving" before 'a customer-generator' (which is already limited by its definition of generators producing currently 1,000 KW or proposed change 2,000 KW and the limits under the definition of 'community based renewable facility access' of 5 MW). Further, the language "Notwithstanding any provision in this chapter or chapter 393 and 394 to the contrary," should also be deleted to remove potential conflict with regulation of electrical corporations.

**Edward D, Greim** provided the following information as an opponent of this initiative petition.

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December 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: *Fiscal Note in Initiative Petitions 2016-181 through 2016-189*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petition 181 :

> Lost revenue to state government is $680.3 million over the tax credit period, with annual losses of $7.6 million thereafter. Lost revenue to local government is $137.8 million over the tax credit period, with annual losses of $15.5 million thereafter.

We propose the following fiscal note summary for petitions 182, 183, 184, 186, 187, and 188:

> Lost revenue to state government is $680.3 million over the tax credit period, with annual losses of $7.6 million thereafter. Lost revenue to local government is $137.8 million over the tax credit period, with annual losses of $15.5 million thereafter. Other, substantial lost revenues of an unknown amount are likely.

We propose the following fiscal note summary for petitions 185 and 189:

> Lost revenue to state government is approximately $38,500, annually, for each facility, and up to $321.1 million in state revenue is at risk. Lost revenue to local governments is approximately $78,300, annually, for each facility, and up to $652.5 million in local revenue is at risk.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments. These taxes, however, will no longer be collected for electricity that is never sold due to the customer-generator production and community solar encouraged by the initiative petitions. Petition signers and voters must be informed of the certainty that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume. On the other hand, any positive fiscal impacts of the initiative petitions are speculative.

**Description of Policy**

Initiative Petitions 181 to 189 contain one or more of three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of community solar facilities/arrangements; and (3) A state tax credit for solar powered electric energy generation units and arrangements.

1. Changes to Net Metering for Investor-owned electric utilities, municipal electric utilities, and rural electric cooperatives
    A. Redefine customer generator to include retail customers entitled by contract to receive the electrical energy generated by a qualified energy generation unit;
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);
    D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.
2. 5 Megawatt Community Solar Facilities
    A. Electric Customers may participate in community based solar arrangements up to with generation capacity up to 5 megawatts. There is no limit on the number of community solar facilities that may be developed.
    B. Bill credits are one to one against electric utility bills for customers who participate in the community solar facility.
    C. Excess bill credits are sold back to municipal utilities, investor-owned utilities, and electric cooperatives, by kilowatt hour (at rate to be set by commission, that is at least as great as all avoided costs, but up to the retail electric supply rate).
3. Tax credit
    A. 35% tax credit for solar powered energy generation units eligible for net metering, or in some petitions, community solar facilities up to 5 megawatt.



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B. Total value of eligible credits shall not exceed $50 million each year until 2022, with credits decreasing after that date. Unused credits carryover year to year.
C. No tax credits after June 30, 2031.

**Burdens on State Government**

In determining the fiscal impact of each petition, it is generally reasonable to assume that the various statutory changes in the petitions will have independent fiscal impacts. The reasonableness of this assumption is demonstrated by the various iterations of the petitions themselves, some of which propose tax credits with no proposed changes to the Net Metering and Easy Connection Act. *See* Petitions 178 and 190.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 182-184 and 186-188*

Raising the net metering cap from 100 kilowatt units to 2 megawatt units will result in a decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase due to economies of scale. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in some of the petitions provides a strong financial incentive to solar energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[1], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[2] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. *See* U.S. Energy Information Administration – Independent Statistics and Analysis. Accordingly, a 1% decrease in electricity sales volume will reduce Missouri state sales tax revenues from electric providers by at least 3.2 million dollars. Based on the change from 100 kilowatt units to 2 megawatt units, individual net metering units may

[1] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[2] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.



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significantly impact tax revenues. Every megawatt of installed solar decreases state sales tax revenue by $7,700 annually.

*ii. Decreased tax collections due to community solar facilities – Initiative Petitions 184, 185, 188, 189*

Community solar facilities are in addition to net metering and represent an additional capacity of an unlimited amount. Energy generated from the community solar facility is allocated by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. These community solar facilities will be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoids property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership model, similar to net metering,[3] because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%). There is no cap on the amount of community solar facilities that may be constructed, and there are strong financial incentives to create excess production, given declining prices of solar electricity and a mandatory obligation of the interconnected utility to buy electricity at generous, retail rates.

A 1% decrease in electricity sales volume will reduce Missouri state sales tax revenues from electric providers by 3.2 million dollars. Every 5MW "renewable energy facility" will reduce state sales tax revenues by $38,500, annually. Up to $321.1 million in state sales tax revenue is at risk ($7.6 billion * 4.225%).

*iii. Tax credits – Initiative Petitions 181-184 and 186-188*

*a. Decreased tax collections due to tax credits – Credits capped at $50 million annually*

The 35% tax credits in these petitions will directly result in a loss of state income of $25 million to $50 million, annually. The total loss to state government over the tax credit effective period is $612.5 million.

*b. Cost of eroding tax base due to new energy generation*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in Missouri. According to the attached table, the tax credits will result in 988.7 MWh/988,700 kWh of new electricity generation. New production from such tax credits would produce

[3] The petitions use the terms "facility access", "arrangements", and "bill credits" all of which indicate that the electricity generated and allocated will not be subject to sales tax.



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approximately 1,804,090 MWh per year, also expressed as 1,804,090,000 KWh, or 1,804 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour,[4] this new production is valued at $180,408,983.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[5] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for solar energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology.

For Initiative Petitions 181-184 and 186-188, the total, annual loss to state governments *due to the tax credits* is 32.6 million to 53.1 million over the tax credit period. The total loss during the tax credit period is $680.3 million. There is an annual loss in perpetuity after the tax credit period of $7.6 million, based on expected customer-generation resourced developed. *See* attached table.

**Burdens on Local Governments**

Local governments face losses in revenue from the various petition provisions that are similar to those faced by state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to

[4] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.

[5] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 182-184 and 186-188*

A 1% decrease in electricity sales volume will reduce Missouri local tax revenues from electric providers by $6.5 million, annually.

*ii. Decreased tax collections due to community solar facilities – Initiative Petitions 184, 185, 188, 189*

A 1% decrease in electricity sales volume will reduce Missouri local tax revenues from electric providers by 6.5 million dollars. Every 5MW "renewable energy facility" will reduce local government tax revenues by $78,300, annually. Up to $652.5 million in local sales and license/franchise tax revenue is at risk ($7.6 billion * [3.585% + 5%]).

*iii. Tax credits – Initiative Petitions 181-184 and 186-188 – Cost of eroding tax base due to new energy generation*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petitions may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to local governments, all of which may be reduced or discontinued if the initiative petitions are enacted.

The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[6] Based on this estimate, the population-weighted combined average local sales tax is 3.585%. The tax credits will result in 988.70 megawatts of new electricity production that will be net metered or otherwise result in the allocation of bill credits and, as a result, decrease electric revenues. The corresponding annual loss to local governments from lost sales tax from the tax credit is $6,467,662. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,020,449.

[6] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.



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The overall annual loss to local governments due to the tax credits is $15.5 million. The total loss to local government revenues during the tax credit period is $137.8 million.

**In Conclusion**

The initiative petitions will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petitions, such as increases in net metering and community solar. The total tax burden on state government imposed by the petitions with tax credits is at least $680 million over the tax credit period, with at least $7.6 million in lost revenues in perpetuity. The total tax burden on state government imposed by the petitions without tax credits is substantial, with up to $321.1 million at risk. The total tax burden on local governments imposed by the petitions with tax credits is at least $137.8 million over the tax credit period, with at least $15.5 million in lost revenues in perpetuity. The total tax burden on local government imposed by the petitions without tax credits is substantial, with up to $652.5 million at risk.

Sincerely,

Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0



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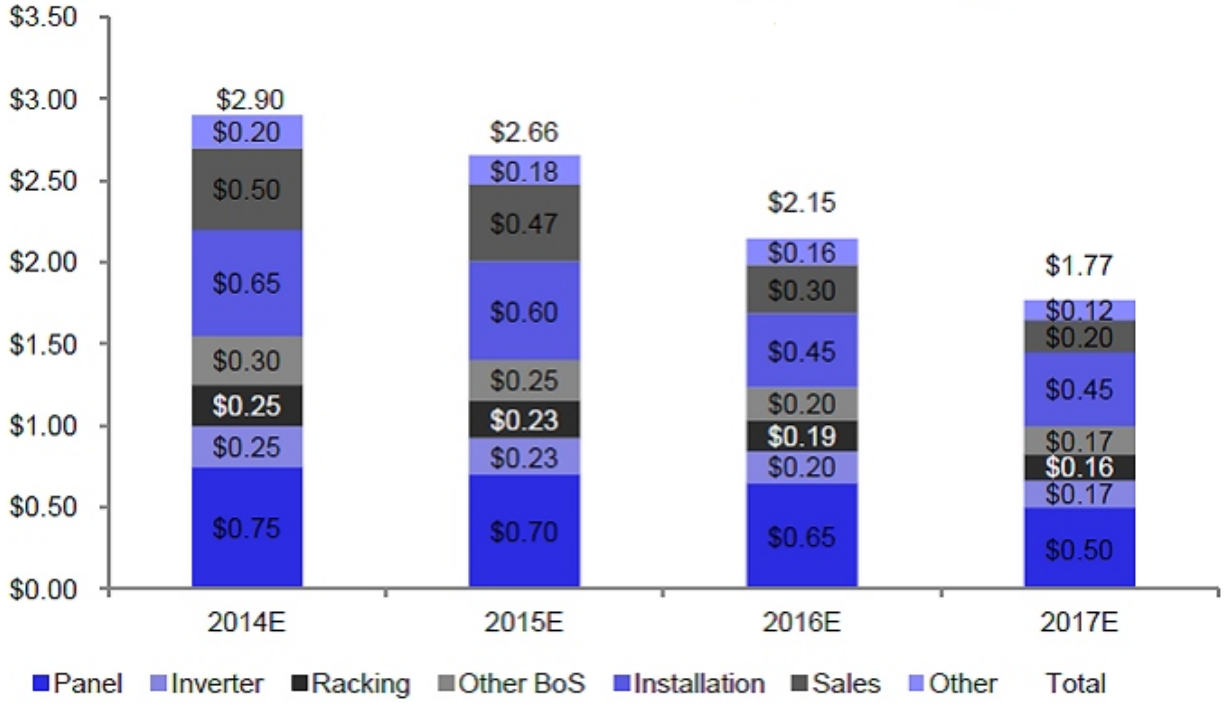
Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017
https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm



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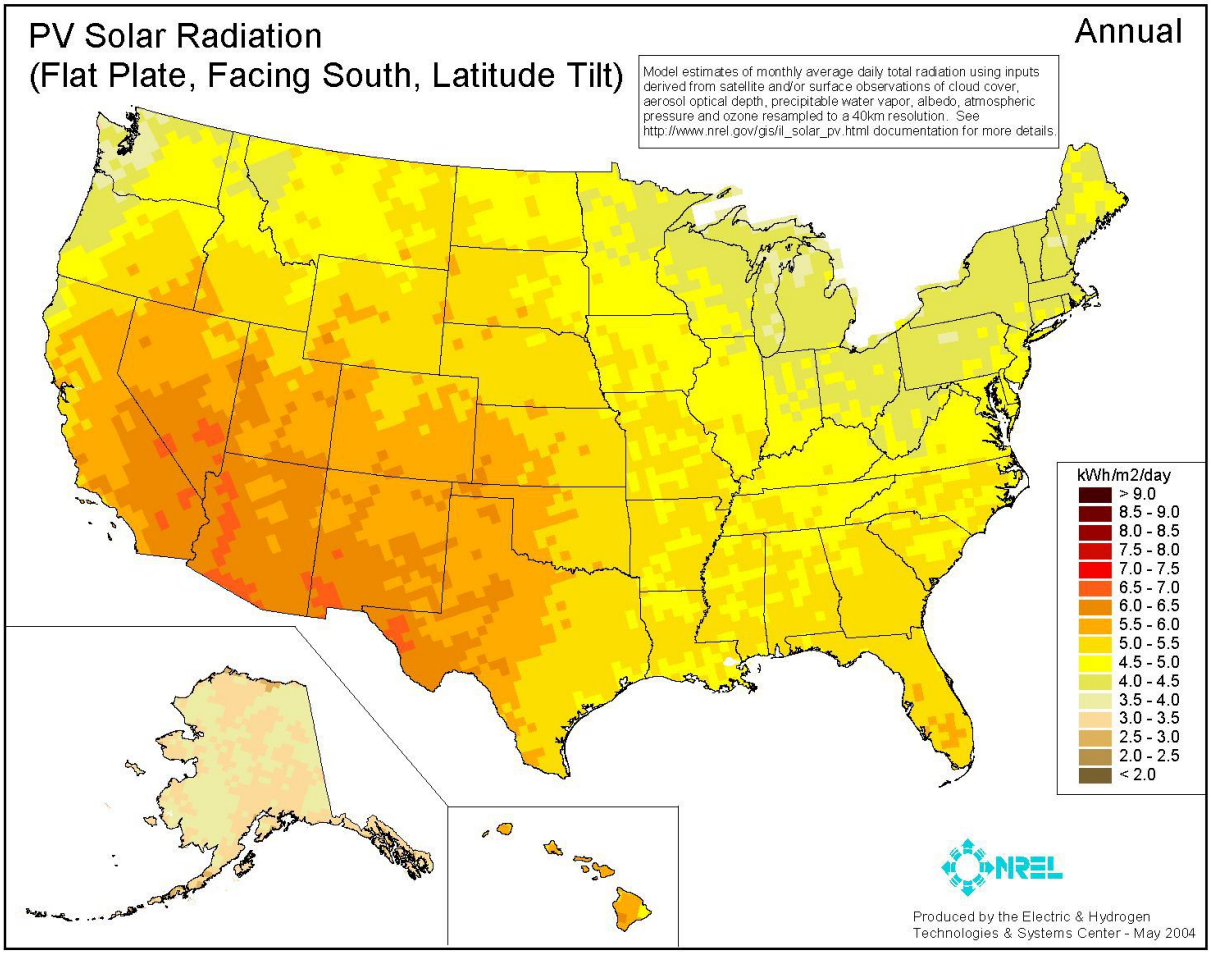
National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Renew Mo Solar Tax Credit Fiscal Analysis - Petitions 181-184 and 186-188**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 80.71 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $50,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 147,273 | |
| $/MWh Retail Rate | $100 | |

| | Solar Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $50,000,000 | 80.71 | 80.71 | 147,273 | $100 | $14,727,264 | 4.225% | $622,227 | $50,622,227 | 3.585% | $527,972 | 5.000% | $736,363 | $1,264,336 |
| 2018 | $50,000,000 | 80.71 | 161.42 | 294,545 | $100 | $29,454,528 | 4.225% | $1,244,454 | $51,244,454 | 3.585% | $1,055,945 | 5.000% | $1,472,726 | $2,528,671 |
| 2019 | $50,000,000 | 80.71 | 242.13 | 441,818 | $100 | $44,181,792 | 4.225% | $1,866,681 | $51,866,681 | 3.585% | $1,583,917 | 5.000% | $2,209,090 | $3,793,007 |
| 2020 | $50,000,000 | 80.71 | 322.84 | 589,091 | $100 | $58,909,056 | 4.225% | $2,488,908 | $52,488,908 | 3.585% | $2,111,890 | 5.000% | $2,945,453 | $5,057,342 |
| 2021 | $50,000,000 | 80.71 | 403.55 | 736,363 | $100 | $73,636,320 | 4.225% | $3,111,135 | $53,111,135 | 3.585% | $2,639,862 | 5.000% | $3,681,816 | $6,321,678 |
| 2022 | $47,500,000 | 76.67 | 480.23 | 876,272 | $100 | $87,627,220 | 4.225% | $3,702,250 | $51,202,250 | 3.585% | $3,141,436 | 5.000% | $4,381,361 | $7,522,797 |
| 2023 | $45,000,000 | 72.64 | 552.87 | 1,008,818 | $100 | $100,881,758 | 4.225% | $4,262,254 | $49,262,254 | 3.585% | $3,616,611 | 5.000% | $5,044,088 | $8,660,699 |
| 2024 | $42,500,000 | 68.60 | 621.47 | 1,133,999 | $100 | $113,399,932 | 4.225% | $4,791,147 | $47,291,147 | 3.585% | $4,065,388 | 5.000% | $5,669,997 | $9,735,384 |
| 2025 | $40,000,000 | 64.57 | 686.04 | 1,251,817 | $100 | $125,181,743 | 4.225% | $5,288,929 | $45,288,929 | 3.585% | $4,487,765 | 5.000% | $6,259,087 | $10,746,853 |
| 2026 | $37,500,000 | 60.53 | 746.57 | 1,362,272 | $100 | $136,227,191 | 4.225% | $5,755,599 | $43,255,599 | 3.585% | $4,883,745 | 5.000% | $6,811,360 | $11,695,104 |
| 2027 | $35,000,000 | 56.50 | 803.07 | 1,465,363 | $100 | $146,536,276 | 4.225% | $6,191,158 | $41,191,158 | 3.585% | $5,253,325 | 5.000% | $7,326,814 | $12,580,139 |
| 2028 | $32,500,000 | 52.46 | 855.53 | 1,561,090 | $100 | $156,108,998 | 4.225% | $6,595,605 | $39,095,605 | 3.585% | $5,596,508 | 5.000% | $7,805,450 | $13,401,957 |
| 2029 | $30,000,000 | 48.43 | 903.95 | 1,649,454 | $100 | $164,945,356 | 4.225% | $6,968,941 | $36,968,941 | 3.585% | $5,913,291 | 5.000% | $8,247,268 | $14,160,559 |
| 2030 | $27,500,000 | 44.39 | 948.35 | 1,730,454 | $100 | $173,045,351 | 4.225% | $7,311,166 | $34,811,166 | 3.585% | $6,203,676 | 5.000% | $8,652,268 | $14,855,943 |
| 2031 | $25,000,000 | 40.36 | 988.70 | 1,804,090 | $100 | $180,408,983 | 4.225% | $7,622,280 | $32,622,280 | 3.585% | $6,467,662 | 5.000% | $9,020,449 | $15,488,111 |

**Total State Tax Burden** **$680,322,732**

**Total Local Tax Burden (Sales + Franchise)** **$137,812,581**

**Brent Stewart** provided the following information as an opponent of this initiative petition.

**Association of Missouri Electric Cooperatives**

2722 East McCarty Street, P.O. Box 1645
Jefferson City, Missouri 65102
Telephone: (573) 635-6857
Fax: (573) 635-2314
www.amec.coop

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DEC 28 2015
STATE AUDITORS OFFICE

December 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: Fiscal Note in Initiative Petitions 2016-173 through 2016-190

To Whom It May Concern:

The Association of Missouri Electric Cooperatives (AMEC), representing the state's forty-seven member-owned, nonprofit rural electric cooperatives that serve close to one million electric consumers, respectfully submit the following brief comments to assist in your preparation of the fiscal notes on the above-mentioned initiative petitions.

All these petitions, in one way or another, involve solar and renewable energy mandates. The practical effect of each, to one extent or another, is to encourage consumers to substitute self-generation for traditional electric service, thereby creating an unfair electric rate subsidy in favor of those who can afford to install their own generation at the expense of the majority of the other consumers who cannot.

Missouri's forty distribution (retail level) cooperatives serve a wide variety of governmental entities throughout rural Missouri, including state facilities (e.g. prisons), local government facilities, hospitals, schools, rural water districts, regional sewer districts and others. To the extent these entities cannot afford to install their own generation, which most cannot, they necessarily will be forced to pay higher rates if these initiative petitions are enacted. Unfortunately, it is impossible without more time for AMEC to identify all those government-related entities and facilities or estimate with any accuracy the adverse fiscal impact. However, it is clear that even a modest rate increase necessarily will have a significant adverse fiscal impact on governmental entities, in millions of dollars, especially those in the primarily less affluent rural areas served by Missouri's nonprofit electric cooperatives.

Respectfully submitted,

Brent Stewart

Brent Stewart
AMEC Counsel

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate no direct costs or savings. Local governmental entities estimate $23.9 million in annual electricity sales reductions. Other resulting economic activity will have an unknown impact on state and local governments.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

STATE AUDITOR'S OFFICE
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16-188

December 18, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andrew Linhares regarding a proposed statutory amendment to Chapter 386, version 8 (2016-188)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andrew Linhares on December 17, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-188

County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

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2015 DEC 17 PM 3:17
SEC. OF STATE

(Official Ballot Title)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
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| 15. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ___(check one) expect to be paid for circulating this petition. If paid, list the payer _____.

_____ Signature of Affiant (Person obtaining signatures)

_____ (Printed Name of Affiant)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201_.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

Be it enacted by the people of the state of Missouri:

Section 386.890 is amended and five new sections are enacted, to be known as sections 386.900, 386.910, 386.920, 386.930, and 386.940, to read as follows:

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

16-188

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal electric utility, rural electric cooperative as provided in chapter 394, or electrical corporation as provided in this chapter;

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of, or retail customer that is entitled by contract to receive the electric energy generated by, a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than [one hundred] two thousand kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of [natural resources] economic development;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any municipal utility, electrical corporation regulated under this chapter, or rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for other electric utilities may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and [shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period] all net excess kilowatt-hours generated shall be recorded as net excess energy credits per kilowatt-hour and those credits shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent billing periods;

(4) Any net excess energy credits granted by this subsection shall expire without any compensation at the earlier of either March 1 or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) For any rural electric cooperative under chapter 394, or municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule or equivalent formal action by each respective governing body:

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(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10. The governing body of a rural electric cooperative or municipal utility shall, within nine months of January 1, 2008, adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.900. Sections 386.900 through 386.940 shall be known as the "Missouri Energy Freedom Act". These sections reflect both the critical role that abundant, affordable, sustainable, and secure supplies of renewable energy have in advancing the economy of the state and the security, health and welfare of its citizens, and the intent of the people to promote the long term sustainability, security, and affordability of energy supply by encouraging the development and utilization of renewable energy by the people of this state. The right of citizens to directly invest in renewable energy sources to meet their own energy needs, while also connecting to the electric grid, shall not be limited more than is necessary to protect the safety and security of the electric grid.

386.910. As used in sections 386.900 through 386.940, the following terms shall mean:

(1) "Aggregated renewable facility metering", a rate and metering arrangement that allows a property owner with multiple utility accounts on one property or adjacent properties or contiguous properties, all of which are served by the same retail electric supplier, such as but not limited to, a group of university or hospital buildings, municipal or other publicly owned premises, a military base, public housing, shopping mall, or farm properties, to install and operate renewable energy facilities that together do not exceed 5 MW in capacity, on such property or on the adjacent or contiguous property, for the primary purpose of offsetting part or all of the electrical energy requirements associated with the utility accounts on such properties, and allocate the related community renewable energy credits among the utility accounts on such property or adjacent or contiguous property;

(2) "Community based renewable facility access", a rate and metering arrangement that allows for multiple retail customers who are located in a community such as, but not limited to, a condominium complex, industrial park, town, or city, to contract, over a minimum 15 year term for energy produced by a renewable energy facility that does not exceed 5 MW in capacity and that is interconnected to the same public utility distribution system that serves the premises of such retail customers, and allocates related community renewable energy credits among such retail customers, provided however that the 5MW limit in capacity shall not prevent multiple renewable energy facilities serving different retail customers from co-locating;

(3) "Community renewable access arrangements", aggregated renewable facility metering, and community-based renewable facility access;

(4) "Community renewable energy credits", either the per kilowatt-hour deduction in the metered usage used by the retail electric supplier to calculate the utility bill of a retail customer that is participating in a community renewable access arrangement, or a financial amount credited to the utility bill of such a retail customer, which shall be calculated by applying a specified amount per kilowatt-hour, determined as set forth in rules adopted by the commission or in the

policies of the governing body of a municipal utility or retail electric supplier, to the energy generated by a renewable energy facility on behalf of such customers;

(5) "Renewable energy resources", the same meaning as set forth in subdivision (6) of subsection 2 of section 386.890;

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(6) "Renewable energy facility", a facility that produces renewable energy resources;

(7) "Retail electric supplier", the same meaning as set forth in subdivision (7) of subsection 2 of section 386.890;

(8) "Utility account" or "retail customer" means a specific customer account that is receiving service and billed for such service by a retail electric supplier.

386.920 Notwithstanding any provision in this chapter or chapters 393 or 394 to the contrary, the owner or operator of a qualified electric generation unit serving a customer-generator as defined in section 386.890, or of a renewable energy facility that is used in a community renewable access arrangement as defined in section 386.910, that provides renewable energy resources to a retail customer through a power purchase agreement, a sale and leaseback of equipment, or other form of contract between the retail customer and the owner or operator of such qualified electric generation unit or renewable energy facility, shall not be determined by reason of such ownership, operation, contract, or provision of energy, to be an electrical corporation or public utility as those terms are defined in section 386.020, nor shall such owner or operator be precluded from installing, owning or operating the qualified electric unit or renewable energy facility as allowed by section 386.910 or section 386.930 and providing the related renewable energy resources to a customer that is receiving utility service from a retail electric supplier. Nothing in this subsection shall be construed as amending or superseding the commission's authority to ensure safe operation of any electric plant as granted in and pursuant to subsection 1 of section 386.310.

386.930. 1. Each retail electric supplier shall offer the interconnection and metering arrangements and community renewable energy credits necessary to facilitate and support the community renewable access arrangements defined in section 386.920.

2. Within 60 days of the effective date of this section, the commission shall promulgate initial rules to establish the terms and conditions under which the retail electric suppliers regulated under chapter 393, shall be required to interconnect with and support each of the community renewable access arrangements defined in section 386.910, including the determination of community renewable energy credits to be applied in such arrangements, and shall conclude such proceeding by adopting a proposed rule within 180 days of promulgating the initial rules. Within twelve months of the effective date of this section, the governing body of a municipal utility or rural electric cooperative shall also adopt policies establishing the terms and conditions under which such municipal utilities or rural electric cooperatives shall be required to interconnect with and support each of the community renewable access arrangements, including the determination of community renewable energy credits. Such rules or policies shall provide that retail electric suppliers shall recover the costs of any additional distribution equipment that the retail electric supplier is required to install to accommodate the installation of the renewable energy facility that is part of a community renewable access arrangement from the owner or operator of such facility or from the customers participating in the community renewable access arrangement. The provisions of subsections 11, 13, 16, and 17 of section 386.890 shall also apply to renewable energy facilities used in community renewable access arrangements to the same extent they apply to the generation units of customer-generators under section 386.890.

3. In any rulemaking or other proceeding required by subsection 2 of this section, provisions equivalent to the interconnection provisions set forth in subsections 6, 7, and 15 of Section 386.890, and provisions equivalent to those in subsection 5 of section 386.890 for the calculation of a net electrical energy measurement and application of credits for net excess energy generated, shall be presumed reasonable and shall apply to the utility bills of the retail customers in community renewable access arrangements unless alternate terms and conditions are shown by clear and convincing evidence to be necessary either to protect the safety and security of the electric grid or to better meet the criteria set forth in subsection 4 of this section. In no circumstance, however, shall the commission or governing body of a municipal utility or rural electric cooperative approve an alternate means of calculating community renewable energy credits that results in an amount less than the sum of the retail electric supplier's avoided energy and capacity costs, and any avoided transmission and distribution costs that result from the installation and operation of such facility, and other avoided costs identified by the commission or governing body of a municipal utility or rural electric cooperative.

4. In adopting the rules or policies provided for in this section, and when reviewing tariffs, contracts for service, interconnection agreements or rates, or deciding complaints relating to community renewable access arrangements, the commission or governing body of a municipal utility or retail electric supplier shall balance each of the following objectives: maximizing the use of in-state renewable energy resources by citizens of the state and removing or reducing existing barriers including, but not limited to, requirements for costly studies and other preconditions to interconnection or the lack of standardized terms, to the direct investment by individuals, businesses, and other entities in renewable energy resources; promoting private investment in renewable capacity in the state; promoting the diversification of the state's supply portfolio and reducing the state's dependence on fossil fuel energy sources; mitigating more costly transmission and distribution investments otherwise needed for system reliability; encouraging the growth of jobs and other economic development within the state; minimizing the long term costs associated with future additions of capacity needed to meet the state's energy requirements; and furthering the long term affordability, reliability, and security of energy supply.

386.940. 1. Any taxpayer that owns a solar powered electric energy generation unit that meets the requirements for net metering under section 386.890, or solar powered electric energy generation unit that is part of a community renewable access arrangement, and that has incurred costs and expenses related to the construction, design, and installation of that generation unit on or after the effective date of this section, shall, subject to the provisions of subsections 2 through 7 of this section, be allowed a state tax credit against the income taxes imposed pursuant to chapter 143 (except withholding imposed by sections 143.191 to 143.265), if the director of the department of revenue issues an eligibility statement for that project. The tax credit provided for in this section shall be known as the "Missouri Solar Energy Tax Credit".

2. The state tax credit allowed under this section shall not exceed thirty-five percent of the total costs and expenses incurred for the construction, design, and installation of that generation unit, up to a total of seventy-five thousand dollars per utility metered account; provided, however, that beginning in calendar years 2022 through 2031, the thirty-five percent limit on total costs and expenses shall be reduced by an amount of two percent per year, and the seventy-five thousand dollar limit shall be reduced by two thousand five hundred dollars per year, and such reduced limits shall apply to the tax credits allowed under this section during calendar years 2022 through 2031.

3. In no event shall the aggregate amount of all tax credits allowed under this section exceed fifty million dollars in any given calendar year for the period beginning with the effective date of this section through June 30, 2021. During the calendar years 2022 through 2031, this fifty million dollar limit for the calendar year shall be reduced each year by an amount equal to $2.5 million dollars. No new tax credits provided for under this section shall be authorized after June 30, 2031. The department of revenue shall promulgate rules and regulations for the administration of tax credits issued pursuant to this section, and establish the procedure by which such tax credits may be claimed.

4. Any eligible applicant desiring to claim a tax credit under this section shall first request an eligibility statement from the department of revenue. The applicant shall identify: the generation unit for which a tax credit is claimed; the costs and expenses expected to be incurred by the applicant related to the construction, design, and installation of the unit; the nameplate capacity of the unit; and the ownership for the unit. The director of the department of revenue shall issue an eligibility statement within thirty (30) days of the request if it finds that the applicant qualifies for a credit under this section. Tax credits shall be awarded on a first-come, first-serve basis, until the limits as provided in subsection 3 of this section are reached. The department of revenue may promulgate rules and regulations relating to this certification process.

5. The credit authorized by this section shall not be refundable. Any amount of credit which exceeds the tax due for a taxpayer's taxable year may be carried forward to any of the taxpayer's five subsequent taxable years.

6. All or any portion of the tax credits issued in accordance with this section may be transferred, sold, or assigned to a third party. Certification of transfer, sale or assignment and other appropriate forms must be filed with the department of revenue.

7. The reporting provisions of the Tax Credit Accountability Act of 2004 apply to the tax credits issued under this section.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-188)**

## Subject

Initiative petition from Andrew Linhares regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received December 18, 2015)

## Date

January 8, 2016

## Description

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Public Service Commission.**

**Edward D, Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Brent Stewart** of Association of Missouri Electric Cooperatives provided information to the State Auditor's Office as an opponent of this initiative petition.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated this proposal would reduce state revenues by $50 million for fiscal year 2017, $50 million for fiscal year 2018, and $50 million for fiscal year 2019.

**Summarize how this bill would affect the agency**

Section 386.890 – Net Metering and Easy Connection Act
The Division of Energy (DE) assumes it would be involved in the implementation of this provision that modifies the existing net metering and interconnection requirements for regulated electric utilities. It is assumed there would be a rulemaking docket to set the process and details associated with this proposal. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where net metering provisions are considered.

Section 386.930 – Community Renewable Energy
This section requires retail electric suppliers to offer interconnection and metering arrangements and community renewable energy credits for community renewable facilities up to 5 megawatts. This provision requires the PSC to promulgate rules. Similar to above, DE assumes it would be involved in the implementation of this provision by participating in a rulemaking docket to set the process and details associated with this proposal and by monitoring and participating in tariff and other related cases.

Section 386.940 – Missouri Solar Energy Tax Credit
The Department of Revenue (DOR) is required to implement the Missouri Solar Energy Tax Credit. The proposal requires DOR to promulgate rules to establish a process for claiming of the credit and may promulgate rules related to a certification of eligibility process.

The existing Missouri Renewable Energy Standard (RES) requires investor-owned utilities in Missouri to either produce green power or purchase Renewable Energy Certificates (RECs) for compliance. The DE has statutory authority to certify that eligible renewable energy resources do not cause undue environmental impacts before RECs

associated with those renewable energy resources can be used for RES compliance. There are no certification fees associated with this review. DE anticipates that enactment of a solar tax credit, expansion of the net- metering/interconnection size from 100 kilowatts to 2 megawatts and other provisions, and the inclusion of aggregated renewable facility metering and community based renewable facility access up to 5 megawatts will result in an increase in renewable energy installations in Missouri which may be used for RES compliance.

**Long-range implications**

Fiscal impacts associated with the Missouri Solar Energy Tax Credits would continue until June 30, 2031. Economic benefits associated with construction of solar facilities would also have long-range implications.

**Assumptions and methodology used in arriving at state fiscal impact**

Section 386.890 –Net Metering and Easy Connection Act
Section 386.930– Community Renewable Energy
For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemakings and related cases to implement these provisions but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

Section 386.940- Missouri Solar Energy Tax Credit
The proposal's estimated impact to General Revenue could be up to $50 million per year from the effective date through June 30, 2021 depending on the schedule of implementation and applications submitted and approved. The potential impact would decrease by $2.5 million per year from 2022 through 2031.

DE assumes that DOR may consult with DE in development of rules associated with implementation of this proposal but that DE would not be involved in reviews of applications to DOR requesting certification of eligibility of solar facilities for the Missouri Solar Energy Tax Credit. For purposes of this fiscal note, DE assumes such consultation could be performed with existing resources.

DE anticipates that enactment of a tax credit will result in an increase in solar energy installations in Missouri which may be used for RES compliance. DE also anticipates that the increase in the capacity size of net metered renewable energy systems from 100 kilowatts to 2 megawatts and the inclusion of community renewable facilities would result in an increase in other renewable energy installations in Missouri which may be used for RES compliance.

If all tax credits were used up to the cap of $50 million per year, and with consideration to the estimated cost and size of the solar projects, it is estimated there would be 4,718 residential project applications and 271 commercial project applications submitted for tax credit reviews (Source: Mark Reading analysis for similar initiative petitions).

For purposes of this fiscal note, DE assumes all applications for RES certification of no undue adverse environmental impacts are for solar projects and that only small numbers of these projects would submit applications for RES certification to DE. DE's review primarily focuses on environmental impacts of renewable electric generation facilities on air, water or land use. The actual staff time spent on each application varies. Solar photovoltaic and other renewable energy facilities with a larger capacity typically require more staff time for reviewing their third-party environmental impact assessments in addition to verifying applicable environmental permits, for data requests and discussion, data collection, database management, report production and website maintenance. For purposes of this fiscal note, DE assumes it could complete the additional RES environmental reviews/certifications anticipated from this proposal using existing resources.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** estimate this petition will result in increased operating expenses of $199,602 for fiscal year 2017, $181,985 for fiscal year 2018, and $183,470 for fiscal year 2019.

The legislation creates a negative impact of up to $50 million per fiscal year to total state revenue by creating a new tax credit.

This petition creates the Missouri Solar Energy Tax Credit which allows up to 35 percent of the costs and expenses for construction, design, and installation of a generation unit. The provisions of subsection 3 cap the tax credit at $50 million and beginning in calendar

year 2022, the total cap is reduced by $2.5 million each year. The provisions expire June 30, 2031, allowing for no new tax credits after that date.

The department suggests the provisions regarding the certification process be administered by the Department of Economic Development and the Division of Energy as they would be more familiar with the subject matter.

**Administrative Impact:**

**Personal Tax:**

Personal Tax requires one (1) Revenue Processing Technician I (Range 10, Step L) for every 6,000 credits claimed.

**Corporate Tax:**

Corporate Tax requires three (3) Revenue Processing Technicians I (Range 10, Step L) for every 4,000 credits redeemed, 4,000 credits transferred, and for every 520 SB 1099 compliance mailings and correspondence.

**Integrated Tax System:**

The integrated tax system incurs additional costs of $43,680 to implement the provisions of this petition.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed

by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of West Plains** indicated the 86 cities with municipal electric utilities depend on the revenues of this service for their citizen/owners to off-set the cost of electric service and operation to citizens as well as to support the activities of city government.

Based primarily on data from the Federal Department of Energy's (DOE) Energy Information Administration (EIA) Table 6 plus additional data gleaned from the National Renewable Energy Lab's Photovoltaic Calculator and the Missouri Association of Municipal Utilities for peak loads in 73 cities, they have determined that municipalities in Missouri face a loss of at least $23.9 million in revenue should this initiative petition become law. The impact alone to the City of West Plains appears to be $352,000

annually, or over 6.5% of their annual electric utility revenue budget. This figure does not reflect any additional costs they will be required to incur for required pleadings before the state Public Service Commission or local compliance costs for other requirements contained in this proposal.

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art. X, Sec. 16) that reduces income or increases costs without "full state financing," they anticipate that local government costs would be reflected in the final state cost when the fiscal note is completed. Necessary litigation costs incurred for Mo. Const. Art. X, Sec. 16 and other potential legal inconsistencies are unknown.

Methodology for City Loss Calculation
Renewable Energy Initiative Petitions

| **Assumptions and Methods** | **Information Source** |
|---|---|
| 1. A combined federal and state tax credit of 60% of installation costs, would prompt city customers to achieve the 7% capacity cap in a reasonable period of time | Proposed Legislation |
| 2. 1 kW solar panel at this latitude would generate 1350 kWHr per year | National Renewable Energy Lab's PV Calculator |
| 3. Annual Peaks | Municipal reports to the Missouri Association of Municipal Utilities |
| 4. Current City Electric Rates | DOE EIA Database (Table 6 for 2010) |

5. Calculation:
   Annual Peak
   7% of Annual Peak for Capacity Cap
   Total Solar Generation = (Capacity Cap * 1350 kWHrs)*1000
   City's lost revenue: City rate * Solar Generation

6. State calculation based on the sum of "Assumption 5" calculations for
   73 reporting cities (out of 86)
      Total ≥ $23.8 million

**Calculation for City of West Plains**

| | |
|---|---|
| 44.453 | Annual Peak (MW) |
| 3.11171 | 7% of Annual Peak for Capacity Cap MW |
| 4,200,809 | Total Solar Generation (KWHR) |
| 8.38 | City Rate (cents per kWHR) |
| $352,028 | Lost Revenue |

Officials from **University of Missouri** indicated they have not seen cost impact studies on this initiative from their electric utility suppliers, but they do not believe this will have a significant impact on their university.

Officials from the **Public Service Commission** (PSC) indicated the following:

Proposed Section 386.890.5.(4), RSMo, states "Any net excess energy credits granted by this subsection shall expire without any compensation at the earlier of either March 1 or when the customer-generator disconnects service or terminates the net metering relationship with the supplier." The current statutory language states "Any credits granted by this subsection shall expire without any compensation at the earlier of either 12 months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier." It appears the drafter inadvertently did not mark all the changes in the subsection.

Proposed Section 386.920, RSMo, states "Notwithstanding any provision in this chapter or chapter 393 and 394 to the contrary, the owner or operator of a qualified electric generation unit serving a customer-generator…, shall not be determined by reason of such ownership, operation, contract, or provision of energy, to be an electrical corporation or public utility as those terms are defined by section 386.020…." This language suggests that any electrical corporation providing service to a customer-generator could be exempt from Section 386.020, RSMo, and potentially somehow exempt from commission regulation even if already regulated. To alleviate any possible confusion delete the words "the owner or operator of a qualified electric generation serving" before 'a customer-generator' (which is already limited by its definition of generators producing currently 1,000 KW or proposed change 2,000 KW and the limits under the definition of 'community based renewable facility access' of 5 MW). Further, the language "Notwithstanding any provision in this chapter or chapter 393 and 394 to the contrary," should also be deleted to remove potential conflict with regulation of electrical corporations.

Proposed Section 386.940, RSMo, discusses a "Missouri Solar Energy Tax Credit". It is not clear why the tax credit is in the PSC statute and not in a tax-related statute.

**Edward D, Greim** provided the following information as an opponent of this initiative petition.

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December 28, 2015

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301 West High Street
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Re: *Fiscal Note in Initiative Petitions 2016-181 through 2016-189*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petition 181 :

> Lost revenue to state government is $680.3 million over the tax credit period, with annual losses of $7.6 million thereafter. Lost revenue to local government is $137.8 million over the tax credit period, with annual losses of $15.5 million thereafter.

We propose the following fiscal note summary for petitions 182, 183, 184, 186, 187, and 188:

> Lost revenue to state government is $680.3 million over the tax credit period, with annual losses of $7.6 million thereafter. Lost revenue to local government is $137.8 million over the tax credit period, with annual losses of $15.5 million thereafter. Other, substantial lost revenues of an unknown amount are likely.

We propose the following fiscal note summary for petitions 185 and 189:

> Lost revenue to state government is approximately $38,500, annually, for each facility, and up to $321.1 million in state revenue is at risk. Lost revenue to local governments is approximately $78,300, annually, for each facility, and up to $652.5 million in local revenue is at risk.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments. These taxes, however, will no longer be collected for electricity that is never sold due to the customer-generator production and community solar encouraged by the initiative petitions. Petition signers and voters must be informed of the certainty that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume. On the other hand, any positive fiscal impacts of the initiative petitions are speculative.

**Description of Policy**

Initiative Petitions 181 to 189 contain one or more of three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of community solar facilities/arrangements; and (3) A state tax credit for solar powered electric energy generation units and arrangements.

1. Changes to Net Metering for Investor-owned electric utilities, municipal electric utilities, and rural electric cooperatives
    A. Redefine customer generator to include retail customers entitled by contract to receive the electrical energy generated by a qualified energy generation unit;
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);
    D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.
2. 5 Megawatt Community Solar Facilities
    A. Electric Customers may participate in community based solar arrangements up to with generation capacity up to 5 megawatts. There is no limit on the number of community solar facilities that may be developed.
    B. Bill credits are one to one against electric utility bills for customers who participate in the community solar facility.
    C. Excess bill credits are sold back to municipal utilities, investor-owned utilities, and electric cooperatives, by kilowatt hour (at rate to be set by commission, that is at least as great as all avoided costs, but up to the retail electric supply rate).
3. Tax credit
    A. 35% tax credit for solar powered energy generation units eligible for net metering, or in some petitions, community solar facilities up to 5 megawatt.



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B. Total value of eligible credits shall not exceed $50 million each year until 2022, with credits decreasing after that date. Unused credits carryover year to year.
C. No tax credits after June 30, 2031.

**Burdens on State Government**

In determining the fiscal impact of each petition, it is generally reasonable to assume that the various statutory changes in the petitions will have independent fiscal impacts. The reasonableness of this assumption is demonstrated by the various iterations of the petitions themselves, some of which propose tax credits with no proposed changes to the Net Metering and Easy Connection Act. *See* Petitions 178 and 190.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 182-184 and 186-188*

Raising the net metering cap from 100 kilowatt units to 2 megawatt units will result in a decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase due to economies of scale. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in some of the petitions provides a strong financial incentive to solar energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[1], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[2] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. *See* U.S. Energy Information Administration – Independent Statistics and Analysis. Accordingly, a 1% decrease in electricity sales volume will reduce Missouri state sales tax revenues from electric providers by at least 3.2 million dollars. Based on the change from 100 kilowatt units to 2 megawatt units, individual net metering units may

[1] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[2] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.



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significantly impact tax revenues. Every megawatt of installed solar decreases state sales tax revenue by $7,700 annually.

*ii. Decreased tax collections due to community solar facilities – Initiative Petitions 184, 185, 188, 189*

Community solar facilities are in addition to net metering and represent an additional capacity of an unlimited amount. Energy generated from the community solar facility is allocated by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. These community solar facilities will be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoids property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership model, similar to net metering,[3] because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%). There is no cap on the amount of community solar facilities that may be constructed, and there are strong financial incentives to create excess production, given declining prices of solar electricity and a mandatory obligation of the interconnected utility to buy electricity at generous, retail rates.

A 1% decrease in electricity sales volume will reduce Missouri state sales tax revenues from electric providers by 3.2 million dollars. Every 5MW "renewable energy facility" will reduce state sales tax revenues by $38,500, annually. Up to $321.1 million in state sales tax revenue is at risk ($7.6 billion * 4.225%).

*iii. Tax credits – Initiative Petitions 181-184 and 186-188*

*a. Decreased tax collections due to tax credits – Credits capped at $50 million annually*

The 35% tax credits in these petitions will directly result in a loss of state income of $25 million to $50 million, annually. The total loss to state government over the tax credit effective period is $612.5 million.

*b. Cost of eroding tax base due to new energy generation*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in Missouri. According to the attached table, the tax credits will result in 988.7 MWh/988,700 kWh of new electricity generation. New production from such tax credits would produce

[3] The petitions use the terms "facility access", "arrangements", and "bill credits" all of which indicate that the electricity generated and allocated will not be subject to sales tax.



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approximately 1,804,090 MWh per year, also expressed as 1,804,090,000 KWh, or 1,804 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour,[4] this new production is valued at $180,408,983.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[5] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for solar energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology.

For Initiative Petitions 181-184 and 186-188, the total, annual loss to state governments *due to the tax credits* is 32.6 million to 53.1 million over the tax credit period. The total loss during the tax credit period is $680.3 million. There is an annual loss in perpetuity after the tax credit period of $7.6 million, based on expected customer-generation resourced developed. *See* attached table.

**Burdens on Local Governments**

Local governments face losses in revenue from the various petition provisions that are similar to those faced by state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to

[4] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.

[5] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 182-184 and 186-188*

A 1% decrease in electricity sales volume will reduce Missouri local tax revenues from electric providers by $6.5 million, annually.

*ii. Decreased tax collections due to community solar facilities – Initiative Petitions 184, 185, 188, 189*

A 1% decrease in electricity sales volume will reduce Missouri local tax revenues from electric providers by 6.5 million dollars. Every 5MW "renewable energy facility" will reduce local government tax revenues by $78,300, annually. Up to $652.5 million in local sales and license/franchise tax revenue is at risk ($7.6 billion * [3.585% + 5%]).

*iii. Tax credits – Initiative Petitions 181-184 and 186-188 – Cost of eroding tax base due to new energy generation*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petitions may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to local governments, all of which may be reduced or discontinued if the initiative petitions are enacted.

The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[6] Based on this estimate, the population-weighted combined average local sales tax is 3.585%. The tax credits will result in 988.70 megawatts of new electricity production that will be net metered or otherwise result in the allocation of bill credits and, as a result, decrease electric revenues. The corresponding annual loss to local governments from lost sales tax from the tax credit is $6,467,662. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,020,449.

[6] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.



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The overall annual loss to local governments due to the tax credits is $15.5 million. The total loss to local government revenues during the tax credit period is $137.8 million.

**In Conclusion**

The initiative petitions will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petitions, such as increases in net metering and community solar. The total tax burden on state government imposed by the petitions with tax credits is at least $680 million over the tax credit period, with at least $7.6 million in lost revenues in perpetuity. The total tax burden on state government imposed by the petitions without tax credits is substantial, with up to $321.1 million at risk. The total tax burden on local governments imposed by the petitions with tax credits is at least $137.8 million over the tax credit period, with at least $15.5 million in lost revenues in perpetuity. The total tax burden on local government imposed by the petitions without tax credits is substantial, with up to $652.5 million at risk.

Sincerely,

Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

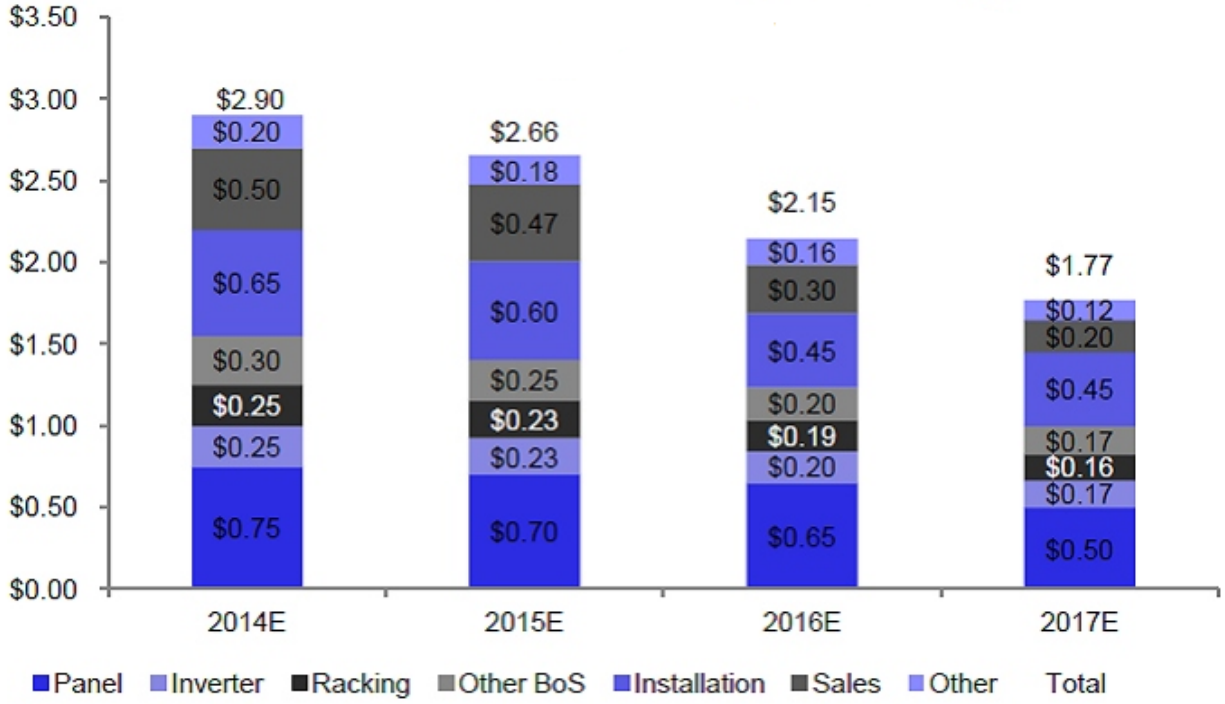
**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0



1100 Main Street, Suite 2700 Kansas City, MO 64105 ph 816.256.3181 www.gravesgarrett.com

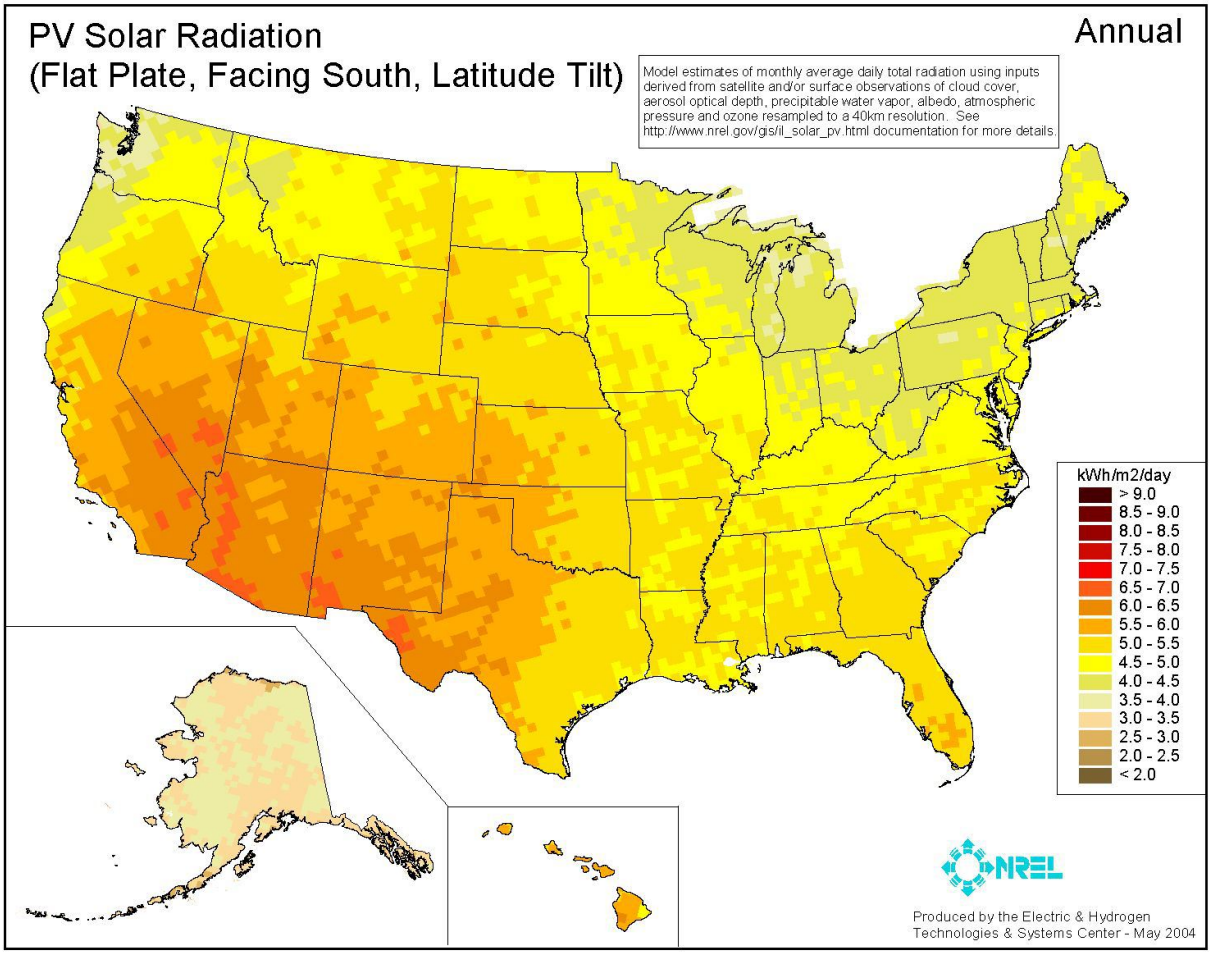
Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017
https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm






1100 Main Street, Suite 2700 Kansas City, MO 64105 ph 816.256.3181 www.gravesgarrett.com

National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Renew Mo Solar Tax Credit Fiscal Analysis - Petitions 181-184 and 186-188**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 80.71 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $50,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 147,273 | |
| $/MWh Retail Rate | $100 | |

| | Solar Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $50,000,000 | 80.71 | 80.71 | 147,273 | $100 | $14,727,264 | 4.225% | $622,227 | $50,622,227 | 3.585% | $527,972 | 5.000% | $736,363 | $1,264,336 |
| 2018 | $50,000,000 | 80.71 | 161.42 | 294,545 | $100 | $29,454,528 | 4.225% | $1,244,454 | $51,244,454 | 3.585% | $1,055,945 | 5.000% | $1,472,726 | $2,528,671 |
| 2019 | $50,000,000 | 80.71 | 242.13 | 441,818 | $100 | $44,181,792 | 4.225% | $1,866,681 | $51,866,681 | 3.585% | $1,583,917 | 5.000% | $2,209,090 | $3,793,007 |
| 2020 | $50,000,000 | 80.71 | 322.84 | 589,091 | $100 | $58,909,056 | 4.225% | $2,488,908 | $52,488,908 | 3.585% | $2,111,890 | 5.000% | $2,945,453 | $5,057,342 |
| 2021 | $50,000,000 | 80.71 | 403.55 | 736,363 | $100 | $73,636,320 | 4.225% | $3,111,135 | $53,111,135 | 3.585% | $2,639,862 | 5.000% | $3,681,816 | $6,321,678 |
| 2022 | $47,500,000 | 76.67 | 480.23 | 876,272 | $100 | $87,627,220 | 4.225% | $3,702,250 | $51,202,250 | 3.585% | $3,141,436 | 5.000% | $4,381,361 | $7,522,797 |
| 2023 | $45,000,000 | 72.64 | 552.87 | 1,008,818 | $100 | $100,881,758 | 4.225% | $4,262,254 | $49,262,254 | 3.585% | $3,616,611 | 5.000% | $5,044,088 | $8,660,699 |
| 2024 | $42,500,000 | 68.60 | 621.47 | 1,133,999 | $100 | $113,399,932 | 4.225% | $4,791,147 | $47,291,147 | 3.585% | $4,065,388 | 5.000% | $5,669,997 | $9,735,384 |
| 2025 | $40,000,000 | 64.57 | 686.04 | 1,251,817 | $100 | $125,181,743 | 4.225% | $5,288,929 | $45,288,929 | 3.585% | $4,487,765 | 5.000% | $6,259,087 | $10,746,853 |
| 2026 | $37,500,000 | 60.53 | 746.57 | 1,362,272 | $100 | $136,227,191 | 4.225% | $5,755,599 | $43,255,599 | 3.585% | $4,883,745 | 5.000% | $6,811,360 | $11,695,104 |
| 2027 | $35,000,000 | 56.50 | 803.07 | 1,465,363 | $100 | $146,536,276 | 4.225% | $6,191,158 | $41,191,158 | 3.585% | $5,253,325 | 5.000% | $7,326,814 | $12,580,139 |
| 2028 | $32,500,000 | 52.46 | 855.53 | 1,561,090 | $100 | $156,108,998 | 4.225% | $6,595,605 | $39,095,605 | 3.585% | $5,596,508 | 5.000% | $7,805,450 | $13,401,957 |
| 2029 | $30,000,000 | 48.43 | 903.95 | 1,649,454 | $100 | $164,945,356 | 4.225% | $6,968,941 | $36,968,941 | 3.585% | $5,913,291 | 5.000% | $8,247,268 | $14,160,559 |
| 2030 | $27,500,000 | 44.39 | 948.35 | 1,730,454 | $100 | $173,045,351 | 4.225% | $7,311,166 | $34,811,166 | 3.585% | $6,203,676 | 5.000% | $8,652,268 | $14,855,943 |
| 2031 | $25,000,000 | 40.36 | 988.70 | 1,804,090 | $100 | $180,408,983 | 4.225% | $7,622,280 | $32,622,280 | 3.585% | $6,467,662 | 5.000% | $9,020,449 | $15,488,111 |

**Total State Tax Burden** **$680,322,732**

**Total Local Tax Burden (Sales + Franchise)** **$137,812,581**

**Brent Stewart** provided the following information as an opponent of this initiative petition.

**Association of Missouri Electric Cooperatives**

2722 East McCarty Street, P.O. Box 1645
Jefferson City, Missouri 65102
Telephone: (573) 635-6857
Fax: (573) 635-2314
www.amec.coop

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DEC 28 2015
STATE AUDITORS OFFICE

December 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: Fiscal Note in Initiative Petitions 2016-173 through 2016-190

To Whom It May Concern:

The Association of Missouri Electric Cooperatives (AMEC), representing the state's forty-seven member-owned, nonprofit rural electric cooperatives that serve close to one million electric consumers, respectfully submit the following brief comments to assist in your preparation of the fiscal notes on the above-mentioned initiative petitions.

All these petitions, in one way or another, involve solar and renewable energy mandates. The practical effect of each, to one extent or another, is to encourage consumers to substitute self-generation for traditional electric service, thereby creating an unfair electric rate subsidy in favor of those who can afford to install their own generation at the expense of the majority of the other consumers who cannot.

Missouri's forty distribution (retail level) cooperatives serve a wide variety of governmental entities throughout rural Missouri, including state facilities (e.g. prisons), local government facilities, hospitals, schools, rural water districts, regional sewer districts and others. To the extent these entities cannot afford to install their own generation, which most cannot, they necessarily will be forced to pay higher rates if these initiative petitions are enacted. Unfortunately, it is impossible without more time for AMEC to identify all those government-related entities and facilities or estimate with any accuracy the adverse fiscal impact. However, it is clear that even a modest rate increase necessarily will have a significant adverse fiscal impact on governmental entities, in millions of dollars, especially those in the primarily less affluent rural areas served by Missouri's nonprofit electric cooperatives.

Respectfully submitted,

Brent Stewart

Brent Stewart
AMEC Counsel

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State government revenue may decrease up to $612.5 million during the tax credit period with approximately $200,000 annual increased operating costs. Local governmental entities estimate $23.9 million in annual electricity sales reductions. Other resulting economic activity will have an unknown impact on state and local governments.

STATE AUDITOR'S OFFICE
RECEIVED
DEC 18 2015

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 18, 2015

16-187

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andrew Linhares regarding a proposed statutory amendment to Chapter 386, version 7 (2016-187)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andrew Linhares on December 17, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

16-187

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

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2015 DEC 17 PM 3:16
SEC. OF STATE

(Official Ballot Title)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
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| 11. | | | | | |
| 12. | | | | | |
| 13. | | | | | |
| 14. | | | | | |
| 15. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ___(check one) expect to be paid for circulating this petition. If paid, list the payer _____.

| _____ | _____ | _____ |
|---|---|---|
| Signature of Affiant (Person obtaining signatures) | (Printed Name of Affiant) | Address of Affiant |

Subscribed and sworn to before me this _____ day of _____, A.D. 201_.

| _____ | _____ |
|---|---|
| Signature of Notary | Address of Notary |
| Notary Public (Seal) | My commission expires |

Be it enacted by the people of the state of Missouri:

16-187

Section 386.890 is amended and one new section is added, to be known as section 386.895, to read as follows:

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal electric utility, rural electric cooperative as provided in chapter 394, or electrical corporation as provided in this chapter;

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of, or retail customer that is entitled by contract to receive the electric energy generated by, a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than [one hundred] two thousand kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of [natural resources] economic development;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any municipal utility, electrical corporation regulated under this chapter, or rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for other electric utilities may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

16-187

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and [shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period] all net excess kilowatt-hours generated shall be recorded as net excess energy credits per kilowatt-hour and those credits shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent billing periods;

(4) Any net excess energy credits granted by this subsection shall expire without any compensation at the earlier of either March 1 or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) For any rural electric cooperative under chapter 394, or municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule or equivalent formal action by each respective governing body:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10. The governing body of a rural electric cooperative or municipal utility shall, within nine months of January 1, 2008, adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

16-187

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

18. Notwithstanding any provision in this chapter or chapters 393 and 394 to the contrary, the owner or operator of a qualified electric generation unit that provides renewable energy resources to a customer-generator through a power purchase agreement, a sale and leaseback of equipment, or other form of contract between the customer-generator and the owner or operator of the qualified electric generation unit, shall not be determined by reason of such ownership, operation, contract, or provision of energy to be an electrical corporation or public utility as those terms are defined in section 386.020, nor shall it be precluded from installing, owning or operating the qualified electric unit and providing the related renewable energy resources to a customer that is being served by a retail electric supplier.

386.895. 1. Any taxpayer that owns a solar powered electric energy generation unit or solar facility that meets the requirements for net metering under section 386.890, and that has incurred costs and expenses related to the construction, design, and installation of that facility on or after the effective date of this section, shall, subject to the provisions of subsections 2 through 7 of this section, be allowed a state tax credit against the income taxes imposed pursuant to chapter 143 (except withholding imposed by sections 143.191 to 143.265), if the director of the department of revenue issues an eligibility statement for that project. The tax credit provided for in this section shall be known as the "Missouri Solar Energy Tax Credit".

2. The state tax credit allowed under this section shall not exceed thirty-five percent of the total costs and expenses incurred for the construction, design, and installation of that facility, up to a total of seventy-five thousand dollars per utility metered account; provided however that beginning in calendar years 2022 through 2031, the thirty-five percent limit on total costs and expenses shall be reduced by an amount of two percent per year, and the seventy-five thousand dollar limit shall be reduced by two thousand five hundred dollars per year, and such reduced limits shall apply to the tax credits allowed under this section during calendar years 2022 through 2031.

3. In no event shall the aggregate amount of all tax credits allowed under this section exceed fifty million dollars in any given calendar year for the period beginning with the effective date of this section through June 30, 2021. During the calendar years 2022 through 2031, this fifty million dollar limit for the calendar year shall be reduced each year by an amount equal to $2.5 million dollars. No new tax credits provided for under this section shall be authorized after June 30, 2031. The department of revenue shall promulgate rules and regulations for the administration of tax credits issued pursuant to this section, and establish the procedure by which such tax credits may be claimed.

4. Any eligible applicant desiring to claim a tax credit under this section shall first request an eligibility statement from the department of revenue. The applicant shall identify: the facility for which a tax credit is claimed; the costs and expenses expected to be incurred by the applicant related to the construction, design, and installation of the facility; the nameplate capacity of the facility; and the ownership for the facility. The director of the department of revenue shall issue an eligibility statement within thirty (30) days of the request if it finds that the applicant qualifies for a credit under this section. Tax credits shall be awarded on a first-come, first-serve basis, until the limits as provided in subsection 3 of this section are reached. The department of revenue may promulgate rules and regulations relating to this certification process.

5. The credit authorized by this section shall not be refundable. Any amount of credit which exceeds the tax due for a taxpayer's taxable year may be carried forward to any of the taxpayer's five subsequent taxable years.

6. All or any portion of the tax credits issued in accordance with this section may be transferred, sold, or assigned to a third party. Certification of transfer, sale or assignment and other appropriate forms must be filed with the department of revenue.

7. The reporting provisions of the Tax Credit Accountability Act of 2004 apply to the tax credits issued under this section.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-187)**

## Subject

Initiative petition from Andrew Linhares regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received December 18, 2015)

## Date

January 8, 2016

## Description

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Public Service Commission.**

**Edward D, Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Brent Stewart** of Association of Missouri Electric Cooperatives provided information to the State Auditor's Office as an opponent of this initiative petition.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated this proposal would reduce state revenues by $50 million for fiscal year 2017, $50 million for fiscal year 2018, and $50 million for fiscal year 2019.

**Summarize how this bill would affect the agency**

Section 386.890 – Net Metering and Easy Connection Act
The Division of Energy (DE) assumes it would be involved in the implementation of this provision that modifies the existing net metering and interconnection requirements for regulated electric utilities. It is assumed there would be a rulemaking docket to set the process and details associated with this proposal. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where net metering provisions are considered.

Section 386.895 – Missouri Solar Energy Tax Credit
The Department of Revenue (DOR) is required to implement the Missouri Solar Energy Tax Credit. The proposal requires DOR to promulgate rules to establish a process for claiming of the credit and may promulgate rules related to a certification of eligibility process.

The existing Missouri Renewable Energy Standard (RES) requires investor-owned utilities in Missouri to either produce green power or purchase Renewable Energy Certificates (RECs) for compliance. The DE has statutory authority to certify that eligible renewable energy resources do not cause undue environmental impacts before RECs associated with those renewable energy resources can be used for RES compliance. There are no certification fees associated with this review. DE anticipates that enactment of a solar tax credit and the expansion of the net- metering/interconnection size from 100 kilowatts to 2 megawatts and other provisions will result in an increase in renewable energy installations in Missouri which may be used for RES compliance.

**Long-range implications**

Fiscal impacts associated with the Missouri Solar Energy Tax Credits would continue until June 30, 2031. Economic benefits associated with construction of solar facilities would also have long-range implications.

**Assumptions and methodology used in arriving at state fiscal impact**

Section 386.890 –Net Metering and Easy Connection Act
For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

386.895- Missouri Solar Energy Tax Credit
The proposal's estimated impact to General Revenue could be up to $50 million per year from the effective date through June 30, 2021 depending on the schedule of implementation and applications submitted and approved. The potential impact would decrease by $2.5 million per year from 2022 through 2031.

DE assumes that DOR may consult with DE in development of rules associated with implementation of this proposal but that DE would not be involved in reviews of applications to DOR requesting certification of eligibility of solar facilities for the Missouri Solar Energy Tax Credit. For purposes of this fiscal note, DE assumes such consultation could be performed with existing resources.

DE anticipates that enactment of a tax credit will result in an increase in solar energy installations in Missouri which may be used for RES compliance. DE also anticipates that the increase in the capacity size of net metered renewable energy systems from 100 kilowatts to 2 megawatts and other provisions would result in an increase in other renewable energy installations in Missouri which may be used for RES compliance.

If all tax credits were used up to the cap of $50 million per year, and with consideration to the estimated cost and size of the solar projects, it is estimated there would be 4,718 residential project applications and 271 commercial project applications submitted for tax credit reviews (Source: Mark Reading analysis for similar Initiative Petitions).

For purposes of this fiscal note, DE assumes all applications for RES certification of no undue adverse environmental impacts are for solar projects and that only small numbers of these projects would submit applications for RES certification to DE. DE's review primarily focuses on environmental impacts of renewable electric generation facilities on air, water or land use. The actual staff time spent on each application varies. Solar photovoltaic and other renewable energy facilities with a larger capacity typically require more staff time for reviewing their third-party environmental impact assessments in addition to verifying applicable environmental permits, for data requests and discussion,

data collection, database management, report production and website maintenance. For purposes of this fiscal note, DE assumes it could complete the additional RES environmental reviews/certifications anticipated from this proposal using existing resources.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** estimate this petition will result in increased operating expenses of $199,602 for fiscal year 2017, $181,985 for fiscal year 2018, and $183,470 for fiscal year 2019.

The legislation creates a negative impact of up to $50 million per fiscal year to total state revenue by creating a new tax credit.

This petition creates the Missouri Solar Energy Tax Credit which allows up to 35 percent of the costs and expenses for construction, design, and installation of a generation unit. The provisions of subsection 3 cap the tax credit at $50 million and beginning in calendar year 2022, the total cap is reduced by $2.5 million each year. The provisions expire June 30, 2031, allowing for no new tax credits after that date.

The department suggests the provisions regarding the certification process be administered by the Department of Economic Development and the Division of Energy as they would be more familiar with the subject matter.

**Administrative Impact:**

**Personal Tax:**

Personal Tax requires one (1) Revenue Processing Technician I (Range 10, Step L) for every 6,000 credits claimed.

**Corporate Tax:**

Corporate Tax requires three (3) Revenue Processing Technicians I (Range 10, Step L) for every 4,000 credits redeemed, 4,000 credits transferred, and for every 520 SB 1099 compliance mailings and correspondence.

**Integrated Tax System:**

The integrated tax system incurs additional costs of $43,680 to implement the provisions of this petition.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the

number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of West Plains** indicated the 86 cities with municipal electric utilities depend on the revenues of this service for their citizen/owners to off-set the cost of electric service and operation to citizens as well as to support the activities of city government.

Based primarily on data from the Federal Department of Energy's (DOE) Energy Information Administration (EIA) Table 6 plus additional data gleaned from the National Renewable Energy Lab's Photovoltaic Calculator and the Missouri Association of Municipal Utilities for peak loads in 73 cities, they have determined that municipalities in Missouri face a loss of at least $23.9 million in revenue should this initiative petition become law. The impact alone to the City of West Plains appears to be $352,000 annually, or over 6.5% of their annual electric utility revenue budget. This figure does not reflect any additional costs they will be required to incur for required pleadings before the state Public Service Commission or local compliance costs for other requirements contained in this proposal.

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art. X, Sec. 16) that reduces income or increases costs without

"full state financing," they anticipate that local government costs would be reflected in the final state cost when the fiscal note is completed. Necessary litigation costs incurred for Mo. Const. Art. X, Sec. 16 and other potential legal inconsistencies are unknown.

Methodology for City Loss Calculation
Renewable Energy Initiative Petitions

| **Assumptions and Methods** | **Information Source** |
|---|---|
| 1. A combined federal and state tax credit of 60% of installation costs, would prompt city customers to achieve the 7% capacity cap in a reasonable period of time | Proposed Legislation |
| 2. 1 kW solar panel at this latitude would generate 1350 kWHr per year | National Renewable Energy Lab's PV Calculator |
| 3. Annual Peaks | Municipal reports to the Missouri Association of Municipal Utilities |
| 4. Current City Electric Rates | DOE EIA Database (Table 6 for 2010) |

5. Calculation:
   Annual Peak
   7% of Annual Peak for Capacity Cap
   Total Solar Generation = (Capacity Cap * 1350 kWHrs)*1000
   City's lost revenue: City rate * Solar Generation

6. State calculation based on the sum of "Assumption 5" calculations for
   73 reporting cities (out of 86)
      Total ≥ $23.8 million

**Calculation for City of West Plains**

| | |
|---|---|
| 44.453 | Annual Peak (MW) |
| 3.11171 | 7% of Annual Peak for Capacity Cap MW |
| 4,200,809 | Total Solar Generation (KWHR) |
| 8.38 | City Rate (cents per kWHR) |
| $352,028 | Lost Revenue |

Officials from **University of Missouri** indicated they have not seen cost impact studies on this initiative from their electric utility suppliers, but they do not believe this will have a significant impact on their university.

Officials from the **Public Service Commission** (PSC) indicated the following:

Proposed Section 386.890.5.(4), RSMo, states "Any net excess energy credits granted by this subsection shall expire without any compensation at the earlier of either March 1 or

when the customer-generator disconnects service or terminates the net metering relationship with the supplier." The current statutory language states "Any credits granted by this subsection shall expire without any compensation at the earlier of either 12 months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier." It appears the drafter inadvertently did not mark all the changes in the subsection.

Proposed Section 386.890.18, RSMo, states “Notwithstanding any provision in this chapter or chapter 393 and 394 to the contrary, the owner or operator of a qualified electric generation unit that provides renewable energy resources to a customer-generator through a power purchase agreement…, shall not be determined by reason of such ownership, operation, contract, or provision of energy to be an electrical corporation or public utility as those terms are defined by section 386.020….” This language suggests that any electrical corporation providing service to a customer-generator could be exempt from Section 386.020, RSMo, and potentially somehow exempt from commission regulation even if already regulated. To alleviate any possible confusion delete the words “the owner or operator of a qualified electric generation unit that provides renewable energy resources to” before ‘a customer-generator’ (which is already limited by its definition of generators producing currently 1,000 KW or proposed change 2,000 KW). Further, the language “Notwithstanding any provision in this chapter or chapter 393 and 394 to the contrary,” should also be removed to not potentially conflict.

Also absent from this proposal is an additional sentence clearly delineating that this does not diminish or supersede the commission’s authority to ensure safe operation of any electric plant. The PSC respectfully suggests that this sentence should be added in for clarity.

Section 386.895, RSMo, discusses a "Missouri Solar Energy Tax Credit". It is not clear why the tax credit is in the PSC statute and not in a tax-related statute.

**Edward D, Greim** provided the following information as an opponent of this initiative petition.

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December 28, 2015

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Re: *Fiscal Note in Initiative Petitions 2016-181 through 2016-189*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petition 181 :

> Lost revenue to state government is $680.3 million over the tax credit period, with annual losses of $7.6 million thereafter. Lost revenue to local government is $137.8 million over the tax credit period, with annual losses of $15.5 million thereafter.

We propose the following fiscal note summary for petitions 182, 183, 184, 186, 187, and 188:

> Lost revenue to state government is $680.3 million over the tax credit period, with annual losses of $7.6 million thereafter. Lost revenue to local government is $137.8 million over the tax credit period, with annual losses of $15.5 million thereafter. Other, substantial lost revenues of an unknown amount are likely.

We propose the following fiscal note summary for petitions 185 and 189:

> Lost revenue to state government is approximately $38,500, annually, for each facility, and up to $321.1 million in state revenue is at risk. Lost revenue to local governments is approximately $78,300, annually, for each facility, and up to $652.5 million in local revenue is at risk.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments. These taxes, however, will no longer be collected for electricity that is never sold due to the customer-generator production and community solar encouraged by the initiative petitions. Petition signers and voters must be informed of the certainty that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume. On the other hand, any positive fiscal impacts of the initiative petitions are speculative.

**Description of Policy**

Initiative Petitions 181 to 189 contain one or more of three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of community solar facilities/arrangements; and (3) A state tax credit for solar powered electric energy generation units and arrangements.

1. Changes to Net Metering for Investor-owned electric utilities, municipal electric utilities, and rural electric cooperatives
    A. Redefine customer generator to include retail customers entitled by contract to receive the electrical energy generated by a qualified energy generation unit;
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);
    D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.
2. 5 Megawatt Community Solar Facilities
    A. Electric Customers may participate in community based solar arrangements up to with generation capacity up to 5 megawatts. There is no limit on the number of community solar facilities that may be developed.
    B. Bill credits are one to one against electric utility bills for customers who participate in the community solar facility.
    C. Excess bill credits are sold back to municipal utilities, investor-owned utilities, and electric cooperatives, by kilowatt hour (at rate to be set by commission, that is at least as great as all avoided costs, but up to the retail electric supply rate).
3. Tax credit
    A. 35% tax credit for solar powered energy generation units eligible for net metering, or in some petitions, community solar facilities up to 5 megawatt.



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B. Total value of eligible credits shall not exceed $50 million each year until 2022, with credits decreasing after that date. Unused credits carryover year to year.
C. No tax credits after June 30, 2031.

**Burdens on State Government**

In determining the fiscal impact of each petition, it is generally reasonable to assume that the various statutory changes in the petitions will have independent fiscal impacts. The reasonableness of this assumption is demonstrated by the various iterations of the petitions themselves, some of which propose tax credits with no proposed changes to the Net Metering and Easy Connection Act. *See* Petitions 178 and 190.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 182-184 and 186-188*

Raising the net metering cap from 100 kilowatt units to 2 megawatt units will result in a decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase due to economies of scale. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in some of the petitions provides a strong financial incentive to solar energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[1], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[2] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. *See* U.S. Energy Information Administration – Independent Statistics and Analysis. Accordingly, a 1% decrease in electricity sales volume will reduce Missouri state sales tax revenues from electric providers by at least 3.2 million dollars. Based on the change from 100 kilowatt units to 2 megawatt units, individual net metering units may

[1] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[2] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.



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significantly impact tax revenues. Every megawatt of installed solar decreases state sales tax revenue by $7,700 annually.

*ii. Decreased tax collections due to community solar facilities – Initiative Petitions 184, 185, 188, 189*

Community solar facilities are in addition to net metering and represent an additional capacity of an unlimited amount. Energy generated from the community solar facility is allocated by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. These community solar facilities will be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoids property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership model, similar to net metering,[3] because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%). There is no cap on the amount of community solar facilities that may be constructed, and there are strong financial incentives to create excess production, given declining prices of solar electricity and a mandatory obligation of the interconnected utility to buy electricity at generous, retail rates.

A 1% decrease in electricity sales volume will reduce Missouri state sales tax revenues from electric providers by 3.2 million dollars. Every 5MW "renewable energy facility" will reduce state sales tax revenues by $38,500, annually. Up to $321.1 million in state sales tax revenue is at risk ($7.6 billion * 4.225%).

*iii. Tax credits – Initiative Petitions 181-184 and 186-188*

*a. Decreased tax collections due to tax credits – Credits capped at $50 million annually*

The 35% tax credits in these petitions will directly result in a loss of state income of $25 million to $50 million, annually. The total loss to state government over the tax credit effective period is $612.5 million.

*b. Cost of eroding tax base due to new energy generation*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in Missouri. According to the attached table, the tax credits will result in 988.7 MWh/988,700 kWh of new electricity generation. New production from such tax credits would produce

[3] The petitions use the terms "facility access", "arrangements", and "bill credits" all of which indicate that the electricity generated and allocated will not be subject to sales tax.



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approximately 1,804,090 MWh per year, also expressed as 1,804,090,000 KWh, or 1,804 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour,[4] this new production is valued at $180,408,983.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[5] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for solar energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology.

For Initiative Petitions 181-184 and 186-188, the total, annual loss to state governments *due to the tax credits* is 32.6 million to 53.1 million over the tax credit period. The total loss during the tax credit period is $680.3 million. There is an annual loss in perpetuity after the tax credit period of $7.6 million, based on expected customer-generation resourced developed. *See* attached table.

**Burdens on Local Governments**

Local governments face losses in revenue from the various petition provisions that are similar to those faced by state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to

[4] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.

[5] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 182-184 and 186-188*

A 1% decrease in electricity sales volume will reduce Missouri local tax revenues from electric providers by $6.5 million, annually.

*ii. Decreased tax collections due to community solar facilities – Initiative Petitions 184, 185, 188, 189*

A 1% decrease in electricity sales volume will reduce Missouri local tax revenues from electric providers by 6.5 million dollars. Every 5MW "renewable energy facility" will reduce local government tax revenues by $78,300, annually. Up to $652.5 million in local sales and license/franchise tax revenue is at risk ($7.6 billion * [3.585% + 5%]).

*iii. Tax credits – Initiative Petitions 181-184 and 186-188 – Cost of eroding tax base due to new energy generation*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petitions may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to local governments, all of which may be reduced or discontinued if the initiative petitions are enacted.

The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[6] Based on this estimate, the population-weighted combined average local sales tax is 3.585%. The tax credits will result in 988.70 megawatts of new electricity production that will be net metered or otherwise result in the allocation of bill credits and, as a result, decrease electric revenues. The corresponding annual loss to local governments from lost sales tax from the tax credit is $6,467,662. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,020,449.

[6] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.



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The overall annual loss to local governments due to the tax credits is $15.5 million. The total loss to local government revenues during the tax credit period is $137.8 million.

**In Conclusion**

The initiative petitions will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petitions, such as increases in net metering and community solar. The total tax burden on state government imposed by the petitions with tax credits is at least $680 million over the tax credit period, with at least $7.6 million in lost revenues in perpetuity. The total tax burden on state government imposed by the petitions without tax credits is substantial, with up to $321.1 million at risk. The total tax burden on local governments imposed by the petitions with tax credits is at least $137.8 million over the tax credit period, with at least $15.5 million in lost revenues in perpetuity. The total tax burden on local government imposed by the petitions without tax credits is substantial, with up to $652.5 million at risk.

Sincerely,

Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

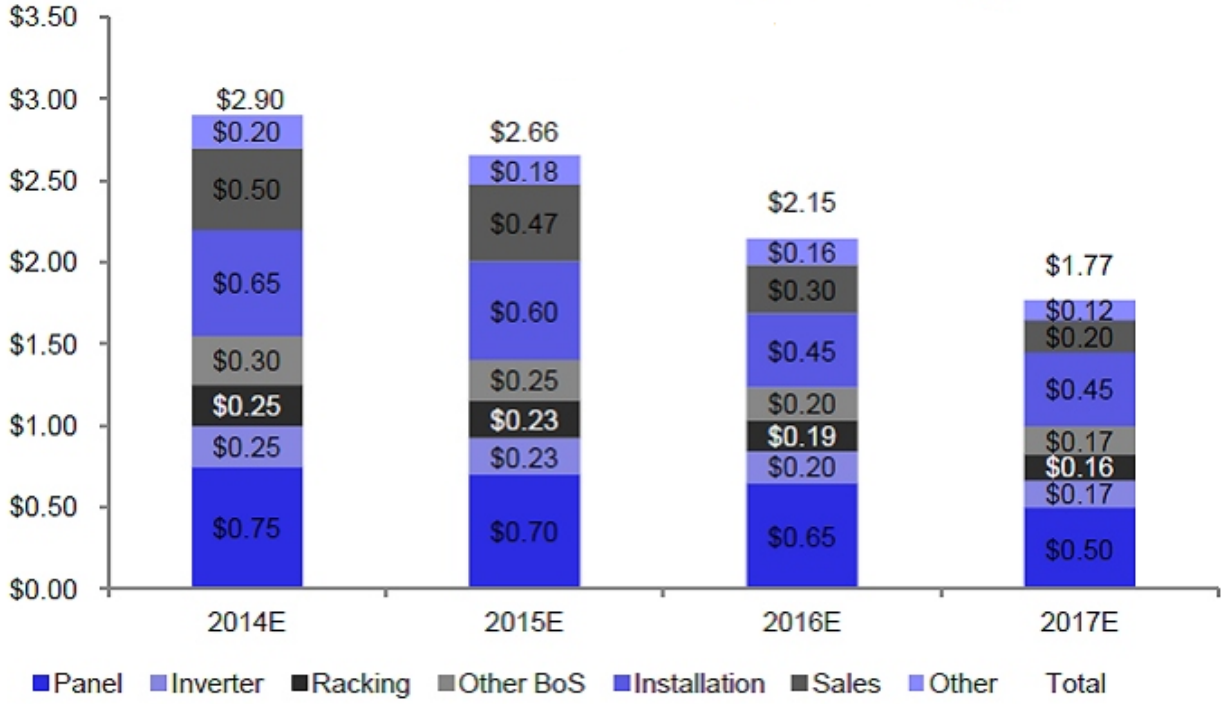
**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0



1100 Main Street, Suite 2700 Kansas City, MO 64105 ph 816.256.3181 www.gravesgarrett.com

Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017
https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm



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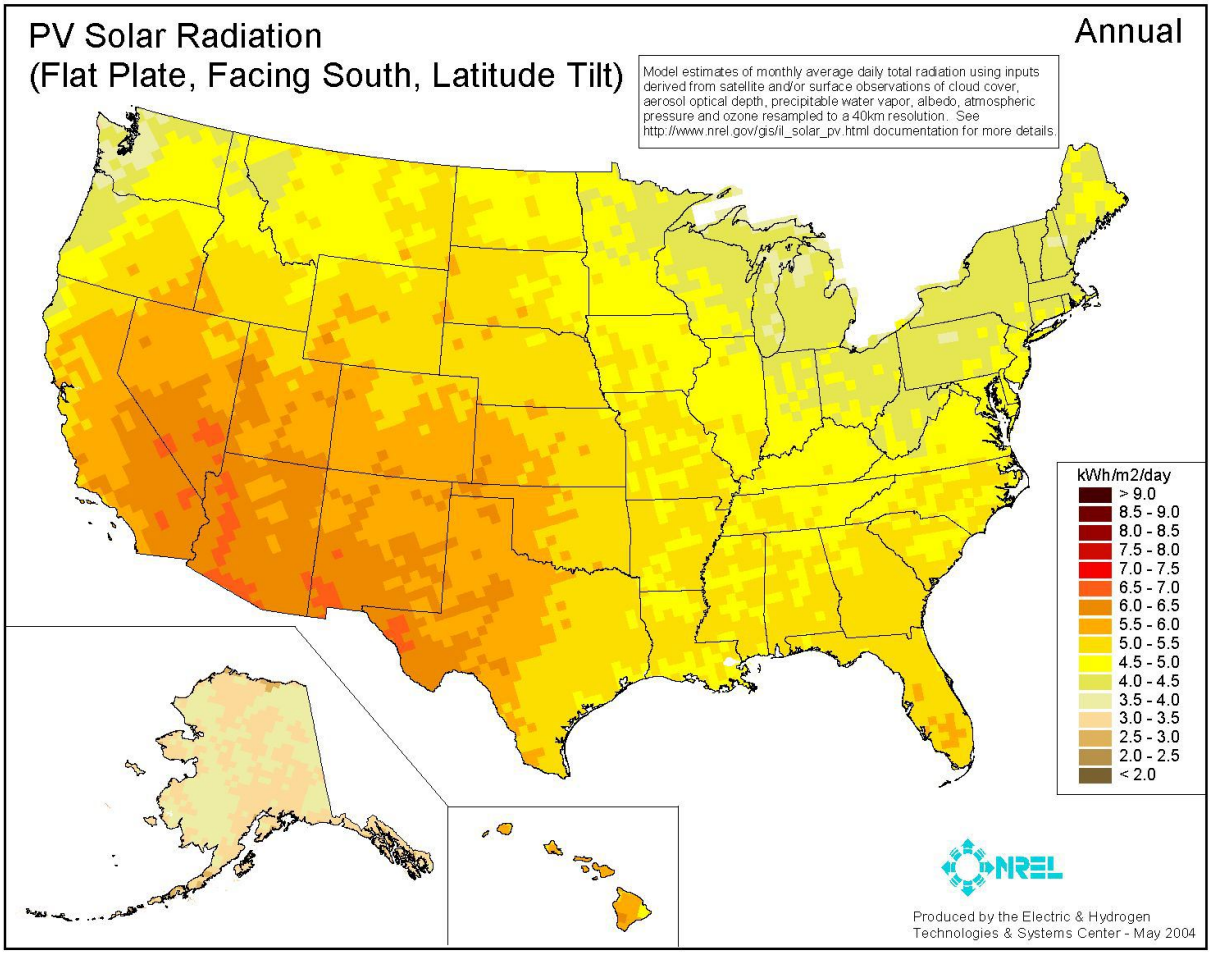
National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Renew Mo Solar Tax Credit Fiscal Analysis - Petitions 181-184 and 186-188**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 80.71 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $50,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 147,273 | |
| $/MWh Retail Rate | $100 | |

| | Solar Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $50,000,000 | 80.71 | 80.71 | 147,273 | $100 | $14,727,264 | 4.225% | $622,227 | $50,622,227 | 3.585% | $527,972 | 5.000% | $736,363 | $1,264,336 |
| 2018 | $50,000,000 | 80.71 | 161.42 | 294,545 | $100 | $29,454,528 | 4.225% | $1,244,454 | $51,244,454 | 3.585% | $1,055,945 | 5.000% | $1,472,726 | $2,528,671 |
| 2019 | $50,000,000 | 80.71 | 242.13 | 441,818 | $100 | $44,181,792 | 4.225% | $1,866,681 | $51,866,681 | 3.585% | $1,583,917 | 5.000% | $2,209,090 | $3,793,007 |
| 2020 | $50,000,000 | 80.71 | 322.84 | 589,091 | $100 | $58,909,056 | 4.225% | $2,488,908 | $52,488,908 | 3.585% | $2,111,890 | 5.000% | $2,945,453 | $5,057,342 |
| 2021 | $50,000,000 | 80.71 | 403.55 | 736,363 | $100 | $73,636,320 | 4.225% | $3,111,135 | $53,111,135 | 3.585% | $2,639,862 | 5.000% | $3,681,816 | $6,321,678 |
| 2022 | $47,500,000 | 76.67 | 480.23 | 876,272 | $100 | $87,627,220 | 4.225% | $3,702,250 | $51,202,250 | 3.585% | $3,141,436 | 5.000% | $4,381,361 | $7,522,797 |
| 2023 | $45,000,000 | 72.64 | 552.87 | 1,008,818 | $100 | $100,881,758 | 4.225% | $4,262,254 | $49,262,254 | 3.585% | $3,616,611 | 5.000% | $5,044,088 | $8,660,699 |
| 2024 | $42,500,000 | 68.60 | 621.47 | 1,133,999 | $100 | $113,399,932 | 4.225% | $4,791,147 | $47,291,147 | 3.585% | $4,065,388 | 5.000% | $5,669,997 | $9,735,384 |
| 2025 | $40,000,000 | 64.57 | 686.04 | 1,251,817 | $100 | $125,181,743 | 4.225% | $5,288,929 | $45,288,929 | 3.585% | $4,487,765 | 5.000% | $6,259,087 | $10,746,853 |
| 2026 | $37,500,000 | 60.53 | 746.57 | 1,362,272 | $100 | $136,227,191 | 4.225% | $5,755,599 | $43,255,599 | 3.585% | $4,883,745 | 5.000% | $6,811,360 | $11,695,104 |
| 2027 | $35,000,000 | 56.50 | 803.07 | 1,465,363 | $100 | $146,536,276 | 4.225% | $6,191,158 | $41,191,158 | 3.585% | $5,253,325 | 5.000% | $7,326,814 | $12,580,139 |
| 2028 | $32,500,000 | 52.46 | 855.53 | 1,561,090 | $100 | $156,108,998 | 4.225% | $6,595,605 | $39,095,605 | 3.585% | $5,596,508 | 5.000% | $7,805,450 | $13,401,957 |
| 2029 | $30,000,000 | 48.43 | 903.95 | 1,649,454 | $100 | $164,945,356 | 4.225% | $6,968,941 | $36,968,941 | 3.585% | $5,913,291 | 5.000% | $8,247,268 | $14,160,559 |
| 2030 | $27,500,000 | 44.39 | 948.35 | 1,730,454 | $100 | $173,045,351 | 4.225% | $7,311,166 | $34,811,166 | 3.585% | $6,203,676 | 5.000% | $8,652,268 | $14,855,943 |
| 2031 | $25,000,000 | 40.36 | 988.70 | 1,804,090 | $100 | $180,408,983 | 4.225% | $7,622,280 | $32,622,280 | 3.585% | $6,467,662 | 5.000% | $9,020,449 | $15,488,111 |

**Total State Tax Burden** **$680,322,732**

**Total Local Tax Burden (Sales + Franchise)** **$137,812,581**

**Brent Stewart** provided the following information as an opponent of this initiative petition.

**Association of Missouri Electric Cooperatives**

2722 East McCarty Street, P.O. Box 1645
Jefferson City, Missouri 65102
Telephone: (573) 635-6857
Fax: (573) 635-2314
www.amec.coop

RECEIVED
DEC 28 2015
STATE AUDITORS OFFICE

December 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: Fiscal Note in Initiative Petitions 2016-173 through 2016-190

To Whom It May Concern:

The Association of Missouri Electric Cooperatives (AMEC), representing the state's forty-seven member-owned, nonprofit rural electric cooperatives that serve close to one million electric consumers, respectfully submit the following brief comments to assist in your preparation of the fiscal notes on the above-mentioned initiative petitions.

All these petitions, in one way or another, involve solar and renewable energy mandates. The practical effect of each, to one extent or another, is to encourage consumers to substitute self-generation for traditional electric service, thereby creating an unfair electric rate subsidy in favor of those who can afford to install their own generation at the expense of the majority of the other consumers who cannot.

Missouri's forty distribution (retail level) cooperatives serve a wide variety of governmental entities throughout rural Missouri, including state facilities (e.g. prisons), local government facilities, hospitals, schools, rural water districts, regional sewer districts and others. To the extent these entities cannot afford to install their own generation, which most cannot, they necessarily will be forced to pay higher rates if these initiative petitions are enacted. Unfortunately, it is impossible without more time for AMEC to identify all those government-related entities and facilities or estimate with any accuracy the adverse fiscal impact. However, it is clear that even a modest rate increase necessarily will have a significant adverse fiscal impact on governmental entities, in millions of dollars, especially those in the primarily less affluent rural areas served by Missouri's nonprofit electric cooperatives.

Respectfully submitted,

Brent Stewart

Brent Stewart
AMEC Counsel

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State government revenue may decrease up to $612.5 million during the tax credit period with approximately $200,000 annual increased operating costs. Local governmental entities estimate $23.9 million in annual electricity sales reductions. Other resulting economic activity will have an unknown impact on state and local governments.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

STATE AUDITOR'S OFFICE
RECEIVED
DEC 18 2015

ELECTIONS DIVISION
(573) 751-2301

16-186

December 18, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andrew Linhares regarding a proposed statutory amendment to Chapter 386, version 6 (2016-186)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andrew Linhares on December 17, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

16-186

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 17 PM 3:15
SEC. OF STATE

(Official Ballot Title)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
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| 14. | | | | | |
| 15. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ___(check one) expect to be paid for circulating this petition. If paid, list the payer _____.

_____ Signature of Affiant (Person obtaining signatures)

_____ (Printed Name of Affiant)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201_.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires

Be it enacted by the people of the state of Missouri: 16-186

Section 386.890 is amended and one new section is added, to be known as section 386.895, to read as follows:

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal electric utility, rural electric cooperative as provided in chapter 394, or electrical corporation as provided in this chapter;

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than [one hundred] two thousand kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of [natural resources] economic development;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any municipal utility, electrical corporation regulated under this chapter, or rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for other electric utilities may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing

meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

16-186

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and [shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period] all net excess kilowatt-hours generated shall be recorded as net excess energy credits per kilowatt-hour and those credits shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent billing periods;

(4) Any net excess energy credits granted by this subsection shall expire without any compensation at the earlier of either March 1 or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) For any rural electric cooperative under chapter 394, or municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule or equivalent formal action by each respective governing body:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10. The governing body of a rural electric cooperative or municipal utility shall, within nine months of January 1, 2008, adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application

process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

16-186

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.895. 1. Any taxpayer that owns a solar powered electric energy generation unit that meets the requirements for net metering under section 386.890, and that has incurred costs and expenses related to the construction, design, and installation of that generation unit on or after the effective date of this section, shall, subject to the provisions of subsections 2 through 7 of this section, be allowed a state tax credit against the income taxes imposed pursuant to chapter 143 (except withholding imposed by sections 143.191 to 143.265), if the director of the department of revenue issues an eligibility statement for that project. The tax credit provided for in this section shall be known as the "Missouri Solar Energy Tax Credit".

2. The state tax credit allowed under this section shall not exceed thirty-five percent of the total costs and expenses incurred for the construction, design, and installation of that generation unit, up to a total of seventy-five thousand dollars per utility metered account; provided however that beginning in calendar years 2022 through 2031, the thirty-five percent limit on total costs and expenses shall be reduced by an amount of two percent per year, and the seventy-five thousand dollar limit shall be reduced by two thousand five hundred dollars per year, and such reduced limits shall apply to the tax credits allowed under this section during calendar years 2022 through 2031.

3. In no event shall the aggregate amount of all tax credits allowed under this section exceed fifty million dollars in any given calendar year for the period beginning with the effective date of this section through June 30, 2021. During the calendar years 2022 through 2031, this fifty million dollar limit for the calendar year shall be reduced each year by an amount equal to $2.5 million dollars. No new tax credits provided for under this section shall be authorized after June 30, 2031. The department of revenue shall promulgate rules and regulations for the administration of tax credits issued pursuant to this section, and establish the procedure by which such tax credits may be claimed.

4. Any eligible applicant desiring to claim a tax credit under this section shall first request an eligibility statement from the department of revenue. The applicant shall identify: the generation unit for which a tax credit is claimed; the costs and expenses expected to be incurred by the applicant related to the construction, design, and installation of the unit; the nameplate capacity of the unit; and the ownership for the unit. The director of the department of revenue shall issue an eligibility statement within thirty (30) days of the request if it finds that the applicant qualifies for a credit under this section. Tax credits shall be awarded on a first-come, first-serve basis, until the limits as provided in subsection 3 of this section are reached. The department of revenue may promulgate rules and regulations relating to this certification process.

5. The credit authorized by this section shall not be refundable. Any amount of credit which exceeds the tax due for a taxpayer's taxable year may be carried forward to any of the taxpayer's five subsequent taxable years.

6. All or any portion of the tax credits issued in accordance with this section may be transferred, sold, or assigned to a third party. Certification of transfer, sale or assignment and other appropriate forms must be filed with the department of revenue.

7. The reporting provisions of the Tax Credit Accountability Act of 2004 apply to the tax credits issued under this section.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-186)**

## Subject

Initiative petition from Andrew Linhares regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received December 18, 2015)

## Date

January 8, 2016

## Description

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Public Service Commission.**

**Edward D, Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Brent Stewart** of Association of Missouri Electric Cooperatives provided information to the State Auditor's Office as an opponent of this initiative petition.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated this proposal would reduce state revenues by $50 million for fiscal year 2017, $50 million for fiscal year 2018, and $50 million for fiscal year 2019.

**Summarize how this bill would affect the agency**

Section 386.890 – Net Metering and Easy Connection Act
The Division of Energy (DE) assumes it would be involved in the implementation of this provision that modifies the existing net metering and interconnection requirements for regulated electric utilities. It is assumed there would be a rulemaking docket to set the process and details associated with this proposal. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where net metering provisions are considered.

Section 386.895 – Missouri Solar Energy Tax Credit
The Department of Revenue (DOR) is required to implement the Missouri Solar Energy Tax Credit. The proposal requires DOR to promulgate rules to establish a process for claiming of the credit and may promulgate rules related to a certification of eligibility process.

The existing Missouri Renewable Energy Standard (RES) requires investor-owned utilities in Missouri to either produce green power or purchase Renewable Energy Certificates (RECs) for compliance. The DE has statutory authority to certify that eligible renewable energy resources do not cause undue environmental impacts before RECs associated with those renewable energy resources can be used for RES compliance. There are no certification fees associated with this review. DE anticipates that enactment of a tax credit and expansion of the net-metering/interconnection size from 100 kilowatts to 2 megawatts will result in an increase in net-metered renewable energy installations (as modified by Section 386.890, RSMo, of this proposal) in Missouri which may be used for RES compliance.

**Long-range implications**

Fiscal impacts associated with the Missouri Solar Energy Tax Credits would continue until June 30, 2031. Economic benefits associated with construction of solar facilities would also have long-range implications.

**Assumptions and methodology used in arriving at state fiscal impact**

Section 386.890 –Net Metering and Easy Connection Act
For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

386.895- Missouri Solar Energy Tax Credit
The proposal's estimated impact to General Revenue could be up to $50 million per year from the effective date through June 30, 2021 depending on the schedule of implementation and applications submitted and approved. The potential impact would decrease by $2.5 million per year from 2022 through 2031.

DE assumes that DOR may consult with DE in development of rules associated with implementation of this proposal but that DE would not be involved in reviews of applications to DOR requesting certification of eligibility for net-metered solar facilities (up to 100 kilowatts) for the Missouri Solar Energy Tax Credit. For purposes of this fiscal note, DE assumes such consultation could be performed with existing resources.

DE anticipates that enactment of a tax credit will result in an increase in net-metered solar energy installations in Missouri which may be used for RES compliance. DE also anticipates that the increase in the capacity size of net metered renewable energy systems from 100 kilowatts to 2 megawatts would result in an increase in other net-metered renewable energy installations in Missouri which may be used for RES compliance.

If all tax credits were used up to the cap of $50 million per year, and with consideration to the estimated cost and size of the solar projects, it is estimated there would be 4,718 residential project applications and 271 commercial project applications submitted for tax credit reviews (Source: Mark Reading analysis for similar Initiative Petitions).

For purposes of this fiscal note, DE assumes all applications for RES certification of no undue adverse environmental impacts are for solar projects and that only small numbers of these projects would submit applications for RES certification to DE. DE's review primarily focuses on environmental impacts of renewable electric generation facilities on air, water or land use. The actual staff time spent on each application varies. Solar photovoltaic and other renewable energy facilities with a larger capacity typically require more staff time for reviewing their third-party environmental impact assessments in addition to verifying applicable environmental permits, for data requests and discussion, data collection, database management, report production and website maintenance. For

purposes of this fiscal note, DE assumes it could complete the additional RES environmental reviews/certifications anticipated from this proposal using existing resources.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** estimate this petition will result in increased operating expenses of $199,602 for fiscal year 2017, $181,985 for fiscal year 2018, and $183,470 for fiscal year 2019.

The legislation creates a negative impact of up to $50 million per fiscal year to total state revenue by creating a new tax credit.

This petition creates the Missouri Solar Energy Tax Credit which allows up to 35 percent of the costs and expenses for construction, design, and installation of a generation unit. The provisions of subsection 3 cap the tax credit at $50 million and beginning in calendar year 2022, the total cap is reduced by $2.5 million each year. The provisions expire June 30, 2031, allowing for no new tax credits after that date.

The department suggests the provisions regarding the certification process be administered by the Department of Economic Development and the Division of Energy as they would be more familiar with the subject matter.

**Administrative Impact:**

**Personal Tax:**

Personal Tax requires one (1) Revenue Processing Technician I (Range 10, Step L) for every 6,000 credits claimed.

**Corporate Tax:**
Corporate Tax requires three (3) Revenue Processing Technicians I (Range 10, Step L) for every 4,000 credits redeemed, 4,000 credits transferred, and for every 520 SB 1099 compliance mailings and correspondence.

**Integrated Tax System:**
The integrated tax system incurs additional costs of $43,680 to implement the provisions of this petition.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed

the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of West Plains** indicated the 86 cities with municipal electric utilities depend on the revenues of this service for their citizen/owners to off-set the cost of electric service and operation to citizens as well as to support the activities of city government.

Based primarily on data from the Federal Department of Energy's (DOE) Energy Information Administration (EIA) Table 6 plus additional data gleaned from the National Renewable Energy Lab's Photovoltaic Calculator and the Missouri Association of Municipal Utilities for peak loads in 73 cities, they have determined that municipalities in Missouri face a loss of at least $23.9 million in revenue should this initiative petition become law. The impact alone to the City of West Plains appears to be $352,000 annually, or over 6.5% of their annual electric utility revenue budget. This figure does not reflect any additional costs they will be required to incur for required pleadings before the state Public Service Commission or local compliance costs for other requirements contained in this proposal.

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art. X, Sec. 16) that reduces income or increases costs without "full state financing," they anticipate that local government costs would be reflected in the final state cost when the fiscal note is completed. Necessary litigation costs incurred for Mo. Const. Art. X, Sec. 16 and other potential legal inconsistencies are unknown.

Methodology for City Loss Calculation
Renewable Energy Initiative Petitions

| **Assumptions and Methods** | **Information Source** |
|---|---|
| 1. A combined federal and state tax credit of 60% of installation costs, would prompt city customers to achieve the 7% capacity cap in a reasonable period of time | Proposed Legislation |
| 2. 1 kW solar panel at this latitude would generate 1350 kWHr per year | National Renewable Energy Lab's PV Calculator |
| 3. Annual Peaks | Municipal reports to the Missouri Association of Municipal Utilities |
| 4. Current City Electric Rates | DOE EIA Database (Table 6 for 2010) |

5. Calculation:
   Annual Peak
   7% of Annual Peak for Capacity Cap
   Total Solar Generation = (Capacity Cap * 1350 kWHrs)*1000
   City's lost revenue: City rate * Solar Generation

6. State calculation based on the sum of "Assumption 5" calculations for
   73 reporting cities (out of 86)
      Total ≥ $23.8 million

**Calculation for City of West Plains**

| | |
|---|---|
| 44.453 | Annual Peak (MW) |
| 3.11171 | 7% of Annual Peak for Capacity Cap MW |
| 4,200,809 | Total Solar Generation (KWHR) |
| 8.38 | City Rate (cents per kWHR) |
| $352,028 | Lost Revenue |

Officials from **University of Missouri** indicated they have not seen cost impact studies on this initiative from their electric utility suppliers, but they do not believe this will have a significant impact on their university.

Officials from the **Public Service Commission** (PSC) indicated the following:

Section 386.890.5.(1), RSMo, appears to be missing language due to the page break. One page ends with "consumed during the billing". The next page starts with "meter that measures the amount of electrical energy…"

Section 386.890.5.(4), RSMo, states "Any net excess energy credits granted by this subsection shall expire without any compensation at the earlier of either March 1 or when

the customer-generator disconnects service or terminates the net metering relationship with the supplier." The current statutory language states "Any credits granted by this subsection shall expire without any compensation at the earlier of either 12 months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier." It appears the drafter inadvertently did not mark all the changes in the subsection.

Section 386.895, RSMo, discusses a "Missouri Solar Energy Tax Credit". It is not clear why the tax credit is in the PSC statute and not in a tax-related statute.

**Edward D, Greim** provided the following information as an opponent of this initiative petition.

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December 28, 2015

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301 West High Street
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Re: *Fiscal Note in Initiative Petitions 2016-181 through 2016-189*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petition 181 :

> Lost revenue to state government is $680.3 million over the tax credit period, with annual losses of $7.6 million thereafter. Lost revenue to local government is $137.8 million over the tax credit period, with annual losses of $15.5 million thereafter.

We propose the following fiscal note summary for petitions 182, 183, 184, 186, 187, and 188:

> Lost revenue to state government is $680.3 million over the tax credit period, with annual losses of $7.6 million thereafter. Lost revenue to local government is $137.8 million over the tax credit period, with annual losses of $15.5 million thereafter. Other, substantial lost revenues of an unknown amount are likely.

We propose the following fiscal note summary for petitions 185 and 189:

> Lost revenue to state government is approximately $38,500, annually, for each facility, and up to $321.1 million in state revenue is at risk. Lost revenue to local governments is approximately $78,300, annually, for each facility, and up to $652.5 million in local revenue is at risk.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments. These taxes, however, will no longer be collected for electricity that is never sold due to the customer-generator production and community solar encouraged by the initiative petitions. Petition signers and voters must be informed of the certainty that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume. On the other hand, any positive fiscal impacts of the initiative petitions are speculative.

**Description of Policy**

Initiative Petitions 181 to 189 contain one or more of three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of community solar facilities/arrangements; and (3) A state tax credit for solar powered electric energy generation units and arrangements.

1. Changes to Net Metering for Investor-owned electric utilities, municipal electric utilities, and rural electric cooperatives
    A. Redefine customer generator to include retail customers entitled by contract to receive the electrical energy generated by a qualified energy generation unit;
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);
    D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.
2. 5 Megawatt Community Solar Facilities
    A. Electric Customers may participate in community based solar arrangements up to with generation capacity up to 5 megawatts. There is no limit on the number of community solar facilities that may be developed.
    B. Bill credits are one to one against electric utility bills for customers who participate in the community solar facility.
    C. Excess bill credits are sold back to municipal utilities, investor-owned utilities, and electric cooperatives, by kilowatt hour (at rate to be set by commission, that is at least as great as all avoided costs, but up to the retail electric supply rate).
3. Tax credit
    A. 35% tax credit for solar powered energy generation units eligible for net metering, or in some petitions, community solar facilities up to 5 megawatt.



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B. Total value of eligible credits shall not exceed $50 million each year until 2022, with credits decreasing after that date. Unused credits carryover year to year.
C. No tax credits after June 30, 2031.

**Burdens on State Government**

In determining the fiscal impact of each petition, it is generally reasonable to assume that the various statutory changes in the petitions will have independent fiscal impacts. The reasonableness of this assumption is demonstrated by the various iterations of the petitions themselves, some of which propose tax credits with no proposed changes to the Net Metering and Easy Connection Act. *See* Petitions 178 and 190.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 182-184 and 186-188*

Raising the net metering cap from 100 kilowatt units to 2 megawatt units will result in a decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase due to economies of scale. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in some of the petitions provides a strong financial incentive to solar energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[1], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[2] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. *See* U.S. Energy Information Administration – Independent Statistics and Analysis. Accordingly, a 1% decrease in electricity sales volume will reduce Missouri state sales tax revenues from electric providers by at least 3.2 million dollars. Based on the change from 100 kilowatt units to 2 megawatt units, individual net metering units may

[1] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[2] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.



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significantly impact tax revenues. Every megawatt of installed solar decreases state sales tax revenue by $7,700 annually.

*ii. Decreased tax collections due to community solar facilities – Initiative Petitions 184, 185, 188, 189*

Community solar facilities are in addition to net metering and represent an additional capacity of an unlimited amount. Energy generated from the community solar facility is allocated by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. These community solar facilities will be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoids property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership model, similar to net metering,[3] because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%). There is no cap on the amount of community solar facilities that may be constructed, and there are strong financial incentives to create excess production, given declining prices of solar electricity and a mandatory obligation of the interconnected utility to buy electricity at generous, retail rates.

A 1% decrease in electricity sales volume will reduce Missouri state sales tax revenues from electric providers by 3.2 million dollars. Every 5MW "renewable energy facility" will reduce state sales tax revenues by $38,500, annually. Up to $321.1 million in state sales tax revenue is at risk ($7.6 billion * 4.225%).

*iii. Tax credits – Initiative Petitions 181-184 and 186-188*

*a. Decreased tax collections due to tax credits – Credits capped at $50 million annually*

The 35% tax credits in these petitions will directly result in a loss of state income of $25 million to $50 million, annually. The total loss to state government over the tax credit effective period is $612.5 million.

*b. Cost of eroding tax base due to new energy generation*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in Missouri. According to the attached table, the tax credits will result in 988.7 MWh/988,700 kWh of new electricity generation. New production from such tax credits would produce

[3] The petitions use the terms "facility access", "arrangements", and "bill credits" all of which indicate that the electricity generated and allocated will not be subject to sales tax.



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approximately 1,804,090 MWh per year, also expressed as 1,804,090,000 KWh, or 1,804 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour,[4] this new production is valued at $180,408,983.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[5] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for solar energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology.

For Initiative Petitions 181-184 and 186-188, the total, annual loss to state governments *due to the tax credits* is 32.6 million to 53.1 million over the tax credit period. The total loss during the tax credit period is $680.3 million. There is an annual loss in perpetuity after the tax credit period of $7.6 million, based on expected customer-generation resourced developed. *See* attached table.

**Burdens on Local Governments**

Local governments face losses in revenue from the various petition provisions that are similar to those faced by state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to

[4] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.

[5] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 182-184 and 186-188*

A 1% decrease in electricity sales volume will reduce Missouri local tax revenues from electric providers by $6.5 million, annually.

*ii. Decreased tax collections due to community solar facilities – Initiative Petitions 184, 185, 188, 189*

A 1% decrease in electricity sales volume will reduce Missouri local tax revenues from electric providers by 6.5 million dollars. Every 5MW "renewable energy facility" will reduce local government tax revenues by $78,300, annually. Up to $652.5 million in local sales and license/franchise tax revenue is at risk ($7.6 billion * [3.585% + 5%]).

*iii. Tax credits – Initiative Petitions 181-184 and 186-188 – Cost of eroding tax base due to new energy generation*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petitions may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to local governments, all of which may be reduced or discontinued if the initiative petitions are enacted.

The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[6] Based on this estimate, the population-weighted combined average local sales tax is 3.585%. The tax credits will result in 988.70 megawatts of new electricity production that will be net metered or otherwise result in the allocation of bill credits and, as a result, decrease electric revenues. The corresponding annual loss to local governments from lost sales tax from the tax credit is $6,467,662. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,020,449.

[6] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.



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The overall annual loss to local governments due to the tax credits is $15.5 million. The total loss to local government revenues during the tax credit period is $137.8 million.

**In Conclusion**

The initiative petitions will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petitions, such as increases in net metering and community solar. The total tax burden on state government imposed by the petitions with tax credits is at least $680 million over the tax credit period, with at least $7.6 million in lost revenues in perpetuity. The total tax burden on state government imposed by the petitions without tax credits is substantial, with up to $321.1 million at risk. The total tax burden on local governments imposed by the petitions with tax credits is at least $137.8 million over the tax credit period, with at least $15.5 million in lost revenues in perpetuity. The total tax burden on local government imposed by the petitions without tax credits is substantial, with up to $652.5 million at risk.

Sincerely,

Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0



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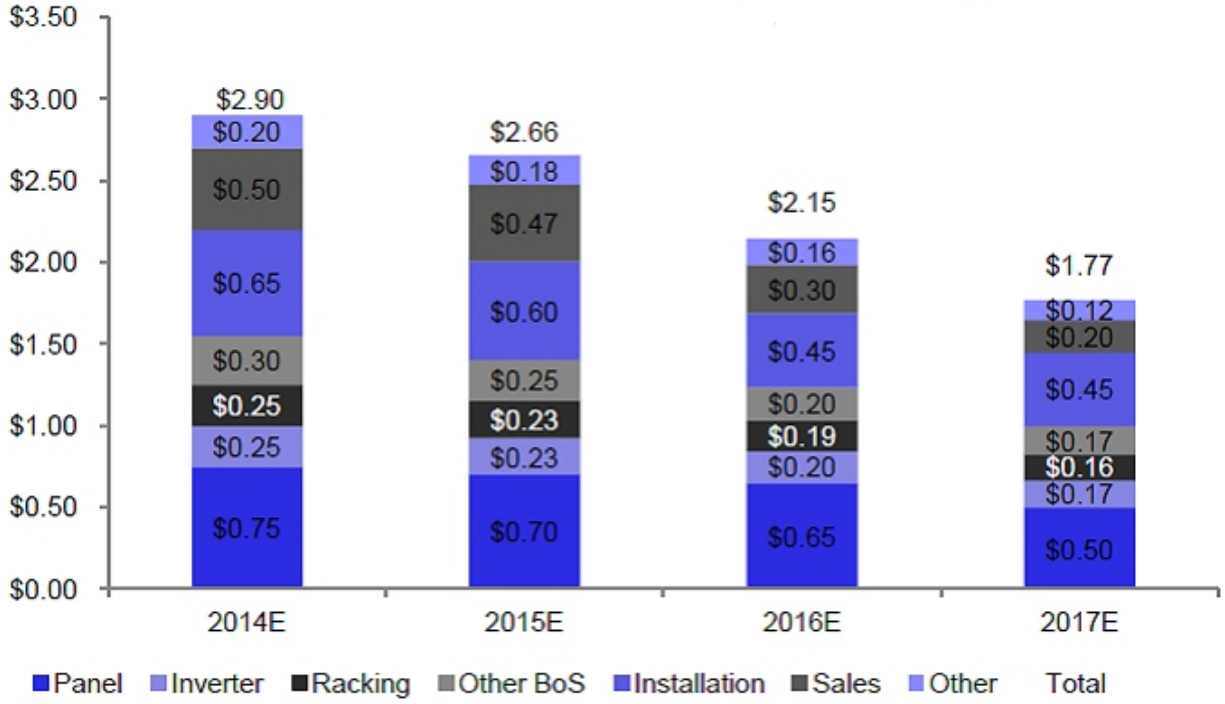
Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017
https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm



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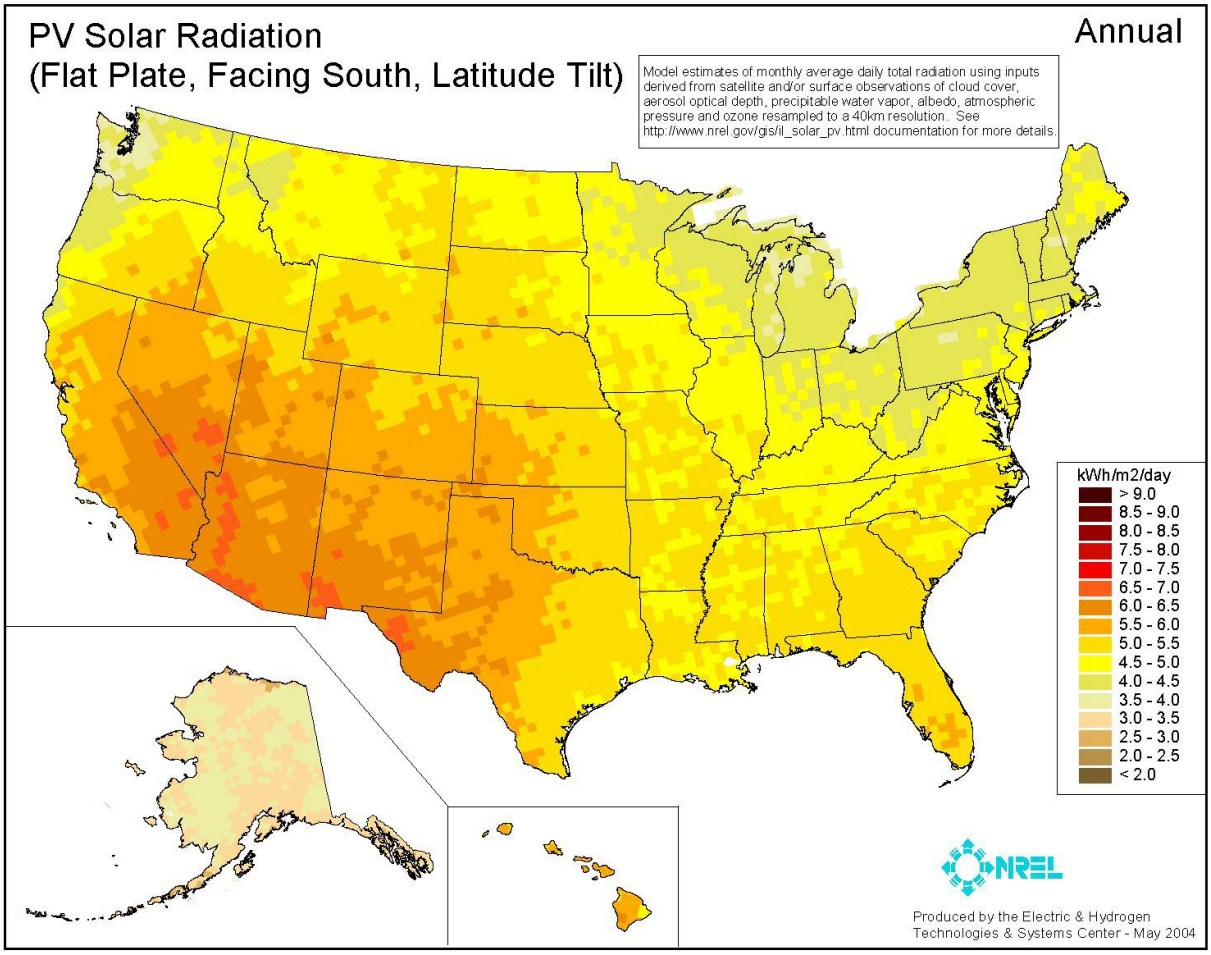
National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Renew Mo Solar Tax Credit Fiscal Analysis - Petitions 181-184 and 186-188**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 80.71 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $50,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 147,273 | |
| $/MWh Retail Rate | $100 | |

| | Solar Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $50,000,000 | 80.71 | 80.71 | 147,273 | $100 | $14,727,264 | 4.225% | $622,227 | $50,622,227 | 3.585% | $527,972 | 5.000% | $736,363 | $1,264,336 |
| 2018 | $50,000,000 | 80.71 | 161.42 | 294,545 | $100 | $29,454,528 | 4.225% | $1,244,454 | $51,244,454 | 3.585% | $1,055,945 | 5.000% | $1,472,726 | $2,528,671 |
| 2019 | $50,000,000 | 80.71 | 242.13 | 441,818 | $100 | $44,181,792 | 4.225% | $1,866,681 | $51,866,681 | 3.585% | $1,583,917 | 5.000% | $2,209,090 | $3,793,007 |
| 2020 | $50,000,000 | 80.71 | 322.84 | 589,091 | $100 | $58,909,056 | 4.225% | $2,488,908 | $52,488,908 | 3.585% | $2,111,890 | 5.000% | $2,945,453 | $5,057,342 |
| 2021 | $50,000,000 | 80.71 | 403.55 | 736,363 | $100 | $73,636,320 | 4.225% | $3,111,135 | $53,111,135 | 3.585% | $2,639,862 | 5.000% | $3,681,816 | $6,321,678 |
| 2022 | $47,500,000 | 76.67 | 480.23 | 876,272 | $100 | $87,627,220 | 4.225% | $3,702,250 | $51,202,250 | 3.585% | $3,141,436 | 5.000% | $4,381,361 | $7,522,797 |
| 2023 | $45,000,000 | 72.64 | 552.87 | 1,008,818 | $100 | $100,881,758 | 4.225% | $4,262,254 | $49,262,254 | 3.585% | $3,616,611 | 5.000% | $5,044,088 | $8,660,699 |
| 2024 | $42,500,000 | 68.60 | 621.47 | 1,133,999 | $100 | $113,399,932 | 4.225% | $4,791,147 | $47,291,147 | 3.585% | $4,065,388 | 5.000% | $5,669,997 | $9,735,384 |
| 2025 | $40,000,000 | 64.57 | 686.04 | 1,251,817 | $100 | $125,181,743 | 4.225% | $5,288,929 | $45,288,929 | 3.585% | $4,487,765 | 5.000% | $6,259,087 | $10,746,853 |
| 2026 | $37,500,000 | 60.53 | 746.57 | 1,362,272 | $100 | $136,227,191 | 4.225% | $5,755,599 | $43,255,599 | 3.585% | $4,883,745 | 5.000% | $6,811,360 | $11,695,104 |
| 2027 | $35,000,000 | 56.50 | 803.07 | 1,465,363 | $100 | $146,536,276 | 4.225% | $6,191,158 | $41,191,158 | 3.585% | $5,253,325 | 5.000% | $7,326,814 | $12,580,139 |
| 2028 | $32,500,000 | 52.46 | 855.53 | 1,561,090 | $100 | $156,108,998 | 4.225% | $6,595,605 | $39,095,605 | 3.585% | $5,596,508 | 5.000% | $7,805,450 | $13,401,957 |
| 2029 | $30,000,000 | 48.43 | 903.95 | 1,649,454 | $100 | $164,945,356 | 4.225% | $6,968,941 | $36,968,941 | 3.585% | $5,913,291 | 5.000% | $8,247,268 | $14,160,559 |
| 2030 | $27,500,000 | 44.39 | 948.35 | 1,730,454 | $100 | $173,045,351 | 4.225% | $7,311,166 | $34,811,166 | 3.585% | $6,203,676 | 5.000% | $8,652,268 | $14,855,943 |
| 2031 | $25,000,000 | 40.36 | 988.70 | 1,804,090 | $100 | $180,408,983 | 4.225% | $7,622,280 | $32,622,280 | 3.585% | $6,467,662 | 5.000% | $9,020,449 | $15,488,111 |

**Total State Tax Burden** **$680,322,732**

**Total Local Tax Burden (Sales + Franchise)** **$137,812,581**

**Brent Stewart** provided the following information as an opponent of this initiative petition.

**Association of Missouri Electric Cooperatives**

2722 East McCarty Street, P.O. Box 1645
Jefferson City, Missouri 65102
Telephone: (573) 635-6857
Fax: (573) 635-2314
www.amec.coop

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DEC 28 2015
STATE AUDITORS OFFICE

December 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: Fiscal Note in Initiative Petitions 2016-173 through 2016-190

To Whom It May Concern:

The Association of Missouri Electric Cooperatives (AMEC), representing the state's forty-seven member-owned, nonprofit rural electric cooperatives that serve close to one million electric consumers, respectfully submit the following brief comments to assist in your preparation of the fiscal notes on the above-mentioned initiative petitions.

All these petitions, in one way or another, involve solar and renewable energy mandates. The practical effect of each, to one extent or another, is to encourage consumers to substitute self-generation for traditional electric service, thereby creating an unfair electric rate subsidy in favor of those who can afford to install their own generation at the expense of the majority of the other consumers who cannot.

Missouri's forty distribution (retail level) cooperatives serve a wide variety of governmental entities throughout rural Missouri, including state facilities (e.g. prisons), local government facilities, hospitals, schools, rural water districts, regional sewer districts and others. To the extent these entities cannot afford to install their own generation, which most cannot, they necessarily will be forced to pay higher rates if these initiative petitions are enacted. Unfortunately, it is impossible without more time for AMEC to identify all those government-related entities and facilities or estimate with any accuracy the adverse fiscal impact. However, it is clear that even a modest rate increase necessarily will have a significant adverse fiscal impact on governmental entities, in millions of dollars, especially those in the primarily less affluent rural areas served by Missouri's nonprofit electric cooperatives.

Respectfully submitted,

Brent Stewart

Brent Stewart
AMEC Counsel

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State government revenue may decrease up to $612.5 million during the tax credit period with approximately $200,000 annual increased operating costs. Local governmental entities estimate $23.9 million in annual electricity sales reductions. Other resulting economic activity will have an unknown impact on state and local governments.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

STATE AUDITOR'S OFFICE
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16-185

December 18, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andrew Linhares regarding a proposed statutory amendment to Chapter 386, version 5 (2016-185)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andrew Linhares on December 17, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-185 County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

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2015 DEC 17 PM 3:14
SEC. OF STATE

(Official Ballot Title)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| | NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|---|
| 1. | | | | | | |
| 2. | | | | | | |
| 3. | | | | | | |
| 4. | | | | | | |
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| 11 | | | | | | |
| 12. | | | | | | |
| 13. | | | | | | |
| 14. | | | | | | |
| 15. | | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ___(check one) expect to be paid for circulating this petition. If paid, list the payer _____.

_____ _____ _____
Signature of Affiant (Person obtaining signatures) (Printed Name of Affiant) Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201_.

_____ _____
Signature of Notary Address of Notary

Notary Public (Seal) My commission expires _____

Be it enacted by the people of the state of Missouri: 16-185

Chapter 386 is amended by adding four new sections, to be known as sections 386.900, 386.910, 386.920, and 386.930, to read as follows:

386.900. Sections 386.900 through 386.930 shall be known as the "Missouri Energy Freedom Act". These sections reflect both the critical role that abundant, affordable, sustainable, and secure supplies of renewable energy have in advancing the economy of the State and the security, health and welfare of its citizens, and the intent of the people to promote the long term sustainability, security, and affordability of energy supply by encouraging the development and utilization of renewable energy by the people of this state. The right of citizens to directly invest in renewable energy sources to meet their own energy needs, while also connecting to the electric grid, shall not be limited more than is necessary to protect the safety and security of the electric grid.

386.910. As used in sections 386.900 through 386.930, the following terms shall mean:

(1) "Aggregated renewable facility metering", a rate and metering arrangement that allows a property owner with multiple utility accounts on one property or adjacent properties or contiguous properties, all of which are served by the same retail electric supplier, such as but not limited to, a group of university or hospital buildings, municipal or other publicly owned premises, a military base, public housing, shopping mall, or farm properties, to install and operate renewable energy facilities that together do not exceed 5 MW in capacity, on such property or on the adjacent or contiguous property, for the primary purpose of offsetting part or all of the electrical energy requirements associated with the utility accounts on such properties, and allocate the related community renewable energy credits among the utility accounts on such property or adjacent or contiguous property;

(2) "Community based renewable facility access", a rate and metering arrangement that allows for multiple retail customers who are located in a community such as, but not limited to, a condominium complex, industrial park, town, or city, to contract, over a minimum 15 year term for energy produced by a renewable energy facility that does not exceed 5 MW in capacity and that is interconnected to the same public utility distribution system that serves the premises of such retail customers, and allocates related community renewable energy credits among such retail customers, provided however that the 5MW limit in capacity shall not prevent multiple renewable energy facilities serving different retail customers from co-locating;

(3) "Community renewable access arrangements", aggregated renewable facility metering, and community-based renewable facility access;

(4) "Community renewable energy credits", either the per kilowatt-hour deduction in the metered usage used by the retail electric supplier to calculate the utility bill of a retail customer that is participating in a community renewable access arrangement, or a financial amount credited to the utility bill of such a retail customer, which shall be calculated by applying a specified amount per kilowatt-hour, determined as set forth in rules adopted by the commission or in the policies of the governing body of a municipal utility or retail electric supplier, to the energy generated by a renewable energy facility on behalf of such customers;

(5) "Renewable energy resources", the same meaning as set forth in subdivision (6) of subsection 2 of section 386.890;

(6) "Renewable energy facility", a facility that produces renewable energy resources;

(7) "Retail electric supplier", the same meaning as set forth in subdivision (7) of subsection 2 of section 386.890;

(8) "Utility account" or "retail customer" means a specific customer account that is receiving service and billed for such service by a retail electric supplier.

386.920. Notwithstanding any provision in this chapter or chapters 393 or 394 to the contrary, the owner or operator of a qualified electric generation unit serving a customer-generator as defined in section 386.890, or of a renewable energy facility that is used in a community renewable access arrangement, that provides renewable energy resources to a retail customer through a power purchase agreement, a sale and leaseback of equipment, or other form of contract between the retail customer and the owner or operator of such qualified electric generation unit or renewable energy facility, shall not be determined by reason of such ownership, operation, contract, or provision of energy, to be an electrical corporation or public utility as those terms are defined in section 386.020, nor shall such owner or operator be precluded from installing, owning or operating the qualified electric unit or renewable energy facility as allowed by section 386.910 or section 386.930 and providing the related renewable energy resources to a customer that is receiving utility service from a retail electric supplier. Nothing in this subsection shall be construed as amending or superseding the commission's authority to ensure safe operation of any electric plant as granted in and pursuant to subsection 1 of section 386.310.

386.930.1. Each retail electric supplier shall offer the interconnection and metering arrangements and community renewable energy credits necessary to facilitate and support the community renewable access arrangements.

2. Within 60 days of the effective date of this section, the commission shall promulgate initial rules to establish the terms and conditions under which the retail electric suppliers regulated under chapter 393, shall be required to interconnect with and support each of the community renewable access arrangements, including the determination of community renewable energy credits to be applied in such arrangements, and shall conclude such proceeding by adopting a proposed rule within 180 days of promulgating the initial rules. Within twelve months of the effective date of this section, the governing body of a municipal utility or rural electric cooperative shall also adopt policies establishing the terms and conditions under which such municipal utilities or rural electric cooperatives shall be required to interconnect with and support each of the community renewable access arrangements, including the determination of community renewable energy credits. Such rules or policies shall provide that retail electric suppliers shall recover the costs of any additional distribution equipment that the retail electric supplier is required to install to accommodate the installation of the renewable energy facility that is

part of a community renewable access arrangement from the owner or operator of such facility or from the customers participating in the community renewable access arrangement. The provisions of subsections 11, 13, 16, and 17 of section 386.890 shall also apply to renewable energy facilities used in community renewable access arrangements to the same extent they apply to the generation units of customer-generators under section 386.890.

3. In any rulemaking or other proceeding required by subsection 2 of this section, provisions equivalent to the interconnection provisions set forth in subsections 6, 7, and 15 of section 386.890, and provisions equivalent to those in subsection 5 of section 386.890 for the calculation of a net electrical energy measurement and application of credits for net excess energy generated, shall be presumed reasonable and shall apply to the utility bills of the retail customers in community renewable access arrangements unless alternate terms and conditions are shown by clear and convincing evidence to be necessary either to protect the safety and security of the electric grid or to better meet the criteria set forth in subsection 4 of this section. In no circumstance, however, shall the commission or governing body of a municipal utility or rural electric cooperative approve an alternate means of calculating community renewable energy credits that results in an amount less than the sum of the retail electric supplier's avoided energy and capacity costs, and any avoided transmission and distribution costs that result from the installation and operation of such facility, and other avoided costs identified by the commission or governing body of a municipal utility or rural electric cooperative.

4. In adopting the rules or policies provided for in this section, and when reviewing tariffs, contracts for service, interconnection agreements or rates, or deciding complaints relating to community renewable access arrangements, the commission or governing body of a municipal utility or retail electric supplier shall balance each of the following objectives:

(1) maximizing the use of in-state renewable energy resources by citizens of the state and removing or reducing existing barriers including, but not limited, to requirements for costly studies and other preconditions to interconnection or the lack of standardized terms, to the direct investment by individuals, businesses, and other entities in renewable energy resources;

(2) promoting private investment in renewable capacity in the state;

(3) promoting the diversification of the state's supply portfolio and reducing the state's dependence on fossil fuel energy sources;

(4) mitigating more costly transmission and distribution investments otherwise needed for system reliability;

(5) encouraging the growth of jobs and other economic development within the state;

(6) minimizing the long term costs associated with future additions of capacity needed to meet the state's energy requirements; and

(7) furthering the long term affordability, reliability, and security of energy supply.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-185)**

## Subject

Initiative petition from Andrew Linhares regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received December 18, 2015)

## Date

January 8, 2016

## Description

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Public Service Commission.**

**Edward D, Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Brent Stewart** of Association of Missouri Electric Cooperatives provided information to the State Auditor's Office as an opponent of this initiative petition.

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated:

**Summarize how this bill would affect the agency**

Section 386.900 – Community Renewable Energy
This section requires retail electric suppliers to offer interconnection and metering arrangements and community renewable energy credits for community renewable facilities up to 5 megawatts. This provision requires the PSC to promulgate rules. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. Division of Energy (DE) staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where net metering provisions are considered.

The existing Missouri Renewable Energy Standard (RES) requires investor-owned utilities in Missouri to either produce green power or purchase Renewable Energy Certificates (RECs) for compliance. The DE has statutory authority to certify that eligible renewable energy resources do not cause undue environmental impacts before RECs associated with those renewable energy resources can be used for RES compliance. There are no certification fees associated with this review. DE anticipates that the inclusion of aggregated renewable facility metering and community based renewable facility access up to 5 megawatts will result in an increase in renewable energy installations in Missouri which may be used for RES compliance.

**Long-range implications**

Economic benefits associated with construction of community renewable energy facilities would have long-range implications.

**Assumptions and methodology used in arriving at state fiscal impact**

Section 386.900– Community Renewable Energy
For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemakings and related cases to implement these provisions but could do so with existing resources.

However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

DE anticipates the authorization and requirement that retail electric suppliers offer access and metering to community renewable facilities would result in an increase in renewable energy installations in Missouri which may be used for RES compliance. For purposes of this fiscal note, DE assumes all applications for RES certification of no undue adverse environmental impacts are for solar projects and assumes that there would be a small number of additional community renewable systems up to 5 megawatts that will submit requests for RES certification to DE.

DE's review primarily focuses on environmental impacts of renewable electric generation facilities on air, water or land use. The actual staff time spent on each application varies. Solar photovoltaic and other renewable energy facilities with a larger capacity typically require more staff time for reviewing their third-party environmental impact assessments in addition to verifying applicable environmental permits, for data requests and discussion, data collection, database management, report production and website maintenance. For purposes of this fiscal note, DE assumes it could complete the additional RES environmental reviews/certifications anticipated from this proposal using existing resources.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements

if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of West Plains** indicated the 86 cities with municipal electric utilities depend on the revenues of this service for their citizen/owners to off-set the cost of electric service and operation to citizens as well as to support the activities of city government.

Based primarily on data from the Federal Department of Energy's (DOE) Energy Information Administration (EIA) Table 6 plus additional data gleaned from the National Renewable Energy Lab's Photovoltaic Calculator and the Missouri Association of Municipal Utilities for peak loads in 73 cities, they have determined that municipalities in Missouri face a loss of at least $23.9 million in revenue should this initiative petition become law. The impact alone to the City of West Plains appears to be $352,000 annually, or over 6.5% of their annual electric utility revenue budget. This figure does not reflect any additional costs they will be required to incur for required pleadings before the state Public Service Commission or local compliance costs for other requirements contained in this proposal.

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art. X, Sec. 16) that reduces income or increases costs without "full state financing," they anticipate that local government costs would be reflected in the final state cost when the fiscal note is completed. Necessary litigation costs incurred for Mo. Const. Art. X, Sec. 16 and other potential legal inconsistencies are unknown.

Methodology for City Loss Calculation
Renewable Energy Initiative Petitions

| **Assumptions and Methods** | **Information Source** |
| --- | --- |
| 1. A combined federal and state tax credit of 60% of installation costs, would prompt city customers to achieve the 7% capacity cap in a reasonable period of time | Proposed Legislation |

| | |
|---|---|
| 2. 1 kW solar panel at this latitude would generate 1350 kWHr per year | National Renewable Energy Lab's PV Calculator |
| 3. Annual Peaks | Municipal reports to the Missouri Association of Municipal Utilities |
| 4. Current City Electric Rates | DOE EIA Database (Table 6 for 2010) |

5. Calculation:
   Annual Peak
   7% of Annual Peak for Capacity Cap
   Total Solar Generation = (Capacity Cap * 1350 kWHrs)*1000
   City's lost revenue: City rate * Solar Generation

6. State calculation based on the sum of "Assumption 5" calculations for
   73 reporting cities (out of 86)
      Total ≥ $23.8 million

**Calculation for City of West Plains**

| | |
|---|---|
| 44.453 | Annual Peak (MW) |
| 3.11171 | 7% of Annual Peak for Capacity Cap MW |
| 4,200,809 | Total Solar Generation (KWHR) |
| 8.38 | City Rate (cents per kWHR) |
| $352,028 | Lost Revenue |

Officials from **University of Missouri** indicated they have not seen cost impact studies on this initiative from their electric utility suppliers, but they do not believe this will have a significant impact on their university.

Officials from the **Public Service Commission** (PSC) indicated proposed Section 386.920, RSMo, states "Notwithstanding any provision in this chapter or chapter 393 and 394 to the contrary, the owner or operator of a qualified electric generation unit serving a customer-generator…, shall not be determined by reason of such ownership, operation, contract, or provision of energy, to be an electrical corporation or public utility as those terms are defined by section 386.020…." This language suggests that any electrical corporation providing service to a customer-generator could be exempt from Section 386.020, RSMo, and potentially somehow exempt from commission regulation even if already regulated. To alleviate any possible confusion delete the words "the owner or operator of a qualified electric generation serving" before 'a customer-generator' (which is already limited by its definition of generators producing currently 1,000 KW or proposed change 2,000 KW and the limits under the definition of 'community based renewable facility access' of 5 MW). Further, the language "Notwithstanding any provision in this chapter or chapter 393 and 394 to the contrary," should also be deleted to remove potential conflict with regulation of electrical corporations.

**Edward D, Greim** provided the following information as an opponent of this initiative petition.

Graves Garrett LLC

Edward D. Greim
Graves Garrett, LLC
1100 Main Street, Suite 2700
Kansas City, Missouri 64105
Direct Dial: (816) 256-4144
edgreim@gravesgarrett.com

December 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: *Fiscal Note in Initiative Petitions 2016-181 through 2016-189*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petition 181 :

> Lost revenue to state government is $680.3 million over the tax credit period, with annual losses of $7.6 million thereafter. Lost revenue to local government is $137.8 million over the tax credit period, with annual losses of $15.5 million thereafter.

We propose the following fiscal note summary for petitions 182, 183, 184, 186, 187, and 188:

> Lost revenue to state government is $680.3 million over the tax credit period, with annual losses of $7.6 million thereafter. Lost revenue to local government is $137.8 million over the tax credit period, with annual losses of $15.5 million thereafter. Other, substantial lost revenues of an unknown amount are likely.

We propose the following fiscal note summary for petitions 185 and 189:

> Lost revenue to state government is approximately $38,500, annually, for each facility, and up to $321.1 million in state revenue is at risk. Lost revenue to local governments is approximately $78,300, annually, for each facility, and up to $652.5 million in local revenue is at risk.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments. These taxes, however, will no longer be collected for electricity that is never sold due to the customer-generator production and community solar encouraged by the initiative petitions. Petition signers and voters must be informed of the certainty that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume. On the other hand, any positive fiscal impacts of the initiative petitions are speculative.

**Description of Policy**

Initiative Petitions 181 to 189 contain one or more of three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of community solar facilities/arrangements; and (3) A state tax credit for solar powered electric energy generation units and arrangements.

1. Changes to Net Metering for Investor-owned electric utilities, municipal electric utilities, and rural electric cooperatives
    A. Redefine customer generator to include retail customers entitled by contract to receive the electrical energy generated by a qualified energy generation unit;
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);
    D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.
2. 5 Megawatt Community Solar Facilities
    A. Electric Customers may participate in community based solar arrangements up to with generation capacity up to 5 megawatts. There is no limit on the number of community solar facilities that may be developed.
    B. Bill credits are one to one against electric utility bills for customers who participate in the community solar facility.
    C. Excess bill credits are sold back to municipal utilities, investor-owned utilities, and electric cooperatives, by kilowatt hour (at rate to be set by commission, that is at least as great as all avoided costs, but up to the retail electric supply rate).
3. Tax credit
    A. 35% tax credit for solar powered energy generation units eligible for net metering, or in some petitions, community solar facilities up to 5 megawatt.



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B. Total value of eligible credits shall not exceed $50 million each year until 2022, with credits decreasing after that date. Unused credits carryover year to year.
C. No tax credits after June 30, 2031.

**Burdens on State Government**

In determining the fiscal impact of each petition, it is generally reasonable to assume that the various statutory changes in the petitions will have independent fiscal impacts. The reasonableness of this assumption is demonstrated by the various iterations of the petitions themselves, some of which propose tax credits with no proposed changes to the Net Metering and Easy Connection Act. *See* Petitions 178 and 190.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 182-184 and 186-188*

Raising the net metering cap from 100 kilowatt units to 2 megawatt units will result in a decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase due to economies of scale. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in some of the petitions provides a strong financial incentive to solar energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[1], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[2] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. *See* U.S. Energy Information Administration – Independent Statistics and Analysis. Accordingly, a 1% decrease in electricity sales volume will reduce Missouri state sales tax revenues from electric providers by at least 3.2 million dollars. Based on the change from 100 kilowatt units to 2 megawatt units, individual net metering units may

[1] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[2] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.



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significantly impact tax revenues. Every megawatt of installed solar decreases state sales tax revenue by $7,700 annually.

*ii. Decreased tax collections due to community solar facilities – Initiative Petitions 184, 185, 188, 189*

Community solar facilities are in addition to net metering and represent an additional capacity of an unlimited amount. Energy generated from the community solar facility is allocated by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. These community solar facilities will be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoids property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership model, similar to net metering,[3] because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%). There is no cap on the amount of community solar facilities that may be constructed, and there are strong financial incentives to create excess production, given declining prices of solar electricity and a mandatory obligation of the interconnected utility to buy electricity at generous, retail rates.

A 1% decrease in electricity sales volume will reduce Missouri state sales tax revenues from electric providers by 3.2 million dollars. Every 5MW "renewable energy facility" will reduce state sales tax revenues by $38,500, annually. Up to $321.1 million in state sales tax revenue is at risk ($7.6 billion * 4.225%).

*iii. Tax credits – Initiative Petitions 181-184 and 186-188*

*a. Decreased tax collections due to tax credits – Credits capped at $50 million annually*

The 35% tax credits in these petitions will directly result in a loss of state income of $25 million to $50 million, annually. The total loss to state government over the tax credit effective period is $612.5 million.

*b. Cost of eroding tax base due to new energy generation*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in Missouri. According to the attached table, the tax credits will result in 988.7 MWh/988,700 kWh of new electricity generation. New production from such tax credits would produce

[3] The petitions use the terms "facility access", "arrangements", and "bill credits" all of which indicate that the electricity generated and allocated will not be subject to sales tax.



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approximately 1,804,090 MWh per year, also expressed as 1,804,090,000 KWh, or 1,804 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour,[4] this new production is valued at $180,408,983.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[5] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for solar energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology.

For Initiative Petitions 181-184 and 186-188, the total, annual loss to state governments *due to the tax credits* is 32.6 million to 53.1 million over the tax credit period. The total loss during the tax credit period is $680.3 million. There is an annual loss in perpetuity after the tax credit period of $7.6 million, based on expected customer-generation resourced developed. *See* attached table.

**Burdens on Local Governments**

Local governments face losses in revenue from the various petition provisions that are similar to those faced by state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to

[4] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.

[5] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 182-184 and 186-188*

A 1% decrease in electricity sales volume will reduce Missouri local tax revenues from electric providers by $6.5 million, annually.

*ii. Decreased tax collections due to community solar facilities – Initiative Petitions 184, 185, 188, 189*

A 1% decrease in electricity sales volume will reduce Missouri local tax revenues from electric providers by 6.5 million dollars. Every 5MW "renewable energy facility" will reduce local government tax revenues by $78,300, annually. Up to $652.5 million in local sales and license/franchise tax revenue is at risk ($7.6 billion * [3.585% + 5%]).

*iii. Tax credits – Initiative Petitions 181-184 and 186-188 – Cost of eroding tax base due to new energy generation*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petitions may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to local governments, all of which may be reduced or discontinued if the initiative petitions are enacted.

The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[6] Based on this estimate, the population-weighted combined average local sales tax is 3.585%. The tax credits will result in 988.70 megawatts of new electricity production that will be net metered or otherwise result in the allocation of bill credits and, as a result, decrease electric revenues. The corresponding annual loss to local governments from lost sales tax from the tax credit is $6,467,662. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,020,449.

[6] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.



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The overall annual loss to local governments due to the tax credits is $15.5 million. The total loss to local government revenues during the tax credit period is $137.8 million.

**In Conclusion**

The initiative petitions will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petitions, such as increases in net metering and community solar. The total tax burden on state government imposed by the petitions with tax credits is at least $680 million over the tax credit period, with at least $7.6 million in lost revenues in perpetuity. The total tax burden on state government imposed by the petitions without tax credits is substantial, with up to $321.1 million at risk. The total tax burden on local governments imposed by the petitions with tax credits is at least $137.8 million over the tax credit period, with at least $15.5 million in lost revenues in perpetuity. The total tax burden on local government imposed by the petitions without tax credits is substantial, with up to $652.5 million at risk.

Sincerely,

Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0



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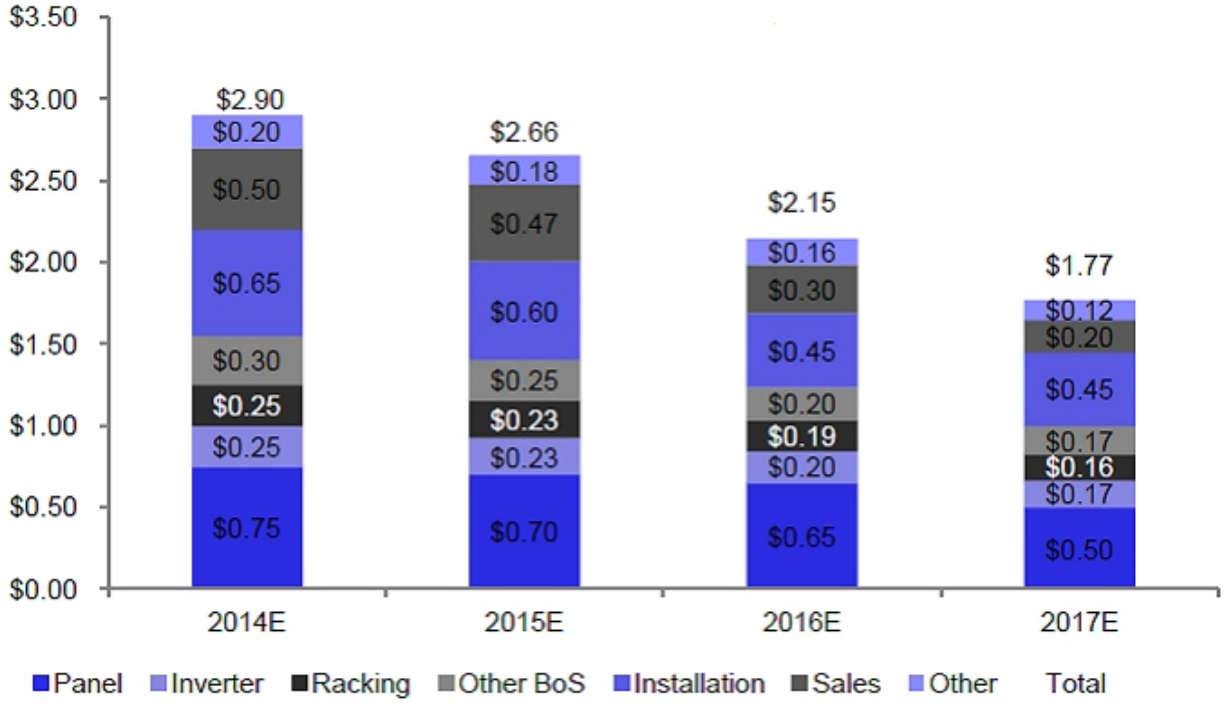
Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017
https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm



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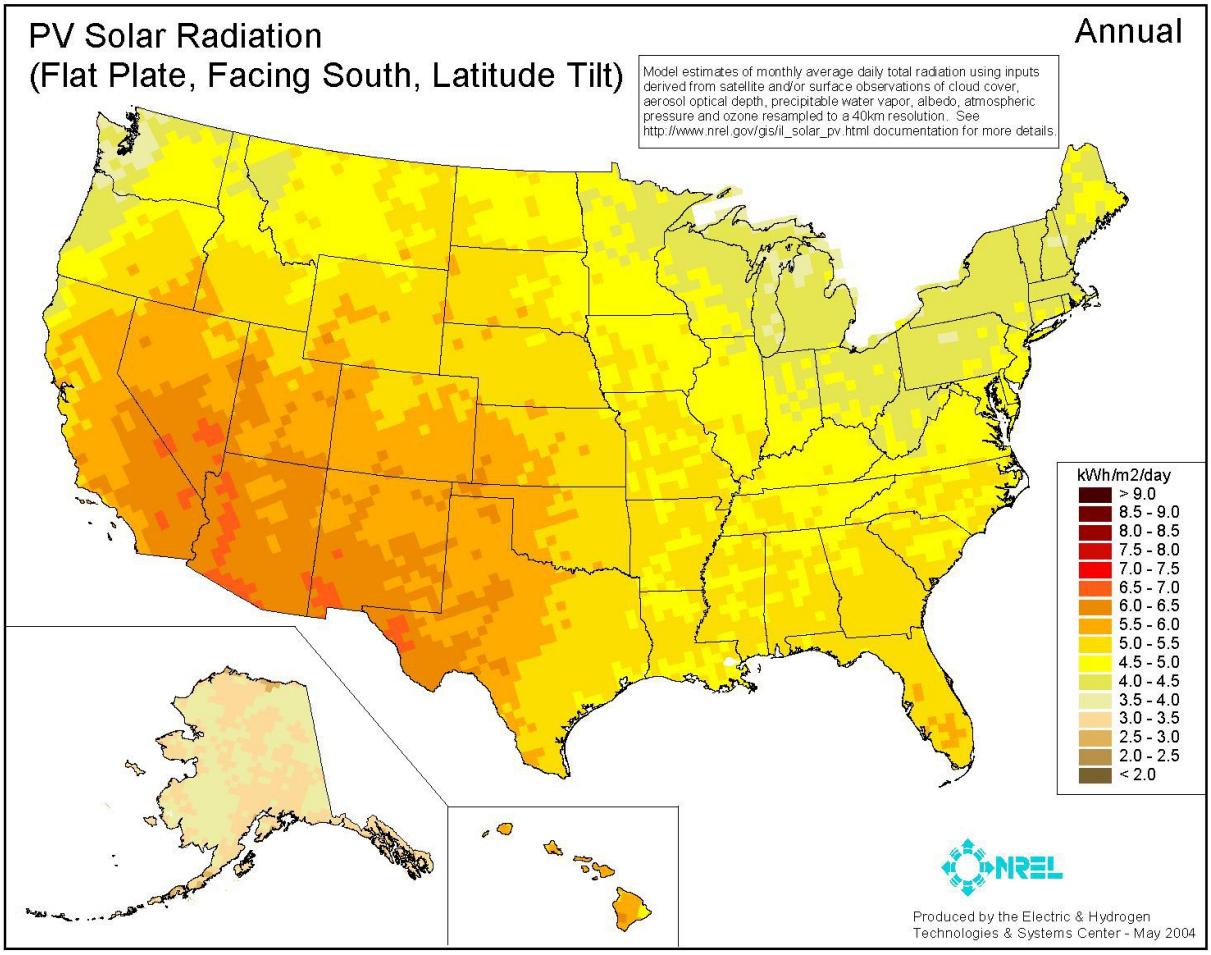
National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Renew Mo Solar Tax Credit Fiscal Analysis - Petitions 181-184 and 186-188**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 80.71 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $50,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 147,273 | |
| $/MWh Retail Rate | $100 | |

| | Solar Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $50,000,000 | 80.71 | 80.71 | 147,273 | $100 | $14,727,264 | 4.225% | $622,227 | $50,622,227 | 3.585% | $527,972 | 5.000% | $736,363 | $1,264,336 |
| 2018 | $50,000,000 | 80.71 | 161.42 | 294,545 | $100 | $29,454,528 | 4.225% | $1,244,454 | $51,244,454 | 3.585% | $1,055,945 | 5.000% | $1,472,726 | $2,528,671 |
| 2019 | $50,000,000 | 80.71 | 242.13 | 441,818 | $100 | $44,181,792 | 4.225% | $1,866,681 | $51,866,681 | 3.585% | $1,583,917 | 5.000% | $2,209,090 | $3,793,007 |
| 2020 | $50,000,000 | 80.71 | 322.84 | 589,091 | $100 | $58,909,056 | 4.225% | $2,488,908 | $52,488,908 | 3.585% | $2,111,890 | 5.000% | $2,945,453 | $5,057,342 |
| 2021 | $50,000,000 | 80.71 | 403.55 | 736,363 | $100 | $73,636,320 | 4.225% | $3,111,135 | $53,111,135 | 3.585% | $2,639,862 | 5.000% | $3,681,816 | $6,321,678 |
| 2022 | $47,500,000 | 76.67 | 480.23 | 876,272 | $100 | $87,627,220 | 4.225% | $3,702,250 | $51,202,250 | 3.585% | $3,141,436 | 5.000% | $4,381,361 | $7,522,797 |
| 2023 | $45,000,000 | 72.64 | 552.87 | 1,008,818 | $100 | $100,881,758 | 4.225% | $4,262,254 | $49,262,254 | 3.585% | $3,616,611 | 5.000% | $5,044,088 | $8,660,699 |
| 2024 | $42,500,000 | 68.60 | 621.47 | 1,133,999 | $100 | $113,399,932 | 4.225% | $4,791,147 | $47,291,147 | 3.585% | $4,065,388 | 5.000% | $5,669,997 | $9,735,384 |
| 2025 | $40,000,000 | 64.57 | 686.04 | 1,251,817 | $100 | $125,181,743 | 4.225% | $5,288,929 | $45,288,929 | 3.585% | $4,487,765 | 5.000% | $6,259,087 | $10,746,853 |
| 2026 | $37,500,000 | 60.53 | 746.57 | 1,362,272 | $100 | $136,227,191 | 4.225% | $5,755,599 | $43,255,599 | 3.585% | $4,883,745 | 5.000% | $6,811,360 | $11,695,104 |
| 2027 | $35,000,000 | 56.50 | 803.07 | 1,465,363 | $100 | $146,536,276 | 4.225% | $6,191,158 | $41,191,158 | 3.585% | $5,253,325 | 5.000% | $7,326,814 | $12,580,139 |
| 2028 | $32,500,000 | 52.46 | 855.53 | 1,561,090 | $100 | $156,108,998 | 4.225% | $6,595,605 | $39,095,605 | 3.585% | $5,596,508 | 5.000% | $7,805,450 | $13,401,957 |
| 2029 | $30,000,000 | 48.43 | 903.95 | 1,649,454 | $100 | $164,945,356 | 4.225% | $6,968,941 | $36,968,941 | 3.585% | $5,913,291 | 5.000% | $8,247,268 | $14,160,559 |
| 2030 | $27,500,000 | 44.39 | 948.35 | 1,730,454 | $100 | $173,045,351 | 4.225% | $7,311,166 | $34,811,166 | 3.585% | $6,203,676 | 5.000% | $8,652,268 | $14,855,943 |
| 2031 | $25,000,000 | 40.36 | 988.70 | 1,804,090 | $100 | $180,408,983 | 4.225% | $7,622,280 | $32,622,280 | 3.585% | $6,467,662 | 5.000% | $9,020,449 | $15,488,111 |

**Total State Tax Burden** **$680,322,732**

**Total Local Tax Burden (Sales + Franchise)** **$137,812,581**

**Brent Stewart** provided the following information as an opponent of this initiative petition.

**Association of Missouri Electric Cooperatives**

2722 East McCarty Street, P.O. Box 1645
Jefferson City, Missouri 65102
Telephone: (573) 635-6857
Fax: (573) 635-2314
www.amec.coop

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DEC 28 2015
STATE AUDITORS OFFICE

December 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: Fiscal Note in Initiative Petitions 2016-173 through 2016-190

To Whom It May Concern:

The Association of Missouri Electric Cooperatives (AMEC), representing the state's forty-seven member-owned, nonprofit rural electric cooperatives that serve close to one million electric consumers, respectfully submit the following brief comments to assist in your preparation of the fiscal notes on the above-mentioned initiative petitions.

All these petitions, in one way or another, involve solar and renewable energy mandates. The practical effect of each, to one extent or another, is to encourage consumers to substitute self-generation for traditional electric service, thereby creating an unfair electric rate subsidy in favor of those who can afford to install their own generation at the expense of the majority of the other consumers who cannot.

Missouri's forty distribution (retail level) cooperatives serve a wide variety of governmental entities throughout rural Missouri, including state facilities (e.g. prisons), local government facilities, hospitals, schools, rural water districts, regional sewer districts and others. To the extent these entities cannot afford to install their own generation, which most cannot, they necessarily will be forced to pay higher rates if these initiative petitions are enacted. Unfortunately, it is impossible without more time for AMEC to identify all those government-related entities and facilities or estimate with any accuracy the adverse fiscal impact. However, it is clear that even a modest rate increase necessarily will have a significant adverse fiscal impact on governmental entities, in millions of dollars, especially those in the primarily less affluent rural areas served by Missouri's nonprofit electric cooperatives.

Respectfully submitted,

Brent Stewart

Brent Stewart
AMEC Counsel

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate no direct costs or savings. Local governmental entities estimate $23.9 million in annual electricity sales reductions. Other resulting economic activity will have an unknown impact on state and local governments.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

STATE AUDITOR'S OFFICE
RECEIVED
DEC 18 2015

ELECTIONS DIVISION
(573) 751-2301

16-184

December 18, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andrew Linhares regarding a proposed statutory amendment to Chapter 386, version 4 (2016-184)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andrew Linhares on December 17, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-184

County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 17 PM 3:13
MO SEC. OF STATE

(Official Ballot Title)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
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| 14. | | | | | |
| 15. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ___(check one) expect to be paid for circulating this petition. If paid, list the payer _____.

_____ _____ _____

Signature of Affiant (Person obtaining signatures) | (Printed Name of Affiant) | Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201_.

_____ _____

Signature of Notary | Address of Notary

Notary Public (Seal) | My commission expires _____

Be it enacted by the people of the state of Missouri:

Section 386.890 is amended and five new sections are enacted, to be known as sections 386.900, 386.910, 386.920, 386.930, and 386.940, to read as follows:

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

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2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal electric utility, rural electric cooperative as provided in chapter 394, or electrical corporation as provided in this chapter;

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of, or retail customer that is entitled by contract to receive the electric energy generated by, a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than [one hundred] two thousand kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of [natural resources] economic development;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any municipal utility, electrical corporation regulated under this chapter, or rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for other electric utilities may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and [shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period] all net excess kilowatt-hours generated shall be recorded as net excess energy credits per kilowatt-hour and those credits shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent billing periods;

(4) Any net excess energy credits granted by this subsection shall expire without any compensation at the earlier of either March 1 or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) For any rural electric cooperative under chapter 394, or municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule or equivalent formal action by each respective governing body:

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(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

(1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10. The governing body of a rural electric cooperative or municipal utility shall, within nine months of January 1, 2008, adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.900. Sections 386.900 through 386.940 shall be known as the "Missouri Energy Freedom Act". These sections reflect both the critical role that abundant, affordable, sustainable, and secure supplies of renewable energy have in advancing the economy of the state and the security, health and welfare of its citizens, and the intent of the people to promote the long term sustainability, security, and affordability of energy supply by encouraging the development and utilization of renewable energy by the people of this state. The right of citizens to directly invest in renewable energy sources to meet their own energy needs, while also connecting to the electric grid, shall not be limited more than is necessary to protect the safety and security of the electric grid.

386.910. As used in sections 386.900 through 386.940, the following terms shall mean:

(1) "Aggregated renewable facility metering", a rate and metering arrangement that allows a property owner with multiple utility accounts on one property or adjacent properties or contiguous properties, all of which are served by the same retail electric supplier, such as but not limited to, a group of university or hospital buildings, municipal or other publicly owned premises, a military base, public housing, shopping mall, or farm properties, to install and operate renewable energy facilities that together do not exceed 5 MW in capacity, on such property or on the adjacent or contiguous property, for the primary purpose of offsetting part or all of the electrical energy requirements associated with the utility accounts on such properties, and allocate the related community renewable energy credits among the utility accounts on such property or adjacent or contiguous property;

(2) "Community based renewable facility access", a rate and metering arrangement that allows for multiple retail customers who are located in a community such as, but not limited to, a condominium complex, industrial park, town, or city, to contract, over a minimum 15 year term for energy produced by a renewable energy facility that does not exceed 5 MW in capacity and that is interconnected to the same public utility distribution system that serves the premises of such retail customers, and allocates related community renewable energy credits among such retail customers, provided however that the 5MW limit in capacity shall not prevent multiple renewable energy facilities serving different retail customers from co-locating;

(3) "Community renewable access arrangements", aggregated renewable facility metering, and community-based renewable facility access;

(4) "Community renewable energy credits", either the per kilowatt-hour deduction in the metered usage used by the retail electric supplier to calculate the utility bill of a retail customer that is participating in a community renewable access arrangement, or a financial amount credited to the utility bill of such a retail customer, which shall be calculated by applying a specified amount per kilowatt-hour, determined as set forth in rules adopted by the commission or in the

policies of the governing body of a municipal utility or retail electric supplier, to the energy generated by a renewable energy facility on behalf of such customers;

(5) "Renewable energy resources", the same meaning as set forth in subdivision (6) of subsection 2 of section 386.890;

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(6) "Renewable energy facility", a facility that produces renewable energy resources;

(7) "Retail electric supplier", the same meaning as set forth in subdivision (7) of subsection 2 of section 386.890;

(8) "Utility account" or "retail customer" means a specific customer account that is receiving service and billed for such service by a retail electric supplier.

386.920 Notwithstanding any provision in this chapter or chapters 393 or 394 to the contrary, the owner or operator of a qualified electric generation unit serving a customer-generator as defined in section 386.890, or of a renewable energy facility that is used in a community renewable access arrangement as defined in section 386.910, that provides renewable energy resources to a retail customer through a power purchase agreement, a sale and leaseback of equipment, or other form of contract between the retail customer and the owner or operator of such qualified electric generation unit or renewable energy facility, shall not be determined by reason of such ownership, operation, contract, or provision of energy, to be an electrical corporation or public utility as those terms are defined in section 386.020, nor shall such owner or operator be precluded from installing, owning or operating the qualified electric unit or renewable energy facility as allowed by section 386.910 or section 386.930 and providing the related renewable energy resources to a customer that is receiving utility service from a retail electric supplier. Nothing in this subsection shall be construed as amending or superseding the commission's authority to ensure safe operation of any electric plant as granted in and pursuant to subsection 1 of section 386.310.

386.930. 1. Each retail electric supplier shall offer the interconnection and metering arrangements and community renewable energy credits necessary to facilitate and support the community renewable access arrangements defined in section 386.920.

2. Within 60 days of the effective date of this section, the commission shall promulgate initial rules to establish the terms and conditions under which the retail electric suppliers regulated under chapter 393, shall be required to interconnect with and support each of the community renewable access arrangements defined in section 386.910, including the determination of community renewable energy credits to be applied in such arrangements, and shall conclude such proceeding by adopting a proposed rule within 180 days of promulgating the initial rules. Within twelve months of the effective date of this section, the governing body of a municipal utility or rural electric cooperative shall also adopt policies establishing the terms and conditions under which such municipal utilities or rural electric cooperatives shall be required to interconnect with and support each of the community renewable access arrangements, including the determination of community renewable energy credits. Such rules or policies shall provide that retail electric suppliers shall recover the costs of any additional distribution equipment that the retail electric supplier is required to install to accommodate the installation of the renewable energy facility that is part of a community renewable access arrangement from the owner or operator of such facility or from the customers participating in the community renewable access arrangement. The provisions of subsections 11, 13, 16, and 17 of section 386.890 shall also apply to renewable energy facilities used in community renewable access arrangements to the same extent they apply to the generation units of customer-generators under section 386.890.

3. In any rulemaking or other proceeding required by subsection 2 of this section, provisions equivalent to the interconnection provisions set forth in subsections 6, 7, and 15 of Section 386.890, and provisions equivalent to those in subsection 5 of section 386.890 for the calculation of a net electrical energy measurement and application of credits for net excess energy generated, shall be presumed reasonable and shall apply to the utility bills of the retail customers in community renewable access arrangements unless alternate terms and conditions are shown by clear and convincing evidence to be necessary either to protect the safety and security of the electric grid or to better meet the criteria set forth in subsection 4 of this section. In no circumstance, however, shall the commission or governing body of a municipal utility or rural electric cooperative approve an alternate means of calculating community renewable energy credits that results in an amount less than the sum of the retail electric supplier's avoided energy and capacity costs, and any avoided transmission and distribution costs that result from the installation and operation of such facility, and other avoided costs identified by the commission or governing body of a municipal utility or rural electric cooperative.

4. In adopting the rules or policies provided for in this section, and when reviewing tariffs, contracts for service, interconnection agreements or rates, or deciding complaints relating to community renewable access arrangements, the commission or governing body of a municipal utility or retail electric supplier shall balance each of the following objectives: maximizing the use of in-state renewable energy resources by citizens of the state and removing or reducing existing barriers including, but not limited to, requirements for costly studies and other preconditions to interconnection or the lack of standardized terms, to the direct investment by individuals, businesses, and other entities in renewable energy resources; promoting private investment in renewable capacity in the state; promoting the diversification of the state's supply portfolio and reducing the state's dependence on fossil fuel energy sources; mitigating more costly transmission and distribution investments otherwise needed for system reliability; encouraging the growth of jobs and other economic development within the state; minimizing the long term costs associated with future additions of capacity needed to meet the state's energy requirements; and furthering the long term affordability, reliability, and security of energy supply.

386.940. 1. Any taxpayer that owns a solar powered electric energy generation unit that meets the requirements for net metering under section 386.890, or solar powered electric energy generation unit that is part of a community renewable access arrangement, and that has incurred costs and expenses related to the construction, design, and installation of that generation unit on or after the effective date of this section, shall, subject to the provisions of subsections 2 through 7 of this section, be allowed a state tax credit against the income taxes imposed pursuant to chapter 143 (except withholding imposed by sections 143.191 to 143.265), if the director of the department of revenue issues an eligibility statement for that project. The tax credit provided for in this section shall be known as the "Missouri Solar Energy Tax Credit".

2. The state tax credit allowed under this section shall not exceed thirty-five percent of the total costs and expenses incurred for the construction, design, and installation of that generation unit, up to a total of seventy-five thousand dollars per utility metered account; provided, however, that beginning in calendar years 2022 through 2031, the thirty-five percent limit on total costs and expenses shall be reduced by an amount of two percent per year, and the seventy-five thousand dollar limit shall be reduced by two thousand five hundred dollars per year, and such reduced limits shall apply to the tax credits allowed under this section during calendar years 2022 through 2031.

3. In no event shall the aggregate amount of all tax credits allowed under this section exceed fifty million dollars in any given calendar year for the period beginning with the effective date of this section through June 30, 2021. During the calendar years 2022 through 2031, this fifty million dollar limit for the calendar year shall be reduced each year by an amount equal to $2.5 million dollars. No new tax credits provided for under this section shall be authorized after June 30, 2031. The department of revenue shall promulgate rules and regulations for the administration of tax credits issued pursuant to this section, and establish the procedure by which such tax credits may be claimed.

4. Any eligible applicant desiring to claim a tax credit under this section shall first request an eligibility statement from the department of revenue. The applicant shall identify: the generation unit for which a tax credit is claimed; the costs and expenses expected to be incurred by the applicant related to the construction, design, and installation of the unit; the nameplate capacity of the unit; and the ownership for the unit. The director of the department of revenue shall issue an eligibility statement within thirty (30) days of the request if it finds that the applicant qualifies for a credit under this section. Tax credits shall be awarded on a first-come, first-serve basis, until the limits as provided in subsection 3 of this section are reached. The department of revenue may promulgate rules and regulations relating to this certification process.

5. The credit authorized by this section shall not be refundable. Any amount of credit which exceeds the tax due for a taxpayer's taxable year may be carried forward to any of the taxpayer's five subsequent taxable years.

6. All or any portion of the tax credits issued in accordance with this section may be transferred, sold, or assigned to a third party. Certification of transfer, sale or assignment and other appropriate forms must be filed with the department of revenue.

7. The reporting provisions of the Tax Credit Accountability Act of 2004 apply to the tax credits issued under this section.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

STATE AUDITOR'S OFFICE
RECEIVED
DEC 18 2015

ELECTIONS DIVISION
(573) 751-2301

16-183

December 18, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andrew Linhares regarding a proposed statutory amendment to Chapter 386, version 3 (2016-183)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andrew Linhares on December 17, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

# INITIATIVE PETITION

16-183

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 17 PM 3:12
SEC. OF STATE

(Official Ballot Title)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
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| 1. | | | | | |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer _____.

_____ _____ _____
Signature of Affiant (Person obtaining signatures) (Printed Name of Affiant) Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201_.

_____ _____
Signature of Notary Address of Notary

Notary Public (Seal) My commission expires _____

Be it enacted by the people of the state of Missouri: 16-183

Section 386.890 is amended and one new section is added, to be known as section 386.895, to read as follows:

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal electric utility, rural electric cooperative as provided in chapter 394, or electrical corporation as provided in this chapter;

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of, or retail customer that is entitled by contract to receive the electric energy generated by, a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than [one hundred] two thousand kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of [natural resources] economic development;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any municipal utility, electrical corporation regulated under this chapter, or rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for other electric utilities may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

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(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and [shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period] all net excess kilowatt-hours generated shall be recorded as net excess energy credits per kilowatt-hour and those credits shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent billing periods;

(4) Any net excess energy credits granted by this subsection shall expire without any compensation at the earlier of either March 1 or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) For any rural electric cooperative under chapter 394, or municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule or equivalent formal action by each respective governing body:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10. The governing body of a rural electric cooperative or municipal utility shall, within nine months of January 1, 2008, adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

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11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

18. Notwithstanding any provision in this chapter or chapters 393 and 394 to the contrary, the owner or operator of a qualified electric generation unit that provides renewable energy resources to a customer-generator through a power purchase agreement, a sale and leaseback of equipment, or other form of contract between the customer-generator and the owner or operator of the qualified electric generation unit, shall not be determined by reason of such ownership, operation, contract, or provision of energy to be an electrical corporation or public utility as those terms are defined in section 386.020, nor shall it be precluded from installing, owning or operating the qualified electric unit and providing the related renewable energy resources to a customer that is being served by a retail electric supplier.

386.895. 1. Any taxpayer that owns a solar powered electric energy generation unit or solar facility that meets the requirements for net metering under section 386.890, and that has incurred costs and expenses related to the construction, design, and installation of that facility on or after the effective date of this section, shall, subject to the provisions of subsections 2 through 7 of this section, be allowed a state tax credit against the income taxes imposed pursuant to chapter 143 (except withholding imposed by sections 143.191 to 143.265), if the director of the department of revenue issues an eligibility statement for that project. The tax credit provided for in this section shall be known as the "Missouri Solar Energy Tax Credit".

2. The state tax credit allowed under this section shall not exceed thirty-five percent of the total costs and expenses incurred for the construction, design, and installation of that facility, up to a total of seventy-five thousand dollars per utility metered account; provided however that beginning in calendar years 2022 through 2031, the thirty-five percent limit on total costs and expenses shall be reduced by an amount of two percent per year, and the seventy-five thousand dollar limit shall be reduced by two thousand five hundred dollars per year, and such reduced limits shall apply to the tax credits allowed under this section during calendar years 2022 through 2031.

3. In no event shall the aggregate amount of all tax credits allowed under this section exceed fifty million dollars in any given calendar year for the period beginning with the effective date of this section through June 30, 2021. During the calendar years 2022 through 2031, this fifty million dollar limit for the calendar year shall be reduced each year by an amount equal to $2.5 million dollars. No new tax credits provided for under this section shall be authorized after June 30, 2031. The department of revenue shall promulgate rules and regulations for the administration of tax credits issued pursuant to this section, and establish the procedure by which such tax credits may be claimed.

4. Any eligible applicant desiring to claim a tax credit under this section shall first request an eligibility statement from the department of revenue. The applicant shall identify: the facility for which a tax credit is claimed; the costs and expenses expected to be incurred by the applicant related to the construction, design, and installation of the facility; the nameplate capacity of the facility; and the ownership for the facility. The director of the department of revenue shall issue an eligibility statement within thirty (30) days of the request if it finds that the applicant qualifies for a credit under this section. Tax credits shall be awarded on a first-come, first-serve basis, until the limits as provided in subsection 3 of this section are reached. The department of revenue may promulgate rules and regulations relating to this certification process.

5. The credit authorized by this section shall not be refundable. Any amount of credit which exceeds the tax due for a taxpayer's taxable year may be carried forward to any of the taxpayer's five subsequent taxable years.

6. All or any portion of the tax credits issued in accordance with this section may be transferred, sold, or assigned to a third party. Certification of transfer, sale or assignment and other appropriate forms must be filed with the department of revenue.

7. The reporting provisions of the Tax Credit Accountability Act of 2004 apply to the tax credits issued under this section.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-183)**

## Subject

Initiative petition from Andrew Linhares regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received December 18, 2015)

## Date

January 8, 2016

## Description

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Public Service Commission.**

**Edward D, Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Brent Stewart** of Association of Missouri Electric Cooperatives provided information to the State Auditor's Office as an opponent of this initiative petition.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated this proposal would reduce state revenues by $50 million for fiscal year 2017, $50 million for fiscal year 2018, and $50 million for fiscal year 2019.

**Summarize how this bill would affect the agency**

Section 386.890 – Net Metering and Easy Connection Act
The Division of Energy (DE) assumes it would be involved in the implementation of this provision that modifies the existing net metering and interconnection requirements for regulated electric utilities. It is assumed there would be a rulemaking docket to set the process and details associated with this proposal. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where net metering provisions are considered.

Section 386.895 – Missouri Solar Energy Tax Credit
The Department of Revenue (DOR) is required to implement the Missouri Solar Energy Tax Credit. The proposal requires DOR to promulgate rules to establish a process for claiming of the credit and may promulgate rules related to a certification of eligibility process.

The existing Missouri Renewable Energy Standard (RES) requires investor-owned utilities in Missouri to either produce green power or purchase Renewable Energy Certificates (RECs) for compliance. The DE has statutory authority to certify that eligible renewable energy resources do not cause undue environmental impacts before RECs associated with those renewable energy resources can be used for RES compliance. There are no certification fees associated with this review. DE anticipates that enactment of a tax credit and expansion of the net-metering/interconnection size from 100 kilowatts to 2 megawatts will result in an increase in net-metered renewable energy installations (as modified by Section 386.890, RSMo, of this proposal) in Missouri which may be used for RES compliance.

**Long-range implications**

Fiscal impacts associated with the Missouri Solar Energy Tax Credits would continue until June 30, 2031. Economic benefits associated with construction of solar facilities would also have long-range implications.

**Assumptions and methodology used in arriving at state fiscal impact**

Section 386.890 –Net Metering and Easy Connection Act
For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

386.895- Missouri Solar Energy Tax Credit
The proposal's estimated impact to General Revenue could be up to $50 million per year from the effective date through June 30, 2021 depending on the schedule of implementation and applications submitted and approved. The potential impact would decrease by $2.5 million per year from 2022 through 2031.

DE assumes that DOR may consult with DE in development of rules associated with implementation of this proposal but that DE would not be involved in reviews of applications to DOR requesting certification of eligibility for net-metered solar facilities (up to 100 kilowatts) for the Missouri Solar Energy Tax Credit. For purposes of this fiscal note, DE assumes such consultation could be performed with existing resources.

DE anticipates that enactment of a tax credit will result in an increase in net-metered solar energy installations in Missouri which may be used for RES compliance. DE also anticipates that the increase in the capacity size of net metered renewable energy systems from 100 kilowatts to 2 megawatts would result in an increase in other net-metered renewable energy installations in Missouri which may be used for RES compliance.

If all tax credits were used up to the cap of $50 million per year, and with consideration to the estimated cost and size of the solar projects, it is estimated there would be 4,718 residential project applications and 271 commercial project applications submitted for tax credit reviews (Source: Mark Reading analysis for similar Initiative Petitions).

For purposes of this fiscal note, DE assumes all applications for RES certification of no undue adverse environmental impacts are for solar projects and that only small numbers of these projects would submit applications for RES certification to DE. DE's review primarily focuses on environmental impacts of renewable electric generation facilities on air, water or land use. The actual staff time spent on each application varies. Solar photovoltaic and other renewable energy facilities with a larger capacity typically require more staff time for reviewing their third-party environmental impact assessments in addition to verifying applicable environmental permits, for data requests and discussion, data collection, database management, report production and website maintenance. For

purposes of this fiscal note, DE assumes it could complete the additional RES environmental reviews/certifications anticipated from this proposal using existing resources.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** estimate this petition will result in increased operating expenses of $199,602 for fiscal year 2017, $181,985 for fiscal year 2018, and $183,470 for fiscal year 2019.

The legislation creates a negative impact of up to $50 million per fiscal year to total state revenue by creating a new tax credit.

This petition creates the Missouri Solar Energy Tax Credit which allows up to 35 percent of the costs and expenses for construction, design, and installation of a generation unit. The provisions of subsection 3 cap the tax credit at $50 million and beginning in calendar year 2022, the total cap is reduced by $2.5 million each year. The provisions expire June 30, 2031, allowing for no new tax credits after that date.

The department suggests the provisions regarding the certification process be administered by the Department of Economic Development and the Division of Energy as they would be more familiar with the subject matter.

**Administrative Impact:**

**Personal Tax:**

Personal Tax requires one (1) Revenue Processing Technician I (Range 10, Step L) for every 6,000 credits claimed.

**Corporate Tax:**
Corporate Tax requires three (3) Revenue Processing Technicians I (Range 10, Step L) for every 4,000 credits redeemed, 4,000 credits transferred, and for every 520 SB 1099 compliance mailings and correspondence.

**Integrated Tax System:**
The integrated tax system incurs additional costs of $43,680 to implement the provisions of this petition.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed

the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of West Plains** indicated the 86 cities with municipal electric utilities depend on the revenues of this service for their citizen/owners to off-set the cost of electric service and operation to citizens as well as to support the activities of city government.

Based primarily on data from the Federal Department of Energy's (DOE) Energy Information Administration (EIA) Table 6 plus additional data gleaned from the National Renewable Energy Lab's Photovoltaic Calculator and the Missouri Association of Municipal Utilities for peak loads in 73 cities, they have determined that municipalities in Missouri face a loss of at least $23.9 million in revenue should this initiative petition become law. The impact alone to the City of West Plains appears to be $352,000 annually, or over 6.5% of their annual electric utility revenue budget. This figure does not reflect any additional costs they will be required to incur for required pleadings before the state Public Service Commission or local compliance costs for other requirements contained in this proposal.

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art. X, Sec. 16) that reduces income or increases costs without "full state financing," they anticipate that local government costs would be reflected in the final state cost when the fiscal note is completed. Necessary litigation costs incurred for Mo. Const. Art. X, Sec. 16 and other potential legal inconsistencies are unknown.

Methodology for City Loss Calculation
Renewable Energy Initiative Petitions

| **Assumptions and Methods** | **Information Source** |
|---|---|
| 1. A combined federal and state tax credit of 60% of installation costs, would prompt city customers to achieve the 7% capacity cap in a reasonable period of time | Proposed Legislation |
| 2. 1 kW solar panel at this latitude would generate 1350 kWHr per year | National Renewable Energy Lab's PV Calculator |
| 3. Annual Peaks | Municipal reports to the Missouri Association of Municipal Utilities |
| 4. Current City Electric Rates | DOE EIA Database (Table 6 for 2010) |

5. Calculation:
   Annual Peak
   7% of Annual Peak for Capacity Cap
   Total Solar Generation = (Capacity Cap * 1350 kWHrs)*1000
   City's lost revenue: City rate * Solar Generation

6. State calculation based on the sum of "Assumption 5" calculations for 73 reporting cities (out of 86)
   Total ≥ $23.8 million

**Calculation for City of West Plains**

| | |
|---|---|
| 44.453 | Annual Peak (MW) |
| 3.11171 | 7% of Annual Peak for Capacity Cap MW |
| 4,200,809 | Total Solar Generation (KWHR) |
| 8.38 | City Rate (cents per kWHR) |
| $352,028 | Lost Revenue |

Officials from **University of Missouri** indicated they have not seen cost impact studies on this initiative from their electric utility suppliers, but they do not believe this will have a significant impact on their university.

Officials from the **Public Service Commission** (PSC) indicated the following:

Proposed Section 386.890.5.(4), RSMo, states "Any net excess energy credits granted by this subsection shall expire without any compensation at the earlier of either March 1 or when the customer-generator disconnects service or terminates the net metering relationship with the supplier." The current statutory language states "Any credits granted by this subsection shall expire without any compensation at the earlier of either 12 months after their issuance or when the customer-generator disconnects service or

terminates the net metering relationship with the supplier." It appears the drafter inadvertently did not mark all the changes in the subsection.

Proposed Section 386.890.18, RSMo, states “Notwithstanding any provision in this chapter or chapter 393 and 394 to the contrary, the owner or operator of a qualified electric generation unit that provides renewable energy resources to a customer-generator through a power purchase agreement…, shall not be determined by reason of such ownership, operation, contract, or provision of energy to be an electrical corporation or public utility as those terms are defined by section 386.020….” This language suggests that any electrical corporation providing service to a customer-generator could be exempt from Section 386.020, RSMo, and potentially somehow exempt from commission regulation even if already regulated. To alleviate any possible confusion delete the words “the owner or operator of a qualified electric generation unit that provides renewable energy resources to” before ‘a customer-generator’ (which is already limited by its definition of generators producing currently 1,000 KW or proposed change 2,000 KW). Further, the language “Notwithstanding any provision in this chapter or chapter 393 and 394 to the contrary,” should also be removed to not potentially conflict.

Also absent from this proposal is an additional sentence clearly delineating that this does not diminish or supersede the commission’s authority to ensure safe operation of any electric plant. The PSC respectfully suggests that this sentence should be added in for clarity.

Section 386.895, RSMo, discusses a "Missouri Solar Energy Tax Credit". It is not clear why the tax credit is in the PSC statute and not in a tax-related statute.

**Edward D, Greim** provided the following information as an opponent of this initiative petition.

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December 28, 2015

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Re: *Fiscal Note in Initiative Petitions 2016-181 through 2016-189*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petition 181 :

> Lost revenue to state government is $680.3 million over the tax credit period, with annual losses of $7.6 million thereafter. Lost revenue to local government is $137.8 million over the tax credit period, with annual losses of $15.5 million thereafter.

We propose the following fiscal note summary for petitions 182, 183, 184, 186, 187, and 188:

> Lost revenue to state government is $680.3 million over the tax credit period, with annual losses of $7.6 million thereafter. Lost revenue to local government is $137.8 million over the tax credit period, with annual losses of $15.5 million thereafter. Other, substantial lost revenues of an unknown amount are likely.

We propose the following fiscal note summary for petitions 185 and 189:

> Lost revenue to state government is approximately $38,500, annually, for each facility, and up to $321.1 million in state revenue is at risk. Lost revenue to local governments is approximately $78,300, annually, for each facility, and up to $652.5 million in local revenue is at risk.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments. These taxes, however, will no longer be collected for electricity that is never sold due to the customer-generator production and community solar encouraged by the initiative petitions. Petition signers and voters must be informed of the certainty that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume. On the other hand, any positive fiscal impacts of the initiative petitions are speculative.

**Description of Policy**

Initiative Petitions 181 to 189 contain one or more of three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of community solar facilities/arrangements; and (3) A state tax credit for solar powered electric energy generation units and arrangements.

1. Changes to Net Metering for Investor-owned electric utilities, municipal electric utilities, and rural electric cooperatives
    A. Redefine customer generator to include retail customers entitled by contract to receive the electrical energy generated by a qualified energy generation unit;
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);
    D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.
2. 5 Megawatt Community Solar Facilities
    A. Electric Customers may participate in community based solar arrangements up to with generation capacity up to 5 megawatts. There is no limit on the number of community solar facilities that may be developed.
    B. Bill credits are one to one against electric utility bills for customers who participate in the community solar facility.
    C. Excess bill credits are sold back to municipal utilities, investor-owned utilities, and electric cooperatives, by kilowatt hour (at rate to be set by commission, that is at least as great as all avoided costs, but up to the retail electric supply rate).
3. Tax credit
    A. 35% tax credit for solar powered energy generation units eligible for net metering, or in some petitions, community solar facilities up to 5 megawatt.



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B. Total value of eligible credits shall not exceed $50 million each year until 2022, with credits decreasing after that date. Unused credits carryover year to year.
C. No tax credits after June 30, 2031.

**Burdens on State Government**

In determining the fiscal impact of each petition, it is generally reasonable to assume that the various statutory changes in the petitions will have independent fiscal impacts. The reasonableness of this assumption is demonstrated by the various iterations of the petitions themselves, some of which propose tax credits with no proposed changes to the Net Metering and Easy Connection Act. *See* Petitions 178 and 190.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 182-184 and 186-188*

Raising the net metering cap from 100 kilowatt units to 2 megawatt units will result in a decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase due to economies of scale. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in some of the petitions provides a strong financial incentive to solar energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[1], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[2] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. *See* U.S. Energy Information Administration – Independent Statistics and Analysis. Accordingly, a 1% decrease in electricity sales volume will reduce Missouri state sales tax revenues from electric providers by at least 3.2 million dollars. Based on the change from 100 kilowatt units to 2 megawatt units, individual net metering units may

[1] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[2] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.



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significantly impact tax revenues. Every megawatt of installed solar decreases state sales tax revenue by $7,700 annually.

*ii. Decreased tax collections due to community solar facilities – Initiative Petitions 184, 185, 188, 189*

Community solar facilities are in addition to net metering and represent an additional capacity of an unlimited amount. Energy generated from the community solar facility is allocated by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. These community solar facilities will be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoids property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership model, similar to net metering,[3] because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%). There is no cap on the amount of community solar facilities that may be constructed, and there are strong financial incentives to create excess production, given declining prices of solar electricity and a mandatory obligation of the interconnected utility to buy electricity at generous, retail rates.

A 1% decrease in electricity sales volume will reduce Missouri state sales tax revenues from electric providers by 3.2 million dollars. Every 5MW "renewable energy facility" will reduce state sales tax revenues by $38,500, annually. Up to $321.1 million in state sales tax revenue is at risk ($7.6 billion * 4.225%).

*iii. Tax credits – Initiative Petitions 181-184 and 186-188*

*a. Decreased tax collections due to tax credits – Credits capped at $50 million annually*

The 35% tax credits in these petitions will directly result in a loss of state income of $25 million to $50 million, annually. The total loss to state government over the tax credit effective period is $612.5 million.

*b. Cost of eroding tax base due to new energy generation*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in Missouri. According to the attached table, the tax credits will result in 988.7 MWh/988,700 kWh of new electricity generation. New production from such tax credits would produce

[3] The petitions use the terms "facility access", "arrangements", and "bill credits" all of which indicate that the electricity generated and allocated will not be subject to sales tax.



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approximately 1,804,090 MWh per year, also expressed as 1,804,090,000 KWh, or 1,804 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour,[4] this new production is valued at $180,408,983.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[5] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for solar energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology.

For Initiative Petitions 181-184 and 186-188, the total, annual loss to state governments *due to the tax credits* is 32.6 million to 53.1 million over the tax credit period. The total loss during the tax credit period is $680.3 million. There is an annual loss in perpetuity after the tax credit period of $7.6 million, based on expected customer-generation resourced developed. *See* attached table.

**Burdens on Local Governments**

Local governments face losses in revenue from the various petition provisions that are similar to those faced by state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to

[4] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.

[5] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 182-184 and 186-188*

A 1% decrease in electricity sales volume will reduce Missouri local tax revenues from electric providers by $6.5 million, annually.

*ii. Decreased tax collections due to community solar facilities – Initiative Petitions 184, 185, 188, 189*

A 1% decrease in electricity sales volume will reduce Missouri local tax revenues from electric providers by 6.5 million dollars. Every 5MW "renewable energy facility" will reduce local government tax revenues by $78,300, annually. Up to $652.5 million in local sales and license/franchise tax revenue is at risk ($7.6 billion * [3.585% + 5%]).

*iii. Tax credits – Initiative Petitions 181-184 and 186-188 – Cost of eroding tax base due to new energy generation*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petitions may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to local governments, all of which may be reduced or discontinued if the initiative petitions are enacted.

The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[6] Based on this estimate, the population-weighted combined average local sales tax is 3.585%. The tax credits will result in 988.70 megawatts of new electricity production that will be net metered or otherwise result in the allocation of bill credits and, as a result, decrease electric revenues. The corresponding annual loss to local governments from lost sales tax from the tax credit is $6,467,662. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,020,449.

[6] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.



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The overall annual loss to local governments due to the tax credits is $15.5 million. The total loss to local government revenues during the tax credit period is $137.8 million.

**In Conclusion**

The initiative petitions will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petitions, such as increases in net metering and community solar. The total tax burden on state government imposed by the petitions with tax credits is at least $680 million over the tax credit period, with at least $7.6 million in lost revenues in perpetuity. The total tax burden on state government imposed by the petitions without tax credits is substantial, with up to $321.1 million at risk. The total tax burden on local governments imposed by the petitions with tax credits is at least $137.8 million over the tax credit period, with at least $15.5 million in lost revenues in perpetuity. The total tax burden on local government imposed by the petitions without tax credits is substantial, with up to $652.5 million at risk.

Sincerely,

Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0



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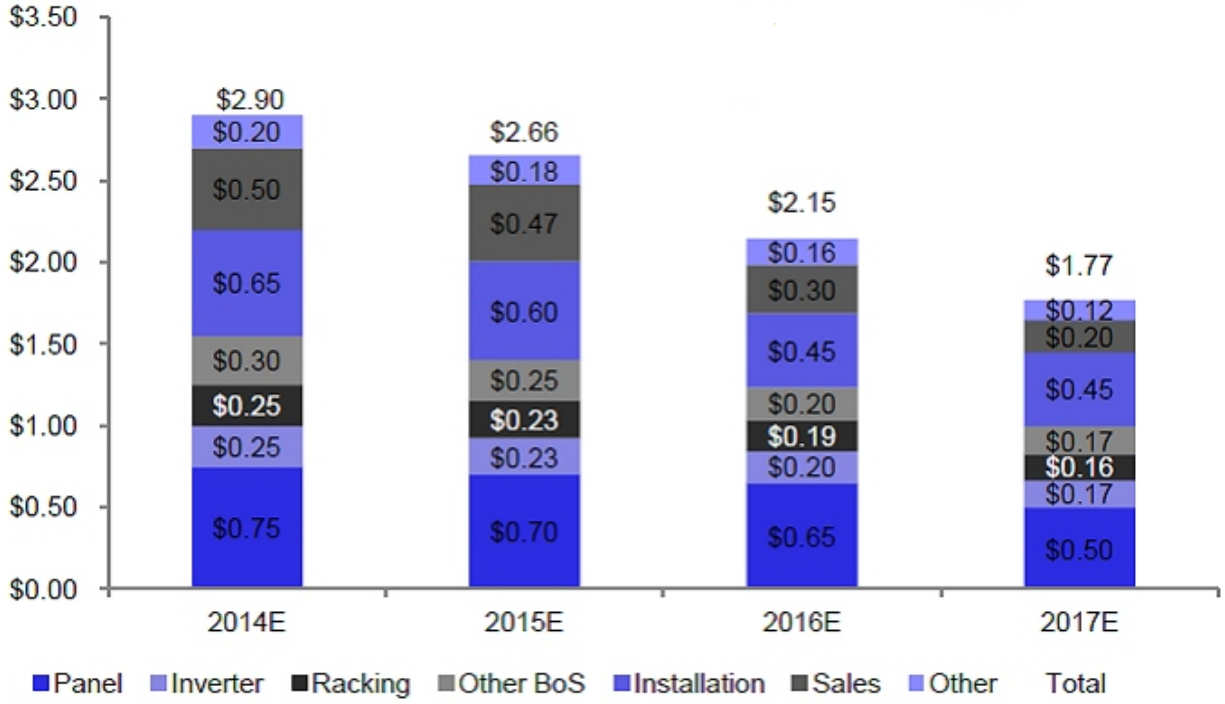
Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017
https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm



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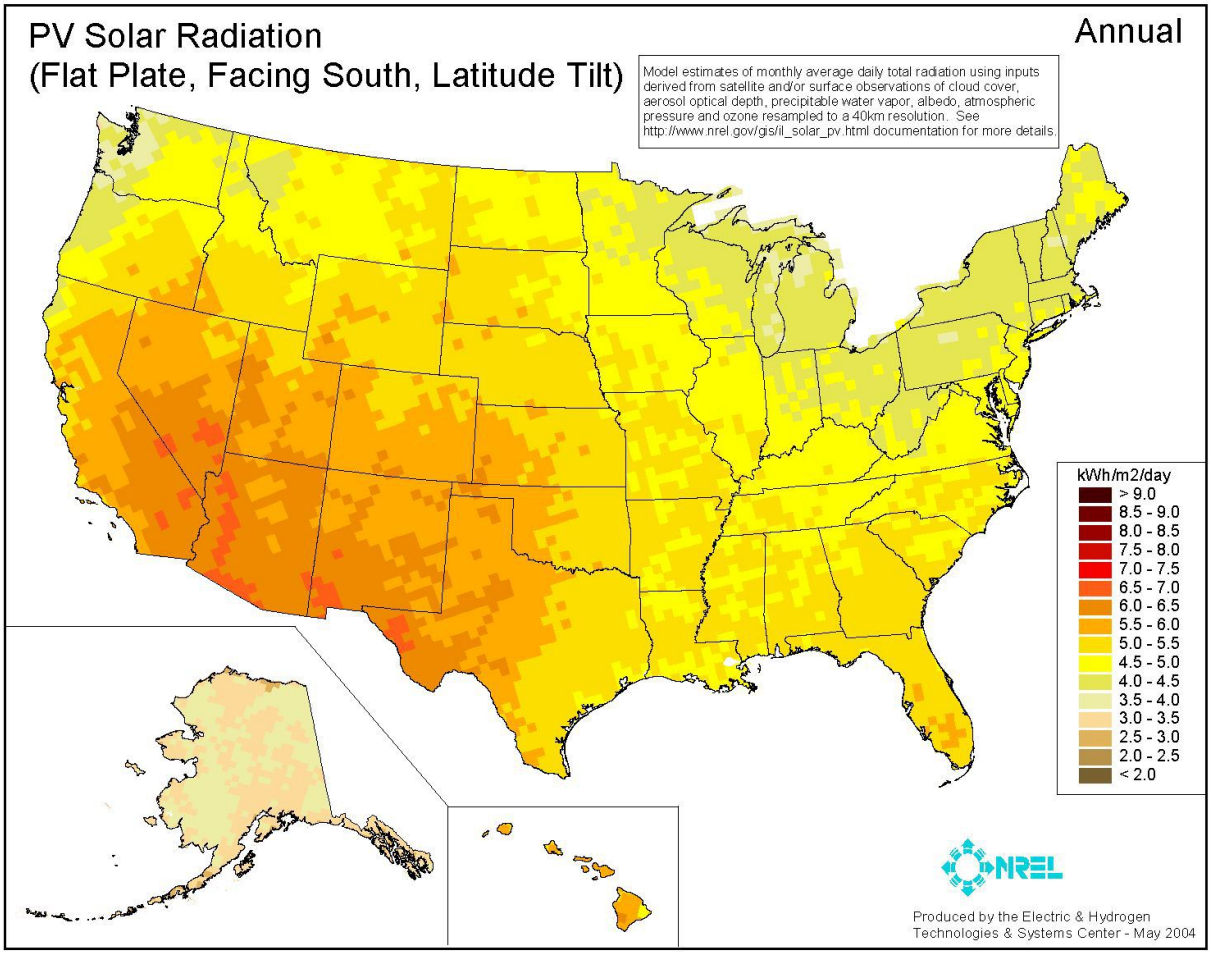
National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Renew Mo Solar Tax Credit Fiscal Analysis - Petitions 181-184 and 186-188**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 80.71 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $50,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 147,273 | |
| $/MWh Retail Rate | $100 | |

| | Solar Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $50,000,000 | 80.71 | 80.71 | 147,273 | $100 | $14,727,264 | 4.225% | $622,227 | $50,622,227 | 3.585% | $527,972 | 5.000% | $736,363 | $1,264,336 |
| 2018 | $50,000,000 | 80.71 | 161.42 | 294,545 | $100 | $29,454,528 | 4.225% | $1,244,454 | $51,244,454 | 3.585% | $1,055,945 | 5.000% | $1,472,726 | $2,528,671 |
| 2019 | $50,000,000 | 80.71 | 242.13 | 441,818 | $100 | $44,181,792 | 4.225% | $1,866,681 | $51,866,681 | 3.585% | $1,583,917 | 5.000% | $2,209,090 | $3,793,007 |
| 2020 | $50,000,000 | 80.71 | 322.84 | 589,091 | $100 | $58,909,056 | 4.225% | $2,488,908 | $52,488,908 | 3.585% | $2,111,890 | 5.000% | $2,945,453 | $5,057,342 |
| 2021 | $50,000,000 | 80.71 | 403.55 | 736,363 | $100 | $73,636,320 | 4.225% | $3,111,135 | $53,111,135 | 3.585% | $2,639,862 | 5.000% | $3,681,816 | $6,321,678 |
| 2022 | $47,500,000 | 76.67 | 480.23 | 876,272 | $100 | $87,627,220 | 4.225% | $3,702,250 | $51,202,250 | 3.585% | $3,141,436 | 5.000% | $4,381,361 | $7,522,797 |
| 2023 | $45,000,000 | 72.64 | 552.87 | 1,008,818 | $100 | $100,881,758 | 4.225% | $4,262,254 | $49,262,254 | 3.585% | $3,616,611 | 5.000% | $5,044,088 | $8,660,699 |
| 2024 | $42,500,000 | 68.60 | 621.47 | 1,133,999 | $100 | $113,399,932 | 4.225% | $4,791,147 | $47,291,147 | 3.585% | $4,065,388 | 5.000% | $5,669,997 | $9,735,384 |
| 2025 | $40,000,000 | 64.57 | 686.04 | 1,251,817 | $100 | $125,181,743 | 4.225% | $5,288,929 | $45,288,929 | 3.585% | $4,487,765 | 5.000% | $6,259,087 | $10,746,853 |
| 2026 | $37,500,000 | 60.53 | 746.57 | 1,362,272 | $100 | $136,227,191 | 4.225% | $5,755,599 | $43,255,599 | 3.585% | $4,883,745 | 5.000% | $6,811,360 | $11,695,104 |
| 2027 | $35,000,000 | 56.50 | 803.07 | 1,465,363 | $100 | $146,536,276 | 4.225% | $6,191,158 | $41,191,158 | 3.585% | $5,253,325 | 5.000% | $7,326,814 | $12,580,139 |
| 2028 | $32,500,000 | 52.46 | 855.53 | 1,561,090 | $100 | $156,108,998 | 4.225% | $6,595,605 | $39,095,605 | 3.585% | $5,596,508 | 5.000% | $7,805,450 | $13,401,957 |
| 2029 | $30,000,000 | 48.43 | 903.95 | 1,649,454 | $100 | $164,945,356 | 4.225% | $6,968,941 | $36,968,941 | 3.585% | $5,913,291 | 5.000% | $8,247,268 | $14,160,559 |
| 2030 | $27,500,000 | 44.39 | 948.35 | 1,730,454 | $100 | $173,045,351 | 4.225% | $7,311,166 | $34,811,166 | 3.585% | $6,203,676 | 5.000% | $8,652,268 | $14,855,943 |
| 2031 | $25,000,000 | 40.36 | 988.70 | 1,804,090 | $100 | $180,408,983 | 4.225% | $7,622,280 | $32,622,280 | 3.585% | $6,467,662 | 5.000% | $9,020,449 | $15,488,111 |

**Total State Tax Burden** **$680,322,732**

**Total Local Tax Burden (Sales + Franchise)** **$137,812,581**

**Brent Stewart** provided the following information as an opponent of this initiative petition.

**Association of Missouri Electric Cooperatives**

2722 East McCarty Street, P.O. Box 1645
Jefferson City, Missouri 65102
Telephone: (573) 635-6857
Fax: (573) 635-2314
www.amec.coop

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STATE AUDITORS OFFICE

December 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: Fiscal Note in Initiative Petitions 2016-173 through 2016-190

To Whom It May Concern:

The Association of Missouri Electric Cooperatives (AMEC), representing the state's forty-seven member-owned, nonprofit rural electric cooperatives that serve close to one million electric consumers, respectfully submit the following brief comments to assist in your preparation of the fiscal notes on the above-mentioned initiative petitions.

All these petitions, in one way or another, involve solar and renewable energy mandates. The practical effect of each, to one extent or another, is to encourage consumers to substitute self-generation for traditional electric service, thereby creating an unfair electric rate subsidy in favor of those who can afford to install their own generation at the expense of the majority of the other consumers who cannot.

Missouri's forty distribution (retail level) cooperatives serve a wide variety of governmental entities throughout rural Missouri, including state facilities (e.g. prisons), local government facilities, hospitals, schools, rural water districts, regional sewer districts and others. To the extent these entities cannot afford to install their own generation, which most cannot, they necessarily will be forced to pay higher rates if these initiative petitions are enacted. Unfortunately, it is impossible without more time for AMEC to identify all those government-related entities and facilities or estimate with any accuracy the adverse fiscal impact. However, it is clear that even a modest rate increase necessarily will have a significant adverse fiscal impact on governmental entities, in millions of dollars, especially those in the primarily less affluent rural areas served by Missouri's nonprofit electric cooperatives.

Respectfully submitted,

Brent Stewart

Brent Stewart
AMEC Counsel

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State government revenue may decrease up to $612.5 million during the tax credit period with approximately $200,000 annual increased operating costs. Local governmental entities estimate $23.9 million in annual electricity sales reductions. Other resulting economic activity will have an unknown impact on state and local governments.

STATE AUDITOR'S OFFICE
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DEC 18 2015

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-182

December 18, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andrew Linhares regarding a proposed statutory amendment to Chapter 386, version 2 (2016-182)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andrew Linhares on December 17, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-182 County _____
Page

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

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2015 DEC 17 PM 3:11
SEC. OF STATE

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| | NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|---|
| 1. | | | | | | |
| 2. | | | | | | |
| 3. | | | | | | |
| 4. | | | | | | |
| 5. | | | | | | |
| 6. | | | | | | |
| 7. | | | | | | |
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| 11. | | | | | | |
| 12. | | | | | | |
| 13. | | | | | | |
| 14. | | | | | | |
| 15 | | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do __ do not __ (check one) expect to be paid for circulating this petition. If paid, list the payer _____.

_____ _____ _____
Signature of Affiant (Person obtaining signatures) (Printed Name of Affiant) Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201_.

_____ _____
Signature of Notary Address of Notary

Notary Public (Seal) My commission expires

Be it enacted by the people of the state of Missouri:

16-182

Section 386.890 is amended and one new section is added, to be known as section 386.895, to read as follows:

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal electric utility, rural electric cooperative as provided in chapter 394, or electrical corporation as provided in this chapter;

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than [one hundred] two thousand kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of [natural resources] economic development;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any municipal utility, electrical corporation regulated under this chapter, or rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for other electric utilities may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional

meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

16-182

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and [shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period] all net excess kilowatt-hours generated shall be recorded as net excess energy credits per kilowatt-hour and those credits shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent billing periods;

(4) Any net excess energy credits granted by this subsection shall expire without any compensation at the earlier of either March 1 or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) For any rural electric cooperative under chapter 394, or municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule or equivalent formal action by each respective governing body:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10. The governing body of a rural electric cooperative or municipal utility shall, within nine months of January 1, 2008, adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application

process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

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11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.895. 1. Any taxpayer that owns a solar powered electric energy generation unit that meets the requirements for net metering under section 386.890, and that has incurred costs and expenses related to the construction, design, and installation of that generation unit on or after the effective date of this section, shall, subject to the provisions of subsections 2 through 7 of this section, be allowed a state tax credit against the income taxes imposed pursuant to chapter 143 (except withholding imposed by sections 143.191 to 143.265), if the director of the department of revenue issues an eligibility statement for that project. The tax credit provided for in this section shall be known as the "Missouri Solar Energy Tax Credit".

2. The state tax credit allowed under this section shall not exceed thirty-five percent of the total costs and expenses incurred for the construction, design, and installation of that generation unit, up to a total of seventy-five thousand dollars per utility metered account; provided however that beginning in calendar years 2022 through 2031, the thirty-five percent limit on total costs and expenses shall be reduced by an amount of two percent per year, and the seventy-five thousand dollar limit shall be reduced by two thousand five hundred dollars per year, and such reduced limits shall apply to the tax credits allowed under this section during calendar years 2022 through 2031.

3. In no event shall the aggregate amount of all tax credits allowed under this section exceed fifty million dollars in any given calendar year for the period beginning with the effective date of this section through June 30, 2021. During the calendar years 2022 through 2031, this fifty million dollar limit for the calendar year shall be reduced each year by an amount equal to $2.5 million dollars. No new tax credits provided for under this section shall be authorized after June 30, 2031. The department of revenue shall promulgate rules and regulations for the administration of tax credits issued pursuant to this section, and establish the procedure by which such tax credits may be claimed.

4. Any eligible applicant desiring to claim a tax credit under this section shall first request an eligibility statement from the department of revenue. The applicant shall identify: the generation unit for which a tax credit is claimed; the costs and expenses expected to be incurred by the applicant related to the construction, design, and installation of the unit; the nameplate capacity of the unit; and the ownership for the unit. The director of the department of revenue shall issue an eligibility statement within thirty (30) days of the request if it finds that the applicant qualifies for a credit under this section. Tax credits shall be awarded on a first-come, first-serve basis, until the limits as provided in subsection 3 of this section are reached. The department of revenue may promulgate rules and regulations relating to this certification process.

5. The credit authorized by this section shall not be refundable. Any amount of credit which exceeds the tax due for a taxpayer's taxable year may be carried forward to any of the taxpayer's five subsequent taxable years.

6. All or any portion of the tax credits issued in accordance with this section may be transferred, sold, or assigned to a third party. Certification of transfer, sale or assignment and other appropriate forms must be filed with the department of revenue.

7. The reporting provisions of the Tax Credit Accountability Act of 2004 apply to the tax credits issued under this section.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-182)**

## Subject

Initiative petition from Andrew Linhares regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received December 18, 2015)

## Date

January 8, 2016

## Description

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Public Service Commission.**

**Edward D, Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Brent Stewart** of Association of Missouri Electric Cooperatives provided information to the State Auditor's Office as an opponent of this initiative petition.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated this proposal would reduce state revenues by $50 million for fiscal year 2017, $50 million for fiscal year 2018, and $50 million for fiscal year 2019.

**Summarize how this bill would affect the agency**

Section 386.890 – Net Metering and Easy Connection Act
The Division of Energy (DE) assumes it would be involved in the implementation of this provision that modifies the existing net metering and interconnection requirements for regulated electric utilities. It is assumed there would be a rulemaking docket to set the process and details associated with this proposal. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where net metering provisions are considered.

Section 386.895 – Missouri Solar Energy Tax Credit
The Department of Revenue (DOR) is required to implement the Missouri Solar Energy Tax Credit. The proposal requires DOR to promulgate rules to establish a process for claiming of the credit and may promulgate rules related to a certification of eligibility process.

The existing Missouri Renewable Energy Standard (RES) requires investor-owned utilities in Missouri to either produce green power or purchase Renewable Energy Certificates (RECs) for compliance. The DE has statutory authority to certify that eligible renewable energy resources do not cause undue environmental impacts before RECs associated with those renewable energy resources can be used for RES compliance. There are no certification fees associated with this review. DE anticipates that enactment of a tax credit and expansion of the net-metering/interconnection size from 100 kilowatts to 2 megawatts will result in an increase in net-metered renewable energy installations (as modified by Section 386.890, RSMo, of this proposal) in Missouri which may be used for RES compliance.

**Long-range implications**

Fiscal impacts associated with the Missouri Solar Energy Tax Credits would continue until June 30, 2031. Economic benefits associated with construction of solar facilities would also have long-range implications.

**Assumptions and methodology used in arriving at state fiscal impact**

Section 386.890 –Net Metering and Easy Connection Act
For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

386.895- Missouri Solar Energy Tax Credit
The proposal's estimated impact to General Revenue could be up to $50 million per year from the effective date through June 30, 2021 depending on the schedule of implementation and applications submitted and approved. The potential impact would decrease by $2.5 million per year from 2022 through 2031.

DE assumes that DOR may consult with DE in development of rules associated with implementation of this proposal but that DE would not be involved in reviews of applications to DOR requesting certification of eligibility for net-metered solar facilities (up to 100 kilowatts) for the Missouri Solar Energy Tax Credit. For purposes of this fiscal note, DE assumes such consultation could be performed with existing resources.

DE anticipates that enactment of a tax credit will result in an increase in net-metered solar energy installations in Missouri which may be used for RES compliance. DE also anticipates that the increase in the capacity size of net metered renewable energy systems from 100 kilowatts to 2 megawatts would result in an increase in other net-metered renewable energy installations in Missouri which may be used for RES compliance.

If all tax credits were used up to the cap of $50 million per year, and with consideration to the estimated cost and size of the solar projects, it is estimated there would be 4,718 residential project applications and 271 commercial project applications submitted for tax credit reviews (Source: Mark Reading analysis for similar Initiative Petitions).

For purposes of this fiscal note, DE assumes all applications for RES certification of no undue adverse environmental impacts are for solar projects and that only small numbers of these projects would submit applications for RES certification to DE. DE's review primarily focuses on environmental impacts of renewable electric generation facilities on air, water or land use. The actual staff time spent on each application varies. Solar photovoltaic and other renewable energy facilities with a larger capacity typically require more staff time for reviewing their third-party environmental impact assessments in addition to verifying applicable environmental permits, for data requests and discussion, data collection, database management, report production and website maintenance. For

purposes of this fiscal note, DE assumes it could complete the additional RES environmental reviews/certifications anticipated from this proposal using existing resources.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** estimate this petition will result in increased operating expenses of $199,602 for fiscal year 2017, $181,985 for fiscal year 2018, and $183,470 for fiscal year 2019.

The legislation creates a negative impact of up to $50 million per fiscal year to total state revenue by creating a new tax credit.

This petition creates the Missouri Solar Energy Tax Credit which allows up to 35 percent of the costs and expenses for construction, design, and installation of a generation unit. The provisions of subsection 3 cap the tax credit at $50 million and beginning in calendar year 2022, the total cap is reduced by $2.5 million each year. The provisions expire June 30, 2031, allowing for no new tax credits after that date.

The department suggests the provisions regarding the certification process be administered by the Department of Economic Development and the Division of Energy as they would be more familiar with the subject matter.

**Administrative Impact:**

**Personal Tax:**

Personal Tax requires one (1) Revenue Processing Technician I (Range 10, Step L) for every 6,000 credits claimed.

**Corporate Tax:**
Corporate Tax requires three (3) Revenue Processing Technicians I (Range 10, Step L) for every 4,000 credits redeemed, 4,000 credits transferred, and for every 520 SB 1099 compliance mailings and correspondence.

**Integrated Tax System:**
The integrated tax system incurs additional costs of $43,680 to implement the provisions of this petition.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed

the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of West Plains** indicated the 86 cities with municipal electric utilities depend on the revenues of this service for their citizen/owners to off-set the cost of electric service and operation to citizens as well as to support the activities of city government.

Based primarily on data from the Federal Department of Energy's (DOE) Energy Information Administration (EIA) Table 6 plus additional data gleaned from the National Renewable Energy Lab's Photovoltaic Calculator and the Missouri Association of Municipal Utilities for peak loads in 73 cities, they have determined that municipalities in Missouri face a loss of at least $23.9 million in revenue should this initiative petition become law. The impact alone to the City of West Plains appears to be $352,000 annually, or over 6.5% of their annual electric utility revenue budget. This figure does not reflect any additional costs they will be required to incur for required pleadings before the state Public Service Commission or local compliance costs for other requirements contained in this proposal.

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art. X, Sec. 16) that reduces income or increases costs without "full state financing," they anticipate that local government costs would be reflected in the final state cost when the fiscal note is completed. Necessary litigation costs incurred for Mo. Const. Art. X, Sec. 16 and other potential legal inconsistencies are unknown.

Methodology for City Loss Calculation
Renewable Energy Initiative Petitions

| **Assumptions and Methods** | **Information Source** |
|---|---|
| 1. A combined federal and state tax credit of 60% of installation costs, would prompt city customers to achieve the 7% capacity cap in a reasonable period of time | Proposed Legislation |
| 2. 1 kW solar panel at this latitude would generate 1350 kWHr per year | National Renewable Energy Lab's PV Calculator |
| 3. Annual Peaks | Municipal reports to the Missouri Association of Municipal Utilities |
| 4. Current City Electric Rates | DOE EIA Database (Table 6 for 2010) |

5. Calculation:
   Annual Peak
   7% of Annual Peak for Capacity Cap
   Total Solar Generation = (Capacity Cap * 1350 kWHrs)*1000
   City's lost revenue: City rate * Solar Generation

6. State calculation based on the sum of "Assumption 5" calculations for 73 reporting cities (out of 86)
   Total ≥ $23.8 million

**Calculation for City of West Plains**

| | |
|---|---|
| 44.453 | Annual Peak (MW) |
| 3.11171 | 7% of Annual Peak for Capacity Cap MW |
| 4,200,809 | Total Solar Generation (KWHR) |
| 8.38 | City Rate (cents per kWHR) |
| $352,028 | Lost Revenue |

Officials from **University of Missouri** indicated they have not seen cost impact studies on this initiative from their electric utility suppliers, but they do not believe this will have a significant impact on their university.

Officials from the **Public Service Commission** (PSC) indicated the following:

Section 386.890.5.(4), RSMo, states "Any net excess energy credits granted by this subsection shall expire without any compensation at the earlier of either March 1 or when the customer-generator disconnects service or terminates the net metering relationship with the supplier." The current statutory language states "Any credits granted by this subsection shall expire without any compensation at the earlier of either 12 months after their issuance or when the customer-generator disconnects service or terminates the net

metering relationship with the supplier." It appears the drafter inadvertently did not mark the subsection as having a change.

Section 386.895, RSMo, discusses a "Missouri Solar Energy Tax Credit". It is not clear why the tax credit is in the PSC statute and not in a tax-related statute.

**Edward D, Greim** provided the following information as an opponent of this initiative petition.

Graves Garrett LLC

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December 28, 2015

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Re: *Fiscal Note in Initiative Petitions 2016-181 through 2016-189*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petition 181 :

> Lost revenue to state government is $680.3 million over the tax credit period, with annual losses of $7.6 million thereafter. Lost revenue to local government is $137.8 million over the tax credit period, with annual losses of $15.5 million thereafter.

We propose the following fiscal note summary for petitions 182, 183, 184, 186, 187, and 188:

> Lost revenue to state government is $680.3 million over the tax credit period, with annual losses of $7.6 million thereafter. Lost revenue to local government is $137.8 million over the tax credit period, with annual losses of $15.5 million thereafter. Other, substantial lost revenues of an unknown amount are likely.

We propose the following fiscal note summary for petitions 185 and 189:

> Lost revenue to state government is approximately $38,500, annually, for each facility, and up to $321.1 million in state revenue is at risk. Lost revenue to local governments is approximately $78,300, annually, for each facility, and up to $652.5 million in local revenue is at risk.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments. These taxes, however, will no longer be collected for electricity that is never sold due to the customer-generator production and community solar encouraged by the initiative petitions. Petition signers and voters must be informed of the certainty that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume. On the other hand, any positive fiscal impacts of the initiative petitions are speculative.

**Description of Policy**

Initiative Petitions 181 to 189 contain one or more of three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of community solar facilities/arrangements; and (3) A state tax credit for solar powered electric energy generation units and arrangements.

1. Changes to Net Metering for Investor-owned electric utilities, municipal electric utilities, and rural electric cooperatives
    A. Redefine customer generator to include retail customers entitled by contract to receive the electrical energy generated by a qualified energy generation unit;
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);
    D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.
2. 5 Megawatt Community Solar Facilities
    A. Electric Customers may participate in community based solar arrangements up to with generation capacity up to 5 megawatts. There is no limit on the number of community solar facilities that may be developed.
    B. Bill credits are one to one against electric utility bills for customers who participate in the community solar facility.
    C. Excess bill credits are sold back to municipal utilities, investor-owned utilities, and electric cooperatives, by kilowatt hour (at rate to be set by commission, that is at least as great as all avoided costs, but up to the retail electric supply rate).
3. Tax credit
    A. 35% tax credit for solar powered energy generation units eligible for net metering, or in some petitions, community solar facilities up to 5 megawatt.



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B. Total value of eligible credits shall not exceed $50 million each year until 2022, with credits decreasing after that date. Unused credits carryover year to year.
C. No tax credits after June 30, 2031.

**Burdens on State Government**

In determining the fiscal impact of each petition, it is generally reasonable to assume that the various statutory changes in the petitions will have independent fiscal impacts. The reasonableness of this assumption is demonstrated by the various iterations of the petitions themselves, some of which propose tax credits with no proposed changes to the Net Metering and Easy Connection Act. *See* Petitions 178 and 190.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 182-184 and 186-188*

Raising the net metering cap from 100 kilowatt units to 2 megawatt units will result in a decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase due to economies of scale. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in some of the petitions provides a strong financial incentive to solar energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[1], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[2] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. *See* U.S. Energy Information Administration – Independent Statistics and Analysis. Accordingly, a 1% decrease in electricity sales volume will reduce Missouri state sales tax revenues from electric providers by at least 3.2 million dollars. Based on the change from 100 kilowatt units to 2 megawatt units, individual net metering units may

[1] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[2] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.



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significantly impact tax revenues. Every megawatt of installed solar decreases state sales tax revenue by $7,700 annually.

*ii. Decreased tax collections due to community solar facilities – Initiative Petitions 184, 185, 188, 189*

Community solar facilities are in addition to net metering and represent an additional capacity of an unlimited amount. Energy generated from the community solar facility is allocated by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. These community solar facilities will be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoids property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership model, similar to net metering,[3] because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%). There is no cap on the amount of community solar facilities that may be constructed, and there are strong financial incentives to create excess production, given declining prices of solar electricity and a mandatory obligation of the interconnected utility to buy electricity at generous, retail rates.

A 1% decrease in electricity sales volume will reduce Missouri state sales tax revenues from electric providers by 3.2 million dollars. Every 5MW "renewable energy facility" will reduce state sales tax revenues by $38,500, annually. Up to $321.1 million in state sales tax revenue is at risk ($7.6 billion * 4.225%).

*iii. Tax credits – Initiative Petitions 181-184 and 186-188*

*a. Decreased tax collections due to tax credits – Credits capped at $50 million annually*

The 35% tax credits in these petitions will directly result in a loss of state income of $25 million to $50 million, annually. The total loss to state government over the tax credit effective period is $612.5 million.

*b. Cost of eroding tax base due to new energy generation*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in Missouri. According to the attached table, the tax credits will result in 988.7 MWh/988,700 kWh of new electricity generation. New production from such tax credits would produce

[3] The petitions use the terms "facility access", "arrangements", and "bill credits" all of which indicate that the electricity generated and allocated will not be subject to sales tax.



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approximately 1,804,090 MWh per year, also expressed as 1,804,090,000 KWh, or 1,804 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour,[4] this new production is valued at $180,408,983.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[5] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for solar energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology.

For Initiative Petitions 181-184 and 186-188, the total, annual loss to state governments *due to the tax credits* is 32.6 million to 53.1 million over the tax credit period. The total loss during the tax credit period is $680.3 million. There is an annual loss in perpetuity after the tax credit period of $7.6 million, based on expected customer-generation resourced developed. *See* attached table.

**Burdens on Local Governments**

Local governments face losses in revenue from the various petition provisions that are similar to those faced by state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to

[4] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.

[5] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 182-184 and 186-188*

A 1% decrease in electricity sales volume will reduce Missouri local tax revenues from electric providers by $6.5 million, annually.

*ii. Decreased tax collections due to community solar facilities – Initiative Petitions 184, 185, 188, 189*

A 1% decrease in electricity sales volume will reduce Missouri local tax revenues from electric providers by 6.5 million dollars. Every 5MW "renewable energy facility" will reduce local government tax revenues by $78,300, annually. Up to $652.5 million in local sales and license/franchise tax revenue is at risk ($7.6 billion * [3.585% + 5%]).

*iii. Tax credits – Initiative Petitions 181-184 and 186-188 – Cost of eroding tax base due to new energy generation*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petitions may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to local governments, all of which may be reduced or discontinued if the initiative petitions are enacted.

The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[6] Based on this estimate, the population-weighted combined average local sales tax is 3.585%. The tax credits will result in 988.70 megawatts of new electricity production that will be net metered or otherwise result in the allocation of bill credits and, as a result, decrease electric revenues. The corresponding annual loss to local governments from lost sales tax from the tax credit is $6,467,662. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,020,449.

[6] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.



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The overall annual loss to local governments due to the tax credits is $15.5 million. The total loss to local government revenues during the tax credit period is $137.8 million.

**In Conclusion**

The initiative petitions will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petitions, such as increases in net metering and community solar. The total tax burden on state government imposed by the petitions with tax credits is at least $680 million over the tax credit period, with at least $7.6 million in lost revenues in perpetuity. The total tax burden on state government imposed by the petitions without tax credits is substantial, with up to $321.1 million at risk. The total tax burden on local governments imposed by the petitions with tax credits is at least $137.8 million over the tax credit period, with at least $15.5 million in lost revenues in perpetuity. The total tax burden on local government imposed by the petitions without tax credits is substantial, with up to $652.5 million at risk.

Sincerely,

Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0



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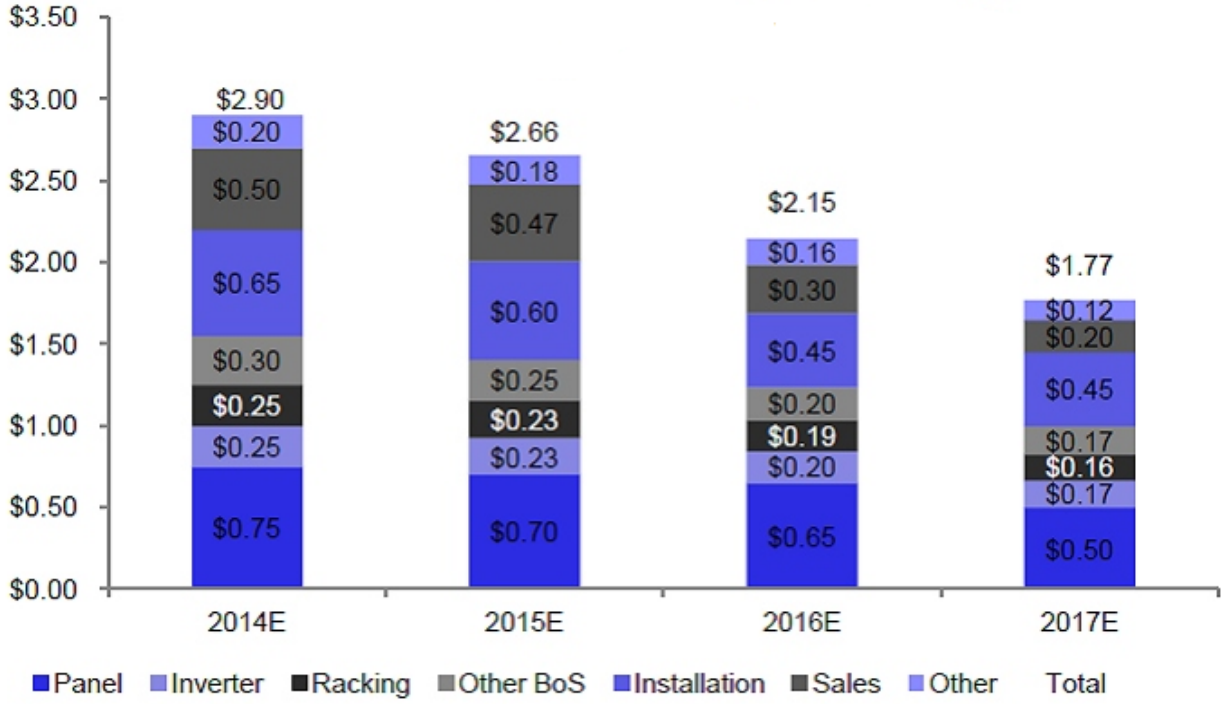
Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017
https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm



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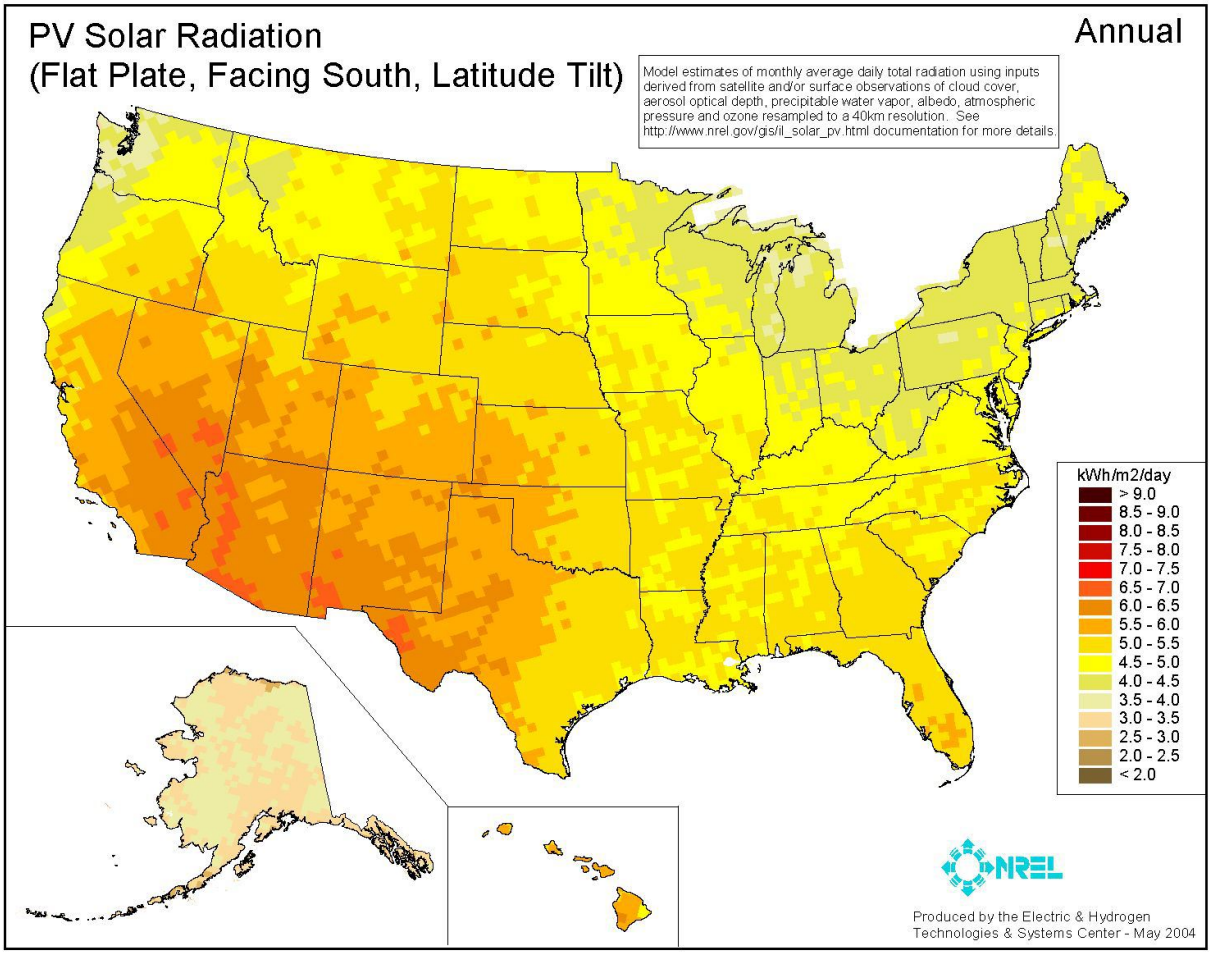
National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Renew Mo Solar Tax Credit Fiscal Analysis - Petitions 181-184 and 186-188**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 80.71 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $50,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 147,273 | |
| $/MWh Retail Rate | $100 | |

| | Solar Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $50,000,000 | 80.71 | 80.71 | 147,273 | $100 | $14,727,264 | 4.225% | $622,227 | $50,622,227 | 3.585% | $527,972 | 5.000% | $736,363 | $1,264,336 |
| 2018 | $50,000,000 | 80.71 | 161.42 | 294,545 | $100 | $29,454,528 | 4.225% | $1,244,454 | $51,244,454 | 3.585% | $1,055,945 | 5.000% | $1,472,726 | $2,528,671 |
| 2019 | $50,000,000 | 80.71 | 242.13 | 441,818 | $100 | $44,181,792 | 4.225% | $1,866,681 | $51,866,681 | 3.585% | $1,583,917 | 5.000% | $2,209,090 | $3,793,007 |
| 2020 | $50,000,000 | 80.71 | 322.84 | 589,091 | $100 | $58,909,056 | 4.225% | $2,488,908 | $52,488,908 | 3.585% | $2,111,890 | 5.000% | $2,945,453 | $5,057,342 |
| 2021 | $50,000,000 | 80.71 | 403.55 | 736,363 | $100 | $73,636,320 | 4.225% | $3,111,135 | $53,111,135 | 3.585% | $2,639,862 | 5.000% | $3,681,816 | $6,321,678 |
| 2022 | $47,500,000 | 76.67 | 480.23 | 876,272 | $100 | $87,627,220 | 4.225% | $3,702,250 | $51,202,250 | 3.585% | $3,141,436 | 5.000% | $4,381,361 | $7,522,797 |
| 2023 | $45,000,000 | 72.64 | 552.87 | 1,008,818 | $100 | $100,881,758 | 4.225% | $4,262,254 | $49,262,254 | 3.585% | $3,616,611 | 5.000% | $5,044,088 | $8,660,699 |
| 2024 | $42,500,000 | 68.60 | 621.47 | 1,133,999 | $100 | $113,399,932 | 4.225% | $4,791,147 | $47,291,147 | 3.585% | $4,065,388 | 5.000% | $5,669,997 | $9,735,384 |
| 2025 | $40,000,000 | 64.57 | 686.04 | 1,251,817 | $100 | $125,181,743 | 4.225% | $5,288,929 | $45,288,929 | 3.585% | $4,487,765 | 5.000% | $6,259,087 | $10,746,853 |
| 2026 | $37,500,000 | 60.53 | 746.57 | 1,362,272 | $100 | $136,227,191 | 4.225% | $5,755,599 | $43,255,599 | 3.585% | $4,883,745 | 5.000% | $6,811,360 | $11,695,104 |
| 2027 | $35,000,000 | 56.50 | 803.07 | 1,465,363 | $100 | $146,536,276 | 4.225% | $6,191,158 | $41,191,158 | 3.585% | $5,253,325 | 5.000% | $7,326,814 | $12,580,139 |
| 2028 | $32,500,000 | 52.46 | 855.53 | 1,561,090 | $100 | $156,108,998 | 4.225% | $6,595,605 | $39,095,605 | 3.585% | $5,596,508 | 5.000% | $7,805,450 | $13,401,957 |
| 2029 | $30,000,000 | 48.43 | 903.95 | 1,649,454 | $100 | $164,945,356 | 4.225% | $6,968,941 | $36,968,941 | 3.585% | $5,913,291 | 5.000% | $8,247,268 | $14,160,559 |
| 2030 | $27,500,000 | 44.39 | 948.35 | 1,730,454 | $100 | $173,045,351 | 4.225% | $7,311,166 | $34,811,166 | 3.585% | $6,203,676 | 5.000% | $8,652,268 | $14,855,943 |
| 2031 | $25,000,000 | 40.36 | 988.70 | 1,804,090 | $100 | $180,408,983 | 4.225% | $7,622,280 | $32,622,280 | 3.585% | $6,467,662 | 5.000% | $9,020,449 | $15,488,111 |

**Total State Tax Burden** **$680,322,732**

**Total Local Tax Burden (Sales + Franchise)** **$137,812,581**

**Brent Stewart** provided the following information as an opponent of this initiative petition.

**Association of Missouri Electric Cooperatives**

2722 East McCarty Street, P.O. Box 1645
Jefferson City, Missouri 65102
Telephone: (573) 635-6857
Fax: (573) 635-2314
www.amec.coop

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STATE AUDITORS OFFICE

December 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: Fiscal Note in Initiative Petitions 2016-173 through 2016-190

To Whom It May Concern:

The Association of Missouri Electric Cooperatives (AMEC), representing the state's forty-seven member-owned, nonprofit rural electric cooperatives that serve close to one million electric consumers, respectfully submit the following brief comments to assist in your preparation of the fiscal notes on the above-mentioned initiative petitions.

All these petitions, in one way or another, involve solar and renewable energy mandates. The practical effect of each, to one extent or another, is to encourage consumers to substitute self-generation for traditional electric service, thereby creating an unfair electric rate subsidy in favor of those who can afford to install their own generation at the expense of the majority of the other consumers who cannot.

Missouri's forty distribution (retail level) cooperatives serve a wide variety of governmental entities throughout rural Missouri, including state facilities (e.g. prisons), local government facilities, hospitals, schools, rural water districts, regional sewer districts and others. To the extent these entities cannot afford to install their own generation, which most cannot, they necessarily will be forced to pay higher rates if these initiative petitions are enacted. Unfortunately, it is impossible without more time for AMEC to identify all those government-related entities and facilities or estimate with any accuracy the adverse fiscal impact. However, it is clear that even a modest rate increase necessarily will have a significant adverse fiscal impact on governmental entities, in millions of dollars, especially those in the primarily less affluent rural areas served by Missouri's nonprofit electric cooperatives.

Respectfully submitted,

Brent Stewart

Brent Stewart
AMEC Counsel

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State government revenue may decrease up to $612.5 million during the tax credit period with approximately $200,000 annual increased operating costs. Local governmental entities estimate $23.9 million in annual electricity sales reductions. Other resulting economic activity will have an unknown impact on state and local governments.

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JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-181

December 18, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andrew Linhares regarding a proposed statutory amendment to Chapter 386, version 1 (2016-181)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andrew Linhares on December 17, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-181 County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

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MO SEC. OF STATE

(Official Ballot Title)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
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| 13. | | | | | |
| 14. | | | | | |
| 15. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ___(check one) expect to be paid for circulating this petition. If paid, list the payer _____.

_____ Signature of Affiant (Person obtaining signatures)

_____ (Printed Name of Affiant)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201_.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

16-181

Be it enacted by the people of the state of Missouri:

Chapter 386 is amended by adding one new section, to be known as section 386.895, to read as follows:

386.895. 1. Any taxpayer that owns a solar powered electric energy generation unit that meets the requirements for net metering under section 386.890 and that has incurred costs and expenses related to the construction, design, and installation of that generation unit on or after the effective date of this section, shall, subject to the provisions of subsections 2 through 7 of this section, be allowed a state tax credit against the income taxes imposed pursuant to chapter 143 (except withholding imposed by sections 143.191 to 143.265), if the director of the department of revenue issues an eligibility statement for that project. The tax credit provided for in this section shall be known as the "Missouri Solar Energy Tax Credit".

2. The state tax credit allowed under this section shall not exceed thirty-five percent of the total costs and expenses incurred for the construction, design, and installation of that generation unit, up to a total of seventy-five thousand dollars per utility metered account; provided however that beginning in calendar years 2022 through 2031, the thirty-five percent limit on total costs and expenses shall be reduced by an amount of two percent per year, and the seventy-five thousand dollar limit shall be reduced by two thousand five hundred dollars per year, and such reduced limits shall apply to the tax credits allowed under this section during calendar years 2022 through 2031.

3. In no event shall the aggregate amount of all tax credits allowed under this section exceed fifty million dollars in any given calendar year for the period beginning with the effective date of this section through June 30, 2021. During the calendar years 2022 through 2031, this fifty million dollar limit for the calendar year shall be reduced each year by an amount equal to $2.5 million dollars. No new tax credits provided for under this section shall be authorized after June 30, 2031. The department of revenue shall promulgate rules and regulations for the administration of tax credits issued pursuant to this section, and establish the procedure by which such tax credits may be claimed.

4. Any eligible applicant desiring to claim a tax credit under this section shall first request an eligibility statement from the department of revenue. The applicant shall identify: the generation unit for which a tax credit is claimed; the costs and expenses expected to be incurred by the applicant related to the construction, design, and installation of the unit; the nameplate capacity of the unit; and the ownership for the unit. The director of the department of revenue shall issue an eligibility statement within thirty (30) days of the request if it finds that the applicant qualifies for a credit under this section. Tax credits shall be awarded on a first-come, first-serve basis, until the limits as provided in subsection 3 of this section are reached. The department of revenue may promulgate rules and regulations relating to this certification process.

5. The credit authorized by this section shall not be refundable. Any amount of credit which exceeds the tax due for a taxpayer's taxable year may be carried forward to any of the taxpayer's five subsequent taxable years.

6. All or any portion of the tax credits issued in accordance with this section may be transferred, sold, or assigned to a third party. Certification of transfer, sale or assignment and other appropriate forms must be filed with the department of revenue.

7. The reporting provisions of the Tax Credit Accountability Act of 2004 apply to the tax credits issued under this section.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-181)**

## Subject

Initiative petition from Andrew Linhares regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received December 18, 2015)

## Date

January 8, 2016

## Description

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Public Service Commission.**

**Edward D, Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Brent Stewart** of Association of Missouri Electric Cooperatives provided information to the State Auditor's Office as an opponent of this initiative petition.

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated this proposal would reduce state revenues by $50 million for fiscal year 2017, $50 million for fiscal year 2018, and $50 million for fiscal year 2019.

### Summarize how this bill would affect the agency

Section 386.895 – Missouri Solar Energy Tax Credit
The Department of Revenue (DOR) is required to implement the Missouri Solar Energy Tax Credit. The proposal requires DOR to promulgate rules to establish a process for claiming of the credit and may promulgate rules related to a certification of eligibility process.

The existing Missouri Renewable Energy Standard (RES) requires investor-owned utilities in Missouri to either produce green power or purchase Renewable Energy Certificates (RECs) for compliance. The Division of Energy (DE) has statutory authority to certify that eligible renewable energy resources do not cause undue environmental impacts before RECs associated with those renewable energy resources can be used for RES compliance. There are no certification fees associated with this review. DE anticipates that enactment of a tax credit will result in an increase in net-metered solar energy installations in Missouri which may be used for RES compliance.

### Long-range implications

Fiscal impacts associated with the Missouri Solar Energy Tax Credits would continue until June 30, 2031. Economic benefits associated with the installation of net metered solar facilities would also have long-range implications.

### Assumptions and methodology used in arriving at state fiscal impact

386.895-Missouri Solar Energy Tax Credit
DE assumes that DOR may consult with DE in development of rules associated with implementation of this proposal but that DE would not be involved in reviews of applications to DOR requesting certification of eligibility for net-metered solar facilities (up to 100 kilowatts) for the Missouri Solar Energy Tax Credit. For purposes of this fiscal note, DE assumes such consultation could be performed with existing resources.

DE anticipates that enactment of a tax credit will result in an increase in net-metered solar energy installations in Missouri which may be used for RES compliance. DE assumes that for purposes of certification of no undue adverse environmental impacts of renewable energy facilities under the RES, investor-owned utilities that purchase RECs associated with the additional net-metered solar installations (up to 100 kilowatts) would continue to compile and submit them to DE along with a request for certification. DE review primarily focuses on environmental impacts of renewable electric generation facilities on air, water or land use. The actual staff time spent on each application varies. Solar photovoltaic facilities with a larger capacity typically require more staff time for reviewing their third-party environmental impact assessments in addition to verifying applicable environmental permits, for data requests and discussion, data collection, database management, report production and website maintenance. Because the size of net metered systems eligible for this tax credit is not modified by this proposal and would remain at 100 kilowatts, DE assumes that any additional RES certifications for such systems would be conducted using the current process described above and could be completed with existing resources.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** estimate this petition will result in increased operating expenses of $243,282 for fiscal year 2017, $181,985 for fiscal year 2018, and $183,470 for fiscal year 2019.

The legislation creates a negative impact of up to $50 million per fiscal year to total state revenue by creating a new tax credit.

This petition creates the Missouri Solar Energy Tax Credit which allows up to 35 percent of the costs and expenses for construction, design, and installation of a generation unit. The provisions of subsection 3 cap the tax credit at $50 million and beginning in calendar year 2022, the total cap is reduced by $2.5 million each year. The provisions expire June 30, 2031, allowing for no new tax credits after that date.

The department suggests the provisions regarding the certification process be administered by the Department of Economic Development and the Division of Energy as they would be more familiar with the subject matter.

**Administrative Impact:**

**Personal Tax:**

Personal Tax requires one (1) Revenue Processing Technician I (Range 10, Step L) for every 6,000 credits claimed.

**Corporate Tax:**

Corporate Tax requires three (3) Revenue Processing Technicians I (Range 10, Step L) for every 4,000 credits redeemed, 4,000 credits transferred, and for every 520 SB 1099 compliance mailings and correspondence.

**Integrated Tax System:**

The integrated tax system incurs additional costs of $43,680 to implement the provisions of this petition.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of West Plains** indicated the 86 cities with municipal electric utilities depend on the revenues of this service for their citizen/owners to off-set the cost of electric service and operation to citizens as well as to support the activities of city government.

Based primarily on data from the Federal Department of Energy's (DOE) Energy Information Administration (EIA) Table 6 plus additional data gleaned from the National Renewable Energy Lab's Photovoltaic Calculator and the Missouri Association of

Municipal Utilities for peak loads in 73 cities, they have determined that municipalities in Missouri face a loss of at least $23.9 million in revenue should this initiative petition become law. The impact alone to the City of West Plains appears to be $352,000 annually, or over 6.5% of their annual electric utility revenue budget. This figure does not reflect any additional costs they will be required to incur for required pleadings before the state Public Service Commission or local compliance costs for other requirements contained in this proposal.

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art. X, Sec. 16) that reduces income or increases costs without "full state financing," they anticipate that local government costs would be reflected in the final state cost when the fiscal note is completed. Necessary litigation costs incurred for Mo. Const. Art. X, Sec. 16 and other potential legal inconsistencies are unknown.

Methodology for City Loss Calculation
Renewable Energy Initiative Petitions

| **Assumptions and Methods** | **Information Source** |
|---|---|
| 1. A combined federal and state tax credit of 60% of installation costs, would prompt city customers to achieve the 7% capacity cap in a reasonable period of time | Proposed Legislation |
| 2. 1 kW solar panel at this latitude would generate 1350 kWHr per year | National Renewable Energy Lab's PV Calculator |
| 3. Annual Peaks | Municipal reports to the Missouri Association of Municipal Utilities |
| 4. Current City Electric Rates | DOE EIA Database (Table 6 for 2010) |

5. Calculation:
   Annual Peak
   7% of Annual Peak for Capacity Cap
   Total Solar Generation = (Capacity Cap * 1350 kWHrs)*1000
   City's lost revenue: City rate * Solar Generation

6. State calculation based on the sum of "Assumption 5" calculations for
   73 reporting cities (out of 86)
      Total ≥ $23.8 million

**Calculation for City of West Plains**

| | |
|---|---|
| 44.453 | Annual Peak (MW) |
| 3.11171 | 7% of Annual Peak for Capacity Cap MW |
| 4,200,809 | Total Solar Generation (KWHR) |
| 8.38 | City Rate (cents per kWHR) |
| $352,028 | Lost Revenue |

Officials from **University of Missouri** indicated they have not seen cost impact studies on this initiative from their electric utility suppliers, but they do not believe this will have a significant impact on their university.

Officials from the **Public Service Commission** (PSC) indicated Section 386.895, RSMo, discusses a "Missouri Solar Energy Tax Credit". It is not clear why the tax credit is in the PSC statute and not in a tax-related statute.

**Edward D, Greim** provided the following information as an opponent of this initiative petition.

Graves Garrett LLC

Edward D. Greim
Graves Garrett, LLC
1100 Main Street, Suite 2700
Kansas City, Missouri 64105
Direct Dial: (816) 256-4144
edgreim@gravesgarrett.com

December 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: *Fiscal Note in Initiative Petitions 2016-181 through 2016-189*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petition 181 :

> Lost revenue to state government is $680.3 million over the tax credit period, with annual losses of $7.6 million thereafter. Lost revenue to local government is $137.8 million over the tax credit period, with annual losses of $15.5 million thereafter.

We propose the following fiscal note summary for petitions 182, 183, 184, 186, 187, and 188:

> Lost revenue to state government is $680.3 million over the tax credit period, with annual losses of $7.6 million thereafter. Lost revenue to local government is $137.8 million over the tax credit period, with annual losses of $15.5 million thereafter. Other, substantial lost revenues of an unknown amount are likely.

We propose the following fiscal note summary for petitions 185 and 189:

> Lost revenue to state government is approximately $38,500, annually, for each facility, and up to $321.1 million in state revenue is at risk. Lost revenue to local governments is approximately $78,300, annually, for each facility, and up to $652.5 million in local revenue is at risk.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments. These taxes, however, will no longer be collected for electricity that is never sold due to the customer-generator production and community solar encouraged by the initiative petitions. Petition signers and voters must be informed of the certainty that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume. On the other hand, any positive fiscal impacts of the initiative petitions are speculative.

**Description of Policy**

Initiative Petitions 181 to 189 contain one or more of three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of community solar facilities/arrangements; and (3) A state tax credit for solar powered electric energy generation units and arrangements.

1. Changes to Net Metering for Investor-owned electric utilities, municipal electric utilities, and rural electric cooperatives
    A. Redefine customer generator to include retail customers entitled by contract to receive the electrical energy generated by a qualified energy generation unit;
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);
    D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.
2. 5 Megawatt Community Solar Facilities
    A. Electric Customers may participate in community based solar arrangements up to with generation capacity up to 5 megawatts. There is no limit on the number of community solar facilities that may be developed.
    B. Bill credits are one to one against electric utility bills for customers who participate in the community solar facility.
    C. Excess bill credits are sold back to municipal utilities, investor-owned utilities, and electric cooperatives, by kilowatt hour (at rate to be set by commission, that is at least as great as all avoided costs, but up to the retail electric supply rate).
3. Tax credit
    A. 35% tax credit for solar powered energy generation units eligible for net metering, or in some petitions, community solar facilities up to 5 megawatt.



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B. Total value of eligible credits shall not exceed $50 million each year until 2022, with credits decreasing after that date. Unused credits carryover year to year.
C. No tax credits after June 30, 2031.

**Burdens on State Government**

In determining the fiscal impact of each petition, it is generally reasonable to assume that the various statutory changes in the petitions will have independent fiscal impacts. The reasonableness of this assumption is demonstrated by the various iterations of the petitions themselves, some of which propose tax credits with no proposed changes to the Net Metering and Easy Connection Act. *See* Petitions 178 and 190.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 182-184 and 186-188*

Raising the net metering cap from 100 kilowatt units to 2 megawatt units will result in a decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase due to economies of scale. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in some of the petitions provides a strong financial incentive to solar energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[1], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[2] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. *See* U.S. Energy Information Administration – Independent Statistics and Analysis. Accordingly, a 1% decrease in electricity sales volume will reduce Missouri state sales tax revenues from electric providers by at least 3.2 million dollars. Based on the change from 100 kilowatt units to 2 megawatt units, individual net metering units may

[1] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[2] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.



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significantly impact tax revenues. Every megawatt of installed solar decreases state sales tax revenue by $7,700 annually.

*ii. Decreased tax collections due to community solar facilities – Initiative Petitions 184, 185, 188, 189*

Community solar facilities are in addition to net metering and represent an additional capacity of an unlimited amount. Energy generated from the community solar facility is allocated by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. These community solar facilities will be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoids property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership model, similar to net metering,[3] because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%). There is no cap on the amount of community solar facilities that may be constructed, and there are strong financial incentives to create excess production, given declining prices of solar electricity and a mandatory obligation of the interconnected utility to buy electricity at generous, retail rates.

A 1% decrease in electricity sales volume will reduce Missouri state sales tax revenues from electric providers by 3.2 million dollars. Every 5MW "renewable energy facility" will reduce state sales tax revenues by $38,500, annually. Up to $321.1 million in state sales tax revenue is at risk ($7.6 billion * 4.225%).

*iii. Tax credits – Initiative Petitions 181-184 and 186-188*

*a. Decreased tax collections due to tax credits – Credits capped at $50 million annually*

The 35% tax credits in these petitions will directly result in a loss of state income of $25 million to $50 million, annually. The total loss to state government over the tax credit effective period is $612.5 million.

*b. Cost of eroding tax base due to new energy generation*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in Missouri. According to the attached table, the tax credits will result in 988.7 MWh/988,700 kWh of new electricity generation. New production from such tax credits would produce

[3] The petitions use the terms "facility access", "arrangements", and "bill credits" all of which indicate that the electricity generated and allocated will not be subject to sales tax.



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approximately 1,804,090 MWh per year, also expressed as 1,804,090,000 KWh, or 1,804 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour,[4] this new production is valued at $180,408,983.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[5] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for solar energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology.

For Initiative Petitions 181-184 and 186-188, the total, annual loss to state governments *due to the tax credits* is 32.6 million to 53.1 million over the tax credit period. The total loss during the tax credit period is $680.3 million. There is an annual loss in perpetuity after the tax credit period of $7.6 million, based on expected customer-generation resourced developed. *See* attached table.

**Burdens on Local Governments**

Local governments face losses in revenue from the various petition provisions that are similar to those faced by state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to

[4] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.

[5] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 182-184 and 186-188*

A 1% decrease in electricity sales volume will reduce Missouri local tax revenues from electric providers by $6.5 million, annually.

*ii. Decreased tax collections due to community solar facilities – Initiative Petitions 184, 185, 188, 189*

A 1% decrease in electricity sales volume will reduce Missouri local tax revenues from electric providers by 6.5 million dollars. Every 5MW "renewable energy facility" will reduce local government tax revenues by $78,300, annually. Up to $652.5 million in local sales and license/franchise tax revenue is at risk ($7.6 billion * [3.585% + 5%]).

*iii. Tax credits – Initiative Petitions 181-184 and 186-188 – Cost of eroding tax base due to new energy generation*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petitions may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to local governments, all of which may be reduced or discontinued if the initiative petitions are enacted.

The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[6] Based on this estimate, the population-weighted combined average local sales tax is 3.585%. The tax credits will result in 988.70 megawatts of new electricity production that will be net metered or otherwise result in the allocation of bill credits and, as a result, decrease electric revenues. The corresponding annual loss to local governments from lost sales tax from the tax credit is $6,467,662. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,020,449.

[6] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.



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The overall annual loss to local governments due to the tax credits is $15.5 million. The total loss to local government revenues during the tax credit period is $137.8 million.

**In Conclusion**

The initiative petitions will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petitions, such as increases in net metering and community solar. The total tax burden on state government imposed by the petitions with tax credits is at least $680 million over the tax credit period, with at least $7.6 million in lost revenues in perpetuity. The total tax burden on state government imposed by the petitions without tax credits is substantial, with up to $321.1 million at risk. The total tax burden on local governments imposed by the petitions with tax credits is at least $137.8 million over the tax credit period, with at least $15.5 million in lost revenues in perpetuity. The total tax burden on local government imposed by the petitions without tax credits is substantial, with up to $652.5 million at risk.

Sincerely,

Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0



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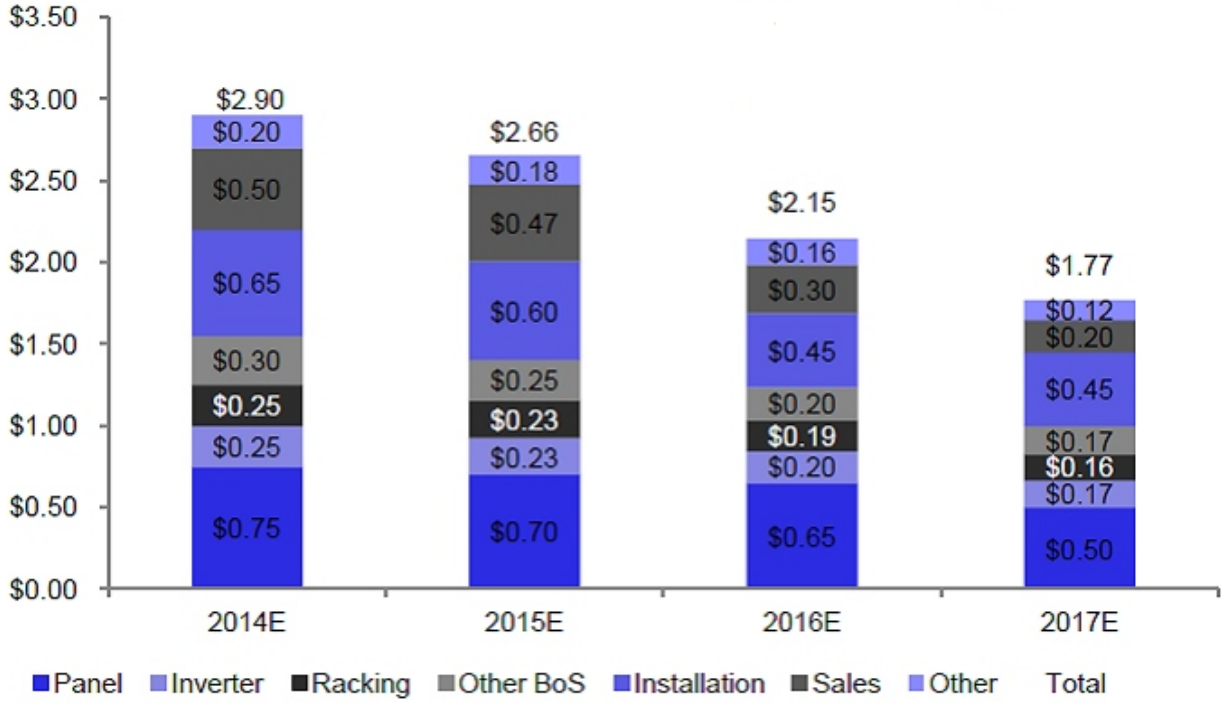
Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017
https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm



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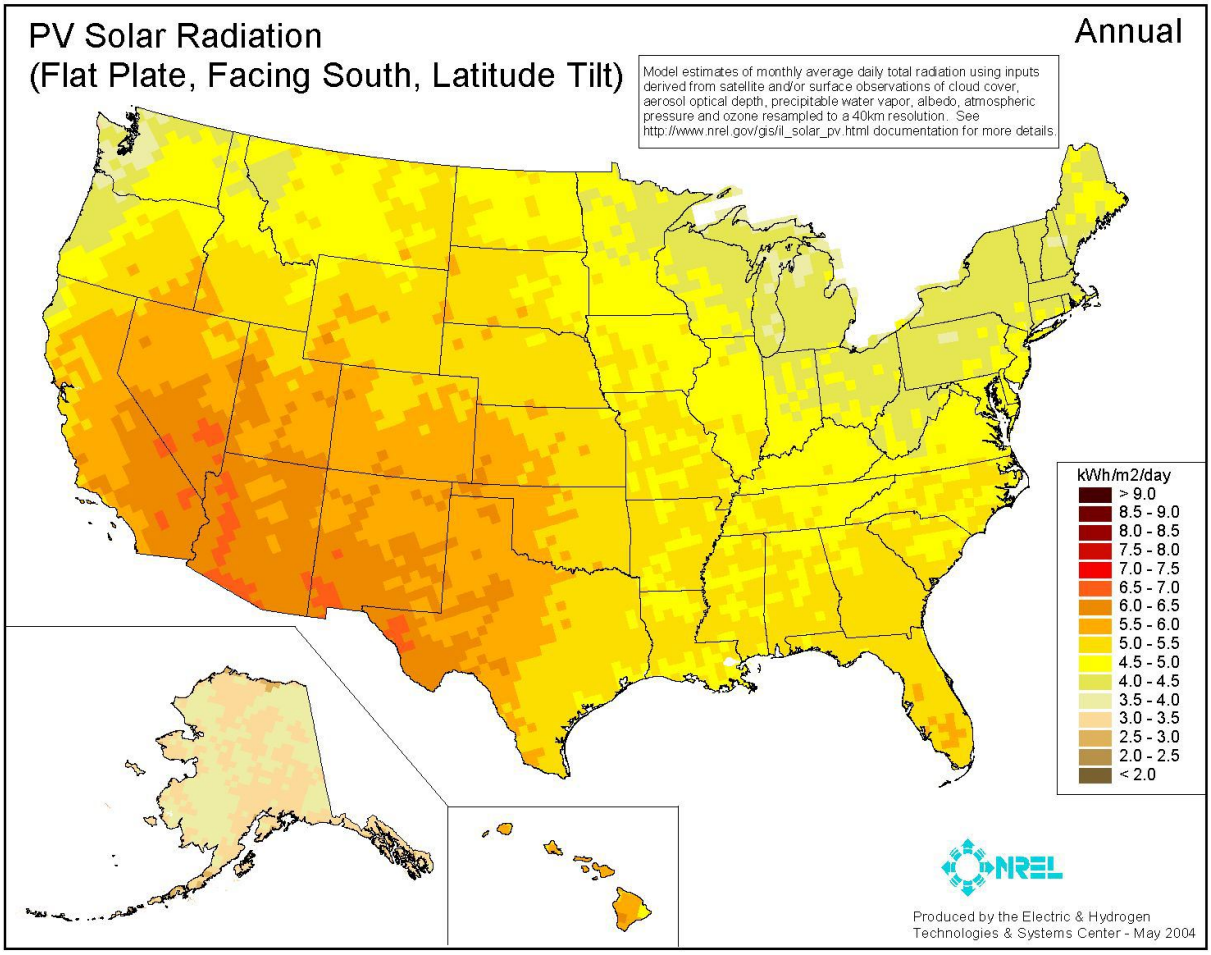
National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Renew Mo Solar Tax Credit Fiscal Analysis - Petitions 181-184 and 186-188**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 80.71 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $50,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 147,273 | |
| $/MWh Retail Rate | $100 | |

| | Solar Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $50,000,000 | 80.71 | 80.71 | 147,273 | $100 | $14,727,264 | 4.225% | $622,227 | $50,622,227 | 3.585% | $527,972 | 5.000% | $736,363 | $1,264,336 |
| 2018 | $50,000,000 | 80.71 | 161.42 | 294,545 | $100 | $29,454,528 | 4.225% | $1,244,454 | $51,244,454 | 3.585% | $1,055,945 | 5.000% | $1,472,726 | $2,528,671 |
| 2019 | $50,000,000 | 80.71 | 242.13 | 441,818 | $100 | $44,181,792 | 4.225% | $1,866,681 | $51,866,681 | 3.585% | $1,583,917 | 5.000% | $2,209,090 | $3,793,007 |
| 2020 | $50,000,000 | 80.71 | 322.84 | 589,091 | $100 | $58,909,056 | 4.225% | $2,488,908 | $52,488,908 | 3.585% | $2,111,890 | 5.000% | $2,945,453 | $5,057,342 |
| 2021 | $50,000,000 | 80.71 | 403.55 | 736,363 | $100 | $73,636,320 | 4.225% | $3,111,135 | $53,111,135 | 3.585% | $2,639,862 | 5.000% | $3,681,816 | $6,321,678 |
| 2022 | $47,500,000 | 76.67 | 480.23 | 876,272 | $100 | $87,627,220 | 4.225% | $3,702,250 | $51,202,250 | 3.585% | $3,141,436 | 5.000% | $4,381,361 | $7,522,797 |
| 2023 | $45,000,000 | 72.64 | 552.87 | 1,008,818 | $100 | $100,881,758 | 4.225% | $4,262,254 | $49,262,254 | 3.585% | $3,616,611 | 5.000% | $5,044,088 | $8,660,699 |
| 2024 | $42,500,000 | 68.60 | 621.47 | 1,133,999 | $100 | $113,399,932 | 4.225% | $4,791,147 | $47,291,147 | 3.585% | $4,065,388 | 5.000% | $5,669,997 | $9,735,384 |
| 2025 | $40,000,000 | 64.57 | 686.04 | 1,251,817 | $100 | $125,181,743 | 4.225% | $5,288,929 | $45,288,929 | 3.585% | $4,487,765 | 5.000% | $6,259,087 | $10,746,853 |
| 2026 | $37,500,000 | 60.53 | 746.57 | 1,362,272 | $100 | $136,227,191 | 4.225% | $5,755,599 | $43,255,599 | 3.585% | $4,883,745 | 5.000% | $6,811,360 | $11,695,104 |
| 2027 | $35,000,000 | 56.50 | 803.07 | 1,465,363 | $100 | $146,536,276 | 4.225% | $6,191,158 | $41,191,158 | 3.585% | $5,253,325 | 5.000% | $7,326,814 | $12,580,139 |
| 2028 | $32,500,000 | 52.46 | 855.53 | 1,561,090 | $100 | $156,108,998 | 4.225% | $6,595,605 | $39,095,605 | 3.585% | $5,596,508 | 5.000% | $7,805,450 | $13,401,957 |
| 2029 | $30,000,000 | 48.43 | 903.95 | 1,649,454 | $100 | $164,945,356 | 4.225% | $6,968,941 | $36,968,941 | 3.585% | $5,913,291 | 5.000% | $8,247,268 | $14,160,559 |
| 2030 | $27,500,000 | 44.39 | 948.35 | 1,730,454 | $100 | $173,045,351 | 4.225% | $7,311,166 | $34,811,166 | 3.585% | $6,203,676 | 5.000% | $8,652,268 | $14,855,943 |
| 2031 | $25,000,000 | 40.36 | 988.70 | 1,804,090 | $100 | $180,408,983 | 4.225% | $7,622,280 | $32,622,280 | 3.585% | $6,467,662 | 5.000% | $9,020,449 | $15,488,111 |

**Total State Tax Burden** **$680,322,732**

**Total Local Tax Burden (Sales + Franchise)** **$137,812,581**

**Brent Stewart** provided the following information as an opponent of this initiative petition.

**Association of Missouri Electric Cooperatives**

2722 East McCarty Street, P.O. Box 1645
Jefferson City, Missouri 65102
Telephone: (573) 635-6857
Fax: (573) 635-2314
www.amec.coop

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December 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: Fiscal Note in Initiative Petitions 2016-173 through 2016-190

To Whom It May Concern:

The Association of Missouri Electric Cooperatives (AMEC), representing the state's forty-seven member-owned, nonprofit rural electric cooperatives that serve close to one million electric consumers, respectfully submit the following brief comments to assist in your preparation of the fiscal notes on the above-mentioned initiative petitions.

All these petitions, in one way or another, involve solar and renewable energy mandates. The practical effect of each, to one extent or another, is to encourage consumers to substitute self-generation for traditional electric service, thereby creating an unfair electric rate subsidy in favor of those who can afford to install their own generation at the expense of the majority of the other consumers who cannot.

Missouri's forty distribution (retail level) cooperatives serve a wide variety of governmental entities throughout rural Missouri, including state facilities (e.g. prisons), local government facilities, hospitals, schools, rural water districts, regional sewer districts and others. To the extent these entities cannot afford to install their own generation, which most cannot, they necessarily will be forced to pay higher rates if these initiative petitions are enacted. Unfortunately, it is impossible without more time for AMEC to identify all those government-related entities and facilities or estimate with any accuracy the adverse fiscal impact. However, it is clear that even a modest rate increase necessarily will have a significant adverse fiscal impact on governmental entities, in millions of dollars, especially those in the primarily less affluent rural areas served by Missouri's nonprofit electric cooperatives.

Respectfully submitted,

Brent Stewart

Brent Stewart
AMEC Counsel

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State government revenue may decrease up to $612.5 million during the tax credit period with approximately $200,000 annual increased operating costs. Local governmental entities estimate $23.9 million in annual electricity sales reductions. Other resulting economic activity will have an unknown impact on state and local governments.

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JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
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ELECTIONS DIVISION
(573) 751-2301

16-180

December 17, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 17 (2016-180)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 16, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-180 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 16 PM 4:50
SECRETARY OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

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*Be it enacted by the people of the state of Missouri:*

Section A: Section 386.890 is amended and sections 386.860, 386.900, 386.910 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.900 to 386.1000 shall be known and cited as the "Clean Energy Independence and Investment Act of 2016".

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any [municipal electric utility,] rural electric cooperative as provided in chapter 394[, or electrical corporation as provided in this chapter];

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of natural resources;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical

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energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any [municipal utility, electrical corporation regulated under this chapter, or] rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which [the commission for a public utility or] the governing body for the supplier[other electric utilities] may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices

for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) [For any rural electric cooperative under chapter 394, or municipal utility, u]Upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, [the commission for public utilities and] the governing body for the supplier[other utilities] shall, by rule or equivalent formal action[ by each respective governing body]:

(a) Set forth safety, performance, and reliability standards and requirements; and

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(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. [Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated s]Suppliers shall submit [the same] an annual net metering report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. [The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10.] The governing body of a supplier [rural electric cooperative or municipal utility] shall[, within nine months of January 1, 2008,] adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process

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shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

[11.] 10. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

[12.] 11. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

[13.] 12. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

[14.] 13. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

[15.] 14. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

[16.] 15. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

[17.] 16. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.900. 1. This section shall be known and may be cited as the "Enhanced Net Metering and Easy Connection Act". It shall be the policy of the state to facilitate the use of customer-sited or controlled clean energy resources.

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal utility or electrical corporation as provided in this chapter;

(2) "Clean energy resource", electrical energy produced from:

(a) Wind;

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(b) Solar thermal sources;

(c) Hydroelectric sources;

(d) Photovoltaic cells and panels;

(e) Fuel cells using hydrogen produced by a source listed in paragraphs (a) through (d) of this subdivision; or

(f) Other sources of energy that become available after January 1, 2017, and are certified as clean by the department.

(3) "Commission", the public service commission of the state of Missouri;

(4) "Customer-generator", the owner, lessee or operator of a qualified electric energy generation unit which:

(a) Is powered by a clean energy resource or micro CHP;

(b) Has an electrical generating system with a capacity of not more than five hundred kilowatts, measured in alternating current;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(5) "Department", the department of natural resources;

(6) "Micro CHP", combined heat and power or cogeneration systems that simultaneously generate electricity and thermal energy in a single integrated system with a nameplate rated capacity equal to or lower than 130 kilowatts, measured in alternating current;

(7) "Net excess energy", the amount of energy expressed in kilowatt hours delivered by a customer-generator to a supplier that exceeds the amount of energy delivered by the supplier to the customer-generator over a single billing period;

(8) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(9) "Retail electric supplier" or "supplier", any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals seven percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for a municipal utility may increase the total rated generating capacity of net metering systems to an amount above seven percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds two percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the retail electric supplier shall pay for the costs to purchase and install the necessary additional equipment, unless the commission or governing body makes a determination that the customer-generator is the only customer benefiting from the additional distribution equipment. If the commission determines the customer-generator is the only customer benefiting, such customer-generator shall reimburse the electric supplier for reasonably incurred equipment expenses. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

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(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subdivision (2) of subsection 3 of this section and all net excess energy shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent months;

(4) Any net excess energy credits carried forward under subdivision (3) of this subsection shall expire without any compensation at the earlier of either the next subsequent March billing period or when the customer-generator disconnects service or otherwise terminates the net metering relationship with the supplier;

(5) For any municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (4) of subsection 2 of this section to the

distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems one hundred kilowatts or less and within sixty days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application. Retail electric suppliers shall interconnect qualified energy generation units within thirty days of being notified the generation unit is installed and meets the requirements of this section.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for notifying the retail electric supplier.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall by June 1, 2017 promulgate any rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after June 1, 2017, shall be invalid and void.

10. The governing body of a municipal utility shall by June 1, 2017 adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

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12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs, including lost revenues and lost earnings opportunities associated with reduced demand or kilowatt hours sales, incurred under this section by a retail electric supplier shall be recovered in a timely manner in that utility's rate structure in the form of a tracker or other appropriate rate recovery mechanism. At the time of any general change in a supplier's rates, any over-recovery or under-recovery balance shall be included in the supplier's revenue requirement used to set rates as amortized over a period not exceeding three years, and shall be recovered from each rate class pursuant to the supplier's approved rate design. At the time any general change in prospective rates is proposed, the commission shall permit the supplier to estimate the total generation output from all customer-owned generation for each rate class for the twelve-month period following the effective date of any change in rates, and rates shall be set using energy and demand billing units that reflect the estimated reduction of energy and demand likely to occur due to customer-owned generation. When considering costs, the commission may evaluate the value of distributed generation and clean energy resources. To the extent any costs, lost revenues, or lost earnings are recovered under this section, they shall not raise the retail rates charged to the customers of electrical corporations by an average of more than one percent in any year. Any limitation on cost recovery shall not limit the availability of net metering except as provided in subsection 3 of this section.

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.910. 1. This section shall be known and cited as the "Community Solar Act."

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2. Within thirty days of enactment of this section, the commission shall open a docket and by August 1, 2017, the commission shall adopt rules and regulations allowing customers to participate in community solar facilities and set a value-of-community-solar rate. For purposes of this section, a "community solar facility" is a photovoltaic electric generation facility with a capacity of between one hundred and one thousand kilowatts, measured in alternating current, that allows five or more customers of an electrical corporation to offset their energy usage with solar energy and such facility is located within the Missouri service territory of the electrical corporation where such customers have one or more electrical accounts. For the purposes of this section, an electrical corporation is as defined in 386.020.

3. The aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous calendar year, and such capacity of community solar facilities shall not count towards the system-wide net metering cap defined in subsection 3 of section 386.900. Electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. Entities or individuals that are not electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of an electrical corporation's single-hour peak load during the previous year. The commission shall allow prudently incurred costs and expenses for community solar facilities owned by an electrical corporation to be included in such electrical corporation's rate base. Once a four percent aggregate cap is reached for community solar facilities, the commission shall open a docket to determine whether or not the community solar program shall be expanded, and the commission may increase the aggregate capacity cap above four percent, or adjust the percentage cap of electrical corporations owning community solar facilities. The commission shall consider all benefits and costs of such an expansion when making its decision. Community solar facilities shall not be eligible for tax credits under section 386.1000.

4. For any community solar facility that is owned or operated by an entity other than an electrical corporation, the energy generated by such community solar facility shall be provided to the electrical corporation to which it is interconnected in exchange for the allocation and facilitation of bill credits as provided in subsection 5 of this section.

5. Kilowatt hours generated from community solar facilities shall be allocated, on a pro rata basis, to the designated subscribers of the community solar facility at the direction of the community solar facility owner or operator. Allocated bill credits shall be set at a community solar rate per kilowatt hour determined by the commission. The commission shall determine the value of bill credits per kilowatt hour taking into consideration costs and benefits of solar energy including but not limited to energy value, generation value, environmental value, transmission and distribution system value, disaster recovery value, reactive power value and other grid benefit value, but such bill credits shall not be less than the electrical corporation's average retail rate. The value of allocated community solar bill credits shall be used to reduce the customer's

total bill. Owners and operators of community solar facilities shall not be considered a public utility as defined in section 386.020, except that this provision shall not apply to any owner or operator who is an electrical corporation. When a community solar facility is placed in service it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years.

6. The commission shall promulgate rules and regulations it deems necessary to carry out the provisions of this section. The commission's rules shall: allow electrical corporations to recover costs; provide earning opportunities for electrical corporations; provide an orderly process, including a reservation system, to allow potential community solar facility owners and operators to develop projects within the capacity limits in subsection 2 of this section; and provide options, which may include financial incentives, to encourage low-income participation.

7. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section, shall be invalid and void.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. The total amount of clean energy tax credits offered annually shall not exceed one percent of the value of electricity used in Missouri as determined in subsection 4 of this section.

2. The department of economic development shall certify when the tax credits provided in this section have resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs

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and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.890 and 386.900, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on available reports, including FERC Form Number 1 as allowed by 18 CFR § 141 or an equivalent as determined by the commission, of megawatt hours sales of retail electricity and corresponding revenues for the preceding year or most current reporting period as determined by the commission. The commission shall publish the value of electricity used in Missouri to the public and department of economic development within forty-five days of the enactment of this section and at least sixty days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may only apply for and receive the credit authorized by this section for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

7. To obtain approval for tax credits allowed under this section, a taxpayer shall submit an initial application for tax credits to the department of economic development. Each application shall be

prioritized for review and approval, in the order of the date on which the application was received, with the oldest received date receiving priority. Applications received on the same day shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. Such application deposit shall be refunded at completion of the project or if the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. The taxpayer may request a refund of the application deposit; however, any refunds of the deposit for an application shall cause such application to lose its spot in the priority queue. If the taxpayer wants to maintain its position in the priority queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

9. Disapproved applications shall lose priority in the review process. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision of its intent to disapprove and to remove such application. The taxpayer shall have one opportunity, not to exceed ten days of notification of intent to disapprove, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

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10. If the department of economic development deems the application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for initial approval shall be notified by the department of economic development that the maximum amount of credits authorized have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available due to the rescission of approvals or reserved for a future fiscal year.

12. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial approval for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and

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expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by letter and shall issue, to the taxpayer, a tax credit certificate within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

15. If the amount of the credit under subsection 14 of this section exceeds the taxpayer's total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. The state tax credit shall not be subject to recapture provisions. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

16. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsections 10 or 11 of this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

17. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-180)**

## Subject

Initiative petition from Andy Zellers regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received December 17, 2015)

## Date

January 6, 2016

## Description

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Public Service Commission.**

**Mark R. Reading** provided information to the State Auditor's Office as a proponent of this initiative petition.

**Edward D, Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Brent Stewart** of Association of Missouri Electric Cooperatives provided information to the State Auditor's Office as an opponent of this initiative petition.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no known fiscal impact on their department.

Officials from the **Department of Economic Development** (DED) provided the following information:

The Division of Energy (DE) indicated this petition will result in increased operating expenses of $758,642 for fiscal year 2017, $827,781 for fiscal year 2018, and $835,826 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Section 386.870 – Electric Vehicle Charging Stations
DE participates in PSC regulatory cases to evaluate issues from a formal state policy and planning perspective consistent with its interests in clean, affordable, abundant energy, and its efficient use. DE is active in cases before the PSC related to energy efficiency and renewable energy and has responsibilities associated with certifying clean energy sources under Missouri's Renewable Energy Standard and net metering statutes. As such, DE assumes it would be involved in the implementation of this provision by monitoring and participating in cases that allow regulated electric utilities to install and recover costs associated with electric vehicle recharging stations that are partially powered by a clean energy source or offset with renewable energy credits.

Section 386.900 – Enhanced Net Metering and Easy Connection Act
DE assumes it would be involved in the implementation of this provision that modifies the existing net metering and interconnection requirements for regulated electric utilities. It is assumed there would be a rulemaking docket to set the process and details associated with this proposal. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where enhanced net metering provisions are considered.

Section 386.1000 – Clean Energy Tax Credit
DE is required to administer the Clean Energy Fund created by this section and promulgate rules to implement the Clean Energy Tax Credit. The proposal requires DE to receive applications and deposits, review and initially approve applications and required information within 30 days, review final approval applications, issue certificates and provide notifications, refund deposits for completed and disapproved projects, at least quarterly publish a list of the amount of tax credits initially and finally approved for each fiscal year and amounts reserved for future years, notify individual applicants of disapproved applications and approval within specified timeframes, notify applicants if the maximum amount of credits authorized have been allocated for the fiscal year and grant three-month extensions if needed for project completion with additional deposit payments.

**Long-range implications**

Fiscal impacts associated with the Clean Energy Tax Credits could continue until June 30, 2022. The authorization for the tax credit would sunset sooner if the 1,000 megawatt limit is reached. Economic benefits associated with construction of solar facilities would also have long-range implications.

**Assumptions and methodology used in arriving at state fiscal impact**

Section 386.870 – Electric Vehicle Charging Stations
For purposes of this fiscal note, DE assumes it would be involved in cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

Section 386.900 – Enhanced Net Metering and Easy Connection Act
For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

Section 386.1000 – Clean Energy Tax Credit
Retail sales of Missouri's utilities totaled $7.6 billion in 2014 (Source: Mark Reading; U.S. DOE/EIA). If all tax credits were used up to the cap of 1% of the annual statewide Missouri revenue of Missouri's retail electric suppliers (approximately $76 million/year), and with consideration to the estimated cost and size of the projects, it is estimated there would be 4,933 residential project applications and 283 commercial project applications submitted for tax credit reviews (Source: Mark Reading). DE assumes that it would take approximately 2 hours each to do the initial review/approval of each application and another 2 hours to do the review and issuance of a certification after a project is completed for residential projects. Each of these would include clerical time for input/issuing letters/filing, etc. For larger commercial projects, an estimated 8 hours is

anticipated for each of these two steps. See response above for detailed tasks required by the proposal.

19,732 hours for residential applications
4,528 hours for commercial applications
24,260 hours total

To implement this provision, DE assumes it will need a total of 12 full-time employees as follows:
8 – Energy Specialist I/II
2 – Energy Engineer II
2 – Administrative Office Support Assistant (AOSA)

- Energy Specialist I/II - Professional level staff to review the renewable energy project applications and to complete project evaluation activities.
- Energy Engineer II - Professional staff with expertise in engineering aspects of renewable energy projects to review the technical aspects of the projects, review of projects related to the Renewable Energy Standard and Renewable Energy Certificates and familiar with environmental impacts of renewable electric generation.
- AOSA - Staff to assist with the administrative requirements of the reviews such as drafting and sending communication to applicants, maintaining the database of applicants, and tracking status of applications.

DE also assumes that the DED's existing tax credit database will be used to track the applications. Some IT costs to generate the necessary reports are estimated.

Note that although an application deposit is required to be paid to DE and deposited in the Clean Energy Fund, because the deposit must be refunded to the applicant upon completion of the project or if the project is disapproved, DE assumes it is unable to use these funds to administer the proposal. Therefore, General Revenue funds are requested. Based on the estimated number of residential and commercial projects, application deposits at 2 cents/watt to the Clean Energy Fund would total approximately $1.7 million/year.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated the responsibilities of this proposal appear to fall under the Division of Energy. With Executive Order 13-03 the Division of Energy was transferred from the Missouri Department of Natural Resources to the Missouri Department of Economic Development, by Type I transfer. Therefore, they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** estimate this petition will result in increased operating expenses of $243,282 for fiscal year 2017, $181,985 for fiscal year 2018, and $183,470 for fiscal year 2019.

The legislation creates an unknown, negative impact to total state revenue by creating a new tax credit.

**Section 386.1000**
The provisions of this section authorize the issuance of a clean energy tax credit to taxpayers incurring costs for the installation of a clean energy resource project. The taxpayer may claim 35 percent of the total cost of the project. The legislation caps the amount of tax credits at not more than one percent of the value of the electricity used in Missouri.

**Section 386.1000.13**
The department suggests changing the provisions pertaining to the transfer of the tax to the Department of Revenue as this is currently the department's responsibility based on a previously issued executive order.

**Administrative Impact:**
**Personal Tax:**
Personal Tax requires one (1) Revenue Processing Technician I (Range 10, Step L) for every 6,000 credits claimed.

**Corporate Tax:**
Corporate Tax requires three (3) Revenue Processing Technicians I (Range 10, Step L) for every 4,000 credits redeemed, 4,000 credits transferred, and for every 520 SB 1099 compliance mailings and correspondence.

**Integrated Tax System:**
The integrated tax system incurs additional costs of $43,680 to implement the provisions of this petition.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of West Plains** indicated the 86 cities with municipal electric utilities depend on the revenues of this service for their citizen/owners to off-set the cost of electric service and operation to citizens as well as to support the activities of city government.

Based primarily on data from the Federal Department of Energy's (DOE) Energy Information Administration (EIA) Table 6 plus additional data gleaned from the National Renewable Energy Lab's Photovoltaic Calculator and the Missouri Association of Municipal Utilities for peak loads in 73 cities, they have determined that municipalities in Missouri face a loss of at least $23.9 million in revenue should this initiative petition become law. The impact alone to the City of West Plains appears to be $352,000 annually, or over 6.5% of their annual electric utility revenue budget. This figure does not reflect any additional costs they will be required to incur for required pleadings before the state Public Service Commission or local compliance costs for other requirements contained in this proposal.

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art. X, Sec. 16) that reduces income or increases costs without "full state financing," they anticipate that local government costs would be reflected in the final state cost when the fiscal note is completed. Necessary litigation costs incurred for Mo. Const. Art. X, Sec. 16 and other potential legal inconsistencies are unknown.

Methodology for City Loss Calculation
Renewable Energy Initiative Petitions

| **Assumptions and Methods** | **Information Source** |
|---|---|
| 1. A combined federal and state tax credit of 60% of installation costs, would prompt city customers to achieve the 7% capacity cap in a reasonable period of time | Proposed Legislation |
| 2. 1 kW solar panel at this latitude would generate 1350 kWHr per year | National Renewable Energy Lab's PV Calculator |
| 3. Annual Peaks | Municipal reports to the Missouri Association of Municipal Utilities |

4. Current City Electric Rates DOE EIA Database (Table 6 for 2010)

5. Calculation:
   Annual Peak
   7% of Annual Peak for Capacity Cap
   Total Solar Generation = (Capacity Cap * 1350 kWHrs)*1000
   City's lost revenue: City rate * Solar Generation

6. State calculation based on the sum of "Assumption 5" calculations for
   73 reporting cities (out of 86)
      Total ≥ $23.8 million

**Calculation for City of West Plains**

| | |
|---|---|
| 44.453 | Annual Peak (MW) |
| 3.11171 | 7% of Annual Peak for Capacity Cap MW |
| 4,200,809 | Total Solar Generation (KWHR) |
| 8.38 | City Rate (cents per kWHR) |
| $352,028 | Lost Revenue |

Officials from **University of Missouri** indicated they have not seen cost impact studies on this initiative from their electric utility suppliers, but they do not believe this will have a significant impact on their university.

Officials from the **Public Service Commission** (PSC) indicated without the benefit of the rulemaking process to explore potential issues and clearly delineate parameters, and assuming the "value of electricity" is clearly defined as the **calendar** year Missouri revenue for retail sales of electricity, the first year clean energy tax credit cap would be approximately $76,444,000 based on the most recent data currently available. For subsequent years, this amount will change based on the most recent Missouri revenue for retail sales of electricity and whether any tax credits exceed the total tax liability for a given fiscal year. In that case, the amount that exceeds the tax liability may be carried back 3 years or forward 10 years, involving additional calculations.

Sections 386.890 and 386.900, RSMo, define "department" as the department of natural resources. "Department" should be defined as the department of economic development, division of energy.

Sections 386.890 and 386.900, RSMo, both use the terms "Retail electric supplier" or "supplier", but in Section 386.890, RSMo, a "retail electric supplier" or "supplier" is any rural electric cooperative under Chapter 394, RSMo, that provides retail electric service in this state and in Section 386.900, RSMo, a "retail electric supplier" or "supplier" is any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state. Although the terms are in different statutes, it may be confusing to define the same term in a different manner. It may be clearer to use different terms applicable to the respective intent. Further since Section 386.890. RSMo, is only

applicable to rural electric cooperatives, it may make sense to move the entire provision to Chapter 394, RSMo.

Sections 386.890 and 386.900, RSMo, use the term "wholesale generator". The PSC respectfully suggests this term be defined.

Section 386.900, RSMo, uses terms such as "commission-regulated supplier" and "public utilities" to describe suppliers that are subject to PSC jurisdiction. The PSC respectfully suggests the terms be used consistently.

Section 386.900, RSMo, requires the PSC to promulgate rules by June 1, 2017 and Section 386.910, RSMo, requires the PSC to adopt rules by August 1, 2017. The PSC respectfully suggests these dates may be aggressive for final rules to be effective.

Section 386.900.6.(2), RSMo, references "subsection 4 of this section". This appears to be an inaccurate cross-reference as there is no subsection 4 of the section.

Section 386.900.12, RSMo, says the estimated generating capacity of all net metering systems shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate, but the renewable energy portfolio deals with "energy" not "capacity".

Section 386.900.14, RSMo, says any costs, including lost revenues and lost earnings opportunities. The PSC respectfully suggests "lost revenues" and "lost earnings opportunities" be clearly defined as to how to calculate those amounts. The interpretation and calculation of these terms has been the subject of on-going disagreement as they relate to the Missouri Energy Efficiency Investment Act.

Section 386.900.14, RSMo, states the commission may evaluate the value of distributed generation and clean energy resources, but it is not clear how to determine those values.

Section 386.900.14, RSMo, states any costs, lost revenues or lost earnings recovered under this section shall not raise the retail rates charged to customers by an average of more than one percent in any year. The PSC suggests this requirement be clarified. A similar cap is placed on the renewable mandate of Section 393.1045, RSMo. It has been over seven years since the enactment of this provision and parties continue to argue over its meaning before the commission.

Section 386.910.5, RSMo, states that when a community solar facility is placed in service, it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years. It appears this provision would require the utility ratepayers to fund the facility at the current rate for 20 years without adjustment for changes in the utility's costs or revenues that would occur over the 20 year period. It is also not clear if the cost-of-solar value contemplates an earnings opportunity for the commission-regulated utility.

Section 386.1000, RSMo, discusses a "clean energy tax credit". It is not clear why the tax credit is in the PSC statute and not in a tax-related statute.

**Mark R. Reading** provided the following information as a proponent of this initiative petition.

Submitted by:

_____

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**Clean Energy Independence and Investment Act of 2016 - Versions 15 and 17**
**Sec. of State # 178 and 179**

**Proposed Statement of Fiscal Impact**
**for Clean Energy Independence and Investment Act of 2016 - Versions 15 and 17**
**Sec. of State # 178 and 179**

**Fiscal Impact Information Submitted Pursuant to Section 23.140.2**

The amendment's estimated impact decreases state revenue between $33 to $67 million depending upon the speed of up to $225 million in additional clean energy project construction and implementation by the Department of Economic Development, residential homeowners, and businesses. Local revenue is estimated to grow between $1.8 to $3.5 million.

| ESTIMATED NET EFFECT ON STATE FUNDS | | |
|---|---|---|
| **Fund Affected** | **FY 2017** | **FY 2018** |
| **General Revenue** | $0 | From ($35,065,766) to ($70,131,532) |
| | | |
| **Total Estimated Net Effect on All State Funds** | $0 | From ($33,643,986) to ($67,291,851) |
| **ESTIMATED NET EFFECT ON LOCAL FUNDS** | | |
| Local Funds | $0 | From $1,751,314 to $3,502,627 |
| | | |
| **Total Estimated Net Effect on All Local Funds** | $0 | From $1,751,314 to $3,502,627 |

**SUMMARY OF VERSIONS OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT**

Nine versions of the Clean Energy Independence and Investment Act of 2016 have been submitted for review. A summary of which topics are in each version is provided below.

**CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT OF 2016**
**SUMMARY OF VERSIONS**

| Petition version | 386.870 - Electric vehicle | 386.890 - Net metering | 386.900 - Enhanced net metering | 386.910 - Community Solar | 386.1000 - Tax credits |
|---|---|---|---|---|---|
| | | | | | |
| **1% Electric Versions** | | | | | |
| Version 10 | N/A | X | X | X | X |
| Version 12 | X | X | X | X | X |
| Version 14 | X | Deletes | X | X | X |
| Version 15 | N/A | N/A | N/A | N/A | X |
| Version 16 | X | N/A | N/A | X | X |
| Version 17 | X | X | X | N/A | X |
| Version 18 | N/A | X | X | X | X |
| | | | | | |
| **$50 million cap Versions** | | | | | |
| Version 11 | N/A | X | X | N/A | X |
| Version 13 | X | X | X | X | X |

## ANALYSIS OF FISCAL IMPACT OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT

The fiscal impact analysis contained herein focuses on estimating the fee and tax revenue resulting from the statutory changes proposed in the initiative petition. Table 1 summarizes the revenue estimated by source and by fiscal year. Page and Table numbers are provided to help readers find specific subjects.

**Table 1 - Summary of Fiscal Impact by Fund**

| Page # | Table # | Purpose | FY 2017 | FY 2018 - low range | FY 2018 - high range | Revenue Type |
|---|---|---|---|---|---|---|
| 9-12 | Table 10 | Tax credit | $0 | ($39,494,829) | ($78,989,658) | Income |
| 13-15 | Table 14 | Taxes from clean energy tax credit construction | $0 | $4,429,063 | $8,858,126 | Various |
| 16-17 | Table 17 | Taxes from community solar construction | N/A | N/A | N/A | Various |
| | | subtotal General Revenue Fund | $0 | ($35,065,766) | ($70,131,532) | |
| | | | | | | |
| 8-13 | Table 11 | Clean Energy Fund | $0 | $868,852 | $1,733,826 | Application deposit |
| | | | | | | |
| 13-15 | Table 14 | Prop C sales tax - clean energy | $0 | $451,369 | $902,739 | Sales tax |
| 16-18 | Table 17 | Prop C sales tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Prop C | $0 | $451,369 | $902,739 | |
| | | | | | | |
| 13-15 | Table 14 | Conservation sales tax - clean energy | $0 | $56,421 | $112,842 | Sales tax |
| 16-18 | Table 17 | Conservation sales tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Conservation | $0 | $56,421 | $112,842 | |
| | | | | | | |
| 13-15 | Table 14 | Parks and Soils sales tax - clean energy | $0 | $45,137 | $90,274 | Sales tax |
| 16-18 | Table 17 | Parks and Soils sales tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Parks and Soils | $0 | $45,137 | $90,274 | |
| | | | | | | |
| | | subtotal Other State Funds | $0 | $1,421,780 | $2,839,681 | |
| | | | | | | |
| | | subtotal all state funds | $0 | ($33,643,986) | ($67,291,851) | |
| | | | | | | |
| 13-15 | Table 14 | Local Sales Tax - clean energy | $0 | $1,751,314 | $3,502,627 | Sales tax |
| 16-18 | Table 17 | Local Sales Tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Local Funds | $0 | $1,751,314 | $3,502,627 | |
| | | Grand Total State and Local | $0 | ($31,892,673) | ($63,789,224) | |

**Clean Energy tax credits**

The proposal creates a clean energy tax credit in Chapter 386 RSMo. The annual level of tax credits for each calendar year shall not exceed one percent of the annual statewide Missouri revenue of Missouri retail electric suppliers. The Public Service Commission (PSC) is required to determine the revenue for retail electric suppliers using available reports, including FERC Form Number 1 as allowed by 18 CFR § 141 or an equivalent determined by the PSC.

The data for this calculation is gathered and published by the U.S. Energy Information Administration on its website.[1] Table 2 shows the revenues reported by each Missouri entity in 2014. Retail sales totaled $7.6 billion in 2014 for the 74 entities.

**Table 2**
**2014 Utility Bundled Retail Sales - Total**
(Data from forms EIA-861- schedules 4A & 4D and EIA-861S)

| Entity | Ownership | Revenues (Thousands Dollars) |
|---|---|---|
| Atchison-Holt Electric Coop | Cooperative | $6,727 |
| Barry Electric Coop | Cooperative | $16,654 |
| Barton County Elec Coop, Inc | Cooperative | $16,262 |
| Black River Electric Coop - (MO) | Cooperative | $42,554 |
| Boone Electric Coop | Cooperative | $55,335 |
| Callaway Electric Cooperative | Cooperative | $24,618 |
| Carroll Electric Coop Corp - (AR) | Cooperative | $14,104 |
| Central Missouri Elec Coop Inc | Cooperative | $25,350 |
| Chillicothe Municipal Utils | Municipal | $10,035 |
| Citizens Electric Corporation - (MO) | Cooperative | $123,087 |
| City Utilities of Springfield - (MO) | Municipal | $249,286 |
| City of Ava - (MO) | Municipal | $2,894 |
| City of Cameron | Municipal | $7,728 |
| City of Carthage - (MO) | Municipal | $24,493 |
| City of Columbia - (MO) | Municipal | $109,927 |
| City of Farmington - (MO) | Municipal | $18,390 |
| City of Fulton - (MO) | Municipal | $14,228 |
| City of Hannibal - (MO) | Municipal | $25,785 |
| City of Harrisonville - (MO) | Municipal | $12,072 |
| City of Independence - (MO) | Municipal | $135,338 |
| City of Jackson - (MO) | Municipal | $16,281 |
| City of Kennett - (MO) | Municipal | $10,988 |
| City of Kirkwood - (MO) | Municipal | $21,547 |
| City of Lamar - (MO) | Municipal | $6,961 |
| City of Lebanon - (MO) | Municipal | $22,949 |
| City of Macon - (MO) | Municipal | $9,740 |
| City of Marshall - (MO) | Municipal | $17,390 |
| City of Monett - (MO) | Municipal | $20,534 |
| City of Mount Vernon - (MO) | Municipal | $6,790 |
| City of Nixa - (MO) | Municipal | $14,132 |
| City of Poplar Bluff - (MO) | Municipal | $31,686 |
| City of Rolla - (MO) | Municipal | $27,694 |
| City of Sikeston - (MO) | Municipal | $17,528 |

| | | |
|---|---|---|
| City of Sullivan - (MO) | Municipal | $9,645 |
| City of West Plains - (MO) | Municipal | $15,208 |
| Clay County Electric Coop Corp | Cooperative | $96 |
| Co-Mo Electric Coop Inc | Cooperative | $46,302 |
| Consolidated Electric Coop | Cooperative | $21,936 |
| Crawford Electric Coop, Inc | Cooperative | $30,705 |
| Cuivre River Electric Coop Inc | Cooperative | $105,621 |
| Empire District Electric Co | Investor Owned | $456,324 |
| Farmers Electric Coop, Inc - (MO) | Cooperative | $28,697 |
| Gascosage Electric Coop | Cooperative | $17,074 |
| Grundy Electric Coop, Inc | Cooperative | $12,214 |
| Howard Electric Coop | Cooperative | $6,057 |
| Howell-Oregon Elec Coop, Inc | Cooperative | $38,226 |
| Intercounty Electric Coop Assn | Cooperative | $53,855 |
| KCP&L Greater Missouri Operations Co. | Investor Owned | $802,845 |
| Kansas City Power & Light Co | Investor Owned | $824,706 |
| Laclede Electric Coop, Inc | Cooperative | $63,330 |
| Lewis County Rural E C A | Cooperative | $13,534 |
| Macon Electric Coop | Cooperative | $23,795 |
| Missouri Rural Electric Coop | Cooperative | $17,812 |
| New-Mac Electric Coop, Inc | Cooperative | $38,876 |
| North Central MO Elec Coop Inc | Cooperative | $14,098 |
| Osage Valley Elec Coop Assn | Cooperative | $28,034 |
| Ozark Border Electric Coop | Cooperative | $68,293 |
| Ozark Electric Coop Inc - (MO) | Cooperative | $52,354 |
| Pemiscot-Dunklin Elec Coop Inc | Cooperative | $19,856 |
| Platte-Clay Electric Coop, Inc | Cooperative | $51,737 |
| Ralls County Electric Coop | Cooperative | $12,711 |
| SE-MA-NO Electric Coop | Cooperative | $9,438 |
| SEMO Electric Cooperative | Cooperative | $33,195 |
| Sac-Osage Electric Coop Inc | Cooperative | $16,676 |
| Southwest Electric Coop, Inc | Cooperative | $58,853 |
| Sunnova | Behind the Meter | $1 |
| Three Rivers Electric Coop | Cooperative | $36,751 |
| Trenton Municipal Utilities - (MO) | Municipal | $8,647 |
| Tri-County Electric Coop Assn | Cooperative | $12,512 |
| Union Electric Co - (MO) | Investor Owned | $3,112,534 |
| United Electric Coop, Inc - (MO) | Cooperative | $21,579 |
| Webster Electric Coop | Cooperative | $28,828 |
| West Central Electric Coop Inc - (MO) | Cooperative | $25,967 |
| White River Valley El Coop Inc | Cooperative | $86,488 |
| Adjustment 2014 | Other | $159,914 |
| Total | | $7,644,407 |

Source: http://www.eia.gov/electricity/sales_revenue_price/
Table 10: All Sectors - Class of ownership, number of consumers, sales, revenue, and average retail price by State and utility:

Table 3 shows the data series by year from 1990 through 2014 reported by the U.S. Energy Information Administration.[2] The average annual increase in these revenues is 3.33 percent.

**Table 3**
**Revenue from Sales to Ultimate Customers**
**(Thousand Dollars) for Missouri, 1990-2014**

| Year | Total Revenue | $ Growth over previous year | % Growth over previous year |
|---|---|---|---|
| 1990 | $3,484,572,000 | | |
| 1991 | $3,653,391,000 | $1,688,190 | 4.8% |
| 1992 | $3,489,099,000 | ($1,642,920) | (4.5%) |
| 1993 | $3,709,661,000 | $2,205,620 | 6.3% |
| 1994 | $3,749,115,000 | $394,540 | 1.1% |
| 1995 | $3,891,751,000 | $1,426,360 | 3.8% |
| 1996 | $3,961,895,000 | $701,440 | 1.8% |
| 1997 | $4,005,066,000 | $431,710 | 1.1% |
| 1998 | $4,196,674,000 | $1,916,080 | 4.8% |
| 1999 | $4,185,713,000 | ($109,610) | (0.3%) |
| 2000 | $4,370,246,000 | $1,845,330 | 4.4% |
| 2001 | $4,414,434,000 | $441,880 | 1.0% |
| 2002 | $4,565,227,000 | $1,507,930 | 3.4% |
| 2003 | $4,470,188,000 | ($950,390) | (2.1%) |
| 2004 | $4,494,108,000 | $239,200 | 0.5% |
| 2005 | $4,959,849,000 | $4,657,410 | 10.4% |
| 2006 | $5,169,747,000 | $2,098,980 | 4.2% |
| 2007 | $5,614,317,000 | $4,445,700 | 8.6% |
| 2008 | $5,768,459,000 | $1,541,420 | 2.7% |
| 2009 | $5,871,973,000 | $1,035,140 | 1.8% |
| 2010 | $6,698,608,000 | $8,266,350 | 14.1% |
| 2011 | $7,008,476,000 | $3,098,680 | 4.6% |
| 2012 | $7,029,475,000 | $209,990 | 0.3% |
| 2013 | $7,538,092,000 | $5,086,170 | 7.2% |
| 2014 | $7,644,407,000 | $1,063,150 | 1.4% |
| | | Avg. annual growth | 3.33% |

Source: http://www.eia.gov/electricity/sales_revenue_price/
Supplemental Data: 1990 - 2013 Revenue from Retail Sales of Electricity by State by Sector by Provider (EIA-861)

For purposes of this fiscal analysis it is assumed that the Public Service Commission will use the most recent available data for establishing the annual cap. The state is currently in FY 2016 and the most recent available data is from 2014. Thus, for the fiscal periods included for consideration by the State Auditor's Office the FY 2017 cap will be established using 2015 data published by the U.S. Energy Information Administration. Similarly, the FY 2018 cap will be established using 2016 data. In this manner the cap for each calendar year will be established eight months before it begins instead of four months after it starts.

**Table 4**
**Data and Timeline for Establishing Annual Tax Credit Cap**

| Data available | Time period of data | CY year for the cap |
|---|---|---|
| April 2015 | 2014 actual data | CY 2016 |
| April 2016 | 2015 actual data | CY 2017 |
| April 2017 | 2016 actual data | CY 2018 |

As shown in Table 3 the average annual growth rate from 1990 to 2014 was 3.33 percent. Table 5 assumes that the average annual growth rate will carry forward for the next several years. The clean energy tax credits cap is estimated at $76.4 million for CY 2016, $79 million for CY 2017 and $81.6 million for CY 2018.

**Table 5**
**Clean Energy Tax Credit Estimate of Cap**

| Calendar Year for cap | Fiscal Year for likely redemption of credits | Revenue data | Total Revenue | Tax credit at 1.0% |
|---|---|---|---|---|
| CY 2016 | FY 2017 | 2014 actual data | $7,644,407,000 | $76,444,070 |
| CY 2017 | FY 2018 | 2015 projection | $7,898,965,753 | $78,989,658 |
| CY 2018 | FY 2019 | 2016 projection | $8,162,001,313 | $81,620,013 |

For purposes of the fiscal note the State Auditor's office asks that estimates be provided for the first two fiscal years of implementation which are FY 2017 and FY 2018 since the provisions of the proposal would go into effect in December 2016. Almost all taxpayers file their taxes on the April 15th deadline. Therefore, CY 2016 taxes would be due on April 15, 2017 which is in FY 2017 as shown in Table 5.

The proposal establishes a cap beginning for CY 2016. However, the provisions of the act will go into effect in December 2016. Paragraph 13 of the proposed section 386.1000 states that any taxpayer verified by the Department of Economic Development to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with the provisions shall be deemed eligible for the tax credit. This allows for the Department of Economic Development to include projects in 2016 before its processes are in place. Paragraph 17 of the proposed section 386.1000 provides that the Department of Economic Development shall issue rules necessary to administer the act. In addition, paragraph 10 gives the Department of Economic Development 45 days to notify an applicant of approval after the application is submitted.

Issuing rules is at best a months long process. The 45 day processing time allowed for any completed application filed after the rules are adopted makes it very unlikely that the Department of Economic Development will issue any CY 2016 tax credits before April 15, 2017 that would affect the taxpayers initial tax filing and reduce taxes paid during FY 2017. Tax credits issued between April 15 and June 30, 2017 would require an amended filing which also would be unlikely to be completed by June 30, 2017. Thus, this fiscal analysis assumes a de minimis or no impact on FY 2017 general revenue tax collections. Any CY 2016 tax credit impact would at most impact the FY 2018 tax collections through amended returns or through CY 2017 taxes.

**Application Deposit revenue**

The proposed Section 386.1000 RSMo requires that taxpayers submit an application to the Department of Economic Development to receive approval for tax credits (paragraph 7). Each application must include a two cent per watt application deposit. The total revenue from application deposits is dependent upon:

- the number of projects that will be submitted;
- the number of watts generated from all of those projects

Each of these is affected by the:

- percentage of residential v commercial projects
- number of kW generated by residential v commercial projects
- cost of residential and commercial projects
- total construction completed
- any phase-in period as the Department of Economic Development institutes rules and prepares the program
- any phase-in period as the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available

All of these factors must be estimated and evaluated in order to calculate the amount of application deposit revenue that will be received by the Department of Economic Development.

Tax credits are available to both residential and commercial projects. Paragraph 5 of the proposed Section 386.1000 RSMo provides that no electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit.

The Missouri Department of Economic Development, Division of Energy published a Missouri Comprehensive State Energy Plan in October 2015. The report states that half of the installed net-metered PV solar is residential and the other half commercial customers.[3] However, the report also indicates that there are challenges that face residential customers making it more difficult and expensive to install solar projects. These challenges include local ordinances or homeowner's association rules the may prohibit installation or require design changes that decrease efficiency or add to the cost.[4] In addition, over the past decade an industry has developed to assist with the financing of solar projects. Such financing alternatives are easier to obtain by commercial projects because of their size, scope, and estimated return on investment.[5] Commercial projects can have a longer-term outlook than homeowners who may not know how long they may live in their current house. The Missouri State Energy Plan indicates that residential rooftop solar is a relatively expensive energy option due to these and other factors.[6]

For all of the reasons identified in the preceding paragraph, for purposes of this fiscal analysis residential solar installation is assumed to be 40% of the total solar construction. Commercial solar installation is assumed to be 60% of the total solar construction. This fiscal analysis has already indicated that 2016 solar construction will likely not be affected by the approval of the petition by voters in November 2016. Thus, CY 2017 is the first full year of impact. Tax credits resulting from such construction will first affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office.

The next factor to consider is the number of kW generated by residential and commercial projects. A recent report on photovoltaic system pricing trends published by the U.S. Department of Energy indicates that the median residential project is 6.1 kW while the modeled commercial system is 200 kW. Paragraph 5 of the proposed section 386.1000 establishes a 200 kW limit on installations that are authorized for tax credits.[7] For purposes of this fiscal analysis it is assumed that all commercial projects will be at the 200 kW size and that residential projects will be 6.1 kW. Paragraph 7 of the proposed section 386.1000 requires a two cent per watt application deposit fee. Table 6 shows that there would be a $122

application deposit required for the median residential project. There would be a $4,000 application deposit required for the 200 kW commercial project.

**Table 6**
**Application Deposit Required for Projects**

| Construction type | Project size in kW | Project size in watts | Application deposit for project at 2 cents per watt |
|---|---|---|---|
| Residential | 6.1 | 6,100 | $122 |
| Commercial | 200.0 | 200,000 | $4,000 |

The recent report on photovoltaic system pricing trends published by the U.S. Department of Energy also discusses the historical, recent, and near-term pricing of solar projects.[8] Project cost information was obtained on more than 400,000 systems in 42 states. The modeled system prices identified in the report showed a Q1 2015 residential system price of $3.12/watt and a commercial 200 kW system cost of $2.17/watt. These were reductions in price of from Q4 2013 of 7% and 19% respectively. The report also indicates that prices for residential and commercial PV systems have decreased by 6-12% per year, on average, from 1998-2014. In addition, the report indicates that analysts project the system prices will fall 16-33% for residential systems between 2014-2020.

Table 7 projects residential solar project costs. Projections are made to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 7 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $3,000/kW for residential solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 6.1 kW residential project is estimated at $18,300.

**Table 7**
**Residential Solar Project Estimate**

| | Cost of Residential project per kW | Cost of Residential project at 6.1 kW project size |
|---|---|---|
| CY 2015 | $3,120 | $19,032 |
| CY 2016 | $3,039 | $18,538 |
| CY 2017 | $2,960 | $18,056 |
| average cost of CY16 and CY17 estimates | $3,000 | $18,300 |

The modeled commercial system price identified in the report showed a Q1 2015 commercial 200 kW system cost of $2.17/watt. However, the national average cost of commercial projects is affected by states with more mature solar markets and industries and large companies, like Wal-Mart and Ikea, that have moved to install significant solar projects on their facilities. The first Missouri commercial systems are less likely to meet the $2.17/watt cost projections. Table 8 uses other data in the report to amend the estimate of commercial solar project costs. The report shows that the price of the modeled 200 kW commercial system has fallen from $2.68/watt to $2.17 between 2013 Q4 and 2015 Q1. The mid-point of that decrease is $2.425/watt. Further, it is assumed that the cost of Missouri projects will be higher by 2.6%, or one-year's worth of the low end of the price declines found in the report. The result is that this analysis will assume that the Missouri 2015 Q1 price is $2.488/watt.

**Table 8**
**Commercial Solar Project Cost Estimate per kW**

| | |
|---|---|
| 2013 Q4 | $2,680 |
| 2015 Q5 | $2,170 |
| Mid-point | $2,425 |
| One-year behind (2.6%) | $2,488 |

Table 9 then projects the $2,488/kW 2015 Q1 cost to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 9 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $2,392/kW for commercial solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 200 kW commercial project is estimated at $478,400.

**Table 9**
**Commercial Solar Project Estimate**

| | Cost of Commercial project per kW | Cost of Commercial project at 200 kW project size |
|---|---|---|
| CY 2015 | $2,488 | $497,600 |
| CY 2016 | $2,423 | $484,600 |
| CY 2017 | $2,360 | $472,000 |
| average cost of CY16 and CY17 estimates | $2,392 | $478,400 |

The analysis so far has identified:

- a $79 million estimate of the maximum clean energy tax credits using one percent of the annual statewide Missouri revenue of Missouri retail electric suppliers as directed by paragraph 1 of the proposed section 386.1000.
- an estimate that 40% of total solar construction would be residential and 60% commercial
- project cost estimates of $18,300 for 6.1 kW residential projects and $478,400 for 200 kW commercial projects

The final factor to calculate before arriving at the amount of application deposit revenue is any phase-in period as the Department of Economic Development issues rules and prepares its processes and the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available. The Missouri State Energy plan reports that Missouri currently has 111 MW of installed solar PV capacity. The plan also reports that there is 42.8 MW of installed net-metered PV solar developed over the years largely as a result of rebates from large utility companies in Missouri.

The proposal being analyzed establishes a statutory program of clean energy tax credits that will sunset after the Department of Economic Development certifies that 1,000 MW of capacity has been added as a result of the tax credits but no later than June 30, 2022. The 1,000 MW target represents a dramatic increase in current capacity.

The Missouri State Energy plan provides a wealth of information about the current state of "green jobs" and the solar industry in Missouri. The report includes the following along with other findings about the industry.

- Missouri had over 100,000 "green jobs" according to a 2009 study.[9]
- Missouri was identified as 10th in the nation for growth in clean energy and clean transportation jobs in 2013.[10]

- $187 million was invested by Missouri's solar industry in 2014 to install solar photovoltaic systems for residential, commercial, and utility use.[11]
- There are more than 97 solar companies at work throughout the supply chain in Missouri, employing 2,500 people including manufacturers, contractors, installers, project developers, distributors.[12]
- Missouri could create 8,500 new jobs to design, install, and operate energy efficiency measures by 2025 according to a 2011 study.[13]
- In 2010 Missouri ranked 6th in the nation in photovoltaic jobs.[14]

The clean energy tax credit does not sunset until the 1,000 MW target of additional capacity is met but no later than June 30, 2022. The size and the long-term nature of the 1,000 MW target should encourage the development of the Missouri solar industry even after it sunsets. It should also result in long-term planning and the build out of a native Missouri solar industry. The target also provides an incentive for the industry to meet the growth potential described in the Missouri State Energy Plan.

In the long-term the impact of the 1,000 MW target will grow and build the industry. In addition, investment in solar will allow longer term benefits in reduced fuel usage, cleaner air, better health and the resulting lower costs among other things. The Missouri State Energy Plan identifies the public health impacts of various energy sources with clean energy sources providing significant positive benefits over other sources.[15] A 2013 study of Hawaii's solar tax credit program found that the State recovered the full cost of the tax credit in 9 to 11 years - a rate of return on its investment ranging from 8.9% to 10.3%.[16] In addition, the study found that for each dollar spent by Hawaii on tax credits the amount of additional sales stimulated was $34.69 for residential solar PV and $55.03 for commercial PV.

However, the fiscal note format required for initiative petitions focuses on the short-term revenue and costs. Thus, the longer-term benefits are not included in this fiscal analysis. As explained elsewhere in this fiscal analysis the impact of the availability of tax credits is somewhat dependent upon the speed with which the Department of Economic Development issues the necessary rules and regulations, develops and makes available the application forms, and the industry's reaction to voter approval and the department's actions. Thus, two alternatives are calculated to create a possible range for the likely outcome in the short-term.

The first alternative assumes that construction will be sufficient to use half of the $79 million in possible tax credits. The first alternative assumes that the program is not implemented until July 2017 thus reducing its effect by half in CY 2017. The second alternative assumes that construction will be sufficient to use all of the $79 million in possible tax credits. The second alternative assumes that the industry is energized by the tax credit and pushes forward with construction under the assumption that the Department of Economic Development will recognize all projects that have been started after voter approval of the proposal.

Table 10 takes that information and shows two possible alternatives for CY 2017.

- Construction leading to use of **half** the available tax credits ($39.5 million) - A total of $112.8 million in construction would be required to generate $39.5 million in tax credits. Residential construction of $45.1 million (assuming 40% of construction) would result in $15.8 million in tax credits. Commercial construction of $67.7 million (assuming 60% share of construction) would result in $23.7 million in tax credits.

- Construction leading to use of **all** the available tax credits ($79 million) - **A total of $225.7 million in construction would be required to generate $79 million in tax credits.** Residential construction of $90.3 million (assuming 40% of construction) would result in $31.6 million in tax credits. Commercial construction of $135.4 million (assuming 60% share of construction) would result in $47.4 million in tax credits.

In addition, using the average cost and size of projects it is possible to compute the number of residential and commercial projects that will be constructed. A total of 2,608 projects would be constructed with half

the tax credits (2,466 residential, 142 commercial). A total of 5,216 projects would be constructed with all the tax credits (4,933 residential, 283 commercial).

**Table 10**
**Number of Projects using Half or All of Tax Credit Cap**

| | CY 2017 construction needed for half of tax credits to be used in FY 2018 | CY 2017 construction needed for all of tax credits to be used in FY 2018 |
|---|---|---|
| Tax credits estimate from CY 2017 construction | $39,494,829 | $78,989,658 |
| Amount of construction value needed to generate value of 35% tax credits | $112,842,369 | $225,684,737 |
| | | |
| % of residential per year of credits issued | 40.0% | 40.0% |
| % of commercial per year of credits issued | 60.0% | 60.0% |
| | | |
| Tax credits by type of construction | | |
| Residential | $15,797,932 | $31,595,863 |
| Commercial | $23,696,897 | $47,393,795 |
| Total amount by type | $39,494,829 | $78,989,658 |
| | | |
| Construction value by type of construction | | |
| Residential | $45,136,948 | $90,273,895 |
| Commercial | $67,705,421 | $135,410,842 |
| Total amount by type | $112,842,369 | $225,684,737 |
| | | |
| Cost of solar projects per project | | |
| Residential (6.1 kW/project) | $18,300 | $18,300 |
| Commercial (200 kW/project) | $478,400 | $478,400 |
| | | |
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |

Table 10 shows a significant number of projects that would be completed throughout the state as a result of the clean energy tax credit. These numbers are possible for a variety of reasons identified in the Missouri State Energy Plan.

- Missouri households use about 12% more than the average U.S. household, thus projects would put real dollars into Missourians pockets for other uses and spending.[17]
- Nationally about ten percent of small business owners state that energy is their single biggest cost according to the National Federation of Independent Business. The same report indicates that an additional 25% of small business owners claim that energy is one of their top three business costs.[18] Thus, clean energy projects that reduce energy usage make businesses more profitable, allow for expansion, and could lead to higher wages for employees.
- Businesses can lower costs through on-site generation while also achieving other benefits.[19]
- Significant operational savings are possible through energy efficiency projects with rates of return as high as 25%.[20]

- A wealth of financing alternatives now exist for clean energy projects.[21]
- "Approximately 60% of the largest U.S. businesses have set public climate and energy goals to increase their use of renewable energy."[22]

Table 11 calculates the amount of application deposit revenue that the Department of Economic Development would receive given the number of projects identified in Table 10. If applications are submitted for projects equivalent to half the available tax credits then the department would receive $0.9 million in application deposit revenue. If applications are submitted for projects equivalent to all the available tax credits then the department would receive $1.7 million in application deposit revenue.

**Table 11**
**Application Deposit Revenue**

| | Application Deposit Estimate for half of tax credits for applications FY 2018 | Application Deposit Estimate for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |
| | | |
| Application deposit required per project | | |
| Residential | $122 | $122 |
| Commercial | $4,000 | $4,000 |
| | | |
| Application deposit revenue | | |
| Residential | $300,852 | $601,826 |
| Commercial | $568,000 | $1,132,000 |
| Total amount by type | $868,852 | $1,733,826 |

Table 12 shows the amount of solar capacity added by the number of projects identified in the previous tables given the given size of residential and commercial projects. A total of 43.4 MW would be added in solar capacity as a result of projects equivalent to half the available tax credits which would be 4.3% of the 1,000 MW goal that when achieved will sunset the tax credits. A total of 86.7 MW would be added in solar capacity as a result of projects equivalent to all the available tax credits which would be 8.7% of the 1,000 MW goal that when achieved will sunset the tax credits.

**Table 12 Amount of Solar Capacity Added**

| | Capacity added for half of tax credits for applications FY 2018 | Capacity added for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 2,466.00 | 4,933.00 |
| Commercial | 142.00 | 283.00 |
| Total amount by type | 2,608 | 5,216 |
| | | |
| kW generated by construction | | |
| Residential (6.1 kW/project) | 15,043 | 30,091 |
| Commercial (200 kW/project) | 28,400 | 56,600 |
| Total amount by type | 43,443 | 86,691 |
| | | |
| MW generated by construction | | |
| Residential | 15.0 | 30.1 |
| Commercial | 28.4 | 56.6 |
| Total amount by type | 43.4 | 86.7 |
| | | |
| % of 1,000 MW goal achieved | 4.3% | 8.7% |

**Taxes**

As noted on pages 10-11 of this fiscal analysis, the Missouri State Energy Plan published in October 2015 describes the current capacity, industry size, and investments being made in Missouri. The plan also describes the potential for jobs and economic development in the state. The 1,000 MW target represents a dramatic increase in current capacity. The following analysis assumes that due to the dramatic size of the 1,000 MW target that the investments driven by the clean energy tax credits will result in new jobs and industry expansion.

Table 13 shows the cost components of a solar construction project. Labor is assumed to be 35% of the project costs, materials 40%, and Profit 10%. It is assumed that 15% of the project cost is overhead and it is assumed that no taxes would be applied. Since Missouri already has a base of manufacturers and distributors it is assumed that all materials will be Missouri taxed.

**Table 13**
**Construction Project Components, Tax Type, and Tax Rate**

| Project components | % of job | Missouri tax rate | Type tax |
|---|---|---|---|
| Labor | 35.0% | 6.00% | Income tax |
| Materials and local materials | 40.0% | 4.225% | Sales |
| Profit | 10.0% | 6.25% | Corporate |
| Overhead | 15.0% | 0.00% | N/A |
| subtotal by taxable type | 100.0% | | |

Table 14 computes the state and local taxes based on the value of construction and the project components and tax rates shown in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $4.4 million to $8.9 million in FY 2018. The other three state funds (Prop C, Conservation, Parks/Soils) are estimated to receive between $0.6 million to $1.1 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $1.75 million to $3.5 million in local sales tax revenue in FY 2018.

**Table 14**
**State and Local Taxes Generated by Construction**

| | Half of tax credits used - CY 2017 | All of tax credits used - CY 2017 |
|---|---|---|
| Amount of construction value needed to generate value of 35% tax credits | $112,842,369 | $225,684,737 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $39,494,829 | $78,989,658 |
| Materials and local materials | $45,136,947 | $90,273,895 |
| Profit | $11,284,237 | $22,568,474 |
| subtotal by taxable type | $95,916,013 | $191,832,027 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $2,369,690 | $4,739,379 |
| Materials and local materials - Sales/Use Tax | $1,354,108 | $2,708,217 |
| Profit - General Revenue Corporate Tax | $705,265 | $1,410,530 |
| subtotal GR | $4,429,063 | $8,858,126 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $451,369 | $902,739 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $56,421 | $112,842 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $45,137 | $90,274 |
| subtotal State Taxes | $4,981,991 | $9,963,981 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $1,751,314 | $3,502,627 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $6,733,304 | $13,466,608 |

The taxes generated from the construction activity shown in Table 14 likely underestimate the state revenue that will be generated by the construction of clean energy projects even within the short time period allowed in the fiscal note. As noted earlier there are multiplier effects that ripple through the economy. The Department of Economic Development through MERIC has a sophisticated model that it uses to evaluate the impact of tax credits and other business investments made in the State of Missouri. Using the information in this fiscal analysis MERIC should be able to provide supplementary information regarding the extra economic activity and increased revenues.

Similarly, generating additional clean energy within the State of Missouri will result in a decrease in the importation of power and energy producing raw materials from other states. Such money leakage from the state, businesses and citizens, decreases the amount of purchasing could be done for other purposes such as increased jobs within the state and thus the tax revenues that would be generated. For example, the Missouri State Energy Plan notes that Missouri is the sixth largest consumer of coal in the country and 92.5% of the coal used in 2013 was imported from Wyoming.[23] The plan reports that the state sends billions of dollars out of state for purchases of imported coal, natural gas, and transportation fuels.[24]

**Community Solar Act** - Applies to Versions 10, 12, 13, 14, 16, and 18
The Community Solar Act, section 386.910 of the proposal, directs the Missouri Public Service Commission to establish rules allowing customers to participate in a "community solar facility." Community solar facilities allow participants to benefit from solar energy and receive electric bill credits substantially similar to net metering.

Paragraph 3 of that section states that the "aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous fiscal year." Table 15 shows the total peak demand data compiled by the Public Service Commission for the four utilities affected by this section. The report shows that using peak demand leads to a cap of 504.5 MW on the amount of aggregated capacity of community solar facilities statewide.

**Table 15 - Peak Demand for Community Solar**

| Utility Name | Peak Demand |
|---|---|
| Union Electric Co - (MO) | 7,713.0 |
| Kansas City Power & Light Co | 1,878.0 |
| KCP&L Greater Missouri Operations Co. | 1,860.0 |
| Empire District Electric Co | 1,162.0 |
| Total | 12,613.0 |
| 4% overall cap | 504.5 |

Paragraph 2 of that section defines a community solar facility as a photovoltaic electric generation facility with a capacity of between 100 and 1,000 kW. For purposes of this fiscal note it is assumed that all community solar projects will be the same as the 200 kW project limit established in the clean energy tax credit language of 386.1000. In Table 12 above a low and high range was calculated for the percentage of solar capacity added through the tax credits based on the expectations of the phase-in necessary for the Department of Economic Development's implementation of the clean energy tax credits. The same percentage is used - 4.3% low range and 8.7% higher range. Similarly, for the purposes of this fiscal note the cost per kW will be $2,392 for a total project cost of $478,400 as shown in Table 9.

Table 16 shows the data and calculations needed to identify the number of projects. At the low end of the range 21.7 MW of added community solar capacity would be created which would require 108 projects of 200 kW. At the higher range 43.9 MW of added community solar capacity would be created which would require 219 projects of 200 kW.

Table 16 also shows that at an average project cost of $478,400 the low range results in $51.7 million in construction spending. The higher range results in $104.8 million in construction spending.

**Table 16**
**Community Solar Capacity and Projects**

| | Low Range | Higher Range |
|---|---|---|
| Assumed % of aggregate capacity | 4.3% | 8.7% |
| Added capacity - MW | 21.69 | 43.89 |
| Added capacity - kW | 21,694.36 | 43,893.24 |
| # projects at commercial 200 kW per project | 108 | 219 |
| Construction cost - commercial project per 200 kW project | $478,400 | $478,400 |
| Construction value | $51,667,200 | $104,769,600 |

Table 17 computes the state and local taxes based on the value of construction and the project components and tax rates shown earlier in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $2.0 million to $4.1 million in FY 2018. The other three state funds (Prop C, Conservation, Parks/Soils) are estimated to receive between $0.2 million to $0.5 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $0.8 million to $1.6 million in local sales tax revenue in FY 2018.

**Table 17**
**State and Local Taxes Generated by Construction of Community Solar Projects**

| | Low range | Higher range |
|---|---|---|
| Amount of construction value needed to generate estimated MW | $51,667,200 | $104,769,600 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $18,083,520 | $36,669,360 |
| Materials and local materials | $20,666,880 | $41,907,840 |
| Profit | $5,166,720 | $10,476,960 |
| subtotal by taxable type | $43,917,120 | $89,054,160 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $1,085,011 | $2,200,162 |
| Materials and local materials - Sales/Use Tax | $620,006 | $1,257,235 |
| Profit - General Revenue Corporate Tax | $322,920 | $654,810 |
| subtotal GR | $2,027,938 | $4,112,207 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $206,669 | $419,078 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $25,834 | $52,385 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $20,667 | $41,908 |
| subtotal State Taxes | $2,281,107 | $4,625,578 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $801,875 | $1,626,024 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $3,082,982 | $6,251,602 |

**Net metering bills** - Applies to Versions 10, 11, 12, 13, 14, 17 and 18
The Missouri General Assembly has considered six net metering bills over the past three legislative sessions. Table 18 below identifies the bills and provides links to the fiscal note and bill summary prepared for each bill. All of the fiscal notes prepared and available indicated that there was no state impact from the net metering bills.

**Table 18**
**NET METERING**
**2013, 2014, AND 2015 LEGISLATIVE SESSIONS**

| Session | Bill | Sponsor | Fiscal Note Impact | Fiscal Note Summary Link | Bill Summary Link |
|---|---|---|---|---|---|
| 2015 | SB 75 | Holsman | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0622-01N.ORG.pdf | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=82&BillID=174 |
| 2015 | SB 509 | Holsman | No impact | N/A | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=664&BillID=4599469 |
| 2015 | HB 481 | Berry (38) | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0502-01N.ORG.pdf | http://house.mo.gov/billtracking/bills151/sumpdf/HB0481C.pdf |
| 2014 | HB 1795 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER14/fishtm/5552-02N.ORG.htm | http://house.mo.gov/billtracking/bills141/sumpdf/HB1795I.pdf |
| 2013 | HB 119 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/0794-02N.ORG.htm | http://house.mo.gov/billtracking/bills131/sumpdf/HB0119I.pdf |
| 2013 | SB 396 | Holsman | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/1078-07N.ORG.htm | http://www.senate.mo.gov/13info/BTS_Web/Bill.aspx?SessionType=R&BillID=19218703 |

**Electric Vehicle Charging Stations** - Applies to Versions 12, 13, 14, 16, and 17
The petition authorizes investor-owned utilities to recover costs for infrastructure investments in electric vehicle charging stations, provided the energy output from the stations is offset in part by clean energy. There should be no fiscal impact to the state. Utility investment in electric charging stations will result in positive economic activity similar to other capital investments. However, the range of the benefits is unknown at this time.

ENDNOTES

[1] U.S. Energy Information Administration: *Table 10: All Sectors - Class of ownership, number of consumers, sales, revenue, and average retail price by State and utility*
http://www.eia.gov/electricity/sales_revenue_price/

[2] U.S. Energy Information Administration: *Supplemental Data: 1990 - 2013 Revenue from Retail Sales of Electricity by State by Sector by Provider (EIA-861)*
http://www.eia.gov/electricity/sales_revenue_price/

[3] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25
https://energy.mo.gov/energy/docs/MCSEP.pdf

[4] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25-26
https://energy.mo.gov/energy/docs/MCSEP.pdf

[5] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[6] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 200
https://energy.mo.gov/energy/docs/MCSEP.pdf

[7] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 5
http://www.nrel.gov/docs/fy15osti/64898.pdf

[8] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 4
http://www.nrel.gov/docs/fy15osti/64898.pdf

[9] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 172
https://energy.mo.gov/energy/docs/MCSEP.pdf

[10] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 173
https://energy.mo.gov/energy/docs/MCSEP.pdf

[11] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[12] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[13] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 174
https://energy.mo.gov/energy/docs/MCSEP.pdf

[14] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 175
https://energy.mo.gov/energy/docs/MCSEP.pdf

[15] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 190-191, 193, 195-199, 201, 203
https://energy.mo.gov/energy/docs/MCSEP.pdf

[16] Thomas A Loudat, Blue Planet Foundation. "*The Economic and Fiscal Effects of Hawaii's Solar Tax Credit*" - January 2013.
http://blueplanetfoundation.org/renewable-energy-tax-credit-2013.html?highlight=WyJsb3VkYXQiXQ==

[17] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 154
https://energy.mo.gov/energy/docs/MCSEP.pdf

[18] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 165 for both sentences in this bullet point
https://energy.mo.gov/energy/docs/MCSEP.pdf

[19] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[20] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[21] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[22] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 178
https://energy.mo.gov/energy/docs/MCSEP.pdf

[23] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 20-21
https://energy.mo.gov/energy/docs/MCSEP.pdf

[24] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 42
https://energy.mo.gov/energy/docs/MCSEP.pdf

**Edward D, Greim** provided the following information as an opponent of this initiative petition.

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December 28, 2015

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Re: *Fiscal Note in Initiative Petitions 2016-173 through 2016-180 and 2016-190*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petitions 173, 175, 177, and 180:

> Lost revenue to state government is $498 million over the tax credit period, with annual losses of $9.5 million to $11.5 million thereafter. Lost revenue to local government is $189.1 million over the tax credit period, with annual losses of $31.5 million to $33.9 million thereafter.

We propose the following fiscal note summary for petition 174:

> Lost revenue to state government is $320.9 million over the tax credit period, with annual losses of $5.6 million to $9.6 million thereafter. Lost revenue to local government is $100.9 million over the tax credit period, with annual losses of $20 million to $28.1 million thereafter.

We propose the following fiscal note summary for petition 176:

> Lost revenue to state government is $328.8 million over the tax credit period, with annual losses of $7.5 million to $11.5 million thereafter. Lost revenue to local government is $175.3 million over the tax credit period, with annual losses of $32.4 million to $40.5 million thereafter.

We propose the following fiscal note summary for petition 178:

> Lost revenue to state government is $475.8 million over the tax credit period, with annual losses of $5.7 million to $7.7 million thereafter. Lost revenue to local government is $40.4 million over the tax credit period, with annual losses of $11.5 million to $15.7 million thereafter.

We propose the following fiscal note summary for petitions 179 and 190:

> Lost revenue to state government is $483.7 million over the tax credit period, with annual losses of $7.6 million to $9.6 million thereafter. Lost revenue to local government is $114.8 million over the tax credit period, with annual losses of $23.9 million to $28.1 million thereafter.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments. These taxes, however, will no longer be collected for electricity that is never sold due to the customer-generator production and community solar encouraged by the initiative petitions. Petition signers and voters must be informed of the certainty that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume. On the other hand, any positive fiscal impacts of the initiative petitions are speculative.

**Description of Policy**

Initiative Petitions 173 – 180 and 190 contains one or more of three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of the "Community Solar Act"; and (3) A state tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, or certain natural gas technologies.

1. Changes to Net Metering for Investor-owned electric utilities and municipal electric utilities, and, in 177, rural electric cooperatives
    A. Raise net metering cap to 7% (is currently 5%);
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);



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D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

2. Community Solar Act
   A. The Missouri Public Service Commission ("PSC") adopts rules and regulations allowing groups of 5 or more electrical corporation customers to offset energy usage with solar located in the service territory of the electrical corporation where they have an account;
   B. Facilities are 100 kilowatts to 1 megawatt;
   C. Community solar facilities may, in total, generate electricity of 4% or less of single-hour peak load, but that amount does not count toward net metering; Electrical corporations can own half (max of 2%), which may be included in the rate base. Others may own the other half (max of 2%);
   D. Community Solar facilities are not eligible for tax credits provided in the petition;
   E. Commission sets a community solar rate, not less than electrical corporation's average retail rate;
   F. Value of allocated solar bill credits reduces customer's total bill;
   G. The current value-of-community-solar rate may be locked in for 20 years beginning when a community solar facility is put in operation.

3. Tax credit
   A. 35% tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, etc.
   B. Total value of eligible credits shall not exceed 1% of the value of electricity used in Missouri[1] – defined as revenue from sale of electricity in Missouri; or tax credits are capped at$50 million each year. Unused credits carryover year to year until June 30, 2022
   C. No tax credits after June 30, 2022, or after 1000 megawatts of new generation have been installed using the tax credits.

**Burdens on State Government**

In determining the fiscal impact of each petition, it is generally reasonable to assume that the various statutory changes in the petitions will have independent fiscal impacts. The reasonableness of this assumption is demonstrated by the various iterations of the petitions themselves, some of which propose tax credits with no proposed changes to the Net Metering and Easy Connection Act. *See* Petitions 178 and 190.

[1] The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. *See* U.S. Energy Information Administration – Independent Statistics and Analysis.



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*i. Decreased tax collection due to changes to net metering – Initiative Petitions 173-177 and 179-180*

Raising the net metering cap from the current 5% of peak hour demand to 7% of peak hour demand will, conservatively, result in a 2% decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase from 5% to 7%. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in the petition provides a strong financial incentive to solar or wind energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[2], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, the net-metering cap applies to single-hour peak load, determined yearly, which means that the cap is a higher percentage of the single hour average load. This fact means that the total increase in generation is higher than it appears. Fourth, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[3] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by at least $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities. The additional decreases in sales tax revenues from municipal electric utilities and, in petition 177, from electric cooperatives, are unknown but substantial.[4]

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 173, 175-177, 180, and 190*

Community solar facilities are in addition to net metering and represent an additional capacity amounting to 4% of each electrical corporation's single-hour peak load. Energy

[2] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[3] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.
[4] Assuming $7.6 billion in electricity is sold in Missouri per year (the actual 2014 figure), a 2% decrease will decrease overall state sales tax revenues by 6.4 million annually, but some petitions enact net metering changes on rural electric cooperatives, and some do not.



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generated from the community solar facility is allocated pro rata by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. There is the potential for such bill credits to decrease overall electrical bills by more than 4% because the "bill credits" are calculated using a "value of solar rate" which is at least as high as the retail rate for electricity, but may be higher. If, for example, solar energy received a 50% rate premium due to its benefits, the amount of bill credits would increase and sales would decrease by more than the 6%, rather than 4% figure. Half of these community solar facilities—the half not owned by electrical corporations—may be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoid property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership model, similar to net metering, because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%).

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by at least $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities.

*iii. Tax credits – Initiative Petitions 173-180 and 190*

*a. Decreased tax collections due to tax credits – Credits capped at 1% of value of electricity sold in Missouri, annually ($76 million based on 2014 figures) – Initiative Petitions 173, 175, 177-180, and 190*

According to 2014 figures, Missouri retail customers bought 7.6 billion dollars worth of electricity in 2014. Accordingly, it is reasonable for fiscal note purposes to estimate that Missouri retail customer will continue to buy the same value of electricity. Electricity rates have historically risen over time, but the increasing price of electricity may be approximately the same over the relevant period as the decreases in quantity as a result of the initiative petitions. Accordingly, the 35% tax credits in these petitions will directly result in a loss of state income of approximately $76 million, annually.

*b. Decreased tax collections due to tax credits – Credits capped at $50 million annually – Initiative Petitions 174 and 176*

Similar to the loss described in subpart a, the 35% tax credits in these petitions will directly result in a loss of state income of approximately $50 million, annually.



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*c. Cost of eroding tax base due to new energy generation – Initiative Petitions 173-180 and 190*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer-generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in Missouri. Accordingly, if the tax credits were phased out due to reaching the 1000 MWh/1,000,000 kWh maximum on new electricity generation, new production from such tax credits would produce approximately 1,825,000 MWh per year, also expressed as 1,825,000,000 KWh, or 1,825 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour [5], this new production is valued at $182,500,000.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

In practice, the 1 gigawatt limit on new customer-generated energy production may never be met. Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[6] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for renewable energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology. The petition itself limits tax credits to a maximum of $3.00 per watt, but market forces should make rates in Missouri similar to those in other states, at or around $1.77.

For Initiative Petitions 173, 175, 177-180, and 190, the total, annual loss to state governments *due to the tax credits* is 76.9 million to 81.7 million over the tax credit period. There is an annual loss in perpetuity after the tax credit period of 5.7 to 7.7 million, depending on how much new customer-generation is developed. See attached table.

For Initiative Petitions 174 and 176, the total, annual loss to state governments *due to the tax credits* is 50.6 million to 53.7 million over the tax credit period. There is an annual loss in

[5] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.

[6] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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perpetuity after the tax credit period of 3.7 to 7.7 million, depending on how much new customer-generation is developed. *See* attached table.

**Burdens on Local Governments**

Local governments face losses in revenue from the various petition provisions that are similar to those faced by state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 173-177 and 179-180*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 173, 175-177, 180, and 190*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*iii. Tax credits – Cost of eroding tax base due to new energy generation – Initiative Petitions 173-180 and 190*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petitions may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to



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local governments, all of which may be reduced or discontinued if the initiative petitions are enacted.

The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[7] Based on this estimate, the population-weighted combined average local sales tax is 3.585%. Assuming the tax credits sunset due to reaching the 1 Gigawatt production cap, the yearly loss to local governments from lost sales tax from the tax credit is $6,541,578. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,123,540.

For petitions 173, 175, 177-180, and 190, the loss to local governments due to the tax credits is at least $40.4 million over the tax credit period, then $11.5 to $15.7 million annually. For initiative petitions 174 and 176, the loss to local governments due to the tax credits is at least $26.6 million over the tax credit period, then $7.5 to $15.7 million annually.

**In Conclusion**

The initiative petitions will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petitions, such as increases in net metering and community solar. The total tax burden on state government imposed by the petitions range from $313 million over the tax credit period, with $3.7 to $7.7 million in lost revenues in perpetuity, to approximately $498.6 million over the tax credit period,[8] with $9.5 million to 11.5 million in lost revenues in perpetuity thereafter.

Sincerely,

Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues

[7] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.
[8] $475.8 million + [(1.9 million + 1.9 million)*6 years]



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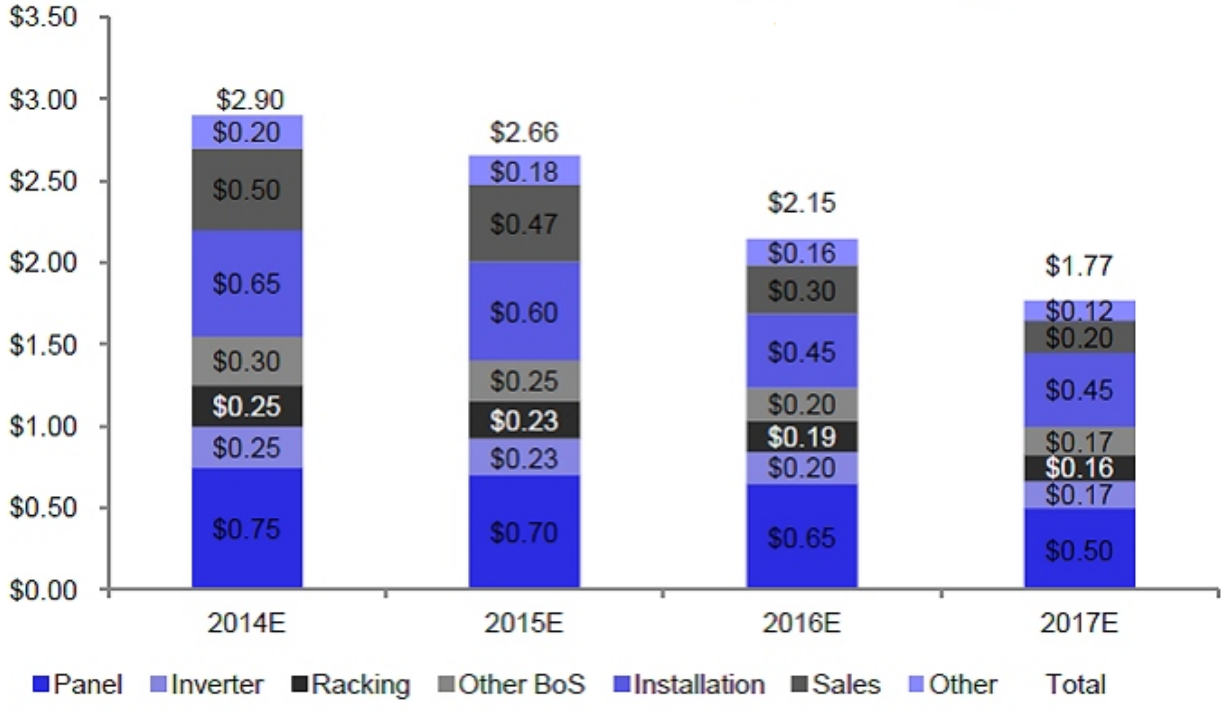
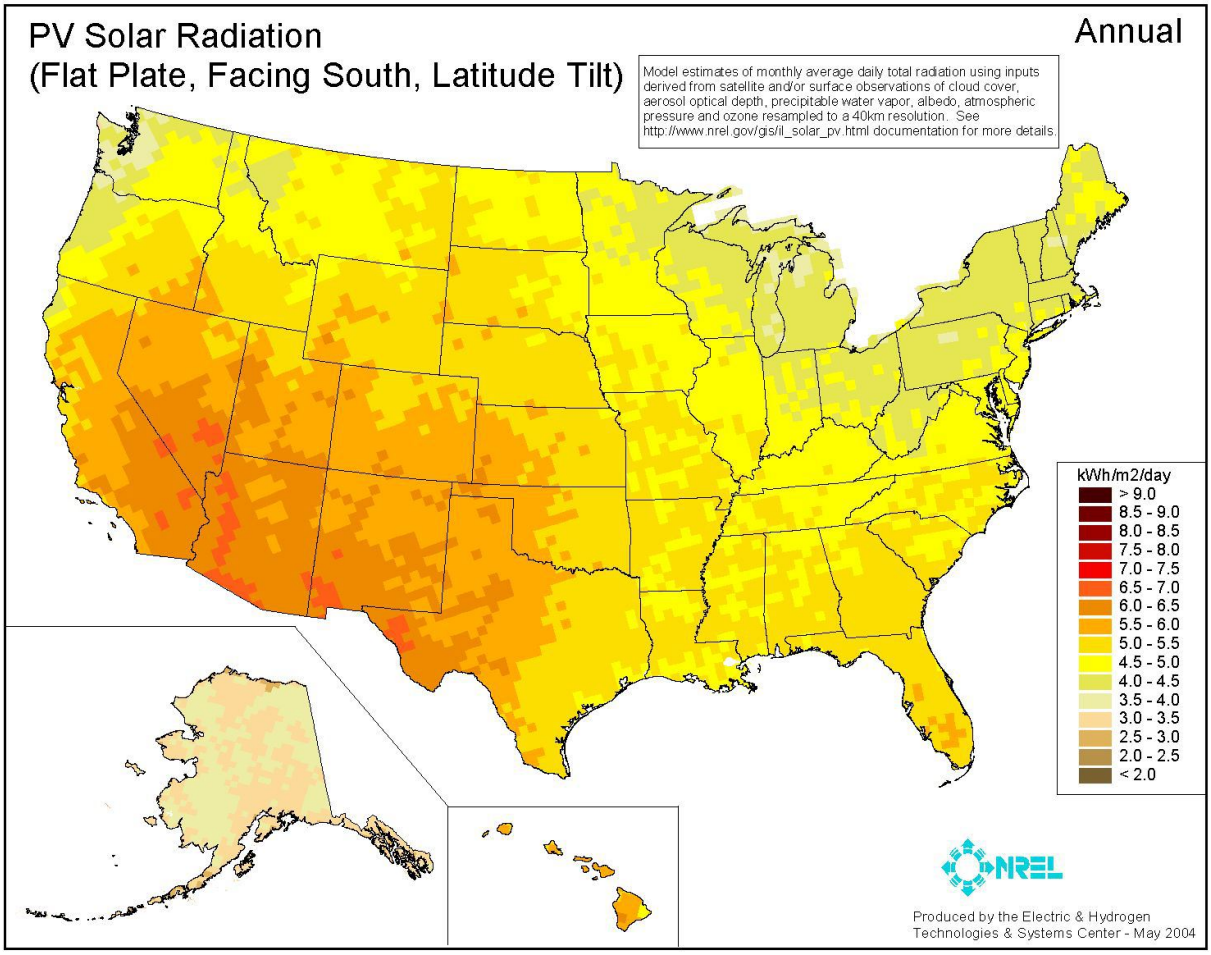
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0

Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017

https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm



National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Brightergy Renewable Tax Credit Fiscal Analysis (1% Value of Electricity Cap) - Initiative Petitions 173, 175, 177-180, and 190**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 122.68 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $76,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 223,854 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $76,000,000 | 122.68 | 122.68 | 223,854 | $100 | $22,385,441 | 4.225% | $945,785 | $76,945,785 | 3.585% | $802,518 | 5.000% | $1,119,272 | $1,921,790 |
| 2018 | $76,000,000 | 122.68 | 245.36 | 447,709 | $100 | $44,770,882 | 4.225% | $1,891,570 | $77,891,570 | 3.585% | $1,605,036 | 5.000% | $2,238,544 | $3,843,580 |
| 2019 | $76,000,000 | 122.68 | 368.04 | 671,563 | $100 | $67,156,323 | 4.225% | $2,837,355 | $78,837,355 | 3.585% | $2,407,554 | 5.000% | $3,357,816 | $5,765,370 |
| 2020 | $76,000,000 | 122.68 | 490.72 | 895,418 | $100 | $89,541,765 | 4.225% | $3,783,140 | $79,783,140 | 3.585% | $3,210,072 | 5.000% | $4,477,088 | $7,687,160 |
| 2021 | $76,000,000 | 122.68 | 613.40 | 1,119,272 | $100 | $111,927,206 | 4.225% | $4,728,924 | $80,728,924 | 3.585% | $4,012,590 | 5.000% | $5,596,360 | $9,608,951 |
| 2022 | $76,000,000 | 122.68 | 736.08 | 1,343,126 | $100 | $134,312,647 | 4.225% | $5,674,709 | $81,674,709 | 3.585% | $4,815,108 | 5.000% | $6,715,632 | $11,530,741 |
| | | | | | | | | **Total State Tax Burden** | **$475,861,483** | | **Total Local Tax Burden (Sales + Franchise)** | | **$40,357,593** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

**Brightergy Renewable Tax Credit Fiscal Analysis (50 Million Tax Credit Cap) - Initiative Petitions 174 and 176**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 80.71 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $50,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 147,273 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $50,000,000 | 80.71 | 80.71 | 147,273 | $100 | $14,727,264 | 4.225% | $622,227 | $50,622,227 | 3.585% | $527,972 | 5.000% | $736,363 | $1,264,336 |
| 2018 | $50,000,000 | 80.71 | 161.42 | 294,545 | $100 | $29,454,528 | 4.225% | $1,244,454 | $51,244,454 | 3.585% | $1,055,945 | 5.000% | $1,472,726 | $2,528,671 |
| 2019 | $50,000,000 | 80.71 | 242.13 | 441,818 | $100 | $44,181,792 | 4.225% | $1,866,681 | $51,866,681 | 3.585% | $1,583,917 | 5.000% | $2,209,090 | $3,793,007 |
| 2020 | $50,000,000 | 80.71 | 322.84 | 589,091 | $100 | $58,909,056 | 4.225% | $2,488,908 | $52,488,908 | 3.585% | $2,111,890 | 5.000% | $2,945,453 | $5,057,342 |
| 2021 | $50,000,000 | 80.71 | 403.55 | 736,363 | $100 | $73,636,320 | 4.225% | $3,111,135 | $53,111,135 | 3.585% | $2,639,862 | 5.000% | $3,681,816 | $6,321,678 |
| 2022 | $50,000,000 | 80.71 | 484.26 | 883,636 | $100 | $88,363,584 | 4.225% | $3,733,361 | $53,733,361 | 3.585% | $3,167,834 | 5.000% | $4,418,179 | $7,586,014 |
| | | | | | | | | **Total State Tax Burden** | **$313,066,765** | | **Total Local Tax Burden (Sales + Franchise)** | | **$26,551,048** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

**Brent Stewart** provided the following information as an opponent of this initiative petition.

**Association of Missouri Electric Cooperatives**

2722 East McCarty Street, P.O. Box 1645
Jefferson City, Missouri 65102
Telephone: (573) 635-6857
Fax: (573) 635-2314
www.amec.coop

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STATE AUDITORS OFFICE

December 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: Fiscal Note in Initiative Petitions 2016-173 through 2016-190

To Whom It May Concern:

The Association of Missouri Electric Cooperatives (AMEC), representing the state's forty-seven member-owned, nonprofit rural electric cooperatives that serve close to one million electric consumers, respectfully submit the following brief comments to assist in your preparation of the fiscal notes on the above-mentioned initiative petitions.

All these petitions, in one way or another, involve solar and renewable energy mandates. The practical effect of each, to one extent or another, is to encourage consumers to substitute self-generation for traditional electric service, thereby creating an unfair electric rate subsidy in favor of those who can afford to install their own generation at the expense of the majority of the other consumers who cannot.

Missouri's forty distribution (retail level) cooperatives serve a wide variety of governmental entities throughout rural Missouri, including state facilities (e.g. prisons), local government facilities, hospitals, schools, rural water districts, regional sewer districts and others. To the extent these entities cannot afford to install their own generation, which most cannot, they necessarily will be forced to pay higher rates if these initiative petitions are enacted. Unfortunately, it is impossible without more time for AMEC to identify all those government-related entities and facilities or estimate with any accuracy the adverse fiscal impact. However, it is clear that even a modest rate increase necessarily will have a significant adverse fiscal impact on governmental entities, in millions of dollars, especially those in the primarily less affluent rural areas served by Missouri's nonprofit electric cooperatives.

Respectfully submitted,

Brent Stewart

Brent Stewart
AMEC Counsel

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State government revenue may decrease up to $456 million during the tax credit period with approximately $1 million annual increased operating costs. Local governmental entities estimate $23.9 million in annual electricity sales reductions. Other resulting economic activity will have an unknown impact on state and local governments.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

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DEC 17 2015
STATE AUDITORS OFFICE

ELECTIONS DIVISION
(573) 751-2301

16-179

December 17, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 16 (2016-179)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 16, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16729

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

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2016 DEC 16 PM 4:19
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[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-179

*Be it enacted by the people of the state of Missouri:*

Section A: Section 386.890 is amended and sections 386.860, 386.870, 386.900 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.900 to 386.1000 shall be known and cited as the "Clean Energy Independence and Investment Act of 2016".

386.870. An electrical corporation shall be allowed to recover its costs and add in its rate base prudently incurred costs to install electric vehicle charging stations intended to recharge electric motor vehicles, provided the energy consumed at such stations is partially powered by a clean energy resource, as defined in 386.900, or offset with renewable energy credits, as defined in 393.1025. Investments made pursuant to this section shall not raise the retail rates charged to the customers of electrical corporations by more than one half of one percent in any year.

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any [municipal electric utility,] rural electric cooperative as provided in chapter 394[, or electrical corporation as provided in this chapter];

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

16-179

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of natural resources;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any [municipal utility, electrical corporation regulated under this chapter, or] rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which [the commission for a public utility or] the governing body for the supplier[other electric utilities] may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing,

maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) [For any rural electric cooperative under chapter 394, or municipal utility, u]Upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional

liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, [the commission for public utilities and] the governing body for the supplier[other utilities] shall, by rule or equivalent formal action[ by each respective governing body]:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. [Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated s]Suppliers shall submit [the same] an annual net metering report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. [The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section

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and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10.] The governing body of a supplier [rural electric cooperative or municipal utility] shall[, within nine months of January 1, 2008,] adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

[11.] 10. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

[12.] 11. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

[13.] 12. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

[14.] 13. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

[15.] 14. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

[16.] 15. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

[17.] 16. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.900. 1. This section shall be known and may be cited as the "Enhanced Net Metering and Easy Connection Act". It shall be the policy of the state to facilitate the use of customer-sited or controlled clean energy resources.

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal utility or electrical corporation as provided in this chapter;

(2) "Clean energy resource", electrical energy produced from:

(a) Wind;
(b) Solar thermal sources;
(c) Hydroelectric sources;
(d) Photovoltaic cells and panels;
(e) Fuel cells using hydrogen produced by a source listed in paragraphs (a) through (d) of this subdivision; or
(f) Other sources of energy that become available after January 1, 2017, and are certified as clean by the department.

(3) "Commission", the public service commission of the state of Missouri;

(4) "Customer-generator", the owner, lessee or operator of a qualified electric energy generation unit which:

(a) Is powered by a clean energy resource or micro CHP;

(b) Has an electrical generating system with a capacity of not more than five hundred kilowatts, measured in alternating current;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(5) "Department", the department of natural resources;

(6) "Micro CHP", combined heat and power or cogeneration systems that simultaneously generate electricity and thermal energy in a single integrated system with a nameplate rated capacity equal to or lower than 130 kilowatts, measured in alternating current;

(7) "Net excess energy", the amount of energy expressed in kilowatt hours delivered by a customer-generator to a supplier that exceeds the amount of energy delivered by the supplier to the customer-generator over a single billing period;

(8) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(9) "Retail electric supplier" or "supplier", any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals seven percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for a municipal utility may increase the total rated generating capacity of net metering systems to an amount above seven percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds two percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the retail electric supplier shall pay for the costs to purchase and install the necessary additional equipment, unless the commission or governing body makes a determination that the customer-generator is the only customer benefiting from the additional distribution equipment. If the commission determines the customer-generator is the only customer benefiting, such customer-generator shall reimburse the electric supplier for reasonably incurred equipment expenses. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

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(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subdivision (2) of subsection 3 of this section and all net excess energy shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent months;

(4) Any net excess energy credits carried forward under subdivision (3) of this subsection shall expire without any compensation at the earlier of either the next subsequent March billing period or when the customer-generator disconnects service or otherwise terminates the net metering relationship with the supplier;

(5) For any municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (4) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems one hundred kilowatts or less and within sixty days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application. Retail electric suppliers shall interconnect qualified energy generation units within thirty days of being notified the generation unit is installed and meets the requirements of this section.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for notifying the retail electric supplier.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall by June 1, 2017 promulgate any rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after June 1, 2017, shall be invalid and void.

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10. The governing body of a municipal utility shall by June 1, 2017 adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs, including lost revenues and lost earnings opportunities associated with reduced demand or kilowatt hours sales, incurred under this section by a retail electric supplier shall be recovered in a timely manner in that utility's rate structure in the form of a tracker or other appropriate rate recovery mechanism. At the time of any general change in a supplier's rates, any over-recovery or under-recovery balance shall be included in the supplier's revenue requirement used to set rates as amortized over a period not exceeding three years, and shall be recovered from each rate class pursuant to the supplier's approved rate design. At the time any general change in prospective rates is proposed, the commission shall permit the supplier to estimate the total generation output from all customer-owned generation for each rate class for the twelve-month period following the effective date of any change in rates, and rates shall be set using energy and demand billing units that reflect the estimated reduction of energy and demand likely to occur due to customer-owned generation. When considering costs, the commission may evaluate the value of distributed generation and clean energy resources. To the extent any costs, lost revenues, or lost earnings are recovered under this section, they shall not raise the retail rates charged to the customers of electrical corporations by an average of more than one percent in any year. Any limitation on cost recovery shall not limit the availability of net metering except as provided in subsection 3 of this section.

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

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16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. The total amount of clean energy tax credits offered annually shall not exceed one percent of the value of electricity used in Missouri as determined in subsection 4 of this section.

2. The department of economic development shall certify when the tax credits provided in this section have resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.890 and 386.900, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on available reports, including FERC Form Number 1 as allowed by 18 CFR § 141 or an equivalent as determined by the commission, of megawatt hours sales of retail electricity and corresponding revenues for the preceding year or most current reporting period as determined by the commission. The commission shall publish the value of

electricity used in Missouri to the public and department of economic development within forty-five days of the enactment of this section and at least sixty days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may only apply for and receive the credit authorized by this section for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

7. To obtain approval for tax credits allowed under this section, a taxpayer shall submit an initial application for tax credits to the department of economic development. Each application shall be prioritized for review and approval, in the order of the date on which the application was received, with the oldest received date receiving priority. Applications received on the same day shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. Such application deposit shall be refunded at completion of the project or if the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. The taxpayer may request a refund of the application deposit; however, any refunds of the deposit for an application shall cause such application to lose its spot in the priority queue. If the taxpayer wants to maintain its position in the priority queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount

of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

9. Disapproved applications shall lose priority in the review process. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision of its intent to disapprove and to remove such application. The taxpayer shall have one opportunity, not to exceed ten days of notification of intent to disapprove, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

10. If the department of economic development deems the application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for initial approval shall be notified by the department of economic development that the maximum amount of credits authorized have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available due to the rescission of approvals or reserved for a future fiscal year.

12. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial approval for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by letter and shall issue, to the taxpayer, a tax credit certificate within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

15. If the amount of the credit under subsection 14 of this section exceeds the taxpayer's total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign

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the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. The state tax credit shall not be subject to recapture provisions. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

16. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsections 10 or 11 of this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

17. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-179)**

## Subject

Initiative petition from Andy Zellers regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received December 17, 2015)

## Date

January 6, 2016

## Description

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Public Service Commission.**

**Mark R. Reading** provided information to the State Auditor's Office as a proponent of this initiative petition.

**Edward D, Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Brent Stewart** of Association of Missouri Electric Cooperatives provided information to the State Auditor's Office as an opponent of this initiative petition.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no known fiscal impact on their department.

Officials from the **Department of Economic Development** (DED) provided the following information:

The Division of Energy (DE) indicated this petition will result in increased operating expenses of $758,642 for fiscal year 2017, $827,781 for fiscal year 2018, and $835,826 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Section 386.870 – Electric Vehicle Charging Stations
DE participates in PSC regulatory cases to evaluate issues from a formal state policy and planning perspective consistent with its interests in clean, affordable, abundant energy, and its efficient use. DE is active in cases before the PSC related to energy efficiency and renewable energy and has responsibilities associated with certifying clean energy sources under Missouri's Renewable Energy Standard and net metering statutes. As such, DE assumes it would be involved in the implementation of this provision by monitoring and participating in cases that allow regulated electric utilities to install and recover costs associated with electric vehicle recharging stations that are partially powered by a clean energy source or offset with renewable energy credits.

Section 386.910 – Community Solar Act
DE assumes it would be involved in the implementation of the Community Solar Act provisions. It is assumed there would be a rulemaking docket to set the process and details associated with this section. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where community solar facilities are established for purposes of determination of eligibility and certification under the Renewable Energy Standard. DE assumes this provision would result in additional RES certifications that would need to be performed.

Section 386.1000 – Clean Energy Tax Credit

DE is required to administer the Clean Energy Fund created by this section and promulgate rules to implement the Clean Energy Tax Credit. The proposal requires DE to receive applications and deposits, review and initially approve applications and required information within 30 days, review final approval applications, issue certificates and provide notifications, refund deposits for completed and disapproved projects, at least quarterly publish a list of the amount of tax credits initially and finally approved for each fiscal year and amounts reserved for future years, notify individual applicants of disapproved applications and approval within specified timeframes, notify applicants if the maximum amount of credits authorized have been allocated for the fiscal year and grant three-month extensions if needed for project completion with additional deposit payments.

**Long-range implications**

Fiscal impacts associated with the Clean Energy Tax Credits could continue until June 30, 2022. The authorization for the tax credit would sunset sooner if the 1,000 megawatt limit is reached. Economic benefits associated with construction of solar facilities would also have long-range implications.

**Assumptions and methodology used in arriving at state fiscal impact**

Section 386.870 – Electric Vehicle Charging Stations

For purposes of this fiscal note, DE assumes it would be involved in cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

386.910-Community Solar Act

The Missouri Renewable Energy Standard (RES) requires investor-owned utilities in Missouri to either produce green power or purchase Renewable Energy Certificates (RECs) for compliance. One REC represents 1 megawatt-hour (MWh) of electricity generated from an eligible renewable energy resource. The in-state renewable energy generation can receive a multiplier of 1.25 for RES compliance purpose. DE has statutory authority to certify eligible renewable energy resources before RECs associated with those renewable energy resources can be used for RES compliance. DE does not charge any certification fees.

A community solar facility is defined as a solar photovoltaic facility with a capacity of 100-1000 kilowatts (kW) under this section. DE anticipates that enactment of a tax credit in Section 386.1000, RSMo, will result in an increase in community solar facilities constructed and that in-state community solar facilities will request DE to certify their renewable energy resources/projects for the purpose of generating additional revenue from REC sales. DE's review primarily focuses on environmental impacts of renewable electric generation facilities on air, water or land use. The actual staff time spent on each application varies from one project to another. Solar photovoltaic facilities with a larger

capacity typically require more staff time for reviewing their third-party environmental impact assessments in addition to verifying applicable environmental permits. Staff time will be also needed for data requests and discussion, data collection, database management, report production and website maintenance.

Current average staff time to review and certify renewable energy facilities ranges from 2 hours for small projects of a few hundred kW and 8-10 hours for larger projects of a few hundred kW to 1000 kW. It is assumed that small projects will account for two-thirds of the total community solar facilities and one-third will be larger projects. The weighted average of staff time (based on 2 hours for smaller projects and 8 hours for larger projects) is 4 hours (calculation: 2*{2/3}+8*{1/3}). The number of projects at the assumed 200 kW ranges from 71 to 209 if the full amount of tax credits are used (Source: Mark Reading). By multiplying the average staff time of 4 hours, the annual staff time will range from 284 to 836 hours. For purposes of this fiscal note, DE assumes it could implement the provisions of this section with staff requested to implement the clean energy tax credit in Section 386.1000, RSMo (see below).

Section 386.1000 – Clean Energy Tax Credit

Retail sales of Missouri's utilities totaled $7.6 billion in 2014 (Source: Mark Reading; U.S. DOE/EIA). If all tax credits were used up to the cap of 1% of the annual statewide Missouri revenue of Missouri's retail electric suppliers (approximately $76 million/year), and with consideration to the estimated cost and size of the projects, it is estimated there would be 4,933 residential project applications and 283 commercial project applications submitted for tax credit reviews (Source: Mark Reading). DE assumes that it would take approximately 2 hours each to do the initial review/approval of each application and another 2 hours to do the review and issuance of a certification after a project is completed for residential projects. Each of these would include clerical time for input/issuing letters/filing, etc. For larger commercial projects, an estimated 8 hours is anticipated for each of these two steps. See response above for detailed tasks required by the proposal.

19,732 hours for residential applications
4,528 hours for commercial applications
24,260 hours total

To implement this provision, DE assumes it will need a total of 12 full-time employees (FTE) (including a portion of an FTE to implement Community Solar provisions, Section 386.910, RSMo) as follows:

8 – Energy Specialist I/II
2 – Energy Engineer II
2 – Administrative Office Support Assistant (AOSA)

- Energy Specialist I/II - Professional level staff to review the renewable energy project applications and to complete project evaluation activities.
- Energy Engineer II - Professional staff with expertise in engineering aspects of renewable energy projects to review the technical aspects of the projects, review of

projects related to the Renewable Energy Standard and Renewable Energy Certificates and familiar with environmental impacts of renewable electric generation.
- AOSA - Staff to assist with the administrative requirements of the reviews such as drafting and sending communication to applicants, maintaining the database of applicants, and tracking status of applications.

DE also assumes that the DED's existing tax credit database will be used to track the applications. Some IT costs to generate the necessary reports are estimated.

Note that although an application deposit is required to be paid to DE and deposited in the Clean Energy Fund, because the deposit must be refunded to the applicant upon completion of the project or if the project is disapproved, DE assumes it is unable to use these funds to administer the proposal. Therefore, General Revenue funds are requested. Based on the estimated number of residential and commercial projects, application deposits at 2 cents/watt to the Clean Energy Fund would total approximately $1.7 million/year.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated the responsibilities of this proposal appear to fall under the Division of Energy. With Executive Order 13-03 the Division of Energy was transferred from the Missouri Department of Natural Resources to the Missouri Department of Economic Development, by Type I transfer. Therefore, they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** estimate this petition will result in increased operating expenses of $243,282 for fiscal year 2017, $181,985 for fiscal year 2018, and $183,470 for fiscal year 2019.

The legislation creates an unknown, negative impact to total state revenue by creating a new tax credit.

**Section 386.1000**
The provisions of this section authorize the issuance of a clean energy tax credit to taxpayers incurring costs for the installation of a clean energy resource project. The taxpayer may claim 35 percent of the total cost of the project. The legislation caps the amount of tax credits at not more than one percent of the value of the electricity used in Missouri.

**Section 386.1000.13**
The department suggests changing the provisions pertaining to the transfer of the tax to the Department of Revenue as this is currently the department's responsibility based on a previously issued executive order.

**Administrative Impact:**
**Personal Tax:**
Personal Tax requires one (1) Revenue Processing Technician I (Range 10, Step L) for every 6,000 credits claimed.

**Corporate Tax:**
Corporate Tax requires three (3) Revenue Processing Technicians I (Range 10, Step L) for every 4,000 credits redeemed, 4,000 credits transferred, and for every 520 SB 1099 compliance mailings and correspondence.

**Integrated Tax System:**
The integrated tax system incurs additional costs of $43,680 to implement the provisions of this petition.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of West Plains** indicated the 86 cities with municipal electric utilities depend on the revenues of this service for their citizen/owners to off-set the cost of electric service and operation to citizens as well as to support the activities of city government.

Based primarily on data from the Federal Department of Energy's (DOE) Energy Information Administration (EIA) Table 6 plus additional data gleaned from the National Renewable Energy Lab's Photovoltaic Calculator and the Missouri Association of Municipal Utilities for peak loads in 73 cities, they have determined that municipalities in Missouri face a loss of at least $23.9 million in revenue should this initiative petition become law. The impact alone to the City of West Plains appears to be $352,000 annually, or over 6.5% of their annual electric utility revenue budget. This figure does not reflect any additional costs they will be required to incur for required pleadings before the state Public Service Commission or local compliance costs for other requirements contained in this proposal.

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art. X, Sec. 16) that reduces income or increases costs without "full state financing," they anticipate that local government costs would be reflected in the final state cost when the fiscal note is completed. Necessary litigation costs incurred for Mo. Const. Art. X, Sec. 16 and other potential legal inconsistencies are unknown.

Methodology for City Loss Calculation
Renewable Energy Initiative Petitions

| **Assumptions and Methods** | **Information Source** |
|---|---|
| 1. A combined federal and state tax credit of 60% of installation costs, would prompt city customers to achieve the 7% capacity cap in a reasonable period of time | Proposed Legislation |
| 2. 1 kW solar panel at this latitude would generate 1350 kWHr per year | National Renewable Energy Lab's PV Calculator |
| 3. Annual Peaks | Municipal reports to the Missouri Association of Municipal Utilities |
| 4. Current City Electric Rates | DOE EIA Database (Table 6 for 2010) |

5. Calculation:
   Annual Peak
   7% of Annual Peak for Capacity Cap
   Total Solar Generation = (Capacity Cap * 1350 kWHrs)*1000
   City's lost revenue: City rate * Solar Generation

6. State calculation based on the sum of "Assumption 5" calculations for
   73 reporting cities (out of 86)
      Total ≥ $23.8 million

**Calculation for City of West Plains**

| | |
|---|---|
| 44.453 | Annual Peak (MW) |
| 3.11171 | 7% of Annual Peak for Capacity Cap MW |
| 4,200,809 | Total Solar Generation (KWHR) |
| 8.38 | City Rate (cents per kWHR) |
| $352,028 | Lost Revenue |

Officials from **University of Missouri** indicated they have not seen cost impact studies on this initiative from their electric utility suppliers, but they do not believe this will have a significant impact on their university.

Officials from the **Public Service Commission** (PSC) indicated without the benefit of the rulemaking process to explore potential issues and clearly delineate parameters, and assuming the "value of electricity" is clearly defined as the **calendar** year Missouri revenue for retail sales of electricity, the first year clean energy tax credit cap would be approximately $76,444,000 based on the most recent data currently available. For subsequent years, this amount will change based on the most recent Missouri revenue for retail sales of electricity and whether any tax credits exceed the total tax liability for a given fiscal year. In that case, the amount that exceeds the tax liability may be carried back 3 years or forward 10 years, involving additional calculations.

Section 386.870, RSMo, allows an electrical corporation to recover its costs and add in its rate base prudently incurred costs to install electric vehicle charging stations provided the energy consumed is partially powered by a clean energy resource or offset with renewable energy credits. It is not clear if the renewable energy credits can be used to meet Section 386.870, RSMo, and also used to meet the utility's renewable portfolio standard in Section 393.1030, RSMo.

Section 386.870, RSMo, also states investments made pursuant to this section shall not raise the retail rates charged to customers of electrical corporations by more than one half of one percent in any year. The PSC suggests this requirement be clarified. A similar cap is placed on the renewable mandate of Section 393.1045, RSMo. It has been over 7 years since the enactment of this provision and parties continue to argue its meaning before the PSC.

Sections 386.890 and 386.900, RSMo, define "department" as the department of natural resources. "Department" should be defined as the department of economic development, division of energy.

Sections 386.890 and 386.900, RSMo, both use the terms "Retail electric supplier" or "supplier", but in Section 386.890, RSMo, a "retail electric supplier" or "supplier" is any rural electric cooperative under Chapter 394, RSMo, that provides retail electric service in this state and in Section 386.900, RSMo, a "retail electric supplier" or "supplier" is any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state. Although the terms are in different statutes, it may be

confusing to define the same term in a different manner. It may be clearer to use different terms applicable to the respective intent. Further since Section 386.890. RSMo, is only applicable to rural electric cooperatives, it may make sense to move the entire provision to Chapter 394, RSMo.

Sections 386.890 and 386.900, RSMo, use the term "wholesale generator". The PSC respectfully suggests this term be defined.

Section 386.900, RSMo, uses terms such as "commission-regulated supplier" and "public utilities" to describe suppliers that are subject to PSC jurisdiction. The PSC respectfully suggests the terms be used consistently.

Section 386.900, RSMo, requires the PSC to promulgate rules by June 1, 2017. The PSC respectfully suggests this date may be aggressive for final rules to be effective.

Section 386.900.6.(2), RSMo, references "subsection 4 of this section". This appears to be an inaccurate cross-reference as there is no subsection 4 of the section.

Section 386.900.12, RSMo, says the estimated generating capacity of all net metering systems shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate, but the renewable energy portfolio deals with "energy" not "capacity".

Section 386.900.14, RSMo, says any costs, including lost revenues and lost earnings opportunities. The PSC respectfully suggests "lost revenues" and "lost earnings opportunities" be clearly defined as to how to calculate those amounts. The interpretation and calculation of these terms has been the subject of on-going disagreement as they relate to the Missouri Energy Efficiency Investment Act.

Section 386.900.14, RSMo, states the commission may evaluate the value of distributed generation and clean energy resources, but it is not clear how to determine those values.

Section 386.900.14, RSMo, states any costs, lost revenues or lost earnings recovered under this section shall not raise the retail rates charged to customers by an average of more than one percent in any year. The PSC suggests this requirement be clarified. A similar cap is placed on the renewable mandate of Section 393.1045, RSMo. It has been over seven years since the enactment of this provision and parties continue to argue over its meaning before the commission.

Section 386.1000, RSMo, discusses a "clean energy tax credit". It is not clear why the tax credit is in the PSC statute and not in a tax-related statute.

**Mark R. Reading** provided the following information as a proponent of this initiative petition.

Submitted by:

_____

Mark R. Reading
2604 Lakeland Drive
Jefferson City, MO 65109
(573) 694-6828
*Primary Contact Person*

**Clean Energy Independence and Investment Act of 2016 - Versions 15 and 17**
**Sec. of State # 178 and 179**

**Proposed Statement of Fiscal Impact**
**for Clean Energy Independence and Investment Act of 2016 - Versions 15 and 17**
**Sec. of State # 178 and 179**

**Fiscal Impact Information Submitted Pursuant to Section 23.140.2**

The amendment's estimated impact decreases state revenue between $33 to $67 million depending upon the speed of up to $225 million in additional clean energy project construction and implementation by the Department of Economic Development, residential homeowners, and businesses. Local revenue is estimated to grow between $1.8 to $3.5 million.

| ESTIMATED NET EFFECT ON STATE FUNDS | | |
|---|---|---|
| **Fund Affected** | **FY 2017** | **FY 2018** |
| **General Revenue** | $0 | From ($35,065,766) to ($70,131,532) |
| | | |
| **Total Estimated Net Effect on All State Funds** | $0 | From ($33,643,986) to ($67,291,851) |
| **ESTIMATED NET EFFECT ON LOCAL FUNDS** | | |
| Local Funds | $0 | From $1,751,314 to $3,502,627 |
| | | |
| **Total Estimated Net Effect on All Local Funds** | $0 | From $1,751,314 to $3,502,627 |

**SUMMARY OF VERSIONS OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT**

Nine versions of the Clean Energy Independence and Investment Act of 2016 have been submitted for review. A summary of which topics are in each version is provided below.

**CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT OF 2016**
**SUMMARY OF VERSIONS**

| Petition version | 386.870 - Electric vehicle | 386.890 - Net metering | 386.900 - Enhanced net metering | 386.910 - Community Solar | 386.1000 - Tax credits |
|---|---|---|---|---|---|
| | | | | | |
| **1% Electric Versions** | | | | | |
| Version 10 | N/A | X | X | X | X |
| Version 12 | X | X | X | X | X |
| Version 14 | X | Deletes | X | X | X |
| Version 15 | N/A | N/A | N/A | N/A | X |
| Version 16 | X | N/A | N/A | X | X |
| Version 17 | X | X | X | N/A | X |
| Version 18 | N/A | X | X | X | X |
| | | | | | |
| **$50 million cap Versions** | | | | | |
| Version 11 | N/A | X | X | N/A | X |
| Version 13 | X | X | X | X | X |

## ANALYSIS OF FISCAL IMPACT OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT

The fiscal impact analysis contained herein focuses on estimating the fee and tax revenue resulting from the statutory changes proposed in the initiative petition. Table 1 summarizes the revenue estimated by source and by fiscal year. Page and Table numbers are provided to help readers find specific subjects.

**Table 1 - Summary of Fiscal Impact by Fund**

| Page # | Table # | Purpose | FY 2017 | FY 2018 - low range | FY 2018 - high range | Revenue Type |
|---|---|---|---|---|---|---|
| 9-12 | Table 10 | Tax credit | $0 | ($39,494,829) | ($78,989,658) | Income |
| 13-15 | Table 14 | Taxes from clean energy tax credit construction | $0 | $4,429,063 | $8,858,126 | Various |
| 16-17 | Table 17 | Taxes from community solar construction | N/A | N/A | N/A | Various |
| | | subtotal General Revenue Fund | $0 | ($35,065,766) | ($70,131,532) | |
| | | | | | | |
| 8-13 | Table 11 | Clean Energy Fund | $0 | $868,852 | $1,733,826 | Application deposit |
| | | | | | | |
| 13-15 | Table 14 | Prop C sales tax - clean energy | $0 | $451,369 | $902,739 | Sales tax |
| 16-18 | Table 17 | Prop C sales tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Prop C | $0 | $451,369 | $902,739 | |
| | | | | | | |
| 13-15 | Table 14 | Conservation sales tax - clean energy | $0 | $56,421 | $112,842 | Sales tax |
| 16-18 | Table 17 | Conservation sales tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Conservation | $0 | $56,421 | $112,842 | |
| | | | | | | |
| 13-15 | Table 14 | Parks and Soils sales tax - clean energy | $0 | $45,137 | $90,274 | Sales tax |
| 16-18 | Table 17 | Parks and Soils sales tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Parks and Soils | $0 | $45,137 | $90,274 | |
| | | | | | | |
| | | subtotal Other State Funds | $0 | $1,421,780 | $2,839,681 | |
| | | | | | | |
| | | subtotal all state funds | $0 | ($33,643,986) | ($67,291,851) | |
| | | | | | | |
| 13-15 | Table 14 | Local Sales Tax - clean energy | $0 | $1,751,314 | $3,502,627 | Sales tax |
| 16-18 | Table 17 | Local Sales Tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Local Funds | $0 | $1,751,314 | $3,502,627 | |
| | | Grand Total State and Local | $0 | ($31,892,673) | ($63,789,224) | |

**Clean Energy tax credits**

The proposal creates a clean energy tax credit in Chapter 386 RSMo. The annual level of tax credits for each calendar year shall not exceed one percent of the annual statewide Missouri revenue of Missouri retail electric suppliers. The Public Service Commission (PSC) is required to determine the revenue for retail electric suppliers using available reports, including FERC Form Number 1 as allowed by 18 CFR § 141 or an equivalent determined by the PSC.

The data for this calculation is gathered and published by the U.S. Energy Information Administration on its website.[1] Table 2 shows the revenues reported by each Missouri entity in 2014. Retail sales totaled $7.6 billion in 2014 for the 74 entities.

**Table 2**
**2014 Utility Bundled Retail Sales - Total**
(Data from forms EIA-861- schedules 4A & 4D and EIA-861S)

| Entity | Ownership | Revenues (Thousands Dollars) |
|---|---|---|
| Atchison-Holt Electric Coop | Cooperative | $6,727 |
| Barry Electric Coop | Cooperative | $16,654 |
| Barton County Elec Coop, Inc | Cooperative | $16,262 |
| Black River Electric Coop - (MO) | Cooperative | $42,554 |
| Boone Electric Coop | Cooperative | $55,335 |
| Callaway Electric Cooperative | Cooperative | $24,618 |
| Carroll Electric Coop Corp - (AR) | Cooperative | $14,104 |
| Central Missouri Elec Coop Inc | Cooperative | $25,350 |
| Chillicothe Municipal Utils | Municipal | $10,035 |
| Citizens Electric Corporation - (MO) | Cooperative | $123,087 |
| City Utilities of Springfield - (MO) | Municipal | $249,286 |
| City of Ava - (MO) | Municipal | $2,894 |
| City of Cameron | Municipal | $7,728 |
| City of Carthage - (MO) | Municipal | $24,493 |
| City of Columbia - (MO) | Municipal | $109,927 |
| City of Farmington - (MO) | Municipal | $18,390 |
| City of Fulton - (MO) | Municipal | $14,228 |
| City of Hannibal - (MO) | Municipal | $25,785 |
| City of Harrisonville - (MO) | Municipal | $12,072 |
| City of Independence - (MO) | Municipal | $135,338 |
| City of Jackson - (MO) | Municipal | $16,281 |
| City of Kennett - (MO) | Municipal | $10,988 |
| City of Kirkwood - (MO) | Municipal | $21,547 |
| City of Lamar - (MO) | Municipal | $6,961 |
| City of Lebanon - (MO) | Municipal | $22,949 |
| City of Macon - (MO) | Municipal | $9,740 |
| City of Marshall - (MO) | Municipal | $17,390 |
| City of Monett - (MO) | Municipal | $20,534 |
| City of Mount Vernon - (MO) | Municipal | $6,790 |
| City of Nixa - (MO) | Municipal | $14,132 |
| City of Poplar Bluff - (MO) | Municipal | $31,686 |
| City of Rolla - (MO) | Municipal | $27,694 |
| City of Sikeston - (MO) | Municipal | $17,528 |

| | | |
|---|---|---|
| City of Sullivan - (MO) | Municipal | $9,645 |
| City of West Plains - (MO) | Municipal | $15,208 |
| Clay County Electric Coop Corp | Cooperative | $96 |
| Co-Mo Electric Coop Inc | Cooperative | $46,302 |
| Consolidated Electric Coop | Cooperative | $21,936 |
| Crawford Electric Coop, Inc | Cooperative | $30,705 |
| Cuivre River Electric Coop Inc | Cooperative | $105,621 |
| Empire District Electric Co | Investor Owned | $456,324 |
| Farmers Electric Coop, Inc - (MO) | Cooperative | $28,697 |
| Gascosage Electric Coop | Cooperative | $17,074 |
| Grundy Electric Coop, Inc | Cooperative | $12,214 |
| Howard Electric Coop | Cooperative | $6,057 |
| Howell-Oregon Elec Coop, Inc | Cooperative | $38,226 |
| Intercounty Electric Coop Assn | Cooperative | $53,855 |
| KCP&L Greater Missouri Operations Co. | Investor Owned | $802,845 |
| Kansas City Power & Light Co | Investor Owned | $824,706 |
| Laclede Electric Coop, Inc | Cooperative | $63,330 |
| Lewis County Rural E C A | Cooperative | $13,534 |
| Macon Electric Coop | Cooperative | $23,795 |
| Missouri Rural Electric Coop | Cooperative | $17,812 |
| New-Mac Electric Coop, Inc | Cooperative | $38,876 |
| North Central MO Elec Coop Inc | Cooperative | $14,098 |
| Osage Valley Elec Coop Assn | Cooperative | $28,034 |
| Ozark Border Electric Coop | Cooperative | $68,293 |
| Ozark Electric Coop Inc - (MO) | Cooperative | $52,354 |
| Pemiscot-Dunklin Elec Coop Inc | Cooperative | $19,856 |
| Platte-Clay Electric Coop, Inc | Cooperative | $51,737 |
| Ralls County Electric Coop | Cooperative | $12,711 |
| SE-MA-NO Electric Coop | Cooperative | $9,438 |
| SEMO Electric Cooperative | Cooperative | $33,195 |
| Sac-Osage Electric Coop Inc | Cooperative | $16,676 |
| Southwest Electric Coop, Inc | Cooperative | $58,853 |
| Sunnova | Behind the Meter | $1 |
| Three Rivers Electric Coop | Cooperative | $36,751 |
| Trenton Municipal Utilities - (MO) | Municipal | $8,647 |
| Tri-County Electric Coop Assn | Cooperative | $12,512 |
| Union Electric Co - (MO) | Investor Owned | $3,112,534 |
| United Electric Coop, Inc - (MO) | Cooperative | $21,579 |
| Webster Electric Coop | Cooperative | $28,828 |
| West Central Electric Coop Inc - (MO) | Cooperative | $25,967 |
| White River Valley El Coop Inc | Cooperative | $86,488 |
| Adjustment 2014 | Other | $159,914 |
| Total | | $7,644,407 |

Source: http://www.eia.gov/electricity/sales_revenue_price/
Table 10: All Sectors - Class of ownership, number of consumers, sales, revenue, and average retail price by State and utility:

Table 3 shows the data series by year from 1990 through 2014 reported by the U.S. Energy Information Administration.[2] The average annual increase in these revenues is 3.33 percent.

**Table 3**
**Revenue from Sales to Ultimate Customers**
**(Thousand Dollars) for Missouri, 1990-2014**

| Year | Total Revenue | $ Growth over previous year | % Growth over previous year |
|---|---|---|---|
| 1990 | $3,484,572,000 | | |
| 1991 | $3,653,391,000 | $1,688,190 | 4.8% |
| 1992 | $3,489,099,000 | ($1,642,920) | (4.5%) |
| 1993 | $3,709,661,000 | $2,205,620 | 6.3% |
| 1994 | $3,749,115,000 | $394,540 | 1.1% |
| 1995 | $3,891,751,000 | $1,426,360 | 3.8% |
| 1996 | $3,961,895,000 | $701,440 | 1.8% |
| 1997 | $4,005,066,000 | $431,710 | 1.1% |
| 1998 | $4,196,674,000 | $1,916,080 | 4.8% |
| 1999 | $4,185,713,000 | ($109,610) | (0.3%) |
| 2000 | $4,370,246,000 | $1,845,330 | 4.4% |
| 2001 | $4,414,434,000 | $441,880 | 1.0% |
| 2002 | $4,565,227,000 | $1,507,930 | 3.4% |
| 2003 | $4,470,188,000 | ($950,390) | (2.1%) |
| 2004 | $4,494,108,000 | $239,200 | 0.5% |
| 2005 | $4,959,849,000 | $4,657,410 | 10.4% |
| 2006 | $5,169,747,000 | $2,098,980 | 4.2% |
| 2007 | $5,614,317,000 | $4,445,700 | 8.6% |
| 2008 | $5,768,459,000 | $1,541,420 | 2.7% |
| 2009 | $5,871,973,000 | $1,035,140 | 1.8% |
| 2010 | $6,698,608,000 | $8,266,350 | 14.1% |
| 2011 | $7,008,476,000 | $3,098,680 | 4.6% |
| 2012 | $7,029,475,000 | $209,990 | 0.3% |
| 2013 | $7,538,092,000 | $5,086,170 | 7.2% |
| 2014 | $7,644,407,000 | $1,063,150 | 1.4% |
| | | Avg. annual growth | 3.33% |

Source: http://www.eia.gov/electricity/sales_revenue_price/
Supplemental Data: 1990 - 2013 Revenue from Retail Sales of Electricity by State by Sector by Provider (EIA-861)

For purposes of this fiscal analysis it is assumed that the Public Service Commission will use the most recent available data for establishing the annual cap. The state is currently in FY 2016 and the most recent available data is from 2014. Thus, for the fiscal periods included for consideration by the State Auditor's Office the FY 2017 cap will be established using 2015 data published by the U.S. Energy Information Administration. Similarly, the FY 2018 cap will be established using 2016 data. In this manner the cap for each calendar year will be established eight months before it begins instead of four months after it starts.

**Table 4**
**Data and Timeline for Establishing Annual Tax Credit Cap**

| Data available | Time period of data | CY year for the cap |
|---|---|---|
| April 2015 | 2014 actual data | CY 2016 |
| April 2016 | 2015 actual data | CY 2017 |
| April 2017 | 2016 actual data | CY 2018 |

As shown in Table 3 the average annual growth rate from 1990 to 2014 was 3.33 percent. Table 5 assumes that the average annual growth rate will carry forward for the next several years. The clean energy tax credits cap is estimated at $76.4 million for CY 2016, $79 million for CY 2017 and $81.6 million for CY 2018.

**Table 5**
**Clean Energy Tax Credit Estimate of Cap**

| Calendar Year for cap | Fiscal Year for likely redemption of credits | Revenue data | Total Revenue | Tax credit at 1.0% |
|---|---|---|---|---|
| CY 2016 | FY 2017 | 2014 actual data | $7,644,407,000 | $76,444,070 |
| CY 2017 | FY 2018 | 2015 projection | $7,898,965,753 | $78,989,658 |
| CY 2018 | FY 2019 | 2016 projection | $8,162,001,313 | $81,620,013 |

For purposes of the fiscal note the State Auditor's office asks that estimates be provided for the first two fiscal years of implementation which are FY 2017 and FY 2018 since the provisions of the proposal would go into effect in December 2016. Almost all taxpayers file their taxes on the April 15th deadline. Therefore, CY 2016 taxes would be due on April 15, 2017 which is in FY 2017 as shown in Table 5.

The proposal establishes a cap beginning for CY 2016. However, the provisions of the act will go into effect in December 2016. Paragraph 13 of the proposed section 386.1000 states that any taxpayer verified by the Department of Economic Development to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with the provisions shall be deemed eligible for the tax credit. This allows for the Department of Economic Development to include projects in 2016 before its processes are in place. Paragraph 17 of the proposed section 386.1000 provides that the Department of Economic Development shall issue rules necessary to administer the act. In addition, paragraph 10 gives the Department of Economic Development 45 days to notify an applicant of approval after the application is submitted.

Issuing rules is at best a months long process. The 45 day processing time allowed for any completed application filed after the rules are adopted makes it very unlikely that the Department of Economic Development will issue any CY 2016 tax credits before April 15, 2017 that would affect the taxpayers initial tax filing and reduce taxes paid during FY 2017. Tax credits issued between April 15 and June 30, 2017 would require an amended filing which also would be unlikely to be completed by June 30, 2017. Thus, this fiscal analysis assumes a de minimis or no impact on FY 2017 general revenue tax collections. Any CY 2016 tax credit impact would at most impact the FY 2018 tax collections through amended returns or through CY 2017 taxes.

**Application Deposit revenue**

The proposed Section 386.1000 RSMo requires that taxpayers submit an application to the Department of Economic Development to receive approval for tax credits (paragraph 7). Each application must include a two cent per watt application deposit. The total revenue from application deposits is dependent upon:

- the number of projects that will be submitted;
- the number of watts generated from all of those projects

Each of these is affected by the:

- percentage of residential v commercial projects
- number of kW generated by residential v commercial projects
- cost of residential and commercial projects
- total construction completed
- any phase-in period as the Department of Economic Development institutes rules and prepares the program
- any phase-in period as the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available

All of these factors must be estimated and evaluated in order to calculate the amount of application deposit revenue that will be received by the Department of Economic Development.

Tax credits are available to both residential and commercial projects. Paragraph 5 of the proposed Section 386.1000 RSMo provides that no electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit.

The Missouri Department of Economic Development, Division of Energy published a Missouri Comprehensive State Energy Plan in October 2015. The report states that half of the installed net-metered PV solar is residential and the other half commercial customers.[3] However, the report also indicates that there are challenges that face residential customers making it more difficult and expensive to install solar projects. These challenges include local ordinances or homeowner's association rules the may prohibit installation or require design changes that decrease efficiency or add to the cost.[4] In addition, over the past decade an industry has developed to assist with the financing of solar projects. Such financing alternatives are easier to obtain by commercial projects because of their size, scope, and estimated return on investment.[5] Commercial projects can have a longer-term outlook than homeowners who may not know how long they may live in their current house. The Missouri State Energy Plan indicates that residential rooftop solar is a relatively expensive energy option due to these and other factors.[6]

For all of the reasons identified in the preceding paragraph, for purposes of this fiscal analysis residential solar installation is assumed to be 40% of the total solar construction. Commercial solar installation is assumed to be 60% of the total solar construction. This fiscal analysis has already indicated that 2016 solar construction will likely not be affected by the approval of the petition by voters in November 2016. Thus, CY 2017 is the first full year of impact. Tax credits resulting from such construction will first affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office.

The next factor to consider is the number of kW generated by residential and commercial projects. A recent report on photovoltaic system pricing trends published by the U.S. Department of Energy indicates that the median residential project is 6.1 kW while the modeled commercial system is 200 kW. Paragraph 5 of the proposed section 386.1000 establishes a 200 kW limit on installations that are authorized for tax credits.[7] For purposes of this fiscal analysis it is assumed that all commercial projects will be at the 200 kW size and that residential projects will be 6.1 kW. Paragraph 7 of the proposed section 386.1000 requires a two cent per watt application deposit fee. Table 6 shows that there would be a $122

application deposit required for the median residential project. There would be a $4,000 application deposit required for the 200 kW commercial project.

**Table 6**
**Application Deposit Required for Projects**

| Construction type | Project size in kW | Project size in watts | Application deposit for project at 2 cents per watt |
|---|---|---|---|
| Residential | 6.1 | 6,100 | $122 |
| Commercial | 200.0 | 200,000 | $4,000 |

The recent report on photovoltaic system pricing trends published by the U.S. Department of Energy also discusses the historical, recent, and near-term pricing of solar projects.[8] Project cost information was obtained on more than 400,000 systems in 42 states. The modeled system prices identified in the report showed a Q1 2015 residential system price of $3.12/watt and a commercial 200 kW system cost of $2.17/watt. These were reductions in price of from Q4 2013 of 7% and 19% respectively. The report also indicates that prices for residential and commercial PV systems have decreased by 6-12% per year, on average, from 1998-2014. In addition, the report indicates that analysts project the system prices will fall 16-33% for residential systems between 2014-2020.

Table 7 projects residential solar project costs. Projections are made to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 7 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $3,000/kW for residential solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 6.1 kW residential project is estimated at $18,300.

**Table 7**
**Residential Solar Project Estimate**

| | Cost of Residential project per kW | Cost of Residential project at 6.1 kW project size |
|---|---|---|
| CY 2015 | $3,120 | $19,032 |
| CY 2016 | $3,039 | $18,538 |
| CY 2017 | $2,960 | $18,056 |
| average cost of CY16 and CY17 estimates | $3,000 | $18,300 |

The modeled commercial system price identified in the report showed a Q1 2015 commercial 200 kW system cost of $2.17/watt. However, the national average cost of commercial projects is affected by states with more mature solar markets and industries and large companies, like Wal-Mart and Ikea, that have moved to install significant solar projects on their facilities. The first Missouri commercial systems are less likely to meet the $2.17/watt cost projections. Table 8 uses other data in the report to amend the estimate of commercial solar project costs. The report shows that the price of the modeled 200 kW commercial system has fallen from $2.68/watt to $2.17 between 2013 Q4 and 2015 Q1. The mid-point of that decrease is $2.425/watt. Further, it is assumed that the cost of Missouri projects will be higher by 2.6%, or one-year's worth of the low end of the price declines found in the report. The result is that this analysis will assume that the Missouri 2015 Q1 price is $2.488/watt.

**Table 8**
**Commercial Solar Project Cost Estimate per kW**

| | |
|---|---|
| 2013 Q4 | $2,680 |
| 2015 Q5 | $2,170 |
| Mid-point | $2,425 |
| One-year behind (2.6%) | $2,488 |

Table 9 then projects the $2,488/kW 2015 Q1 cost to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 9 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $2,392/kW for commercial solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 200 kW commercial project is estimated at $478,400.

**Table 9**
**Commercial Solar Project Estimate**

| | Cost of Commercial project per kW | Cost of Commercial project at 200 kW project size |
|---|---|---|
| CY 2015 | $2,488 | $497,600 |
| CY 2016 | $2,423 | $484,600 |
| CY 2017 | $2,360 | $472,000 |
| average cost of CY16 and CY17 estimates | $2,392 | $478,400 |

The analysis so far has identified:

- a $79 million estimate of the maximum clean energy tax credits using one percent of the annual statewide Missouri revenue of Missouri retail electric suppliers as directed by paragraph 1 of the proposed section 386.1000.
- an estimate that 40% of total solar construction would be residential and 60% commercial
- project cost estimates of $18,300 for 6.1 kW residential projects and $478,400 for 200 kW commercial projects

The final factor to calculate before arriving at the amount of application deposit revenue is any phase-in period as the Department of Economic Development issues rules and prepares its processes and the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available. The Missouri State Energy plan reports that Missouri currently has 111 MW of installed solar PV capacity. The plan also reports that there is 42.8 MW of installed net-metered PV solar developed over the years largely as a result of rebates from large utility companies in Missouri.

The proposal being analyzed establishes a statutory program of clean energy tax credits that will sunset after the Department of Economic Development certifies that 1,000 MW of capacity has been added as a result of the tax credits but no later than June 30, 2022. The 1,000 MW target represents a dramatic increase in current capacity.

The Missouri State Energy plan provides a wealth of information about the current state of "green jobs" and the solar industry in Missouri. The report includes the following along with other findings about the industry.

- Missouri had over 100,000 "green jobs" according to a 2009 study.[9]
- Missouri was identified as 10th in the nation for growth in clean energy and clean transportation jobs in 2013.[10]

- $187 million was invested by Missouri's solar industry in 2014 to install solar photovoltaic systems for residential, commercial, and utility use.[11]
- There are more than 97 solar companies at work throughout the supply chain in Missouri, employing 2,500 people including manufacturers, contractors, installers, project developers, distributors.[12]
- Missouri could create 8,500 new jobs to design, install, and operate energy efficiency measures by 2025 according to a 2011 study.[13]
- In 2010 Missouri ranked 6th in the nation in photovoltaic jobs.[14]

The clean energy tax credit does not sunset until the 1,000 MW target of additional capacity is met but no later than June 30, 2022. The size and the long-term nature of the 1,000 MW target should encourage the development of the Missouri solar industry even after it sunsets. It should also result in long-term planning and the build out of a native Missouri solar industry. The target also provides an incentive for the industry to meet the growth potential described in the Missouri State Energy Plan.

In the long-term the impact of the 1,000 MW target will grow and build the industry. In addition, investment in solar will allow longer term benefits in reduced fuel usage, cleaner air, better health and the resulting lower costs among other things. The Missouri State Energy Plan identifies the public health impacts of various energy sources with clean energy sources providing significant positive benefits over other sources.[15] A 2013 study of Hawaii's solar tax credit program found that the State recovered the full cost of the tax credit in 9 to 11 years - a rate of return on its investment ranging from 8.9% to 10.3%.[16] In addition, the study found that for each dollar spent by Hawaii on tax credits the amount of additional sales stimulated was $34.69 for residential solar PV and $55.03 for commercial PV.

However, the fiscal note format required for initiative petitions focuses on the short-term revenue and costs. Thus, the longer-term benefits are not included in this fiscal analysis. As explained elsewhere in this fiscal analysis the impact of the availability of tax credits is somewhat dependent upon the speed with which the Department of Economic Development issues the necessary rules and regulations, develops and makes available the application forms, and the industry's reaction to voter approval and the department's actions. Thus, two alternatives are calculated to create a possible range for the likely outcome in the short-term.

The first alternative assumes that construction will be sufficient to use half of the $79 million in possible tax credits. The first alternative assumes that the program is not implemented until July 2017 thus reducing its effect by half in CY 2017. The second alternative assumes that construction will be sufficient to use all of the $79 million in possible tax credits. The second alternative assumes that the industry is energized by the tax credit and pushes forward with construction under the assumption that the Department of Economic Development will recognize all projects that have been started after voter approval of the proposal.

Table 10 takes that information and shows two possible alternatives for CY 2017.

- Construction leading to use of **half** the available tax credits ($39.5 million) - A total of $112.8 million in construction would be required to generate $39.5 million in tax credits. Residential construction of $45.1 million (assuming 40% of construction) would result in $15.8 million in tax credits. Commercial construction of $67.7 million (assuming 60% share of construction) would result in $23.7 million in tax credits.

- Construction leading to use of **all** the available tax credits ($79 million) - **A total of $225.7 million in construction would be required to generate $79 million in tax credits.** Residential construction of $90.3 million (assuming 40% of construction) would result in $31.6 million in tax credits. Commercial construction of $135.4 million (assuming 60% share of construction) would result in $47.4 million in tax credits.

In addition, using the average cost and size of projects it is possible to compute the number of residential and commercial projects that will be constructed. A total of 2,608 projects would be constructed with half

the tax credits (2,466 residential, 142 commercial). A total of 5,216 projects would be constructed with all the tax credits (4,933 residential, 283 commercial).

**Table 10**
**Number of Projects using Half or All of Tax Credit Cap**

| | CY 2017 construction needed for half of tax credits to be used in FY 2018 | CY 2017 construction needed for all of tax credits to be used in FY 2018 |
|---|---|---|
| Tax credits estimate from CY 2017 construction | $39,494,829 | $78,989,658 |
| Amount of construction value needed to generate value of 35% tax credits | $112,842,369 | $225,684,737 |
| | | |
| % of residential per year of credits issued | 40.0% | 40.0% |
| % of commercial per year of credits issued | 60.0% | 60.0% |
| | | |
| Tax credits by type of construction | | |
| Residential | $15,797,932 | $31,595,863 |
| Commercial | $23,696,897 | $47,393,795 |
| Total amount by type | $39,494,829 | $78,989,658 |
| | | |
| Construction value by type of construction | | |
| Residential | $45,136,948 | $90,273,895 |
| Commercial | $67,705,421 | $135,410,842 |
| Total amount by type | $112,842,369 | $225,684,737 |
| | | |
| Cost of solar projects per project | | |
| Residential (6.1 kW/project) | $18,300 | $18,300 |
| Commercial (200 kW/project) | $478,400 | $478,400 |
| | | |
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |

Table 10 shows a significant number of projects that would be completed throughout the state as a result of the clean energy tax credit. These numbers are possible for a variety of reasons identified in the Missouri State Energy Plan.

- Missouri households use about 12% more than the average U.S. household, thus projects would put real dollars into Missourians pockets for other uses and spending.[17]
- Nationally about ten percent of small business owners state that energy is their single biggest cost according to the National Federation of Independent Business. The same report indicates that an additional 25% of small business owners claim that energy is one of their top three business costs.[18] Thus, clean energy projects that reduce energy usage make businesses more profitable, allow for expansion, and could lead to higher wages for employees.
- Businesses can lower costs through on-site generation while also achieving other benefits.[19]
- Significant operational savings are possible through energy efficiency projects with rates of return as high as 25%.[20]

- A wealth of financing alternatives now exist for clean energy projects.[21]
- "Approximately 60% of the largest U.S. businesses have set public climate and energy goals to increase their use of renewable energy."[22]

Table 11 calculates the amount of application deposit revenue that the Department of Economic Development would receive given the number of projects identified in Table 10. If applications are submitted for projects equivalent to half the available tax credits then the department would receive $0.9 million in application deposit revenue. If applications are submitted for projects equivalent to all the available tax credits then the department would receive $1.7 million in application deposit revenue.

**Table 11**
**Application Deposit Revenue**

| | Application Deposit Estimate for half of tax credits for applications FY 2018 | Application Deposit Estimate for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |
| | | |
| Application deposit required per project | | |
| Residential | $122 | $122 |
| Commercial | $4,000 | $4,000 |
| | | |
| Application deposit revenue | | |
| Residential | $300,852 | $601,826 |
| Commercial | $568,000 | $1,132,000 |
| Total amount by type | $868,852 | $1,733,826 |

Table 12 shows the amount of solar capacity added by the number of projects identified in the previous tables given the given size of residential and commercial projects. A total of 43.4 MW would be added in solar capacity as a result of projects equivalent to half the available tax credits which would be 4.3% of the 1,000 MW goal that when achieved will sunset the tax credits. A total of 86.7 MW would be added in solar capacity as a result of projects equivalent to all the available tax credits which would be 8.7% of the 1,000 MW goal that when achieved will sunset the tax credits.

**Table 12 Amount of Solar Capacity Added**

| | Capacity added for half of tax credits for applications FY 2018 | Capacity added for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 2,466.00 | 4,933.00 |
| Commercial | 142.00 | 283.00 |
| Total amount by type | 2,608 | 5,216 |
| | | |
| kW generated by construction | | |
| Residential (6.1 kW/project) | 15,043 | 30,091 |
| Commercial (200 kW/project) | 28,400 | 56,600 |
| Total amount by type | 43,443 | 86,691 |
| | | |
| MW generated by construction | | |
| Residential | 15.0 | 30.1 |
| Commercial | 28.4 | 56.6 |
| Total amount by type | 43.4 | 86.7 |
| | | |
| % of 1,000 MW goal achieved | 4.3% | 8.7% |

**Taxes**

As noted on pages 10-11 of this fiscal analysis, the Missouri State Energy Plan published in October 2015 describes the current capacity, industry size, and investments being made in Missouri. The plan also describes the potential for jobs and economic development in the state. The 1,000 MW target represents a dramatic increase in current capacity. The following analysis assumes that due to the dramatic size of the 1,000 MW target that the investments driven by the clean energy tax credits will result in new jobs and industry expansion.

Table 13 shows the cost components of a solar construction project. Labor is assumed to be 35% of the project costs, materials 40%, and Profit 10%. It is assumed that 15% of the project cost is overhead and it is assumed that no taxes would be applied. Since Missouri already has a base of manufacturers and distributors it is assumed that all materials will be Missouri taxed.

**Table 13**
**Construction Project Components, Tax Type, and Tax Rate**

| Project components | % of job | Missouri tax rate | Type tax |
|---|---|---|---|
| Labor | 35.0% | 6.00% | Income tax |
| Materials and local materials | 40.0% | 4.225% | Sales |
| Profit | 10.0% | 6.25% | Corporate |
| Overhead | 15.0% | 0.00% | N/A |
| subtotal by taxable type | 100.0% | | |

Table 14 computes the state and local taxes based on the value of construction and the project components and tax rates shown in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $4.4 million to $8.9 million in FY 2018. The other three state funds (Prop C, Conservation, Parks/Soils) are estimated to receive between $0.6 million to $1.1 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $1.75 million to $3.5 million in local sales tax revenue in FY 2018.

**Table 14**
**State and Local Taxes Generated by Construction**

| | Half of tax credits used - CY 2017 | All of tax credits used - CY 2017 |
|---|---|---|
| Amount of construction value needed to generate value of 35% tax credits | $112,842,369 | $225,684,737 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $39,494,829 | $78,989,658 |
| Materials and local materials | $45,136,947 | $90,273,895 |
| Profit | $11,284,237 | $22,568,474 |
| subtotal by taxable type | $95,916,013 | $191,832,027 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $2,369,690 | $4,739,379 |
| Materials and local materials - Sales/Use Tax | $1,354,108 | $2,708,217 |
| Profit - General Revenue Corporate Tax | $705,265 | $1,410,530 |
| subtotal GR | $4,429,063 | $8,858,126 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $451,369 | $902,739 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $56,421 | $112,842 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $45,137 | $90,274 |
| subtotal State Taxes | $4,981,991 | $9,963,981 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $1,751,314 | $3,502,627 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $6,733,304 | $13,466,608 |

The taxes generated from the construction activity shown in Table 14 likely underestimate the state revenue that will be generated by the construction of clean energy projects even within the short time period allowed in the fiscal note. As noted earlier there are multiplier effects that ripple through the economy. The Department of Economic Development through MERIC has a sophisticated model that it uses to evaluate the impact of tax credits and other business investments made in the State of Missouri. Using the information in this fiscal analysis MERIC should be able to provide supplementary information regarding the extra economic activity and increased revenues.

Similarly, generating additional clean energy within the State of Missouri will result in a decrease in the importation of power and energy producing raw materials from other states. Such money leakage from the state, businesses and citizens, decreases the amount of purchasing could be done for other purposes such as increased jobs within the state and thus the tax revenues that would be generated. For example, the Missouri State Energy Plan notes that Missouri is the sixth largest consumer of coal in the country and 92.5% of the coal used in 2013 was imported from Wyoming.[23] The plan reports that the state sends billions of dollars out of state for purchases of imported coal, natural gas, and transportation fuels.[24]

**Community Solar Act** - Applies to Versions 10, 12, 13, 14, 16, and 18
The Community Solar Act, section 386.910 of the proposal, directs the Missouri Public Service Commission to establish rules allowing customers to participate in a "community solar facility." Community solar facilities allow participants to benefit from solar energy and receive electric bill credits substantially similar to net metering.

Paragraph 3 of that section states that the "aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous fiscal year." Table 15 shows the total peak demand data compiled by the Public Service Commission for the four utilities affected by this section. The report shows that using peak demand leads to a cap of 504.5 MW on the amount of aggregated capacity of community solar facilities statewide.

**Table 15 - Peak Demand for Community Solar**

| Utility Name | Peak Demand |
|---|---|
| Union Electric Co - (MO) | 7,713.0 |
| Kansas City Power & Light Co | 1,878.0 |
| KCP&L Greater Missouri Operations Co. | 1,860.0 |
| Empire District Electric Co | 1,162.0 |
| Total | 12,613.0 |
| 4% overall cap | 504.5 |

Paragraph 2 of that section defines a community solar facility as a photovoltaic electric generation facility with a capacity of between 100 and 1,000 kW. For purposes of this fiscal note it is assumed that all community solar projects will be the same as the 200 kW project limit established in the clean energy tax credit language of 386.1000. In Table 12 above a low and high range was calculated for the percentage of solar capacity added through the tax credits based on the expectations of the phase-in necessary for the Department of Economic Development's implementation of the clean energy tax credits. The same percentage is used - 4.3% low range and 8.7% higher range. Similarly, for the purposes of this fiscal note the cost per kW will be $2,392 for a total project cost of $478,400 as shown in Table 9.

Table 16 shows the data and calculations needed to identify the number of projects. At the low end of the range 21.7 MW of added community solar capacity would be created which would require 108 projects of 200 kW. At the higher range 43.9 MW of added community solar capacity would be created which would require 219 projects of 200 kW.

Table 16 also shows that at an average project cost of $478,400 the low range results in $51.7 million in construction spending. The higher range results in $104.8 million in construction spending.

**Table 16**
**Community Solar Capacity and Projects**

| | Low Range | Higher Range |
|---|---|---|
| Assumed % of aggregate capacity | 4.3% | 8.7% |
| Added capacity - MW | 21.69 | 43.89 |
| Added capacity - kW | 21,694.36 | 43,893.24 |
| # projects at commercial 200 kW per project | 108 | 219 |
| Construction cost - commercial project per 200 kW project | $478,400 | $478,400 |
| Construction value | $51,667,200 | $104,769,600 |

Table 17 computes the state and local taxes based on the value of construction and the project components and tax rates shown earlier in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $2.0 million to $4.1 million in FY 2018. The other three state funds (Prop C, Conservation, Parks/Soils) are estimated to receive between $0.2 million to $0.5 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $0.8 million to $1.6 million in local sales tax revenue in FY 2018.

**Table 17**
**State and Local Taxes Generated by Construction of Community Solar Projects**

| | Low range | Higher range |
|---|---|---|
| Amount of construction value needed to generate estimated MW | $51,667,200 | $104,769,600 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $18,083,520 | $36,669,360 |
| Materials and local materials | $20,666,880 | $41,907,840 |
| Profit | $5,166,720 | $10,476,960 |
| subtotal by taxable type | $43,917,120 | $89,054,160 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $1,085,011 | $2,200,162 |
| Materials and local materials - Sales/Use Tax | $620,006 | $1,257,235 |
| Profit - General Revenue Corporate Tax | $322,920 | $654,810 |
| subtotal GR | $2,027,938 | $4,112,207 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $206,669 | $419,078 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $25,834 | $52,385 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $20,667 | $41,908 |
| subtotal State Taxes | $2,281,107 | $4,625,578 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $801,875 | $1,626,024 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $3,082,982 | $6,251,602 |

**Net metering bills** - Applies to Versions 10, 11, 12, 13, 14, 17 and 18
The Missouri General Assembly has considered six net metering bills over the past three legislative sessions. Table 18 below identifies the bills and provides links to the fiscal note and bill summary prepared for each bill. All of the fiscal notes prepared and available indicated that there was no state impact from the net metering bills.

**Table 18**
**NET METERING**
**2013, 2014, AND 2015 LEGISLATIVE SESSIONS**

| Session | Bill | Sponsor | Fiscal Note Impact | Fiscal Note Summary Link | Bill Summary Link |
|---|---|---|---|---|---|
| 2015 | SB 75 | Holsman | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0622-01N.ORG.pdf | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=82&BillID=174 |
| 2015 | SB 509 | Holsman | No impact | N/A | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=664&BillID=4599469 |
| 2015 | HB 481 | Berry (38) | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0502-01N.ORG.pdf | http://house.mo.gov/billtracking/bills151/sumpdf/HB0481C.pdf |
| 2014 | HB 1795 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER14/fishtm/5552-02N.ORG.htm | http://house.mo.gov/billtracking/bills141/sumpdf/HB1795I.pdf |
| 2013 | HB 119 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/0794-02N.ORG.htm | http://house.mo.gov/billtracking/bills131/sumpdf/HB0119I.pdf |
| 2013 | SB 396 | Holsman | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/1078-07N.ORG.htm | http://www.senate.mo.gov/13info/BTS_Web/Bill.aspx?SessionType=R&BillID=19218703 |

**Electric Vehicle Charging Stations** - Applies to Versions 12, 13, 14, 16, and 17
The petition authorizes investor-owned utilities to recover costs for infrastructure investments in electric vehicle charging stations, provided the energy output from the stations is offset in part by clean energy. There should be no fiscal impact to the state. Utility investment in electric charging stations will result in positive economic activity similar to other capital investments. However, the range of the benefits is unknown at this time.

ENDNOTES

[1] U.S. Energy Information Administration: *Table 10: All Sectors - Class of ownership, number of consumers, sales, revenue, and average retail price by State and utility*
http://www.eia.gov/electricity/sales_revenue_price/

[2] U.S. Energy Information Administration: *Supplemental Data: 1990 - 2013 Revenue from Retail Sales of Electricity by State by Sector by Provider (EIA-861)*
http://www.eia.gov/electricity/sales_revenue_price/

[3] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25
https://energy.mo.gov/energy/docs/MCSEP.pdf

[4] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25-26
https://energy.mo.gov/energy/docs/MCSEP.pdf

[5] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[6] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 200
https://energy.mo.gov/energy/docs/MCSEP.pdf

[7] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 5
http://www.nrel.gov/docs/fy15osti/64898.pdf

[8] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 4
http://www.nrel.gov/docs/fy15osti/64898.pdf

[9] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 172
https://energy.mo.gov/energy/docs/MCSEP.pdf

[10] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 173
https://energy.mo.gov/energy/docs/MCSEP.pdf

[11] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[12] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[13] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 174
https://energy.mo.gov/energy/docs/MCSEP.pdf

[14] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 175
https://energy.mo.gov/energy/docs/MCSEP.pdf

[15] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 190-191, 193, 195-199, 201, 203
https://energy.mo.gov/energy/docs/MCSEP.pdf

[16] Thomas A Loudat, Blue Planet Foundation. "*The Economic and Fiscal Effects of Hawaii's Solar Tax Credit*" - January 2013.
http://blueplanetfoundation.org/renewable-energy-tax-credit-2013.html?highlight=WyJsb3VkYXQiXQ==

[17] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 154
https://energy.mo.gov/energy/docs/MCSEP.pdf

[18] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 165 for both sentences in this bullet point
https://energy.mo.gov/energy/docs/MCSEP.pdf

[19] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[20] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[21] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[22] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 178
https://energy.mo.gov/energy/docs/MCSEP.pdf

[23] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 20-21
https://energy.mo.gov/energy/docs/MCSEP.pdf

[24] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 42
https://energy.mo.gov/energy/docs/MCSEP.pdf

**Edward D, Greim** provided the following information as an opponent of this initiative petition.

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December 28, 2015

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Re: *Fiscal Note in Initiative Petitions 2016-173 through 2016-180 and 2016-190*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petitions 173, 175, 177, and 180:

> Lost revenue to state government is $498 million over the tax credit period, with annual losses of $9.5 million to $11.5 million thereafter. Lost revenue to local government is $189.1 million over the tax credit period, with annual losses of $31.5 million to $33.9 million thereafter.

We propose the following fiscal note summary for petition 174:

> Lost revenue to state government is $320.9 million over the tax credit period, with annual losses of $5.6 million to $9.6 million thereafter. Lost revenue to local government is $100.9 million over the tax credit period, with annual losses of $20 million to $28.1 million thereafter.

We propose the following fiscal note summary for petition 176:

> Lost revenue to state government is $328.8 million over the tax credit period, with annual losses of $7.5 million to $11.5 million thereafter. Lost revenue to local government is $175.3 million over the tax credit period, with annual losses of $32.4 million to $40.5 million thereafter.

We propose the following fiscal note summary for petition 178:

> Lost revenue to state government is $475.8 million over the tax credit period, with annual losses of $5.7 million to $7.7 million thereafter. Lost revenue to local government is $40.4 million over the tax credit period, with annual losses of $11.5 million to $15.7 million thereafter.

We propose the following fiscal note summary for petitions 179 and 190:

> Lost revenue to state government is $483.7 million over the tax credit period, with annual losses of $7.6 million to $9.6 million thereafter. Lost revenue to local government is $114.8 million over the tax credit period, with annual losses of $23.9 million to $28.1 million thereafter.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments. These taxes, however, will no longer be collected for electricity that is never sold due to the customer-generator production and community solar encouraged by the initiative petitions. Petition signers and voters must be informed of the certainty that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume. On the other hand, any positive fiscal impacts of the initiative petitions are speculative.

**Description of Policy**

Initiative Petitions 173 – 180 and 190 contains one or more of three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of the "Community Solar Act"; and (3) A state tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, or certain natural gas technologies.

1. Changes to Net Metering for Investor-owned electric utilities and municipal electric utilities, and, in 177, rural electric cooperatives
    A. Raise net metering cap to 7% (is currently 5%);
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);



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D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

2. Community Solar Act
   A. The Missouri Public Service Commission ("PSC") adopts rules and regulations allowing groups of 5 or more electrical corporation customers to offset energy usage with solar located in the service territory of the electrical corporation where they have an account;
   B. Facilities are 100 kilowatts to 1 megawatt;
   C. Community solar facilities may, in total, generate electricity of 4% or less of single-hour peak load, but that amount does not count toward net metering; Electrical corporations can own half (max of 2%), which may be included in the rate base. Others may own the other half (max of 2%);
   D. Community Solar facilities are not eligible for tax credits provided in the petition;
   E. Commission sets a community solar rate, not less than electrical corporation's average retail rate;
   F. Value of allocated solar bill credits reduces customer's total bill;
   G. The current value-of-community-solar rate may be locked in for 20 years beginning when a community solar facility is put in operation.

3. Tax credit
   A. 35% tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, etc.
   B. Total value of eligible credits shall not exceed 1% of the value of electricity used in Missouri[1] – defined as revenue from sale of electricity in Missouri; or tax credits are capped at$50 million each year. Unused credits carryover year to year until June 30, 2022
   C. No tax credits after June 30, 2022, or after 1000 megawatts of new generation have been installed using the tax credits.

**Burdens on State Government**

In determining the fiscal impact of each petition, it is generally reasonable to assume that the various statutory changes in the petitions will have independent fiscal impacts. The reasonableness of this assumption is demonstrated by the various iterations of the petitions themselves, some of which propose tax credits with no proposed changes to the Net Metering and Easy Connection Act. *See* Petitions 178 and 190.

[1] The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. *See* U.S. Energy Information Administration – Independent Statistics and Analysis.



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*i. Decreased tax collection due to changes to net metering – Initiative Petitions 173-177 and 179-180*

Raising the net metering cap from the current 5% of peak hour demand to 7% of peak hour demand will, conservatively, result in a 2% decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase from 5% to 7%. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in the petition provides a strong financial incentive to solar or wind energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[2], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, the net-metering cap applies to single-hour peak load, determined yearly, which means that the cap is a higher percentage of the single hour average load. This fact means that the total increase in generation is higher than it appears. Fourth, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[3] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by at least $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities. The additional decreases in sales tax revenues from municipal electric utilities and, in petition 177, from electric cooperatives, are unknown but substantial.[4]

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 173, 175-177, 180, and 190*

Community solar facilities are in addition to net metering and represent an additional capacity amounting to 4% of each electrical corporation's single-hour peak load. Energy

[2] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[3] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.
[4] Assuming $7.6 billion in electricity is sold in Missouri per year (the actual 2014 figure), a 2% decrease will decrease overall state sales tax revenues by 6.4 million annually, but some petitions enact net metering changes on rural electric cooperatives, and some do not.



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generated from the community solar facility is allocated pro rata by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. There is the potential for such bill credits to decrease overall electrical bills by more than 4% because the "bill credits" are calculated using a "value of solar rate" which is at least as high as the retail rate for electricity, but may be higher. If, for example, solar energy received a 50% rate premium due to its benefits, the amount of bill credits would increase and sales would decrease by more than the 6%, rather than 4% figure. Half of these community solar facilities—the half not owned by electrical corporations—may be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoid property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership model, similar to net metering, because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%).

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by at least $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities.

*iii. Tax credits – Initiative Petitions 173-180 and 190*

*a. Decreased tax collections due to tax credits – Credits capped at 1% of value of electricity sold in Missouri, annually ($76 million based on 2014 figures) – Initiative Petitions 173, 175, 177-180, and 190*

According to 2014 figures, Missouri retail customers bought 7.6 billion dollars worth of electricity in 2014. Accordingly, it is reasonable for fiscal note purposes to estimate that Missouri retail customer will continue to buy the same value of electricity. Electricity rates have historically risen over time, but the increasing price of electricity may be approximately the same over the relevant period as the decreases in quantity as a result of the initiative petitions. Accordingly, the 35% tax credits in these petitions will directly result in a loss of state income of approximately $76 million, annually.

*b. Decreased tax collections due to tax credits – Credits capped at $50 million annually – Initiative Petitions 174 and 176*

Similar to the loss described in subpart a, the 35% tax credits in these petitions will directly result in a loss of state income of approximately $50 million, annually.



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*c. Cost of eroding tax base due to new energy generation – Initiative Petitions 173-180 and 190*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer-generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in Missouri. Accordingly, if the tax credits were phased out due to reaching the 1000 MWh/1,000,000 kWh maximum on new electricity generation, new production from such tax credits would produce approximately 1,825,000 MWh per year, also expressed as 1,825,000,000 KWh, or 1,825 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour [5], this new production is valued at $182,500,000.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

In practice, the 1 gigawatt limit on new customer-generated energy production may never be met. Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[6] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for renewable energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology. The petition itself limits tax credits to a maximum of $3.00 per watt, but market forces should make rates in Missouri similar to those in other states, at or around $1.77.

For Initiative Petitions 173, 175, 177-180, and 190, the total, annual loss to state governments *due to the tax credits* is 76.9 million to 81.7 million over the tax credit period. There is an annual loss in perpetuity after the tax credit period of 5.7 to 7.7 million, depending on how much new customer-generation is developed. See attached table.

For Initiative Petitions 174 and 176, the total, annual loss to state governments *due to the tax credits* is 50.6 million to 53.7 million over the tax credit period. There is an annual loss in

[5] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.

[6] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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perpetuity after the tax credit period of 3.7 to 7.7 million, depending on how much new customer-generation is developed. *See* attached table.

**Burdens on Local Governments**

Local governments face losses in revenue from the various petition provisions that are similar to those faced by state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 173-177 and 179-180*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 173, 175-177, 180, and 190*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*iii. Tax credits – Cost of eroding tax base due to new energy generation – Initiative Petitions 173-180 and 190*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petitions may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to



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local governments, all of which may be reduced or discontinued if the initiative petitions are enacted.

The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[7] Based on this estimate, the population-weighted combined average local sales tax is 3.585%. Assuming the tax credits sunset due to reaching the 1 Gigawatt production cap, the yearly loss to local governments from lost sales tax from the tax credit is $6,541,578. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,123,540.

For petitions 173, 175, 177-180, and 190, the loss to local governments due to the tax credits is at least $40.4 million over the tax credit period, then $11.5 to $15.7 million annually. For initiative petitions 174 and 176, the loss to local governments due to the tax credits is at least $26.6 million over the tax credit period, then $7.5 to $15.7 million annually.

**In Conclusion**

The initiative petitions will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petitions, such as increases in net metering and community solar. The total tax burden on state government imposed by the petitions range from $313 million over the tax credit period, with $3.7 to $7.7 million in lost revenues in perpetuity, to approximately $498.6 million over the tax credit period,[8] with $9.5 million to 11.5 million in lost revenues in perpetuity thereafter.

Sincerely,

Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues

[7] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.
[8] $475.8 million + [(1.9 million + 1.9 million)*6 years]



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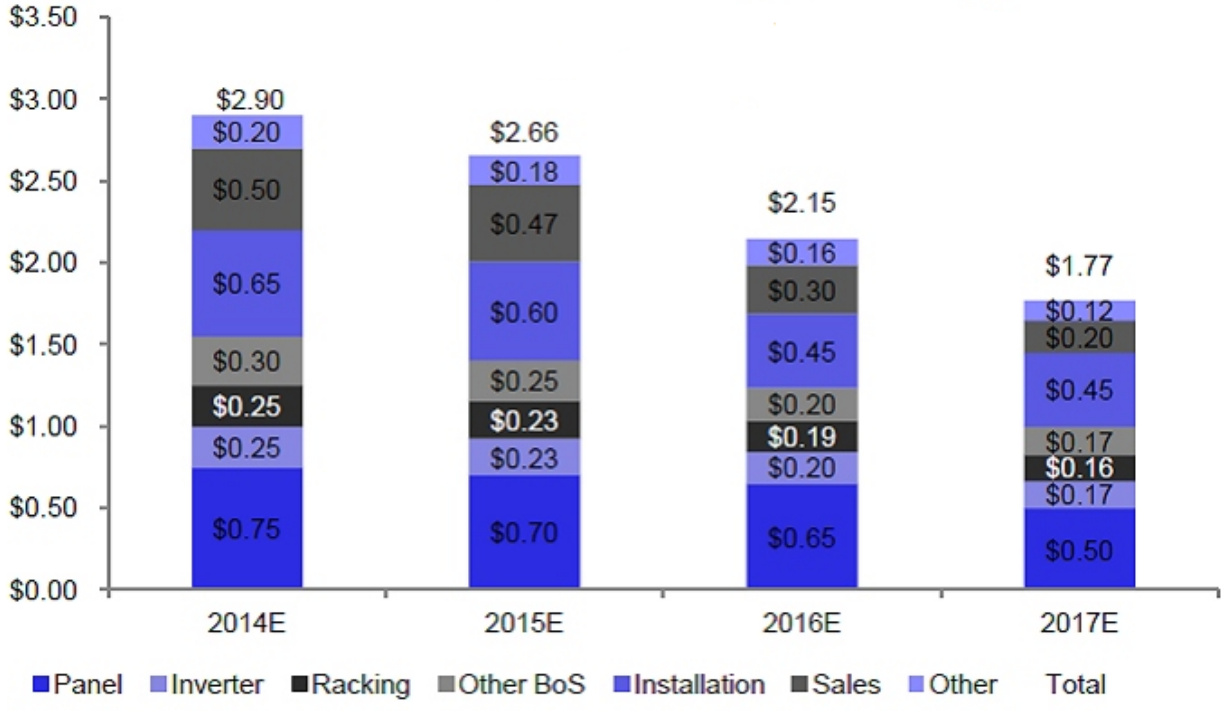
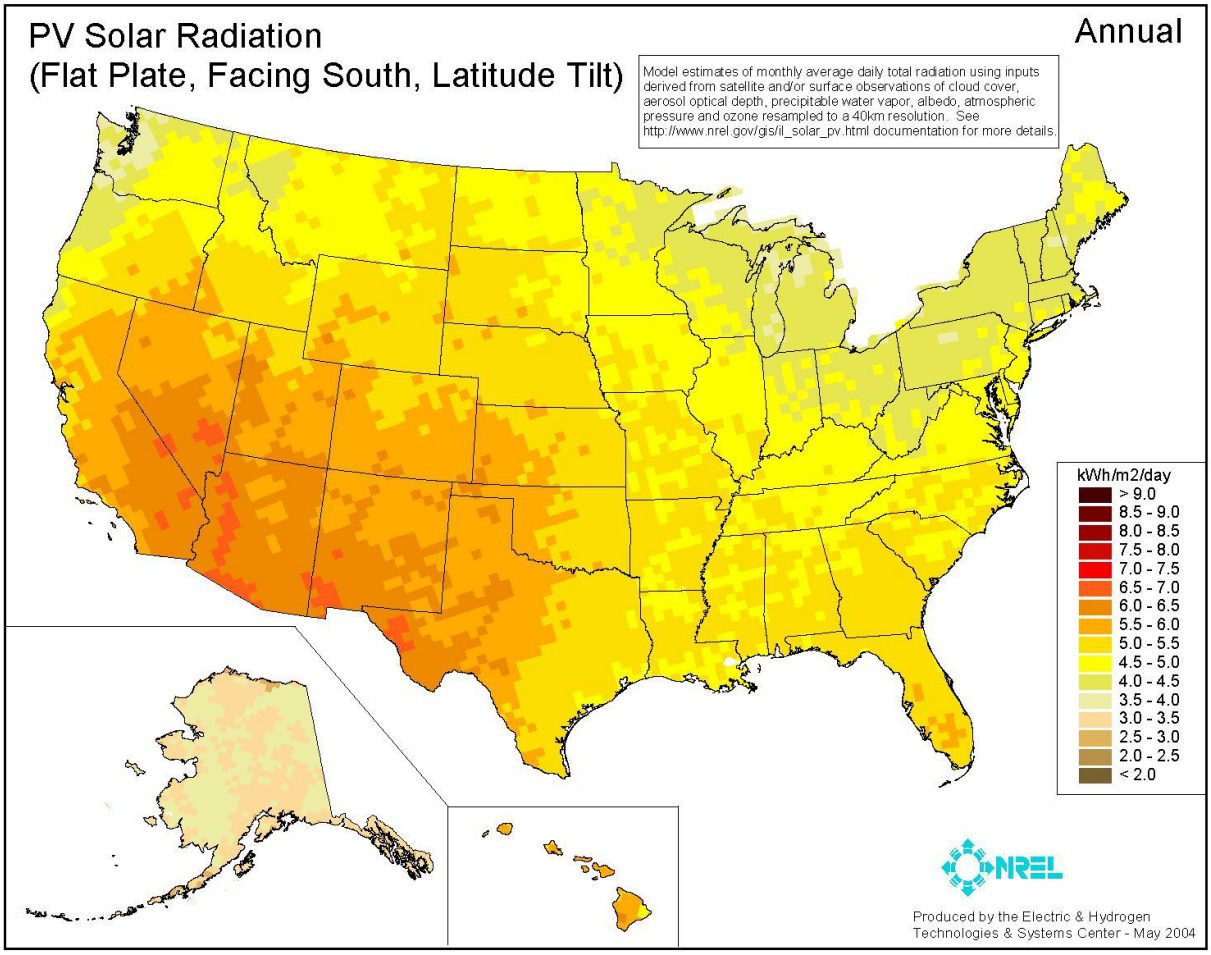
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0

Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017

https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm



National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Brightergy Renewable Tax Credit Fiscal Analysis (1% Value of Electricity Cap) - Initiative Petitions 173, 175, 177-180, and 190**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 122.68 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $76,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 223,854 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $76,000,000 | 122.68 | 122.68 | 223,854 | $100 | $22,385,441 | 4.225% | $945,785 | $76,945,785 | 3.585% | $802,518 | 5.000% | $1,119,272 | $1,921,790 |
| 2018 | $76,000,000 | 122.68 | 245.36 | 447,709 | $100 | $44,770,882 | 4.225% | $1,891,570 | $77,891,570 | 3.585% | $1,605,036 | 5.000% | $2,238,544 | $3,843,580 |
| 2019 | $76,000,000 | 122.68 | 368.04 | 671,563 | $100 | $67,156,323 | 4.225% | $2,837,355 | $78,837,355 | 3.585% | $2,407,554 | 5.000% | $3,357,816 | $5,765,370 |
| 2020 | $76,000,000 | 122.68 | 490.72 | 895,418 | $100 | $89,541,765 | 4.225% | $3,783,140 | $79,783,140 | 3.585% | $3,210,072 | 5.000% | $4,477,088 | $7,687,160 |
| 2021 | $76,000,000 | 122.68 | 613.40 | 1,119,272 | $100 | $111,927,206 | 4.225% | $4,728,924 | $80,728,924 | 3.585% | $4,012,590 | 5.000% | $5,596,360 | $9,608,951 |
| 2022 | $76,000,000 | 122.68 | 736.08 | 1,343,126 | $100 | $134,312,647 | 4.225% | $5,674,709 | $81,674,709 | 3.585% | $4,815,108 | 5.000% | $6,715,632 | $11,530,741 |
| | | | | | | | | **Total State Tax Burden** | **$475,861,483** | | **Total Local Tax Burden (Sales + Franchise)** | | **$40,357,593** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

**Brightergy Renewable Tax Credit Fiscal Analysis (50 Million Tax Credit Cap) - Initiative Petitions 174 and 176**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 80.71 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $50,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 147,273 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $50,000,000 | 80.71 | 80.71 | 147,273 | $100 | $14,727,264 | 4.225% | $622,227 | $50,622,227 | 3.585% | $527,972 | 5.000% | $736,363 | $1,264,336 |
| 2018 | $50,000,000 | 80.71 | 161.42 | 294,545 | $100 | $29,454,528 | 4.225% | $1,244,454 | $51,244,454 | 3.585% | $1,055,945 | 5.000% | $1,472,726 | $2,528,671 |
| 2019 | $50,000,000 | 80.71 | 242.13 | 441,818 | $100 | $44,181,792 | 4.225% | $1,866,681 | $51,866,681 | 3.585% | $1,583,917 | 5.000% | $2,209,090 | $3,793,007 |
| 2020 | $50,000,000 | 80.71 | 322.84 | 589,091 | $100 | $58,909,056 | 4.225% | $2,488,908 | $52,488,908 | 3.585% | $2,111,890 | 5.000% | $2,945,453 | $5,057,342 |
| 2021 | $50,000,000 | 80.71 | 403.55 | 736,363 | $100 | $73,636,320 | 4.225% | $3,111,135 | $53,111,135 | 3.585% | $2,639,862 | 5.000% | $3,681,816 | $6,321,678 |
| 2022 | $50,000,000 | 80.71 | 484.26 | 883,636 | $100 | $88,363,584 | 4.225% | $3,733,361 | $53,733,361 | 3.585% | $3,167,834 | 5.000% | $4,418,179 | $7,586,014 |
| | | | | | | | | **Total State Tax Burden** | **$313,066,765** | | **Total Local Tax Burden (Sales + Franchise)** | | **$26,551,048** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

**Brent Stewart** provided the following information as an opponent of this initiative petition.

**Association of Missouri Electric Cooperatives**

2722 East McCarty Street, P.O. Box 1645
Jefferson City, Missouri 65102
Telephone: (573) 635-6857
Fax: (573) 635-2314
www.amec.coop

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DEC 28 2015
STATE AUDITORS OFFICE

December 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: Fiscal Note in Initiative Petitions 2016-173 through 2016-190

To Whom It May Concern:

The Association of Missouri Electric Cooperatives (AMEC), representing the state's forty-seven member-owned, nonprofit rural electric cooperatives that serve close to one million electric consumers, respectfully submit the following brief comments to assist in your preparation of the fiscal notes on the above-mentioned initiative petitions.

All these petitions, in one way or another, involve solar and renewable energy mandates. The practical effect of each, to one extent or another, is to encourage consumers to substitute self-generation for traditional electric service, thereby creating an unfair electric rate subsidy in favor of those who can afford to install their own generation at the expense of the majority of the other consumers who cannot.

Missouri's forty distribution (retail level) cooperatives serve a wide variety of governmental entities throughout rural Missouri, including state facilities (e.g. prisons), local government facilities, hospitals, schools, rural water districts, regional sewer districts and others. To the extent these entities cannot afford to install their own generation, which most cannot, they necessarily will be forced to pay higher rates if these initiative petitions are enacted. Unfortunately, it is impossible without more time for AMEC to identify all those government-related entities and facilities or estimate with any accuracy the adverse fiscal impact. However, it is clear that even a modest rate increase necessarily will have a significant adverse fiscal impact on governmental entities, in millions of dollars, especially those in the primarily less affluent rural areas served by Missouri's nonprofit electric cooperatives.

Respectfully submitted,

Brent Stewart

Brent Stewart
AMEC Counsel

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State government revenue may decrease up to $456 million during the tax credit period with approximately $1 million annual increased operating costs. Local governmental entities estimate $23.9 million in annual electricity sales reductions. Other resulting economic activity will have an unknown impact on state and local governments.

DEC 17 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-178

December 17, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 15 (2016-178)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 16, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-178 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 16 PM 4:48
SEC OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-178

*Be it enacted by the people of the state of Missouri:*

Section A: Sections 386.950 and 386.1000 are enacted to read as follows:

386.950. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, section 386.1000 shall be known and cited as the "Clean Energy Independence and Investment Act of 2016".

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. The total amount of clean energy tax credits offered annually shall not exceed one percent of the value of electricity used in Missouri as determined in subsection 4 of this section.

2. The department of economic development shall certify when the tax credits provided in this section have resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.890 and 386.900, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on available reports, including FERC Form Number 1 as allowed by 18 CFR § 141 or an equivalent as determined by the commission, of megawatt hours

sales of retail electricity and corresponding revenues for the preceding year or most current reporting period as determined by the commission. The commission shall publish the value of electricity used in Missouri to the public and department of economic development within forty-five days of the enactment of this section and at least sixty days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may only apply for and receive the credit authorized by this section for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

7. To obtain approval for tax credits allowed under this section, a taxpayer shall submit an initial application for tax credits to the department of economic development. Each application shall be prioritized for review and approval, in the order of the date on which the application was received, with the oldest received date receiving priority. Applications received on the same day shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. Such application deposit shall be refunded at completion of the project or if the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. The taxpayer may request a refund of the application deposit; however, any refunds of the deposit for an application shall cause such application to lose its spot in the priority queue. If the taxpayer wants to maintain its position in the priority queue, the application

deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

9. Disapproved applications shall lose priority in the review process. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision of its intent to disapprove and to remove such application. The taxpayer shall have one opportunity, not to exceed ten days of notification of intent to disapprove, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

10. If the department of economic development deems the application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for initial approval shall be notified by the department of economic development that the maximum amount of credits authorized have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year

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and any additional approvals shall be issued in the event that additional credits become available due to the rescission of approvals or reserved for a future fiscal year.

12. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial approval for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by letter and shall issue, to the taxpayer, a tax credit certificate within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

15. If the amount of the credit under subsection 14 of this section exceeds the taxpayer's total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148,

except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. The state tax credit shall not be subject to recapture provisions. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

16. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsections 10 or 11 of this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

17. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-178)**

## Subject

Initiative petition from Andy Zellers regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received December 17, 2015)

## Date

January 6, 2016

## Description

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Public Service Commission.**

**Mark R. Reading** provided information to the State Auditor's Office as a proponent of this initiative petition.

**Edward D, Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Brent Stewart** of Association of Missouri Electric Cooperatives provided information to the State Auditor's Office as an opponent of this initiative petition.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no known fiscal impact on their department.

Officials from the **Department of Economic Development** (DED) provided the following information:

The Division of Energy (DE) indicated this petition will result in increased operating expenses of $758,642 for fiscal year 2017, $830,441 for fiscal year 2018, and $838,552 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Section 386.1000 – Clean Energy Tax Credit
DE is required to administer the Clean Energy Fund created by this section and promulgate rules to implement the Clean Energy Tax Credit. The proposal requires DE to receive applications and deposits, review and initially approve applications and required information within 30 days, review final approval applications, issue certificates and provide notifications, refund deposits for completed and disapproved projects, at least quarterly publish a list of the amount of tax credits initially and finally approved for each fiscal year and amounts reserved for future years, notify individual applicants of disapproved applications and approval within specified timeframes, notify applicants if the maximum amount of credits authorized have been allocated for the fiscal year, and grant three-month extensions if needed for project completion with additional deposit payments.

**Long-range implications**

Fiscal impacts associated with the Clean Energy Tax Credits could continue until June 30, 2022. The authorization for the tax credit would sunset sooner if the 1,000 megawatt limit is reached. Economic benefits associated with construction of solar facilities would also have long-range implications.

**Assumptions and methodology used in arriving at state fiscal impact**

Section 386.1000 – Clean Energy Tax Credit

Retail sales of Missouri's utilities totaled $7.6 billion in 2014 (Source: Mark Reading; U.S. DOE/EIA). If all tax credits were used up to the cap of 1% of the annual statewide Missouri revenue of Missouri's retail electric suppliers (approximately $76 million/year), and with consideration to the estimated cost and size of the projects, it is estimated there would be 4,933 residential project applications and 283 commercial project applications submitted for tax credit reviews (Source: Mark Reading). DE assumes that it would take approximately 2 hours each to do the initial review/approval of each application and another 2 hours to do the review and issuance of a certification after a project is completed for residential projects. Each of these would include clerical time for input/issuing letters/filing, etc. For larger commercial projects, an estimated 8 hours is anticipated for each of these two steps. See response above for detailed tasks required by the proposal.

19,732 hours for residential applications
4,528 hours for commercial applications
24,260 hours total

To implement this provision, DE assumes it will need a total of 12 full-time employees as follows:

8 – Energy Specialist I/II
2 – Energy Engineer II
2 – Administrative Office Support Assistant (AOSA)

- Energy Specialist I/II - Professional level staff to review the renewable energy project applications and to complete project evaluation activities.
- Energy Engineer II - Professional staff with expertise in engineering aspects of renewable energy projects to review the technical aspects of the projects, review of projects related to the Renewable Energy Standard and Renewable Energy Certificates and familiar with environmental impacts of renewable electric generation.
- AOSA - Staff to assist with the administrative requirements of the reviews such as drafting and sending communication to applicants, maintaining the database of applicants, and tracking status of applications.

DE also assumes that the DED's existing tax credit database will be used to track the applications. Some IT costs to generate the necessary reports are estimated.

Note that although an application deposit is required to be paid to DE and deposited in the Clean Energy Fund, because the deposit must be refunded to the applicant upon completion of the project or if the project is disapproved, DE assumes it is unable to use these funds to administer the proposal. Therefore, General Revenue funds are requested. Based on the estimated number of residential and commercial projects, application deposits at 2 cents/watt to the Clean Energy Fund would total approximately $1.7 million/year.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated the responsibilities of this proposal appear to fall under the Division of Energy. With Executive Order 13-03 the Division of Energy was transferred from the Missouri Department of Natural Resources to the Missouri Department of Economic Development, by Type I transfer. Therefore, they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** estimate this petition will result in increased operating expenses of $243,282 for fiscal year 2017, $181,985 for fiscal year 2018, and $183,470 for fiscal year 2019.

The legislation creates an unknown, negative impact to total state revenue by creating a new tax credit.

**Section 386.1000**
The provisions of this section authorize the issuance of a clean energy tax credit to taxpayers incurring costs for the installation of a clean energy resource project. The taxpayer may claim 35 percent of the total cost of the project. The legislation caps the amount of tax credits at not more than one percent of the value of the electricity used in Missouri.

**Section 386.1000.13**
The department suggests changing the provisions pertaining to the transfer of the tax to the Department of Revenue as this is currently the department's responsibility based on a previously issued executive order.

**Administrative Impact:**

**Personal Tax:**

Personal Tax requires one (1) Revenue Processing Technician I (Range 10, Step L) for every 6,000 credits claimed.

**Corporate Tax:**

Corporate Tax requires three (3) Revenue Processing Technicians I (Range 10, Step L) for every 4,000 credits redeemed, 4,000 credits transferred, and for every 520 SB 1099 compliance mailings and correspondence.

**Integrated Tax System:**

The integrated tax system incurs additional costs of $43,680 to implement the provisions of this petition.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the

number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of West Plains** indicated the 86 cities with municipal electric utilities depend on the revenues of this service for their citizen/owners to off-set the cost of electric service and operation to citizens as well as to support the activities of city government.

Based primarily on data from the Federal Department of Energy's (DOE) Energy Information Administration (EIA) Table 6 plus additional data gleaned from the National Renewable Energy Lab's Photovoltaic Calculator and the Missouri Association of Municipal Utilities for peak loads in 73 cities, they have determined that municipalities in Missouri face a loss of at least $23.9 million in revenue should this initiative petition become law. The impact alone to the City of West Plains appears to be $352,000 annually, or over 6.5% of their annual electric utility revenue budget. This figure does not reflect any additional costs they will be required to incur for required pleadings before the state Public Service Commission or local compliance costs for other requirements contained in this proposal.

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art. X, Sec. 16) that reduces income or increases costs without "full state financing," they anticipate that local government costs would be reflected in the final state cost when the fiscal note is completed. Necessary litigation costs incurred for Mo. Const. Art. X, Sec. 16 and other potential legal inconsistencies are unknown.

Methodology for City Loss Calculation
Renewable Energy Initiative Petitions

| **Assumptions and Methods** | **Information Source** |
|---|---|
| 1. A combined federal and state tax credit of 60% of installation costs, would prompt city customers to achieve the 7% capacity cap in a reasonable period of time | Proposed Legislation |
| 2. 1 kW solar panel at this latitude would generate 1350 kWHr per year | National Renewable Energy Lab's PV Calculator |
| 3. Annual Peaks | Municipal reports to the Missouri Association of Municipal Utilities |
| 4. Current City Electric Rates | DOE EIA Database (Table 6 for 2010) |

5. Calculation:
   Annual Peak
   7% of Annual Peak for Capacity Cap
   Total Solar Generation = (Capacity Cap * 1350 kWHrs)*1000
   City's lost revenue: City rate * Solar Generation

6. State calculation based on the sum of "Assumption 5" calculations for
   73 reporting cities (out of 86)
      Total ≥ $23.8 million

**Calculation for City of West Plains**

| | |
|---|---|
| 44.453 | Annual Peak (MW) |
| 3.11171 | 7% of Annual Peak for Capacity Cap MW |
| 4,200,809 | Total Solar Generation (KWHR) |
| 8.38 | City Rate (cents per kWHR) |
| $352,028 | Lost Revenue |

Officials from **University of Missouri** indicated they have not seen cost impact studies on this initiative from their electric utility suppliers, but they do not believe this will have a significant impact on their university.

Officials from the **Public Service Commission** (PSC) indicated without the benefit of the rulemaking process to explore potential issues and clearly delineate parameters, and assuming the "value of electricity" is clearly defined as the **calendar** year Missouri revenue for retail sales of electricity, the first year clean energy tax credit cap would be approximately $76,444,000 based on the most recent data currently available. For subsequent years, this amount will change based on the most recent Missouri revenue for retail sales of electricity and whether any tax credits exceed the total tax liability for a

given fiscal year. In that case, the amount that exceeds the tax liability may be carried back 3 years or forward 10 years, involving additional calculations.

Section 386.1000, RSMo, discusses a "clean energy tax credit". It is not clear why the tax credit is in the PSC statute and not in a tax-related statute.

**Mark R. Reading** provided the following information as a proponent of this initiative petition.

Submitted by:

_____

Mark R. Reading
2604 Lakeland Drive
Jefferson City, MO 65109
(573) 694-6828
*Primary Contact Person*

**Clean Energy Independence and Investment Act of 2016 - Versions 15 and 17**
**Sec. of State # 178 and 179**

**Proposed Statement of Fiscal Impact**
**for Clean Energy Independence and Investment Act of 2016 - Versions 15 and 17**
**Sec. of State # 178 and 179**

**Fiscal Impact Information Submitted Pursuant to Section 23.140.2**

The amendment's estimated impact decreases state revenue between $33 to $67 million depending upon the speed of up to $225 million in additional clean energy project construction and implementation by the Department of Economic Development, residential homeowners, and businesses. Local revenue is estimated to grow between $1.8 to $3.5 million.

| ESTIMATED NET EFFECT ON STATE FUNDS | | |
|---|---|---|
| **Fund Affected** | **FY 2017** | **FY 2018** |
| **General Revenue** | $0 | From ($35,065,766) to ($70,131,532) |
| | | |
| **Total Estimated Net Effect on All State Funds** | $0 | From ($33,643,986) to ($67,291,851) |
| **ESTIMATED NET EFFECT ON LOCAL FUNDS** | | |
| Local Funds | $0 | From $1,751,314 to $3,502,627 |
| | | |
| **Total Estimated Net Effect on All Local Funds** | $0 | From $1,751,314 to $3,502,627 |

**SUMMARY OF VERSIONS OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT**

Nine versions of the Clean Energy Independence and Investment Act of 2016 have been submitted for review. A summary of which topics are in each version is provided below.

**CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT OF 2016**
**SUMMARY OF VERSIONS**

| Petition version | 386.870 - Electric vehicle | 386.890 - Net metering | 386.900 - Enhanced net metering | 386.910 - Community Solar | 386.1000 - Tax credits |
|---|---|---|---|---|---|
| | | | | | |
| **1% Electric Versions** | | | | | |
| Version 10 | N/A | X | X | X | X |
| Version 12 | X | X | X | X | X |
| Version 14 | X | Deletes | X | X | X |
| Version 15 | N/A | N/A | N/A | N/A | X |
| Version 16 | X | N/A | N/A | X | X |
| Version 17 | X | X | X | N/A | X |
| Version 18 | N/A | X | X | X | X |
| | | | | | |
| **$50 million cap Versions** | | | | | |
| Version 11 | N/A | X | X | N/A | X |
| Version 13 | X | X | X | X | X |

## ANALYSIS OF FISCAL IMPACT OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT

The fiscal impact analysis contained herein focuses on estimating the fee and tax revenue resulting from the statutory changes proposed in the initiative petition. Table 1 summarizes the revenue estimated by source and by fiscal year. Page and Table numbers are provided to help readers find specific subjects.

**Table 1 - Summary of Fiscal Impact by Fund**

| Page # | Table # | Purpose | FY 2017 | FY 2018 - low range | FY 2018 - high range | Revenue Type |
|---|---|---|---|---|---|---|
| 9-12 | Table 10 | Tax credit | $0 | ($39,494,829) | ($78,989,658) | Income |
| 13-15 | Table 14 | Taxes from clean energy tax credit construction | $0 | $4,429,063 | $8,858,126 | Various |
| 16-17 | Table 17 | Taxes from community solar construction | N/A | N/A | N/A | Various |
| | | subtotal General Revenue Fund | $0 | ($35,065,766) | ($70,131,532) | |
| | | | | | | |
| 8-13 | Table 11 | Clean Energy Fund | $0 | $868,852 | $1,733,826 | Application deposit |
| | | | | | | |
| 13-15 | Table 14 | Prop C sales tax - clean energy | $0 | $451,369 | $902,739 | Sales tax |
| 16-18 | Table 17 | Prop C sales tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Prop C | $0 | $451,369 | $902,739 | |
| | | | | | | |
| 13-15 | Table 14 | Conservation sales tax - clean energy | $0 | $56,421 | $112,842 | Sales tax |
| 16-18 | Table 17 | Conservation sales tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Conservation | $0 | $56,421 | $112,842 | |
| | | | | | | |
| 13-15 | Table 14 | Parks and Soils sales tax - clean energy | $0 | $45,137 | $90,274 | Sales tax |
| 16-18 | Table 17 | Parks and Soils sales tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Parks and Soils | $0 | $45,137 | $90,274 | |
| | | | | | | |
| | | subtotal Other State Funds | $0 | $1,421,780 | $2,839,681 | |
| | | | | | | |
| | | subtotal all state funds | $0 | ($33,643,986) | ($67,291,851) | |
| | | | | | | |
| 13-15 | Table 14 | Local Sales Tax - clean energy | $0 | $1,751,314 | $3,502,627 | Sales tax |
| 16-18 | Table 17 | Local Sales Tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Local Funds | $0 | $1,751,314 | $3,502,627 | |
| | | Grand Total State and Local | $0 | ($31,892,673) | ($63,789,224) | |

**Clean Energy tax credits**

The proposal creates a clean energy tax credit in Chapter 386 RSMo. The annual level of tax credits for each calendar year shall not exceed one percent of the annual statewide Missouri revenue of Missouri retail electric suppliers. The Public Service Commission (PSC) is required to determine the revenue for retail electric suppliers using available reports, including FERC Form Number 1 as allowed by 18 CFR § 141 or an equivalent determined by the PSC.

The data for this calculation is gathered and published by the U.S. Energy Information Administration on its website.[1] Table 2 shows the revenues reported by each Missouri entity in 2014. Retail sales totaled $7.6 billion in 2014 for the 74 entities.

**Table 2**
**2014 Utility Bundled Retail Sales - Total**
(Data from forms EIA-861- schedules 4A & 4D and EIA-861S)

| Entity | Ownership | Revenues (Thousands Dollars) |
|---|---|---|
| Atchison-Holt Electric Coop | Cooperative | $6,727 |
| Barry Electric Coop | Cooperative | $16,654 |
| Barton County Elec Coop, Inc | Cooperative | $16,262 |
| Black River Electric Coop - (MO) | Cooperative | $42,554 |
| Boone Electric Coop | Cooperative | $55,335 |
| Callaway Electric Cooperative | Cooperative | $24,618 |
| Carroll Electric Coop Corp - (AR) | Cooperative | $14,104 |
| Central Missouri Elec Coop Inc | Cooperative | $25,350 |
| Chillicothe Municipal Utils | Municipal | $10,035 |
| Citizens Electric Corporation - (MO) | Cooperative | $123,087 |
| City Utilities of Springfield - (MO) | Municipal | $249,286 |
| City of Ava - (MO) | Municipal | $2,894 |
| City of Cameron | Municipal | $7,728 |
| City of Carthage - (MO) | Municipal | $24,493 |
| City of Columbia - (MO) | Municipal | $109,927 |
| City of Farmington - (MO) | Municipal | $18,390 |
| City of Fulton - (MO) | Municipal | $14,228 |
| City of Hannibal - (MO) | Municipal | $25,785 |
| City of Harrisonville - (MO) | Municipal | $12,072 |
| City of Independence - (MO) | Municipal | $135,338 |
| City of Jackson - (MO) | Municipal | $16,281 |
| City of Kennett - (MO) | Municipal | $10,988 |
| City of Kirkwood - (MO) | Municipal | $21,547 |
| City of Lamar - (MO) | Municipal | $6,961 |
| City of Lebanon - (MO) | Municipal | $22,949 |
| City of Macon - (MO) | Municipal | $9,740 |
| City of Marshall - (MO) | Municipal | $17,390 |
| City of Monett - (MO) | Municipal | $20,534 |
| City of Mount Vernon - (MO) | Municipal | $6,790 |
| City of Nixa - (MO) | Municipal | $14,132 |
| City of Poplar Bluff - (MO) | Municipal | $31,686 |
| City of Rolla - (MO) | Municipal | $27,694 |
| City of Sikeston - (MO) | Municipal | $17,528 |

| | | |
|---|---|---|
| City of Sullivan - (MO) | Municipal | $9,645 |
| City of West Plains - (MO) | Municipal | $15,208 |
| Clay County Electric Coop Corp | Cooperative | $96 |
| Co-Mo Electric Coop Inc | Cooperative | $46,302 |
| Consolidated Electric Coop | Cooperative | $21,936 |
| Crawford Electric Coop, Inc | Cooperative | $30,705 |
| Cuivre River Electric Coop Inc | Cooperative | $105,621 |
| Empire District Electric Co | Investor Owned | $456,324 |
| Farmers Electric Coop, Inc - (MO) | Cooperative | $28,697 |
| Gascosage Electric Coop | Cooperative | $17,074 |
| Grundy Electric Coop, Inc | Cooperative | $12,214 |
| Howard Electric Coop | Cooperative | $6,057 |
| Howell-Oregon Elec Coop, Inc | Cooperative | $38,226 |
| Intercounty Electric Coop Assn | Cooperative | $53,855 |
| KCP&L Greater Missouri Operations Co. | Investor Owned | $802,845 |
| Kansas City Power & Light Co | Investor Owned | $824,706 |
| Laclede Electric Coop, Inc | Cooperative | $63,330 |
| Lewis County Rural E C A | Cooperative | $13,534 |
| Macon Electric Coop | Cooperative | $23,795 |
| Missouri Rural Electric Coop | Cooperative | $17,812 |
| New-Mac Electric Coop, Inc | Cooperative | $38,876 |
| North Central MO Elec Coop Inc | Cooperative | $14,098 |
| Osage Valley Elec Coop Assn | Cooperative | $28,034 |
| Ozark Border Electric Coop | Cooperative | $68,293 |
| Ozark Electric Coop Inc - (MO) | Cooperative | $52,354 |
| Pemiscot-Dunklin Elec Coop Inc | Cooperative | $19,856 |
| Platte-Clay Electric Coop, Inc | Cooperative | $51,737 |
| Ralls County Electric Coop | Cooperative | $12,711 |
| SE-MA-NO Electric Coop | Cooperative | $9,438 |
| SEMO Electric Cooperative | Cooperative | $33,195 |
| Sac-Osage Electric Coop Inc | Cooperative | $16,676 |
| Southwest Electric Coop, Inc | Cooperative | $58,853 |
| Sunnova | Behind the Meter | $1 |
| Three Rivers Electric Coop | Cooperative | $36,751 |
| Trenton Municipal Utilities - (MO) | Municipal | $8,647 |
| Tri-County Electric Coop Assn | Cooperative | $12,512 |
| Union Electric Co - (MO) | Investor Owned | $3,112,534 |
| United Electric Coop, Inc - (MO) | Cooperative | $21,579 |
| Webster Electric Coop | Cooperative | $28,828 |
| West Central Electric Coop Inc - (MO) | Cooperative | $25,967 |
| White River Valley El Coop Inc | Cooperative | $86,488 |
| Adjustment 2014 | Other | $159,914 |
| Total | | $7,644,407 |

Source: http://www.eia.gov/electricity/sales_revenue_price/
Table 10: All Sectors - Class of ownership, number of consumers, sales, revenue, and average retail price by State and utility:

Table 3 shows the data series by year from 1990 through 2014 reported by the U.S. Energy Information Administration.[2] The average annual increase in these revenues is 3.33 percent.

**Table 3**
**Revenue from Sales to Ultimate Customers**
**(Thousand Dollars) for Missouri, 1990-2014**

| Year | Total Revenue | $ Growth over previous year | % Growth over previous year |
|---|---|---|---|
| 1990 | $3,484,572,000 | | |
| 1991 | $3,653,391,000 | $1,688,190 | 4.8% |
| 1992 | $3,489,099,000 | ($1,642,920) | (4.5%) |
| 1993 | $3,709,661,000 | $2,205,620 | 6.3% |
| 1994 | $3,749,115,000 | $394,540 | 1.1% |
| 1995 | $3,891,751,000 | $1,426,360 | 3.8% |
| 1996 | $3,961,895,000 | $701,440 | 1.8% |
| 1997 | $4,005,066,000 | $431,710 | 1.1% |
| 1998 | $4,196,674,000 | $1,916,080 | 4.8% |
| 1999 | $4,185,713,000 | ($109,610) | (0.3%) |
| 2000 | $4,370,246,000 | $1,845,330 | 4.4% |
| 2001 | $4,414,434,000 | $441,880 | 1.0% |
| 2002 | $4,565,227,000 | $1,507,930 | 3.4% |
| 2003 | $4,470,188,000 | ($950,390) | (2.1%) |
| 2004 | $4,494,108,000 | $239,200 | 0.5% |
| 2005 | $4,959,849,000 | $4,657,410 | 10.4% |
| 2006 | $5,169,747,000 | $2,098,980 | 4.2% |
| 2007 | $5,614,317,000 | $4,445,700 | 8.6% |
| 2008 | $5,768,459,000 | $1,541,420 | 2.7% |
| 2009 | $5,871,973,000 | $1,035,140 | 1.8% |
| 2010 | $6,698,608,000 | $8,266,350 | 14.1% |
| 2011 | $7,008,476,000 | $3,098,680 | 4.6% |
| 2012 | $7,029,475,000 | $209,990 | 0.3% |
| 2013 | $7,538,092,000 | $5,086,170 | 7.2% |
| 2014 | $7,644,407,000 | $1,063,150 | 1.4% |
| | | Avg. annual growth | 3.33% |

Source: http://www.eia.gov/electricity/sales_revenue_price/
Supplemental Data: 1990 - 2013 Revenue from Retail Sales of Electricity by State by Sector by Provider (EIA-861)

For purposes of this fiscal analysis it is assumed that the Public Service Commission will use the most recent available data for establishing the annual cap. The state is currently in FY 2016 and the most recent available data is from 2014. Thus, for the fiscal periods included for consideration by the State Auditor's Office the FY 2017 cap will be established using 2015 data published by the U.S. Energy Information Administration. Similarly, the FY 2018 cap will be established using 2016 data. In this manner the cap for each calendar year will be established eight months before it begins instead of four months after it starts.

**Table 4**
**Data and Timeline for Establishing Annual Tax Credit Cap**

| Data available | Time period of data | CY year for the cap |
|---|---|---|
| April 2015 | 2014 actual data | CY 2016 |
| April 2016 | 2015 actual data | CY 2017 |
| April 2017 | 2016 actual data | CY 2018 |

As shown in Table 3 the average annual growth rate from 1990 to 2014 was 3.33 percent. Table 5 assumes that the average annual growth rate will carry forward for the next several years. The clean energy tax credits cap is estimated at $76.4 million for CY 2016, $79 million for CY 2017 and $81.6 million for CY 2018.

**Table 5**
**Clean Energy Tax Credit Estimate of Cap**

| Calendar Year for cap | Fiscal Year for likely redemption of credits | Revenue data | Total Revenue | Tax credit at 1.0% |
|---|---|---|---|---|
| CY 2016 | FY 2017 | 2014 actual data | $7,644,407,000 | $76,444,070 |
| CY 2017 | FY 2018 | 2015 projection | $7,898,965,753 | $78,989,658 |
| CY 2018 | FY 2019 | 2016 projection | $8,162,001,313 | $81,620,013 |

For purposes of the fiscal note the State Auditor's office asks that estimates be provided for the first two fiscal years of implementation which are FY 2017 and FY 2018 since the provisions of the proposal would go into effect in December 2016. Almost all taxpayers file their taxes on the April 15th deadline. Therefore, CY 2016 taxes would be due on April 15, 2017 which is in FY 2017 as shown in Table 5.

The proposal establishes a cap beginning for CY 2016. However, the provisions of the act will go into effect in December 2016. Paragraph 13 of the proposed section 386.1000 states that any taxpayer verified by the Department of Economic Development to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with the provisions shall be deemed eligible for the tax credit. This allows for the Department of Economic Development to include projects in 2016 before its processes are in place. Paragraph 17 of the proposed section 386.1000 provides that the Department of Economic Development shall issue rules necessary to administer the act. In addition, paragraph 10 gives the Department of Economic Development 45 days to notify an applicant of approval after the application is submitted.

Issuing rules is at best a months long process. The 45 day processing time allowed for any completed application filed after the rules are adopted makes it very unlikely that the Department of Economic Development will issue any CY 2016 tax credits before April 15, 2017 that would affect the taxpayers initial tax filing and reduce taxes paid during FY 2017. Tax credits issued between April 15 and June 30, 2017 would require an amended filing which also would be unlikely to be completed by June 30, 2017. Thus, this fiscal analysis assumes a de minimis or no impact on FY 2017 general revenue tax collections. Any CY 2016 tax credit impact would at most impact the FY 2018 tax collections through amended returns or through CY 2017 taxes.

**Application Deposit revenue**

The proposed Section 386.1000 RSMo requires that taxpayers submit an application to the Department of Economic Development to receive approval for tax credits (paragraph 7). Each application must include a two cent per watt application deposit. The total revenue from application deposits is dependent upon:

- the number of projects that will be submitted;
- the number of watts generated from all of those projects

Each of these is affected by the:

- percentage of residential v commercial projects
- number of kW generated by residential v commercial projects
- cost of residential and commercial projects
- total construction completed
- any phase-in period as the Department of Economic Development institutes rules and prepares the program
- any phase-in period as the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available

All of these factors must be estimated and evaluated in order to calculate the amount of application deposit revenue that will be received by the Department of Economic Development.

Tax credits are available to both residential and commercial projects. Paragraph 5 of the proposed Section 386.1000 RSMo provides that no electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit.

The Missouri Department of Economic Development, Division of Energy published a Missouri Comprehensive State Energy Plan in October 2015. The report states that half of the installed net-metered PV solar is residential and the other half commercial customers.[3] However, the report also indicates that there are challenges that face residential customers making it more difficult and expensive to install solar projects. These challenges include local ordinances or homeowner's association rules the may prohibit installation or require design changes that decrease efficiency or add to the cost.[4] In addition, over the past decade an industry has developed to assist with the financing of solar projects. Such financing alternatives are easier to obtain by commercial projects because of their size, scope, and estimated return on investment.[5] Commercial projects can have a longer-term outlook than homeowners who may not know how long they may live in their current house. The Missouri State Energy Plan indicates that residential rooftop solar is a relatively expensive energy option due to these and other factors.[6]

For all of the reasons identified in the preceding paragraph, for purposes of this fiscal analysis residential solar installation is assumed to be 40% of the total solar construction. Commercial solar installation is assumed to be 60% of the total solar construction. This fiscal analysis has already indicated that 2016 solar construction will likely not be affected by the approval of the petition by voters in November 2016. Thus, CY 2017 is the first full year of impact. Tax credits resulting from such construction will first affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office.

The next factor to consider is the number of kW generated by residential and commercial projects. A recent report on photovoltaic system pricing trends published by the U.S. Department of Energy indicates that the median residential project is 6.1 kW while the modeled commercial system is 200 kW. Paragraph 5 of the proposed section 386.1000 establishes a 200 kW limit on installations that are authorized for tax credits.[7] For purposes of this fiscal analysis it is assumed that all commercial projects will be at the 200 kW size and that residential projects will be 6.1 kW. Paragraph 7 of the proposed section 386.1000 requires a two cent per watt application deposit fee. Table 6 shows that there would be a $122

application deposit required for the median residential project. There would be a $4,000 application deposit required for the 200 kW commercial project.

**Table 6**
**Application Deposit Required for Projects**

| Construction type | Project size in kW | Project size in watts | Application deposit for project at 2 cents per watt |
|---|---|---|---|
| Residential | 6.1 | 6,100 | $122 |
| Commercial | 200.0 | 200,000 | $4,000 |

The recent report on photovoltaic system pricing trends published by the U.S. Department of Energy also discusses the historical, recent, and near-term pricing of solar projects.[8] Project cost information was obtained on more than 400,000 systems in 42 states. The modeled system prices identified in the report showed a Q1 2015 residential system price of $3.12/watt and a commercial 200 kW system cost of $2.17/watt. These were reductions in price of from Q4 2013 of 7% and 19% respectively. The report also indicates that prices for residential and commercial PV systems have decreased by 6-12% per year, on average, from 1998-2014. In addition, the report indicates that analysts project the system prices will fall 16-33% for residential systems between 2014-2020.

Table 7 projects residential solar project costs. Projections are made to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 7 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $3,000/kW for residential solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 6.1 kW residential project is estimated at $18,300.

**Table 7**
**Residential Solar Project Estimate**

| | Cost of Residential project per kW | Cost of Residential project at 6.1 kW project size |
|---|---|---|
| CY 2015 | $3,120 | $19,032 |
| CY 2016 | $3,039 | $18,538 |
| CY 2017 | $2,960 | $18,056 |
| average cost of CY16 and CY17 estimates | $3,000 | $18,300 |

The modeled commercial system price identified in the report showed a Q1 2015 commercial 200 kW system cost of $2.17/watt. However, the national average cost of commercial projects is affected by states with more mature solar markets and industries and large companies, like Wal-Mart and Ikea, that have moved to install significant solar projects on their facilities. The first Missouri commercial systems are less likely to meet the $2.17/watt cost projections. Table 8 uses other data in the report to amend the estimate of commercial solar project costs. The report shows that the price of the modeled 200 kW commercial system has fallen from $2.68/watt to $2.17 between 2013 Q4 and 2015 Q1. The mid-point of that decrease is $2.425/watt. Further, it is assumed that the cost of Missouri projects will be higher by 2.6%, or one-year's worth of the low end of the price declines found in the report. The result is that this analysis will assume that the Missouri 2015 Q1 price is $2.488/watt.

**Table 8**
**Commercial Solar Project Cost Estimate per kW**

| | |
|---|---|
| 2013 Q4 | $2,680 |
| 2015 Q5 | $2,170 |
| Mid-point | $2,425 |
| One-year behind (2.6%) | $2,488 |

Table 9 then projects the $2,488/kW 2015 Q1 cost to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 9 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $2,392/kW for commercial solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 200 kW commercial project is estimated at $478,400.

**Table 9**
**Commercial Solar Project Estimate**

| | Cost of Commercial project per kW | Cost of Commercial project at 200 kW project size |
|---|---|---|
| CY 2015 | $2,488 | $497,600 |
| CY 2016 | $2,423 | $484,600 |
| CY 2017 | $2,360 | $472,000 |
| average cost of CY16 and CY17 estimates | $2,392 | $478,400 |

The analysis so far has identified:

- a $79 million estimate of the maximum clean energy tax credits using one percent of the annual statewide Missouri revenue of Missouri retail electric suppliers as directed by paragraph 1 of the proposed section 386.1000.
- an estimate that 40% of total solar construction would be residential and 60% commercial
- project cost estimates of $18,300 for 6.1 kW residential projects and $478,400 for 200 kW commercial projects

The final factor to calculate before arriving at the amount of application deposit revenue is any phase-in period as the Department of Economic Development issues rules and prepares its processes and the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available. The Missouri State Energy plan reports that Missouri currently has 111 MW of installed solar PV capacity. The plan also reports that there is 42.8 MW of installed net-metered PV solar developed over the years largely as a result of rebates from large utility companies in Missouri.

The proposal being analyzed establishes a statutory program of clean energy tax credits that will sunset after the Department of Economic Development certifies that 1,000 MW of capacity has been added as a result of the tax credits but no later than June 30, 2022. The 1,000 MW target represents a dramatic increase in current capacity.

The Missouri State Energy plan provides a wealth of information about the current state of "green jobs" and the solar industry in Missouri. The report includes the following along with other findings about the industry.

- Missouri had over 100,000 "green jobs" according to a 2009 study.[9]
- Missouri was identified as 10th in the nation for growth in clean energy and clean transportation jobs in 2013.[10]

- $187 million was invested by Missouri's solar industry in 2014 to install solar photovoltaic systems for residential, commercial, and utility use.[11]
- There are more than 97 solar companies at work throughout the supply chain in Missouri, employing 2,500 people including manufacturers, contractors, installers, project developers, distributors.[12]
- Missouri could create 8,500 new jobs to design, install, and operate energy efficiency measures by 2025 according to a 2011 study.[13]
- In 2010 Missouri ranked 6th in the nation in photovoltaic jobs.[14]

The clean energy tax credit does not sunset until the 1,000 MW target of additional capacity is met but no later than June 30, 2022. The size and the long-term nature of the 1,000 MW target should encourage the development of the Missouri solar industry even after it sunsets. It should also result in long-term planning and the build out of a native Missouri solar industry. The target also provides an incentive for the industry to meet the growth potential described in the Missouri State Energy Plan.

In the long-term the impact of the 1,000 MW target will grow and build the industry. In addition, investment in solar will allow longer term benefits in reduced fuel usage, cleaner air, better health and the resulting lower costs among other things. The Missouri State Energy Plan identifies the public health impacts of various energy sources with clean energy sources providing significant positive benefits over other sources.[15] A 2013 study of Hawaii's solar tax credit program found that the State recovered the full cost of the tax credit in 9 to 11 years - a rate of return on its investment ranging from 8.9% to 10.3%.[16] In addition, the study found that for each dollar spent by Hawaii on tax credits the amount of additional sales stimulated was $34.69 for residential solar PV and $55.03 for commercial PV.

However, the fiscal note format required for initiative petitions focuses on the short-term revenue and costs. Thus, the longer-term benefits are not included in this fiscal analysis. As explained elsewhere in this fiscal analysis the impact of the availability of tax credits is somewhat dependent upon the speed with which the Department of Economic Development issues the necessary rules and regulations, develops and makes available the application forms, and the industry's reaction to voter approval and the department's actions. Thus, two alternatives are calculated to create a possible range for the likely outcome in the short-term.

The first alternative assumes that construction will be sufficient to use half of the $79 million in possible tax credits. The first alternative assumes that the program is not implemented until July 2017 thus reducing its effect by half in CY 2017. The second alternative assumes that construction will be sufficient to use all of the $79 million in possible tax credits. The second alternative assumes that the industry is energized by the tax credit and pushes forward with construction under the assumption that the Department of Economic Development will recognize all projects that have been started after voter approval of the proposal.

Table 10 takes that information and shows two possible alternatives for CY 2017.

- Construction leading to use of **half** the available tax credits ($39.5 million) - A total of $112.8 million in construction would be required to generate $39.5 million in tax credits. Residential construction of $45.1 million (assuming 40% of construction) would result in $15.8 million in tax credits. Commercial construction of $67.7 million (assuming 60% share of construction) would result in $23.7 million in tax credits.

- Construction leading to use of **all** the available tax credits ($79 million) - **A total of $225.7 million in construction would be required to generate $79 million in tax credits.** Residential construction of $90.3 million (assuming 40% of construction) would result in $31.6 million in tax credits. Commercial construction of $135.4 million (assuming 60% share of construction) would result in $47.4 million in tax credits.

In addition, using the average cost and size of projects it is possible to compute the number of residential and commercial projects that will be constructed. A total of 2,608 projects would be constructed with half

the tax credits (2,466 residential, 142 commercial). A total of 5,216 projects would be constructed with all the tax credits (4,933 residential, 283 commercial).

**Table 10**
**Number of Projects using Half or All of Tax Credit Cap**

| | CY 2017 construction needed for half of tax credits to be used in FY 2018 | CY 2017 construction needed for all of tax credits to be used in FY 2018 |
|---|---|---|
| Tax credits estimate from CY 2017 construction | $39,494,829 | $78,989,658 |
| Amount of construction value needed to generate value of 35% tax credits | $112,842,369 | $225,684,737 |
| | | |
| % of residential per year of credits issued | 40.0% | 40.0% |
| % of commercial per year of credits issued | 60.0% | 60.0% |
| | | |
| Tax credits by type of construction | | |
| Residential | $15,797,932 | $31,595,863 |
| Commercial | $23,696,897 | $47,393,795 |
| Total amount by type | $39,494,829 | $78,989,658 |
| | | |
| Construction value by type of construction | | |
| Residential | $45,136,948 | $90,273,895 |
| Commercial | $67,705,421 | $135,410,842 |
| Total amount by type | $112,842,369 | $225,684,737 |
| | | |
| Cost of solar projects per project | | |
| Residential (6.1 kW/project) | $18,300 | $18,300 |
| Commercial (200 kW/project) | $478,400 | $478,400 |
| | | |
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |

Table 10 shows a significant number of projects that would be completed throughout the state as a result of the clean energy tax credit. These numbers are possible for a variety of reasons identified in the Missouri State Energy Plan.

- Missouri households use about 12% more than the average U.S. household, thus projects would put real dollars into Missourians pockets for other uses and spending.[17]
- Nationally about ten percent of small business owners state that energy is their single biggest cost according to the National Federation of Independent Business. The same report indicates that an additional 25% of small business owners claim that energy is one of their top three business costs.[18] Thus, clean energy projects that reduce energy usage make businesses more profitable, allow for expansion, and could lead to higher wages for employees.
- Businesses can lower costs through on-site generation while also achieving other benefits.[19]
- Significant operational savings are possible through energy efficiency projects with rates of return as high as 25%.[20]

- A wealth of financing alternatives now exist for clean energy projects.[21]
- "Approximately 60% of the largest U.S. businesses have set public climate and energy goals to increase their use of renewable energy."[22]

Table 11 calculates the amount of application deposit revenue that the Department of Economic Development would receive given the number of projects identified in Table 10. If applications are submitted for projects equivalent to half the available tax credits then the department would receive $0.9 million in application deposit revenue. If applications are submitted for projects equivalent to all the available tax credits then the department would receive $1.7 million in application deposit revenue.

**Table 11**
**Application Deposit Revenue**

| | Application Deposit Estimate for half of tax credits for applications FY 2018 | Application Deposit Estimate for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |
| | | |
| Application deposit required per project | | |
| Residential | $122 | $122 |
| Commercial | $4,000 | $4,000 |
| | | |
| Application deposit revenue | | |
| Residential | $300,852 | $601,826 |
| Commercial | $568,000 | $1,132,000 |
| Total amount by type | $868,852 | $1,733,826 |

Table 12 shows the amount of solar capacity added by the number of projects identified in the previous tables given the given size of residential and commercial projects. A total of 43.4 MW would be added in solar capacity as a result of projects equivalent to half the available tax credits which would be 4.3% of the 1,000 MW goal that when achieved will sunset the tax credits. A total of 86.7 MW would be added in solar capacity as a result of projects equivalent to all the available tax credits which would be 8.7% of the 1,000 MW goal that when achieved will sunset the tax credits.

**Table 12 Amount of Solar Capacity Added**

| | Capacity added for half of tax credits for applications FY 2018 | Capacity added for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 2,466.00 | 4,933.00 |
| Commercial | 142.00 | 283.00 |
| Total amount by type | 2,608 | 5,216 |
| | | |
| kW generated by construction | | |
| Residential (6.1 kW/project) | 15,043 | 30,091 |
| Commercial (200 kW/project) | 28,400 | 56,600 |
| Total amount by type | 43,443 | 86,691 |
| | | |
| MW generated by construction | | |
| Residential | 15.0 | 30.1 |
| Commercial | 28.4 | 56.6 |
| Total amount by type | 43.4 | 86.7 |
| | | |
| % of 1,000 MW goal achieved | 4.3% | 8.7% |

**Taxes**

As noted on pages 10-11 of this fiscal analysis, the Missouri State Energy Plan published in October 2015 describes the current capacity, industry size, and investments being made in Missouri. The plan also describes the potential for jobs and economic development in the state. The 1,000 MW target represents a dramatic increase in current capacity. The following analysis assumes that due to the dramatic size of the 1,000 MW target that the investments driven by the clean energy tax credits will result in new jobs and industry expansion.

Table 13 shows the cost components of a solar construction project. Labor is assumed to be 35% of the project costs, materials 40%, and Profit 10%. It is assumed that 15% of the project cost is overhead and it is assumed that no taxes would be applied. Since Missouri already has a base of manufacturers and distributors it is assumed that all materials will be Missouri taxed.

**Table 13**
**Construction Project Components, Tax Type, and Tax Rate**

| Project components | % of job | Missouri tax rate | Type tax |
|---|---|---|---|
| Labor | 35.0% | 6.00% | Income tax |
| Materials and local materials | 40.0% | 4.225% | Sales |
| Profit | 10.0% | 6.25% | Corporate |
| Overhead | 15.0% | 0.00% | N/A |
| subtotal by taxable type | 100.0% | | |

Table 14 computes the state and local taxes based on the value of construction and the project components and tax rates shown in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $4.4 million to $8.9 million in FY 2018. The other three state funds (Prop C, Conservation, Parks/Soils) are estimated to receive between $0.6 million to $1.1 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $1.75 million to $3.5 million in local sales tax revenue in FY 2018.

**Table 14**
**State and Local Taxes Generated by Construction**

| | Half of tax credits used - CY 2017 | All of tax credits used - CY 2017 |
|---|---|---|
| Amount of construction value needed to generate value of 35% tax credits | $112,842,369 | $225,684,737 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $39,494,829 | $78,989,658 |
| Materials and local materials | $45,136,947 | $90,273,895 |
| Profit | $11,284,237 | $22,568,474 |
| subtotal by taxable type | $95,916,013 | $191,832,027 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $2,369,690 | $4,739,379 |
| Materials and local materials - Sales/Use Tax | $1,354,108 | $2,708,217 |
| Profit - General Revenue Corporate Tax | $705,265 | $1,410,530 |
| subtotal GR | $4,429,063 | $8,858,126 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $451,369 | $902,739 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $56,421 | $112,842 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $45,137 | $90,274 |
| subtotal State Taxes | $4,981,991 | $9,963,981 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $1,751,314 | $3,502,627 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $6,733,304 | $13,466,608 |

The taxes generated from the construction activity shown in Table 14 likely underestimate the state revenue that will be generated by the construction of clean energy projects even within the short time period allowed in the fiscal note. As noted earlier there are multiplier effects that ripple through the economy. The Department of Economic Development through MERIC has a sophisticated model that it uses to evaluate the impact of tax credits and other business investments made in the State of Missouri. Using the information in this fiscal analysis MERIC should be able to provide supplementary information regarding the extra economic activity and increased revenues.

Similarly, generating additional clean energy within the State of Missouri will result in a decrease in the importation of power and energy producing raw materials from other states. Such money leakage from the state, businesses and citizens, decreases the amount of purchasing could be done for other purposes such as increased jobs within the state and thus the tax revenues that would be generated. For example, the Missouri State Energy Plan notes that Missouri is the sixth largest consumer of coal in the country and 92.5% of the coal used in 2013 was imported from Wyoming.[23] The plan reports that the state sends billions of dollars out of state for purchases of imported coal, natural gas, and transportation fuels.[24]

**Community Solar Act** - Applies to Versions 10, 12, 13, 14, 16, and 18
The Community Solar Act, section 386.910 of the proposal, directs the Missouri Public Service Commission to establish rules allowing customers to participate in a "community solar facility." Community solar facilities allow participants to benefit from solar energy and receive electric bill credits substantially similar to net metering.

Paragraph 3 of that section states that the "aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous fiscal year." Table 15 shows the total peak demand data compiled by the Public Service Commission for the four utilities affected by this section. The report shows that using peak demand leads to a cap of 504.5 MW on the amount of aggregated capacity of community solar facilities statewide.

**Table 15 - Peak Demand for Community Solar**

| Utility Name | Peak Demand |
|---|---|
| Union Electric Co - (MO) | 7,713.0 |
| Kansas City Power & Light Co | 1,878.0 |
| KCP&L Greater Missouri Operations Co. | 1,860.0 |
| Empire District Electric Co | 1,162.0 |
| Total | 12,613.0 |
| 4% overall cap | 504.5 |

Paragraph 2 of that section defines a community solar facility as a photovoltaic electric generation facility with a capacity of between 100 and 1,000 kW. For purposes of this fiscal note it is assumed that all community solar projects will be the same as the 200 kW project limit established in the clean energy tax credit language of 386.1000. In Table 12 above a low and high range was calculated for the percentage of solar capacity added through the tax credits based on the expectations of the phase-in necessary for the Department of Economic Development's implementation of the clean energy tax credits. The same percentage is used - 4.3% low range and 8.7% higher range. Similarly, for the purposes of this fiscal note the cost per kW will be $2,392 for a total project cost of $478,400 as shown in Table 9.

Table 16 shows the data and calculations needed to identify the number of projects. At the low end of the range 21.7 MW of added community solar capacity would be created which would require 108 projects of 200 kW. At the higher range 43.9 MW of added community solar capacity would be created which would require 219 projects of 200 kW.

Table 16 also shows that at an average project cost of $478,400 the low range results in $51.7 million in construction spending. The higher range results in $104.8 million in construction spending.

**Table 16**
**Community Solar Capacity and Projects**

| | Low Range | Higher Range |
|---|---|---|
| Assumed % of aggregate capacity | 4.3% | 8.7% |
| Added capacity - MW | 21.69 | 43.89 |
| Added capacity - kW | 21,694.36 | 43,893.24 |
| # projects at commercial 200 kW per project | 108 | 219 |
| Construction cost - commercial project per 200 kW project | $478,400 | $478,400 |
| Construction value | $51,667,200 | $104,769,600 |

Table 17 computes the state and local taxes based on the value of construction and the project components and tax rates shown earlier in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $2.0 million to $4.1 million in FY 2018. The other three state funds (Prop C, Conservation, Parks/Soils) are estimated to receive between $0.2 million to $0.5 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $0.8 million to $1.6 million in local sales tax revenue in FY 2018.

**Table 17**
**State and Local Taxes Generated by Construction of Community Solar Projects**

| | Low range | Higher range |
|---|---|---|
| Amount of construction value needed to generate estimated MW | $51,667,200 | $104,769,600 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $18,083,520 | $36,669,360 |
| Materials and local materials | $20,666,880 | $41,907,840 |
| Profit | $5,166,720 | $10,476,960 |
| subtotal by taxable type | $43,917,120 | $89,054,160 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $1,085,011 | $2,200,162 |
| Materials and local materials - Sales/Use Tax | $620,006 | $1,257,235 |
| Profit - General Revenue Corporate Tax | $322,920 | $654,810 |
| subtotal GR | $2,027,938 | $4,112,207 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $206,669 | $419,078 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $25,834 | $52,385 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $20,667 | $41,908 |
| subtotal State Taxes | $2,281,107 | $4,625,578 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $801,875 | $1,626,024 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $3,082,982 | $6,251,602 |

**Net metering bills** - Applies to Versions 10, 11, 12, 13, 14, 17 and 18
The Missouri General Assembly has considered six net metering bills over the past three legislative sessions. Table 18 below identifies the bills and provides links to the fiscal note and bill summary prepared for each bill. All of the fiscal notes prepared and available indicated that there was no state impact from the net metering bills.

**Table 18**
**NET METERING**
**2013, 2014, AND 2015 LEGISLATIVE SESSIONS**

| Session | Bill | Sponsor | Fiscal Note Impact | Fiscal Note Summary Link | Bill Summary Link |
|---|---|---|---|---|---|
| 2015 | SB 75 | Holsman | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0622-01N.ORG.pdf | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=82&BillID=174 |
| 2015 | SB 509 | Holsman | No impact | N/A | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=664&BillID=4599469 |
| 2015 | HB 481 | Berry (38) | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0502-01N.ORG.pdf | http://house.mo.gov/billtracking/bills151/sumpdf/HB0481C.pdf |
| 2014 | HB 1795 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER14/fishtm/5552-02N.ORG.htm | http://house.mo.gov/billtracking/bills141/sumpdf/HB1795I.pdf |
| 2013 | HB 119 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/0794-02N.ORG.htm | http://house.mo.gov/billtracking/bills131/sumpdf/HB0119I.pdf |
| 2013 | SB 396 | Holsman | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/1078-07N.ORG.htm | http://www.senate.mo.gov/13info/BTS_Web/Bill.aspx?SessionType=R&BillID=19218703 |

**Electric Vehicle Charging Stations** - Applies to Versions 12, 13, 14, 16, and 17
The petition authorizes investor-owned utilities to recover costs for infrastructure investments in electric vehicle charging stations, provided the energy output from the stations is offset in part by clean energy. There should be no fiscal impact to the state. Utility investment in electric charging stations will result in positive economic activity similar to other capital investments. However, the range of the benefits is unknown at this time.

ENDNOTES

[1] U.S. Energy Information Administration: *Table 10: All Sectors - Class of ownership, number of consumers, sales, revenue, and average retail price by State and utility*
http://www.eia.gov/electricity/sales_revenue_price/

[2] U.S. Energy Information Administration: *Supplemental Data: 1990 - 2013 Revenue from Retail Sales of Electricity by State by Sector by Provider (EIA-861)*
http://www.eia.gov/electricity/sales_revenue_price/

[3] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25
https://energy.mo.gov/energy/docs/MCSEP.pdf

[4] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25-26
https://energy.mo.gov/energy/docs/MCSEP.pdf

[5] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[6] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 200
https://energy.mo.gov/energy/docs/MCSEP.pdf

[7] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 5
http://www.nrel.gov/docs/fy15osti/64898.pdf

[8] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 4
http://www.nrel.gov/docs/fy15osti/64898.pdf

[9] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 172
https://energy.mo.gov/energy/docs/MCSEP.pdf

[10] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 173
https://energy.mo.gov/energy/docs/MCSEP.pdf

[11] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[12] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[13] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 174
https://energy.mo.gov/energy/docs/MCSEP.pdf

[14] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 175
https://energy.mo.gov/energy/docs/MCSEP.pdf

[15] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 190-191, 193, 195-199, 201, 203
https://energy.mo.gov/energy/docs/MCSEP.pdf

[16] Thomas A Loudat, Blue Planet Foundation. "*The Economic and Fiscal Effects of Hawaii's Solar Tax Credit*" - January 2013.
http://blueplanetfoundation.org/renewable-energy-tax-credit-2013.html?highlight=WyJsb3VkYXQiXQ==

[17] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 154
https://energy.mo.gov/energy/docs/MCSEP.pdf

[18] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 165 for both sentences in this bullet point
https://energy.mo.gov/energy/docs/MCSEP.pdf

[19] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[20] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[21] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[22] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 178
https://energy.mo.gov/energy/docs/MCSEP.pdf

[23] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 20-21
https://energy.mo.gov/energy/docs/MCSEP.pdf

[24] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 42
https://energy.mo.gov/energy/docs/MCSEP.pdf

**Edward D, Greim** provided the following information as an opponent of this initiative petition.

Graves Garrett LLC

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December 28, 2015

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301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: *Fiscal Note in Initiative Petitions 2016-173 through 2016-180 and 2016-190*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petitions 173, 175, 177, and 180:

> Lost revenue to state government is $498 million over the tax credit period, with annual losses of $9.5 million to $11.5 million thereafter. Lost revenue to local government is $189.1 million over the tax credit period, with annual losses of $31.5 million to $33.9 million thereafter.

We propose the following fiscal note summary for petition 174:

> Lost revenue to state government is $320.9 million over the tax credit period, with annual losses of $5.6 million to $9.6 million thereafter. Lost revenue to local government is $100.9 million over the tax credit period, with annual losses of $20 million to $28.1 million thereafter.

We propose the following fiscal note summary for petition 176:

> Lost revenue to state government is $328.8 million over the tax credit period, with annual losses of $7.5 million to $11.5 million thereafter. Lost revenue to local government is $175.3 million over the tax credit period, with annual losses of $32.4 million to $40.5 million thereafter.

We propose the following fiscal note summary for petition 178:

> Lost revenue to state government is $475.8 million over the tax credit period, with annual losses of $5.7 million to $7.7 million thereafter. Lost revenue to local government is $40.4 million over the tax credit period, with annual losses of $11.5 million to $15.7 million thereafter.

We propose the following fiscal note summary for petitions 179 and 190:

> Lost revenue to state government is $483.7 million over the tax credit period, with annual losses of $7.6 million to $9.6 million thereafter. Lost revenue to local government is $114.8 million over the tax credit period, with annual losses of $23.9 million to $28.1 million thereafter.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments. These taxes, however, will no longer be collected for electricity that is never sold due to the customer-generator production and community solar encouraged by the initiative petitions. Petition signers and voters must be informed of the certainty that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume. On the other hand, any positive fiscal impacts of the initiative petitions are speculative.

**Description of Policy**

Initiative Petitions 173 – 180 and 190 contains one or more of three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of the "Community Solar Act"; and (3) A state tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, or certain natural gas technologies.

1. Changes to Net Metering for Investor-owned electric utilities and municipal electric utilities, and, in 177, rural electric cooperatives
    A. Raise net metering cap to 7% (is currently 5%);
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);



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D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

2. Community Solar Act
   A. The Missouri Public Service Commission ("PSC") adopts rules and regulations allowing groups of 5 or more electrical corporation customers to offset energy usage with solar located in the service territory of the electrical corporation where they have an account;
   B. Facilities are 100 kilowatts to 1 megawatt;
   C. Community solar facilities may, in total, generate electricity of 4% or less of single-hour peak load, but that amount does not count toward net metering; Electrical corporations can own half (max of 2%), which may be included in the rate base. Others may own the other half (max of 2%);
   D. Community Solar facilities are not eligible for tax credits provided in the petition;
   E. Commission sets a community solar rate, not less than electrical corporation's average retail rate;
   F. Value of allocated solar bill credits reduces customer's total bill;
   G. The current value-of-community-solar rate may be locked in for 20 years beginning when a community solar facility is put in operation.

3. Tax credit
   A. 35% tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, etc.
   B. Total value of eligible credits shall not exceed 1% of the value of electricity used in Missouri[1] – defined as revenue from sale of electricity in Missouri; or tax credits are capped at$50 million each year. Unused credits carryover year to year until June 30, 2022
   C. No tax credits after June 30, 2022, or after 1000 megawatts of new generation have been installed using the tax credits.

**Burdens on State Government**

In determining the fiscal impact of each petition, it is generally reasonable to assume that the various statutory changes in the petitions will have independent fiscal impacts. The reasonableness of this assumption is demonstrated by the various iterations of the petitions themselves, some of which propose tax credits with no proposed changes to the Net Metering and Easy Connection Act. *See* Petitions 178 and 190.

[1] The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. *See* U.S. Energy Information Administration – Independent Statistics and Analysis.



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*i. Decreased tax collection due to changes to net metering – Initiative Petitions 173-177 and 179-180*

Raising the net metering cap from the current 5% of peak hour demand to 7% of peak hour demand will, conservatively, result in a 2% decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase from 5% to 7%. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in the petition provides a strong financial incentive to solar or wind energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[2], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, the net-metering cap applies to single-hour peak load, determined yearly, which means that the cap is a higher percentage of the single hour average load. This fact means that the total increase in generation is higher than it appears. Fourth, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[3] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by at least $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities. The additional decreases in sales tax revenues from municipal electric utilities and, in petition 177, from electric cooperatives, are unknown but substantial.[4]

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 173, 175-177, 180, and 190*

Community solar facilities are in addition to net metering and represent an additional capacity amounting to 4% of each electrical corporation's single-hour peak load. Energy

[2] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[3] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.
[4] Assuming $7.6 billion in electricity is sold in Missouri per year (the actual 2014 figure), a 2% decrease will decrease overall state sales tax revenues by 6.4 million annually, but some petitions enact net metering changes on rural electric cooperatives, and some do not.



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generated from the community solar facility is allocated pro rata by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. There is the potential for such bill credits to decrease overall electrical bills by more than 4% because the "bill credits" are calculated using a "value of solar rate" which is at least as high as the retail rate for electricity, but may be higher. If, for example, solar energy received a 50% rate premium due to its benefits, the amount of bill credits would increase and sales would decrease by more than the 6%, rather than 4% figure. Half of these community solar facilities—the half not owned by electrical corporations—may be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoid property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership model, similar to net metering, because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%).

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by at least $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities.

*iii. Tax credits – Initiative Petitions 173-180 and 190*

*a. Decreased tax collections due to tax credits – Credits capped at 1% of value of electricity sold in Missouri, annually ($76 million based on 2014 figures) – Initiative Petitions 173, 175, 177-180, and 190*

According to 2014 figures, Missouri retail customers bought 7.6 billion dollars worth of electricity in 2014. Accordingly, it is reasonable for fiscal note purposes to estimate that Missouri retail customer will continue to buy the same value of electricity. Electricity rates have historically risen over time, but the increasing price of electricity may be approximately the same over the relevant period as the decreases in quantity as a result of the initiative petitions. Accordingly, the 35% tax credits in these petitions will directly result in a loss of state income of approximately $76 million, annually.

*b. Decreased tax collections due to tax credits – Credits capped at $50 million annually – Initiative Petitions 174 and 176*

Similar to the loss described in subpart a, the 35% tax credits in these petitions will directly result in a loss of state income of approximately $50 million, annually.



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*c. Cost of eroding tax base due to new energy generation – Initiative Petitions 173-180 and 190*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer-generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in Missouri. Accordingly, if the tax credits were phased out due to reaching the 1000 MWh/1,000,000 kWh maximum on new electricity generation, new production from such tax credits would produce approximately 1,825,000 MWh per year, also expressed as 1,825,000,000 KWh, or 1,825 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour [5], this new production is valued at $182,500,000.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

In practice, the 1 gigawatt limit on new customer-generated energy production may never be met. Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[6] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for renewable energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology. The petition itself limits tax credits to a maximum of $3.00 per watt, but market forces should make rates in Missouri similar to those in other states, at or around $1.77.

For Initiative Petitions 173, 175, 177-180, and 190, the total, annual loss to state governments *due to the tax credits* is 76.9 million to 81.7 million over the tax credit period. There is an annual loss in perpetuity after the tax credit period of 5.7 to 7.7 million, depending on how much new customer-generation is developed. See attached table.

For Initiative Petitions 174 and 176, the total, annual loss to state governments *due to the tax credits* is 50.6 million to 53.7 million over the tax credit period. There is an annual loss in

[5] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.

[6] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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perpetuity after the tax credit period of 3.7 to 7.7 million, depending on how much new customer-generation is developed. *See* attached table.

**Burdens on Local Governments**

Local governments face losses in revenue from the various petition provisions that are similar to those faced by state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 173-177 and 179-180*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 173, 175-177, 180, and 190*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*iii. Tax credits – Cost of eroding tax base due to new energy generation – Initiative Petitions 173-180 and 190*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petitions may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to



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local governments, all of which may be reduced or discontinued if the initiative petitions are enacted.

The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[7] Based on this estimate, the population-weighted combined average local sales tax is 3.585%. Assuming the tax credits sunset due to reaching the 1 Gigawatt production cap, the yearly loss to local governments from lost sales tax from the tax credit is $6,541,578. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,123,540.

For petitions 173, 175, 177-180, and 190, the loss to local governments due to the tax credits is at least $40.4 million over the tax credit period, then $11.5 to $15.7 million annually. For initiative petitions 174 and 176, the loss to local governments due to the tax credits is at least $26.6 million over the tax credit period, then $7.5 to $15.7 million annually.

**In Conclusion**

The initiative petitions will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petitions, such as increases in net metering and community solar. The total tax burden on state government imposed by the petitions range from $313 million over the tax credit period, with $3.7 to $7.7 million in lost revenues in perpetuity, to approximately $498.6 million over the tax credit period,[8] with $9.5 million to 11.5 million in lost revenues in perpetuity thereafter.

Sincerely,

Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues

[7] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.
[8] $475.8 million + [(1.9 million + 1.9 million)*6 years]



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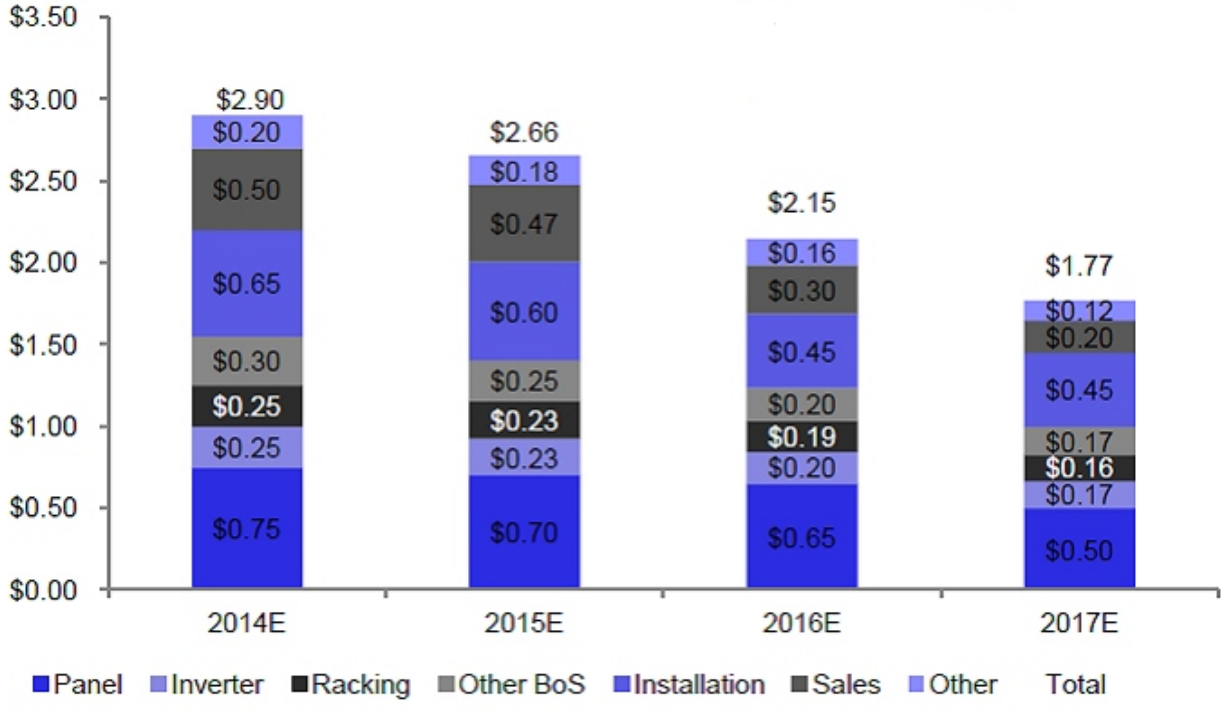
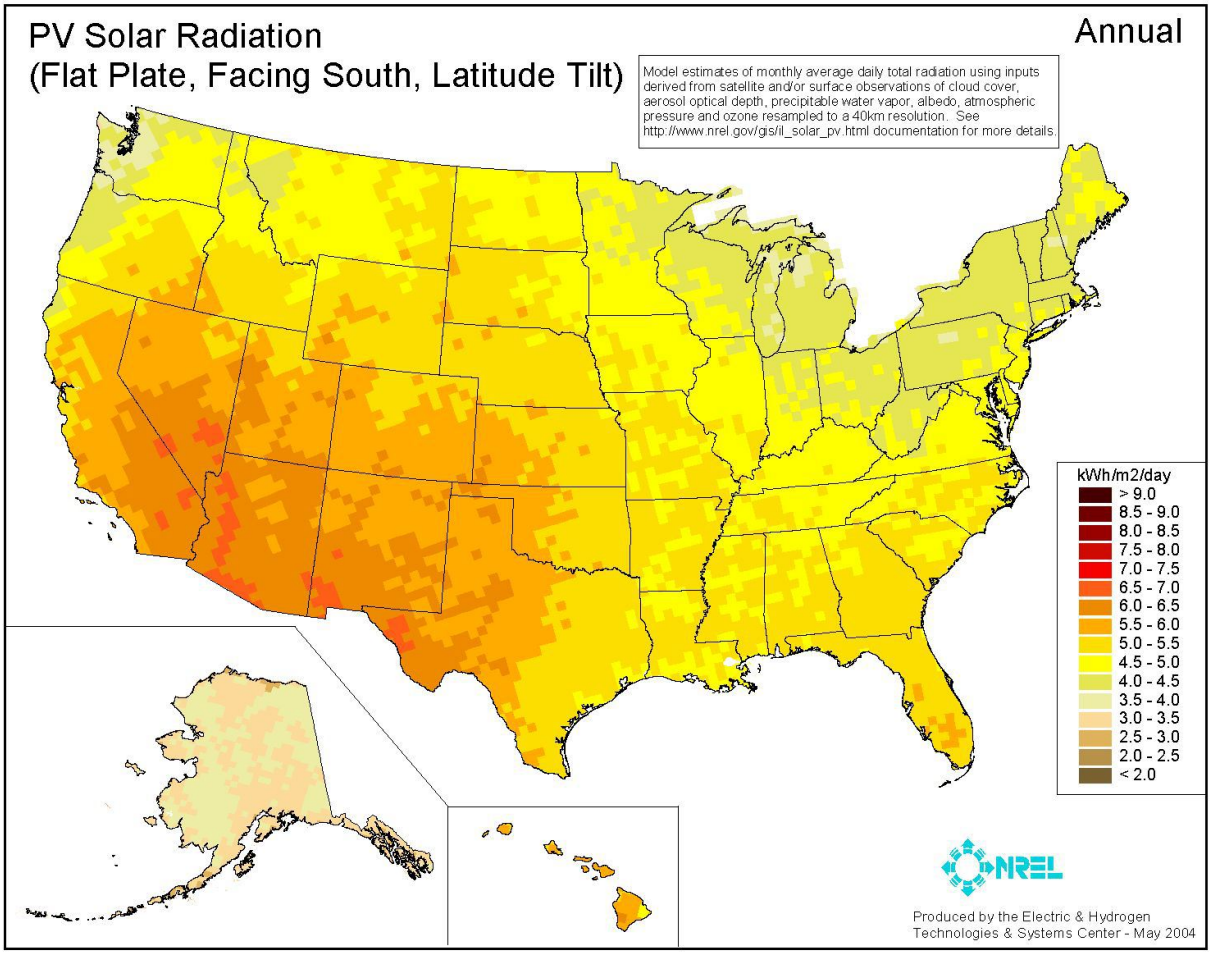
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0

Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017

https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm



National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Brightergy Renewable Tax Credit Fiscal Analysis (1% Value of Electricity Cap) - Initiative Petitions 173, 175, 177-180, and 190**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 122.68 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $76,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 223,854 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $76,000,000 | 122.68 | 122.68 | 223,854 | $100 | $22,385,441 | 4.225% | $945,785 | $76,945,785 | 3.585% | $802,518 | 5.000% | $1,119,272 | $1,921,790 |
| 2018 | $76,000,000 | 122.68 | 245.36 | 447,709 | $100 | $44,770,882 | 4.225% | $1,891,570 | $77,891,570 | 3.585% | $1,605,036 | 5.000% | $2,238,544 | $3,843,580 |
| 2019 | $76,000,000 | 122.68 | 368.04 | 671,563 | $100 | $67,156,323 | 4.225% | $2,837,355 | $78,837,355 | 3.585% | $2,407,554 | 5.000% | $3,357,816 | $5,765,370 |
| 2020 | $76,000,000 | 122.68 | 490.72 | 895,418 | $100 | $89,541,765 | 4.225% | $3,783,140 | $79,783,140 | 3.585% | $3,210,072 | 5.000% | $4,477,088 | $7,687,160 |
| 2021 | $76,000,000 | 122.68 | 613.40 | 1,119,272 | $100 | $111,927,206 | 4.225% | $4,728,924 | $80,728,924 | 3.585% | $4,012,590 | 5.000% | $5,596,360 | $9,608,951 |
| 2022 | $76,000,000 | 122.68 | 736.08 | 1,343,126 | $100 | $134,312,647 | 4.225% | $5,674,709 | $81,674,709 | 3.585% | $4,815,108 | 5.000% | $6,715,632 | $11,530,741 |
| | | | | | | | | **Total State Tax Burden** | **$475,861,483** | | **Total Local Tax Burden (Sales + Franchise)** | | **$40,357,593** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

**Brightergy Renewable Tax Credit Fiscal Analysis (50 Million Tax Credit Cap) - Initiative Petitions 174 and 176**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 80.71 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $50,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 147,273 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $50,000,000 | 80.71 | 80.71 | 147,273 | $100 | $14,727,264 | 4.225% | $622,227 | $50,622,227 | 3.585% | $527,972 | 5.000% | $736,363 | $1,264,336 |
| 2018 | $50,000,000 | 80.71 | 161.42 | 294,545 | $100 | $29,454,528 | 4.225% | $1,244,454 | $51,244,454 | 3.585% | $1,055,945 | 5.000% | $1,472,726 | $2,528,671 |
| 2019 | $50,000,000 | 80.71 | 242.13 | 441,818 | $100 | $44,181,792 | 4.225% | $1,866,681 | $51,866,681 | 3.585% | $1,583,917 | 5.000% | $2,209,090 | $3,793,007 |
| 2020 | $50,000,000 | 80.71 | 322.84 | 589,091 | $100 | $58,909,056 | 4.225% | $2,488,908 | $52,488,908 | 3.585% | $2,111,890 | 5.000% | $2,945,453 | $5,057,342 |
| 2021 | $50,000,000 | 80.71 | 403.55 | 736,363 | $100 | $73,636,320 | 4.225% | $3,111,135 | $53,111,135 | 3.585% | $2,639,862 | 5.000% | $3,681,816 | $6,321,678 |
| 2022 | $50,000,000 | 80.71 | 484.26 | 883,636 | $100 | $88,363,584 | 4.225% | $3,733,361 | $53,733,361 | 3.585% | $3,167,834 | 5.000% | $4,418,179 | $7,586,014 |
| | | | | | | | | **Total State Tax Burden** | **$313,066,765** | | **Total Local Tax Burden (Sales + Franchise)** | | **$26,551,048** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

**Brent Stewart** provided the following information as an opponent of this initiative petition.

**Association of Missouri Electric Cooperatives**

2722 East McCarty Street, P.O. Box 1645
Jefferson City, Missouri 65102
Telephone: (573) 635-6857
Fax: (573) 635-2314
www.amec.coop

RECEIVED
DEC 28 2015
STATE AUDITORS OFFICE

December 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: Fiscal Note in Initiative Petitions 2016-173 through 2016-190

To Whom It May Concern:

The Association of Missouri Electric Cooperatives (AMEC), representing the state's forty-seven member-owned, nonprofit rural electric cooperatives that serve close to one million electric consumers, respectfully submit the following brief comments to assist in your preparation of the fiscal notes on the above-mentioned initiative petitions.

All these petitions, in one way or another, involve solar and renewable energy mandates. The practical effect of each, to one extent or another, is to encourage consumers to substitute self-generation for traditional electric service, thereby creating an unfair electric rate subsidy in favor of those who can afford to install their own generation at the expense of the majority of the other consumers who cannot.

Missouri's forty distribution (retail level) cooperatives serve a wide variety of governmental entities throughout rural Missouri, including state facilities (e.g. prisons), local government facilities, hospitals, schools, rural water districts, regional sewer districts and others. To the extent these entities cannot afford to install their own generation, which most cannot, they necessarily will be forced to pay higher rates if these initiative petitions are enacted. Unfortunately, it is impossible without more time for AMEC to identify all those government-related entities and facilities or estimate with any accuracy the adverse fiscal impact. However, it is clear that even a modest rate increase necessarily will have a significant adverse fiscal impact on governmental entities, in millions of dollars, especially those in the primarily less affluent rural areas served by Missouri's nonprofit electric cooperatives.

Respectfully submitted,

Brent Stewart

Brent Stewart
AMEC Counsel

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State government revenue may decrease up to $456 million during the tax credit period with approximately $1 million annual increased operating costs. Local governmental entities estimate $23.9 million in annual electricity sales reductions. Other resulting economic activity will have an unknown impact on state and local governments.

RECEIVED
DEC 17 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 17, 2015

16-177

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 14 (2016-177)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 16, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-177

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 16 PM 4:47
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-177

*Be it enacted by the people of the state of Missouri:*

Section A: Section 386.890 is repealed and sections 386.860, 386.870, 386.900, 386.910 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.900 to 386.1000 shall be known and cited as the "Clean Energy Independence and Investment Act of 2016".

386.870. An electrical corporation shall be allowed to recover its costs and add in its rate base prudently incurred costs to install electric vehicle charging stations intended to recharge electric motor vehicles, provided the energy consumed at such stations is partially powered by a clean energy resource, as defined in 386.900, or offset with renewable energy credits, as defined in 393.1025. Investments made pursuant to this section shall not raise the retail rates charged to the customers of electrical corporations by more than one half of one percent in any year.

[386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal electric utility, rural electric cooperative as provided in chapter 394, or electrical corporation as provided in this chapter;

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of natural resources;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical

energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any municipal utility, electrical corporation regulated under this chapter, or rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for other electric utilities may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

16-17

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) For any rural electric cooperative under chapter 394, or municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule or equivalent formal action by each respective governing body:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10. The governing body of a rural electric cooperative or municipal utility shall, within nine months of January 1, 2008, adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

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16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.]

386.900. 1. This section shall be known and may be cited as the "Enhanced Net Metering and Easy Connection Act". It shall be the policy of the state to facilitate the use of customer-sited or controlled clean energy resources.

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal utility, rural electric cooperative as provided in chapter 394, or electrical corporation as provided in this chapter;

(2) "Clean energy resource", electrical energy produced from:

(a) Wind;
(b) Solar thermal sources;
(c) Hydroelectric sources;
(d) Photovoltaic cells and panels;
(e) Fuel cells using hydrogen produced by one of the above-named electrical energy sources; or
(f) Other sources of energy that become available after January 1, 2017, and are certified as clean by the department.

(3) "Commission", the public service commission of the state of Missouri;

(4) "Customer-generator", the owner, lessee or operator of a qualified electric energy generation unit which:

(a) Is powered by a clean energy resource or micro CHP;

(b) Has an electrical generating system with a capacity of not more than five hundred kilowatts, measured in alternating current;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(5) "Department", the department of natural resources;

(6) "Micro CHP", combined heat and power or cogeneration systems that simultaneously generate electricity and thermal energy in a single integrated system with a nameplate rated capacity equal to or lower than 130 kilowatts, measured in alternating current;

(7) "Net excess energy", the amount of energy expressed in kilowatt hours delivered by a customer-generator to a supplier that exceeds the amount of energy delivered by the supplier to the customer-generator over a single billing period;

(8) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(9) "Retail electric supplier" or "supplier", any municipal utility, rural electric cooperative un chapter 394 or electrical corporation regulated under this chapter that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals seven percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for other electric utilities may increase the total rated generating capacity of net metering systems to an amount above seven percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds two percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the retail electric supplier shall pay for the costs to purchase and install the necessary additional equipment, unless the commission or governing body makes a determination that the customer-generator is the only customer benefiting from the additional

distribution equipment. If the commission determines the customer-generator is the only customer benefiting, such customer-generator shall reimburse the electric supplier for reasonably incurred equipment expenses. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subdivision (2) of subsection 3 of this section and all net excess energy shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent months;

(4) Any net excess energy credits carried forward under subdivision (3) of this subsection shall expire without any compensation at the earlier of either the next subsequent March billing period or when the customer-generator disconnects service or otherwise terminates the net metering relationship with the supplier.

(5) For any rural electric cooperative under chapter 394, or municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a

utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule or equivalent formal action by each respective governing body:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (4) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems one hundred kilowatts or less and within sixty days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application. Retail electric suppliers shall interconnect qualified energy generation units within thirty days of being notified the generation unit is installed and meets the requirements of this section.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for notifying the retail electric supplier.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall by June 1, 2017 promulgate any rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts

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will be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after June 1, 2017, shall be invalid and void.

10. The governing body of a rural electric cooperative or municipal utility shall by June 1, 2017 adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs, including lost revenues and lost earnings opportunities associated with reduced demand or kilowatt hours sales, incurred under this section by a retail electric supplier shall be recovered in a timely manner in that utility's rate structure in the form of a tracker or other appropriate rate recovery mechanism. At the time of any general change in a supplier's rates, any over-recovery or under-recovery balance shall be included in the supplier's revenue requirement used to set rates as amortized over a period not exceeding three years, and shall be recovered from each rate class pursuant to the supplier's approved rate design. At the time any general change in prospective rates is proposed, the commission shall permit the supplier to estimate the total generation output from all customer-owned generation for each rate class for the twelve-month period following the effective date of any change in rates, and rates shall be set using energy and demand billing units that reflect the estimated reduction of energy and demand likely to occur due to customer-owned generation. When considering costs, the commission may evaluate the value of distributed generation and clean energy resources. To the extent any costs,

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lost revenues, or lost earnings are recovered under this section, they shall not raise the retail rates charged to the customers of electrical corporations by an average of more than one percent in any year. Any limitation on cost recovery shall not limit the availability of net metering except as provided in subsection 3 of this section.

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.910. 1. This section shall be known and cited as the "Community Solar Act."

2. Within thirty days of enactment of this section, the commission shall open a docket and by August 1, 2017, the commission shall adopt rules and regulations allowing customers to participate in community solar facilities and set a value-of-community-solar rate. For purposes of this section, a "community solar facility" is a photovoltaic electric generation facility with a capacity of between one hundred and one thousand kilowatts, measured in alternating current, that allows five or more customers of an electrical corporation to offset their energy usage with solar energy and such facility is located within the Missouri service territory of the electrical corporation where such customers have one or more electrical accounts. For the purposes of this section, an electrical corporation is as defined in 386.020.

3. The aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous calendar year, and such capacity of community solar facilities shall not count towards the system-wide net metering cap defined in subsection 3 of section 386.900. Electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. Entities or individuals that are not electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of an electrical corporation's single-hour peak load during the previous year. The commission shall allow prudently incurred costs and expenses for community solar facilities owned by an electrical corporation to be included in such electrical corporation's rate base. Once a four percent aggregate cap is reached for community solar facilities, the commission shall open a docket to determine whether or not the community solar program shall be expanded, and the commission may increase the aggregate capacity cap above four percent, or adjust the percentage cap of electrical corporations owning community solar

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facilities. The commission shall consider all benefits and costs of such an expansion when making its decision. Community solar facilities shall not be eligible for tax credits under section 386.1000.

4. For any community solar facility that is owned or operated by an entity other than an electrical corporation, the energy generated by such community solar facility shall be provided to the electrical corporation to which it is interconnected in exchange for the allocation and facilitation of bill credits as provided in subsection 5 of this section.

5. Kilowatt hours generated from community solar facilities shall be allocated, on a pro rata basis, to the designated subscribers of the community solar facility at the direction of the community solar facility owner or operator. Allocated bill credits shall be set at a community solar rate per kilowatt hour determined by the commission. The commission shall determine the value of bill credits per kilowatt hour taking into consideration costs and benefits of solar energy including but not limited to energy value, generation value, environmental value, transmission and distribution system value, disaster recovery value, reactive power value and other grid benefit value, but such bill credits shall not be less than the electrical corporation's average retail rate. The value of allocated community solar bill credits shall be used to reduce the customer's total bill. Owners and operators of community solar facilities shall not be considered a public utility as defined in section 386.020, except that this provision shall not apply to any owner or operator who is an electrical corporation. When a community solar facility is placed in service it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years.

6. The commission shall promulgate rules and regulations it deems necessary to carry out the provisions of this section. The commission's rules shall: allow electrical corporations to recover costs; provide earning opportunities for electrical corporations; provide an orderly process, including a reservation system, to allow potential community solar facility owners and operators to develop projects within the capacity limits in subsection 2 of this section; and provide options, which may include financial incentives, to encourage low-income participation.

7. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section, shall be invalid and void.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the

project. The total amount of clean energy tax credits offered annually shall not exceed one percent of the value of electricity used in Missouri as determined in subsection 4 of this section.

2. The department of economic development shall certify when the tax credits provided in this section have resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.890 and 386.900, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on available reports, including FERC Form Number 1 as allowed by 18 CFR § 141 or an equivalent as determined by the commission, of megawatt hours sales of retail electricity and corresponding revenues for the preceding year or most current reporting period as determined by the commission. The commission shall publish the value of electricity used in Missouri to the public and department of economic development within forty-five days of the enactment of this section and at least sixty days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may only apply for and receive the credit authorized by this section for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

7. To obtain approval for tax credits allowed under this section, a taxpayer shall submit an initial application for tax credits to the department of economic development. Each application shall be prioritized for review and approval, in the order of the date on which the application was received, with the oldest received date receiving priority. Applications received on the same day shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. Such application deposit shall be refunded at completion of the project or if the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. The taxpayer may request a refund of the application deposit; however, any refunds of the deposit for an application shall cause such application to lose its spot in the priority queue. If the taxpayer wants to maintain its position in the priority queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

9. Disapproved applications shall lose priority in the review process. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision of its intent to disapprove and to remove such application. The taxpayer shall have one opportunity, not to exceed ten days of notification of intent to disapprove, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

10. If the department of economic development deems the application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for initial approval shall be notified by the department of economic development that the maximum amount of credits authorized have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available due to the rescission of approvals or reserved for a future fiscal year.

12. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial approval for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development to be credited to the Clean Energy Fund,

the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by letter and shall issue, to the taxpayer, a tax credit certificate within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

15. If the amount of the credit under subsection 14 of this section exceeds the taxpayer's total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. The state tax credit shall not be subject to recapture provisions. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

16. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs

and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsections 10 or 11 of this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

17. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-177)**

## Subject

Initiative petition from Andy Zellers regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received December 17, 2015)

## Date

January 6, 2016

## Description

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Public Service Commission.**

**Mark R. Reading** provided information to the State Auditor's Office as a proponent of this initiative petition.

**Edward D, Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Brent Stewart** of Association of Missouri Electric Cooperatives provided information to the State Auditor's Office as an opponent of this initiative petition.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no known fiscal impact on their department.

Officials from the **Department of Economic Development** (DED) provided the following information:

The Division of Energy (DE) indicated this petition will result in increased operating expenses of $758,642 for fiscal year 2017, $827,781 for fiscal year 2018, and $835,826 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Section 386.870 – Electric Vehicle Charging Stations
DE participates in PSC regulatory cases to evaluate issues from a formal state policy and planning perspective consistent with its interests in clean, affordable, abundant energy, and its efficient use. DE is active in cases before the PSC related to energy efficiency and renewable energy and has responsibilities associated with certifying clean energy sources under Missouri's Renewable Energy Standard and net metering statutes. As such, DE assumes it would be involved in the implementation of this provision by monitoring and participating in cases that allow regulated electric utilities to install and recover costs associated with electric vehicle recharging stations that are partially powered by a clean energy source or offset with renewable energy credits.

Section 386.900 – Enhanced Net Metering and Easy Connection Act
DE assumes it would be involved in the implementation of this provision that modifies the existing net metering and interconnection requirements for regulated electric utilities. It is assumed there would be a rulemaking docket to set the process and details associated with this proposal. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where enhanced net metering provisions are considered.

Section 386.910 – Community Solar Act

DE assumes it would be involved in the implementation of the Community Solar Act provisions. It is assumed there would be a rulemaking docket to set the process and details associated with this section. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where community solar facilities are established for purposes of determination of eligibility and certification under the Renewable Energy Standard (RES). DE assumes this provision would result in additional RES certifications that would need to be performed.

Section 386.1000 – Clean Energy Tax Credit

DE is required to administer the Clean Energy Fund created by this section and promulgate rules to implement the Clean Energy Tax Credit. The proposal requires DE to receive applications and deposits, review and initially approve applications and required information within 30 days, review final approval applications, issue certificates and provide notifications, refund deposits for completed and disapproved projects, at least quarterly publish a list of the amount of tax credits initially and finally approved for each fiscal year and amounts reserved for future years, notify individual applicants of disapproved applications and approval within specified timeframes, notify applicants if the maximum amount of credits authorized have been allocated for the fiscal year and grant three-month extensions if needed for project completion with additional deposit payments.

**Long-range implications**

Fiscal impacts associated with the Clean Energy Tax Credits could continue until June 30, 2022. The authorization for the tax credit would sunset sooner if the 1,000 megawatt limit is reached. Economic benefits associated with construction of solar facilities would also have long-range implications.

**Assumptions and methodology used in arriving at state fiscal impact**

Section 386.870 – Electric Vehicle Charging Stations

For purposes of this fiscal note, DE assumes it would be involved in cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

Section 386.900 – Enhanced Net Metering and Easy Connection Act

For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

386.910-Community Solar Act

The RES requires investor-owned utilities in Missouri to either produce green power or purchase Renewable Energy Certificates (RECs) for compliance. One REC represents 1 megawatt-hour (MWh) of electricity generated from an eligible renewable energy resource. The in-state renewable energy generation can receive a multiplier of 1.25 for RES compliance purpose. DE has statutory authority to certify eligible renewable energy resources before RECs associated with those renewable energy resources can be used for RES compliance. DE does not charge any certification fees.

A community solar facility is defined as a solar photovoltaic facility with a capacity of 100-1000 kilowatts (kW) under this section. DE anticipates that enactment of a tax credit in Section 386.1000, RSMo, will result in an increase in community solar facilities constructed and that in-state community solar facilities will request DE to certify their renewable energy resources/projects for the purpose of generating additional revenue from REC sales. DE's review primarily focuses on environmental impacts of renewable electric generation facilities on air, water or land use. The actual staff time spent on each application varies from one project to another. Solar photovoltaic facilities with a larger capacity typically require more staff time for reviewing their third-party environmental impact assessments in addition to verifying applicable environmental permits. Staff time will be also needed for data requests and discussion, data collection, database management, report production and website maintenance.

Current average staff time to review and certify renewable energy facilities ranges from 2 hours for small projects of a few hundred kW and 8-10 hours for larger projects of a few hundred kW to 1000 kW. It is assumed that small projects will account for two-thirds of the total community solar facilities and one-third will be larger projects. The weighted average of staff time (based on 2 hours for smaller projects and 8 hours for larger projects) is 4 hours (calculation: 2*{2/3}+8*{1/3)}). The number of projects at the assumed 200 kW ranges from 71 to 209 if the full amount of tax credits are used (Source: Mark Reading). By multiplying the average staff time of 4 hours, the annual staff time will range from 284 to 836 hours. For purposes of this fiscal note, DE assumes it could implement the provisions of this section with staff requested to implement the clean energy tax credit in Section 386.1000, RSMo (see below).

Section 386.1000 – Clean Energy Tax Credit

Retail sales of Missouri's utilities totaled $7.6 billion in 2014 (Source: Mark Reading; U.S. DOE/EIA). If all tax credits were used up to the cap of 1% of the annual statewide Missouri revenue of Missouri's retail electric suppliers (approximately $76 million/year), and with consideration to the estimated cost and size of the projects, it is estimated there would be 4,933 residential project applications and 283 commercial project applications submitted for tax credit reviews (Source: Mark Reading). DE assumes that it would take approximately 2 hours each to do the initial review/approval of each application and another 2 hours to do the review and issuance of a certification after a project is completed for residential projects. Each of these would include clerical time for input/issuing letters/filing, etc. For larger commercial projects, an estimated 8 hours is

anticipated for each of these two steps. See response above for detailed tasks required by the proposal.

19,732 hours for residential applications
4,528 hours for commercial applications
24,260 hours total

To implement this provision, DE assumes it will need a total of 12 full-time employees (FTE) (including a portion of an FTE to implement Community Solar provisions, Section 386.910, RSMo) as follows:
8 – Energy Specialist I/II
2 – Energy Engineer II
2 – Administrative Office Support Assistant (AOSA)

- Energy Specialist I/II - Professional level staff to review the renewable energy project applications and to complete project evaluation activities.
- Energy Engineer II - Professional staff with expertise in engineering aspects of renewable energy projects to review the technical aspects of the projects, review of projects related to the Renewable Energy Standard and Renewable Energy Certificates and familiar with environmental impacts of renewable electric generation.
- AOSA - Staff to assist with the administrative requirements of the reviews such as drafting and sending communication to applicants, maintaining the database of applicants, and tracking status of applications.

DE also assumes that the DED's existing tax credit database will be used to track the applications. Some IT costs to generate the necessary reports are estimated.

Note that although an application deposit is required to be paid to DE and deposited in the Clean Energy Fund, because the deposit must be refunded to the applicant upon completion of the project or if the project is disapproved, DE assumes it is unable to use these funds to administer the proposal. Therefore, General Revenue funds are requested. Based on the estimated number of residential and commercial projects, application deposits at 2 cents/watt to the Clean Energy Fund would total approximately $1.7 million/year.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated the responsibilities of this proposal appear to fall under the Division of Energy. With Executive Order 13-03 the Division of Energy was transferred from the Missouri Department of Natural Resources to the Missouri Department of Economic Development, by Type I transfer. Therefore, they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** estimate this petition will result in increased operating expenses of $243,282 for fiscal year 2017, $181,985 for fiscal year 2018, and $183,470 for fiscal year 2019.

The legislation creates an unknown, negative impact to total state revenue by creating a new tax credit.

**Section 386.1000**
The provisions of this section authorize the issuance of a clean energy tax credit to taxpayers incurring costs for the installation of a clean energy resource project. The taxpayer may claim 35 percent of the total cost of the project. The legislation caps the amount of tax credits at not more than one percent of the value of the electricity used in Missouri.

**Section 386.1000.13**
The department suggests changing the provisions pertaining to the transfer of the tax to the Department of Revenue as this is currently the department's responsibility based on a previously issued executive order.

**Administrative Impact:**
**Personal Tax:**
Personal Tax requires one (1) Revenue Processing Technician I (Range 10, Step L) for every 6,000 credits claimed.

**Corporate Tax:**
Corporate Tax requires three (3) Revenue Processing Technicians I (Range 10, Step L) for every 4,000 credits redeemed, 4,000 credits transferred, and for every 520 SB 1099 compliance mailings and correspondence.

**Integrated Tax System:**
The integrated tax system incurs additional costs of $43,680 to implement the provisions of this petition.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements

if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of West Plains** indicated the 86 cities with municipal electric utilities depend on the revenues of this service for their citizen/owners to off-set the cost of electric service and operation to citizens as well as to support the activities of city government.

Based primarily on data from the Federal Department of Energy's (DOE) Energy Information Administration (EIA) Table 6 plus additional data gleaned from the National Renewable Energy Lab's Photovoltaic Calculator and the Missouri Association of Municipal Utilities for peak loads in 73 cities, they have determined that municipalities in Missouri face a loss of at least $23.9 million in revenue should this initiative petition become law. The impact alone to the City of West Plains appears to be $352,000 annually, or over 6.5% of their annual electric utility revenue budget. This figure does not reflect any additional costs they will be required to incur for required pleadings before the state Public Service Commission or local compliance costs for other requirements contained in this proposal.

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art. X, Sec. 16) that reduces income or increases costs without "full state financing," they anticipate that local government costs would be reflected in the final state cost when the fiscal note is completed. Necessary litigation costs incurred for Mo. Const. Art. X, Sec. 16 and other potential legal inconsistencies are unknown.

Methodology for City Loss Calculation
Renewable Energy Initiative Petitions

| **Assumptions and Methods** | **Information Source** |
|---|---|
| 1. A combined federal and state tax credit of 60% of installation costs, would prompt city customers to achieve the 7% capacity cap in a reasonable period of time | Proposed Legislation |
| 2. 1 kW solar panel at this latitude would generate 1350 kWHr per year | National Renewable Energy Lab's PV Calculator |

3. Annual Peaks — Municipal reports to the Missouri Association of Municipal Utilities

4. Current City Electric Rates — DOE EIA Database (Table 6 for 2010)

5. Calculation:
   Annual Peak
   7% of Annual Peak for Capacity Cap
   Total Solar Generation = (Capacity Cap * 1350 kWHrs)*1000
   City's lost revenue: City rate * Solar Generation

6. State calculation based on the sum of "Assumption 5" calculations for 73 reporting cities (out of 86)
   Total ≥ $23.8 million

**Calculation for City of West Plains**

| | |
|---|---|
| 44.453 | Annual Peak (MW) |
| 3.11171 | 7% of Annual Peak for Capacity Cap MW |
| 4,200,809 | Total Solar Generation (KWHR) |
| 8.38 | City Rate (cents per kWHR) |
| $352,028 | Lost Revenue |

Officials from **University of Missouri** indicated they have not seen cost impact studies on this initiative from their electric utility suppliers, but they do not believe this will have a significant impact on their university.

Officials from the **Public Service Commission** (PSC) indicated without the benefit of the rulemaking process to explore potential issues and clearly delineate parameters, and assuming the "value of electricity" is clearly defined as the **calendar** year Missouri revenue for retail sales of electricity, the first year clean energy tax credit cap would be approximately $76,444,000 based on the most recent data currently available. For subsequent years, this amount will change based on the most recent Missouri revenue for retail sales of electricity and whether any tax credits exceed the total tax liability for a given fiscal year. In that case, the amount that exceeds the tax liability may be carried back 3 years or forward 10 years, involving additional calculations.

Section 386.870, RSMo, allows an electrical corporation to recover its costs and add in its rate base prudently incurred costs to install electric vehicle charging stations provided the energy consumed is partially powered by a clean energy resource or offset with renewable energy credits. It is not clear if the renewable energy credits can be used to meet Section 386.870, RSMo, and also used to meet the utility's renewable portfolio standard in Section 393.1030, RSMo.

Section 386.870, RSMo, also states investments made pursuant to this section shall not raise the retail rates charged to customers of electrical corporations by more than one half

of one percent in any year. The PSC suggests this requirement be clarified. A similar cap is placed on the renewable mandate of Section 393.1045, RSMo. It has been over 7 years since the enactment of this provision and parties continue to argue its meaning before the PSC.

Sections 386.890 and 386.900, RSMo, define "department" as the department of natural resources. "Department" should be defined as the department of economic development, division of energy.

Section 386.900, RSMo, uses terms such as "commission-regulated supplier" and "public utilities" to describe suppliers that are subject to PSC jurisdiction. The PSC respectfully suggests the terms be used consistently.

Section 386.900, RSMo, requires the PSC to promulgate rules by June 1, 2017 and Section 386.910, RSMo, requires the PSC to adopt rules by August 1, 2017. The PSC respectfully suggests these dates may be aggressive for final rules to be effective.

Section 386.900.6.(2), RSMo, references "subsection 4 of this section". This appears to be an inaccurate cross-reference as there is no subsection 4 of the section.

Section 386.900.12, RSMo, says the estimated generating capacity of all net metering systems shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate, but the renewable energy portfolio deals with "energy" not "capacity".

Section 386.900.14, RSMo, says any costs, including lost revenues and lost earnings opportunities. The PSC respectfully suggests "lost revenues" and "lost earnings opportunities" be clearly defined as to how to calculate those amounts. The interpretation and calculation of these terms has been the subject of on-going disagreement as they relate to the Missouri Energy Efficiency Investment Act.

Section 386.900.14, RSMo, states the commission may evaluate the value of distributed generation and clean energy resources, but it is not clear how to determine those values.

Section 386.900.14, RSMo, states any costs, lost revenues or lost earnings recovered under this section shall not raise the retail rates charged to customers by an average of more than one percent in any year. The PSC suggests this requirement be clarified. A similar cap is placed on the renewable mandate of Section 393.1045, RSMo. It has been over seven years since the enactment of this provision and parties continue to argue over its meaning before the commission.

Section 386.910.5, RSMo, states that when a community solar facility is placed in service, it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years. It appears this provision would require the utility ratepayers to fund the facility at the current rate for 20 years without adjustment for changes in the utility's costs or revenues that would occur over the 20 year period. It is also not clear if

the cost-of-solar value contemplates an earnings opportunity for the commission-regulated utility.

Section 386.1000, RSMo, discusses a "clean energy tax credit". It is not clear why the tax credit is in the PSC statute and not in a tax-related statute.

**Mark R. Reading** provided the following information as a proponent of this initiative petition.

Submitted by:

_____

Mark R. Reading
2604 Lakeland Drive
Jefferson City, MO 65109
(573) 694-6828
*Primary Contact Person*

**Clean Energy Independence and Investment Act of 2016 - Version 13**
**Sec. of State # 176**

**Proposed Statement of Fiscal Impact**
**for Clean Energy Independence and Investment Act of 2016 - Version 13**
**Sec. of State # 176**

**Fiscal Impact Information Submitted Pursuant to Section 23.140.2**

The amendment's estimated impact decreases state revenue between $19 to $58 million depending upon the speed of up to $216 million in additional clean energy project construction and implementation by the Department of Economic Development, residential homeowners, and businesses. Local revenue is estimated to grow between $1.6 to $4.9 million.

| ESTIMATED NET EFFECT ON STATE FUNDS | | |
|---|---|---|
| **Fund Affected** | **FY 2017** | **FY 2018** |
| **General Revenue** | $0 | From ($20,863,247) to ($63,145,184) |
| | | |
| **Total Estimated Net Effect on All State Funds** | $0 | From ($19,335,679) to ($58,556,902) |
| **ESTIMATED NET EFFECT ON LOCAL FUNDS** | | |
| Local Funds | $0 | From $1,635,730 to $4,901,480 |
| | | |
| **Total Estimated Net Effect on All Local Funds** | $0 | From $1,635,730 to $4,901,480 |

**SUMMARY OF VERSIONS OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT**

Nine versions of the Clean Energy Independence and Investment Act of 2016 have been submitted for review. A summary of which topics are in each version is provided below.

**CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT OF 2016**
**SUMMARY OF VERSIONS**

| Petition version | 386.870 - Electric vehicle | 386.890 - Net metering | 386.900 - Enhanced net metering | 386.910 - Community Solar | 386.1000 - Tax credits |
|---|---|---|---|---|---|
| | | | | | |
| **1% Electric Versions** | | | | | |
| Version 10 | N/A | X | X | X | X |
| Version 12 | X | X | X | X | X |
| Version 14 | X | Deletes | X | X | X |
| Version 15 | N/A | N/A | N/A | N/A | X |
| Version 16 | X | N/A | N/A | X | X |
| Version 17 | X | X | X | N/A | X |
| Version 18 | N/A | X | X | X | X |
| | | | | | |
| **$50 million cap Versions** | | | | | |
| Version 11 | N/A | X | X | N/A | X |
| Version 13 | X | X | X | X | X |

## ANALYSIS OF FISCAL IMPACT OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT

The fiscal impact analysis contained herein focuses on estimating the fee and tax revenue resulting from the statutory changes proposed in the initiative petition. Table 1 summarizes the revenue estimated by source and by fiscal year. Page and Table numbers are provided to help readers find specific subjects.

**Table 1**
**Summary of Fiscal Impact by Fund**

| Page # | Table # | Purpose | FY 2017 | FY 2018 - low range | FY 2018 - high range | Revenue Type |
|---|---|---|---|---|---|---|
| 9-11 | Table 9 | Tax credit | $0 | ($25,000,000) | ($75,541,003) | Income |
| 12-14 | Table 14 | Taxes from clean energy tax credit construction | $0 | $2,803,571 | $8,471,384 | Various |
| 14-16 | Table 17 | Taxes from community solar construction | $0 | $1,333,181 | $3,924,435 | Various |
| | | subtotal General Revenue Fund | $0 | ($20,863,247) | ($63,145,184) | |
| | | | | | | |
| 5-11 | Table 11 | Clean Energy Fund | $0 | $550,442 | $1,659,596 | Application deposit |
| | | | | | | |
| 12-14 | Table 14 | Prop C sales tax - clean energy | $0 | $285,714 | $863,326 | Sales tax |
| 14-16 | Table 17 | Prop C sales tax - community solar | $0 | $135,866 | $399,942 | Sales tax |
| | | subtotal Prop C | $0 | $421,580 | $1,263,268 | |
| | | | | | | |
| 12-14 | Table 14 | Conservation sales tax - clean energy | $0 | $35,714 | $107,916 | Sales tax |
| 14-16 | Table 17 | Conservation sales tax - community solar | $0 | $16,983 | $49,993 | Sales tax |
| | | subtotal Conservation | $0 | $52,697 | $157,909 | |
| | | | | | | |
| 12-14 | Table 14 | Parks and Soils sales tax - clean energy | $0 | $28,571 | $86,333 | Sales tax |
| 14-16 | Table 17 | Parks and Soils sales tax - community solar | $0 | $13,587 | $39,994 | Sales tax |
| | | subtotal Parks and Soils | $0 | $42,158 | $126,327 | |
| | | | | | | |
| | | subtotal Other State Funds | $0 | $1,527,568 | $4,588,282 | |
| | | | | | | |
| | | subtotal all state funds | $0 | ($19,335,679) | ($58,556,902) | |
| | | | | | | |
| 12-14 | Table 14 | Local Sales Tax - clean energy | $0 | $1,108,571 | $3,349,704 | Sales tax |
| 14-16 | Table 17 | Local Sales Tax - community solar | $0 | $527,159 | $1,551,777 | Sales tax |
| | | subtotal Local Funds | $0 | $1,635,730 | $4,901,480 | |
| | | Grand Total State and Local | $0 | ($17,699,949) | ($53,655,422) | |

**Clean Energy tax credits**

The proposal creates a clean energy tax credit in Chapter 386 RSMo. The annual level of tax credits shall be $50 million at the beginning of the program. The proposal also provides that the tax credit cap shall be increased or decreased each year by the percentage increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency.

Table 2 shows the CPI values reported for December from 2000 to 2014. The annual average growth over the period was 2.16%. Recent CPI increases have been lower than the early part of the series due to the most recent recession and concerted action by the Federal Reserve to keep interest rates low. The Federal Reserve is expected to raise interest rates in the near future. This is likely to raise CPI inflation. To ensure a better prediction of future anticipated CPI the longer time period is used to determine the average annual increase.

**Table 2**
**Consumer Price Index (CPI-U) History**
**December Reported**

| Year | CPI value | Increase | % increase |
|---|---|---|---|
| 2000 | 174.000 | | |
| 2001 | 176.700 | 2.700 | 1.6% |
| 2002 | 180.900 | 4.200 | 2.4% |
| 2003 | 184.300 | 3.400 | 1.9% |
| 2004 | 190.300 | 6.000 | 3.3% |
| 2005 | 196.800 | 6.500 | 3.4% |
| 2006 | 201.800 | 5.000 | 2.5% |
| 2007 | 210.036 | 8.236 | 4.1% |
| 2008 | 210.228 | 0.192 | 0.1% |
| 2009 | 215.949 | 5.721 | 2.7% |
| 2010 | 219.179 | 3.230 | 1.5% |
| 2011 | 225.672 | 6.493 | 3.0% |
| 2012 | 229.601 | 3.929 | 1.7% |
| 2013 | 233.049 | 3.448 | 1.5% |
| 2014 | 234.812 | 1.763 | 0.8% |
| | Avg. annual increase | | 2.16% |

Table 3 uses the average annual growth rate for 2000 to 2014 to project the tax credit cap into the future. The election date of November 2016 on the proposal is in the State's FY 2017. Therefore, FY 2017 is the base year for the $50 million clean energy tax credit cap. The clean energy tax credits cap is estimated at $50 million for FY 2017, $51.1 million for FY 2018 and $52.2 million for FY 2019.

**Table 3**
**Clean Energy Tax Credit Estimate of Cap**

| Fiscal Year | Clean Energy Tax Credit Cap |
|---|---|
| FY 2017 | $50,000,000 |
| FY 2018 | $51,082,005 |
| FY 2019 | $52,187,425 |

For purposes of the fiscal note the State Auditor's office asks that estimates be provided for the first two fiscal years of implementation which are FY 2017 and FY 2018 since the provisions of the proposal would go into effect in December 2016. Almost all taxpayers file their taxes on the April 15th deadline. Therefore, CY 2016 taxes would be due on April 15, 2017 which is in FY 2017.

The provisions of the act will go into effect in December 2016. Paragraph 11 of the proposed section 386.1000 states that any taxpayer verified by the Department of Economic Development to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with the provisions shall be deemed eligible for the tax credit. This allows for the Department of Economic Development to include projects in 2016 before its processes are in place. Paragraph 15 of the proposed section 386.1000 provides that the Department of Economic Development shall issue rules necessary to administer the act. In addition, paragraph 8 gives the Department of Economic Development 45 days to notify an applicant of approval after the application is submitted.

Issuing rules is at best a months long process. The 45 day processing time allowed for any completed application filed after the rules are adopted makes it very unlikely that the Department of Economic Development will issue any FY 2017 tax credits before April 15, 2017 that would affect the taxpayers initial tax filing and reduce taxes paid during FY 2017. Tax credits issued between April 15 and June 30, 2017 would require an amended filing which also would be unlikely to be completed by June 30, 2017. Thus, this fiscal analysis assumes a de minimis or no impact on FY 2017 general revenue tax collections. Any CY 2016 project with tax credit impact would at most impact the FY 2018 tax collections through amended returns or through CY 2017 taxes paid in FY 2018.

Paragraph 2 of the proposed section 386.1000 provides for the carryover of any unused clean energy tax credit authority until it is used. If the Department of Economic Development is slow to issue clean energy tax credits in FY 2017 at the beginning of the program then the unused authority of the cap carries over to FY 2018. Table 4 shows what the FY 2018 clean energy tax credit cap would be if all of the FY 2017 tax credit authority provided carries over - $101.1 million. This does not mean that the State's general revenue fund collections would be affected by $101.1 million. Clean energy construction of $288.8 million would be necessary to qualify for the entire $101.1 million in tax credits.

**Table 4**
**FY 2018 Tax Credit Cap with FY 2017 Possible Carryover**

| Fiscal Year | FY 2018 |
|---|---|
| Original cap | $51,082,005 |
| Carry over from previous year | $50,000,000 |
| Total | $101,082,005 |

**Application Deposit revenue**

The proposed Section 386.1000 RSMo requires that taxpayers submit an application to the Department of Economic Development to receive approval for tax credits (paragraph 5). Each application must include a two cent per watt application deposit. The total revenue from application deposits is dependent upon:

- the number of projects that will be submitted;
- the number of watts generated from all of those projects

Each of these is affected by the:

- percentage of residential v commercial projects
- number of kW generated by residential v commercial projects
- cost of residential and commercial projects
- total construction completed
- any phase-in period as the Department of Economic Development institutes rules and prepares the program
- any phase-in period as the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available

All of these factors must be estimated and evaluated in order to calculate the amount of application deposit revenue that will be received by the Department of Economic Development.

Tax credits are available to both residential and commercial projects. Paragraph 2 of the proposed Section 386.1000 RSMo provides that no electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit.

The Missouri Department of Economic Development, Division of Energy published a Missouri Comprehensive State Energy Plan in October 2015. The report states that half of the installed net-metered PV solar is residential and the other half commercial customers.[1] However, the report also indicates that there are challenges that face residential customers making it more difficult and expensive to install solar projects. These challenges include local ordinances or homeowner's association rules the may prohibit installation or require design changes that decrease efficiency or add to the cost.[2] In addition, over the past decade an industry has developed to assist with the financing of solar projects. Such financing alternatives are easier to obtain by commercial projects because of their size, scope, and estimated return on investment.[3] Commercial projects can have a longer-term outlook than homeowners who may not know how long they may live in their current house. The Missouri State Energy Plan indicates that residential rooftop solar is a relatively expensive energy option due to these and other factors.[4]

For all of the reasons identified in the preceding paragraph, for purposes of this fiscal analysis residential solar installation is assumed to be 40% of the total solar construction. Commercial solar installation is assumed to be 60% of the total solar construction. This fiscal analysis has already indicated that CY 2016 solar construction will likely not be affected by the approval of the petition by voters in November 2016. Thus, CY 2017 is the first full year of impact. Tax credits resulting from such construction will first affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office.

The next factor to consider is the number of kW generated by residential and commercial projects. A recent report on photovoltaic system pricing trends published by the U.S. Department of Energy indicates that the median residential project is 6.1 kW while the modeled commercial system is 200 kW. Paragraph 2 of the proposed section 386.1000 establishes a 200 kW limit on installations that are authorized for tax credits.[5] For purposes of this fiscal analysis it is assumed that all commercial projects will be at the 200 kW size and that residential projects will be 6.1 kW. Paragraph 5 of the proposed section 386.1000 requires a two cent per watt application deposit fee. Table 5 shows that there would be a $122 application deposit required for the median residential project. There would be a $4,000 application deposit required for the 200 kW commercial project.

**Table 5**
**Application Deposit Required for Projects**

| Construction type | Project size in kW | Project size in watts | Application deposit for project at 2 cents per watt |
|---|---|---|---|
| Residential | 6.1 | 6,100 | $122 |
| Commercial | 200.0 | 200,000 | $4,000 |

The recent report on photovoltaic system pricing trends published by the U.S. Department of Energy also discusses the historical, recent, and near-term pricing of solar projects.[6] Project cost information was obtained on more than 400,000 systems in 42 states. The modeled system prices identified in the report showed a Q1 2015 residential system price of $3.12/watt and a commercial 200 kW system cost of $2.17/watt. These were reductions in price of from Q4 2013 of 7% and 19% respectively. The report also indicates that prices for residential and commercial PV systems have decreased by 6-12% per year, on average, from 1998-2014. In addition, the report indicates that analysts project the system prices will fall 16-33% for residential systems between 2014-2020.

Table 6 projects residential solar project costs. Projections are made to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 6 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $3,000/kW for residential solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 6.1 kW residential project is estimated at $18,300.

**Table 6**
**Residential Solar Project Estimate**

| | Cost of Residential project per kW | Cost of Residential project at 6.1 kW project size |
|---|---|---|
| CY 2015 | $3,120 | $19,032 |
| CY 2016 | $3,039 | $18,538 |
| CY 2017 | $2,960 | $18,056 |
| average cost of CY16 and CY17 estimates | $3,000 | $18,300 |

The modeled commercial system price identified in the report showed a Q1 2015 commercial 200 kW system cost of $2.17/watt. However, the national average cost of commercial projects is affected by states with more mature solar markets and industries and large companies, like Wal-Mart and Ikea, that have moved to install significant solar projects on their facilities. The first Missouri commercial systems are less likely to meet the $2.17/watt cost projections. Table 7 uses other data in the report to amend the estimate of commercial solar project costs. The report shows that the price of the modeled 200 kW commercial system has fallen from $2.68/watt to $2.17 between 2013 Q4 and 2015 Q1. The mid-point of that decrease is $2.425/watt. Further, it is assumed that the cost of Missouri projects will be higher by 2.6%, or one-year's worth of the low end of the price declines found in the report. The result is that this analysis will assume that the Missouri 2015 Q1 price is $2.488/watt.

**Table 7**
**Commercial Solar Project Cost Estimate per kW**

| | |
|---|---|
| 2013 Q4 | $2,680 |
| 2015 Q5 | $2,170 |
| Mid-point | $2,425 |
| One-year behind (2.6%) | $2,488 |

Table 8 then projects the $2,488/kW 2015 Q1 cost to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 8 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $2,392/kW for commercial solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 200 kW commercial project is estimated at $478,400.

**Table 8**
**Commercial Solar Project Estimate**

| | Cost of Commercial project per kW | Cost of Commercial project at 200 kW project size |
|---|---|---|
| CY 2015 | $2,488 | $497,600 |
| CY 2016 | $2,423 | $484,600 |
| CY 2017 | $2,360 | $472,000 |
| average cost of CY16 and CY17 estimates | $2,392 | $478,400 |

The analysis so far has identified:

- estimates of $50 million in FY 2017 and $51.1 million in FY 2018 clean energy tax credits in accordance with paragraph 2 of the proposed section 386.1000. The FY 2018 clean energy tax credit limit may be higher depending on any unused authority that is carried over from FY 2017.
- an estimate that 40% of total solar construction would be residential and 60% commercial
- project cost estimates of $18,300 for 6.1 kW residential projects and $478,400 for 200 kW commercial projects

The final factor to calculate before arriving at the amount of application deposit revenue is any phase-in period as the Department of Economic Development issues rules and prepares its processes and the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available. The Missouri State Energy plan reports that Missouri currently has 111 MW of installed solar PV capacity. The plan also reports that there is 42.8 MW of installed net-metered PV solar developed over the years largely as a result of rebates from large utility companies in Missouri.

The proposal being analyzed establishes a statutory program of clean energy tax credits that will sunset after the Department of Economic Development certifies that 1,000 MW of capacity has been added as a result of the tax credits but no later than June 30, 2022. The 1,000 MW target represents a dramatic increase in current capacity.

The Missouri State Energy plan provides a wealth of information about the current state of "green jobs" and the solar industry in Missouri. The report includes the following along with other findings about the industry.

- Missouri had over 100,000 "green jobs" according to a 2009 study.[7]
- Missouri was identified as 10th in the nation for growth in clean energy and clean transportation jobs in 2013.[8]
- $187 million was invested by Missouri's solar industry in 2014 to install solar photovoltaic systems for residential, commercial, and utility use.[9]
- There are more than 97 solar companies at work throughout the supply chain in Missouri, employing 2,500 people including manufacturers, contractors, installers, project developers, distributors.[10]
- Missouri could create 8,500 new jobs to design, install, and operate energy efficiency measures by 2025 according to a 2011 study.[11]
- In 2010 Missouri ranked 6th in the nation in photovoltaic jobs.[12]

The clean energy tax credit does not sunset until the 1,000 MW target of additional capacity is met but no later than June 30, 2022. The size and the long-term nature of the 1,000 MW target should encourage the development of the Missouri solar industry even after it sunsets. It should also result in long-term planning and the build out of a native Missouri solar industry. The target also provides an incentive for the industry to meet the growth potential described in the Missouri State Energy Plan.

In the long-term the impact of the 1,000 MW target will grow and build the industry. In addition, investment in solar will allow longer term benefits in reduced fuel usage, cleaner air, better health and the resulting lower costs among other things. The Missouri State Energy Plan identifies the public health impacts of various energy sources with clean energy sources providing significant positive benefits over other sources.[13] A 2013 study of Hawaii's solar tax credit program found that the State recovered the full cost of the tax credit in 9 to 11 years - a rate of return on its investment ranging from 8.9% to 10.3%.[14] In addition, the study found that for each dollar spent by Hawaii on tax credits the amount of additional sales stimulated was $34.69 for residential solar PV and $55.03 for commercial PV.

However, the fiscal note format required for initiative petitions focuses on the short-term revenue and costs. Thus, the longer-term benefits are not included in this fiscal analysis. As explained elsewhere in this fiscal analysis the impact of the availability of tax credits is somewhat dependent upon the speed with which the Department of Economic Development issues the necessary rules and regulations, develops and makes available the application forms, and the industry's reaction to voter approval and the department's actions. Thus, two alternatives are calculated to create a possible range for the likely outcome in the short-term.

Table 9 shows two possible alternatives estimating the effect on FY 2018.

- Construction leading to use of **half** the available FY 2017 tax credits ($25 million) - These tax credits would cover any CY 2016 clean energy construction allowed under paragraph 11 of the proposal and any CY 2017 clean energy construction that qualifies for FY 2017 tax credits that the Department of Economic Development could process by the end of CY 2017 in order to affect FY 2018 state tax collections. It is assumed that the Department of Economic Development would most likely issue such tax credits during the last half of CY 2017 after its processes are in place. Table 10 shows that total of $71.4 million in construction would be required to generate $25 million in tax credits. Residential construction of $28.6 million (assuming 40% of construction) would result in $10.0 million in tax credits. Commercial construction of $42.9 million (assuming 60% share of construction) would result in $15.0 million in tax credits.

- Construction leading to use of **all** the available FY 2017 tax credits and half of the FY 2018 tax credits ($75.5 million) - These tax credits would cover any CY 2016 clean energy construction allowed under paragraph 11 of the proposal and any CY 2017 clean energy construction that qualifies for FY 2017 tax credits that the Department of Economic Development could process by the end of CY 2017 in order to affect FY 2018 state tax collections. It is assumed that even the Department of Economic Development would most likely issue such tax credits during the last half of CY 2017 after its processes are in place that the department would be able to authorize all of the FY 2017 credits and half the FY 2018 credits. **Table 10 shows that a total of $215.8 million in construction would be required to generate $75.5 million in tax credits.** Residential construction of $86.3 million (assuming 40% of construction) would result in $30.2 million in tax credits. Commercial construction of $129.5 million (assuming 60% share of construction) would result in $45.3 million in tax credits.

**Table 9**
**FY 2018 Tax Credit Effect - Possible Range**

| Fiscal Year | Low range | Higher range |
|---|---|---|
| FY 2017 credits | $25,000,000 | $50,000,000 |
| FY 2018 credits | $0 | $25,541,003 |
| Total | $25,000,000 | $75,541,003 |

**Table 10**
**Number of Projects - Low Range v Higher Range**

| | Low Range | Higher Range |
|---|---|---|
| Tax credits estimate | $25,000,000 | $75,541,003 |
| Amount of construction value needed to generate value of 35% tax credits | $71,428,571 | $215,831,436 |
| - | | |
| % of residential per year of credits issued | 40.0% | 40.0% |
| % of commercial per year of credits issued | 60.0% | 60.0% |
| | | |
| Tax credits by type of construction | | |
| Residential | $10,000,000 | $30,216,401 |
| Commercial | $15,000,000 | $45,324,602 |
| Total amount by type | $25,000,000 | $75,541,003 |
| - | | |
| Construction value by type of construction | | |
| Residential | $28,571,428 | $86,332,574 |
| Commercial | $42,857,143 | $129,498,862 |
| Total amount by type | $71,428,571 | $215,831,436 |
| | | |
| Cost of solar projects per project | | |
| Residential (6.1 kW/project) | $18,300 | $18,300 |
| Commercial (200 kW/project) | $478,400 | $478,400 |
| | | |
| # of projects | | |
| Residential | 1,561 | 4,718 |
| Commercial | 90 | 271 |
| Total amount by type | 1,651 | 4,989 |

In addition, using the average cost and size of projects it is possible to compute the number of residential and commercial projects that will be constructed. Table 10 shows a total of 1,651 projects would be constructed at the low range of the tax credits (1,561 residential, 90 commercial). A total of 4,989 projects would be constructed at the higher range of the tax credits (4,718 residential, 271 commercial).

Table 10 shows a significant number of projects that would be completed throughout the state as a result of the clean energy tax credit. These numbers are possible for a variety of reasons identified in the Missouri State Energy Plan.

- Missouri households use about 12% more than the average U.S. household, thus projects would put real dollars into Missourians pockets for other uses and spending.[15]
- Nationally about ten percent of small business owners state that energy is their single biggest cost according to the National Federation of Independent Business. The same report indicates that an additional 25% of small business owners claim that energy is one of their top three business costs.[16] Thus, clean energy projects that reduce energy usage make businesses more profitable, allow for expansion, and could lead to higher wages for employees.
- Businesses can lower costs through on-site generation while also achieving other benefits.[17]
- Significant operational savings are possible through energy efficiency projects with rates of return as high as 25%.[18]
- A wealth of financing alternatives now exist for clean energy projects.[19]

- "Approximately 60% of the largest U.S. businesses have set public climate and energy goals to increase their use of renewable energy."[20]

Table 11 calculates the amount of application deposit revenue that the Department of Economic Development would receive given the number of projects identified in Table 10. If applications are submitted for projects equivalent to half the available tax credits then the department would receive $0.6 million in application deposit revenue. If applications are submitted for projects equivalent to all the available tax credits then the department would receive $1.7 million in application deposit revenue.

**Table 11**
**Application Deposit Revenue**

| | Lower Range | Higher Range |
|---|---|---|
| # of projects | | |
| Residential | 1,561 | 4,718 |
| Commercial | 90 | 271 |
| Total amount by type | 1,651 | 4,989 |
| | | |
| Application deposit required per project | | |
| Residential | $122 | $122 |
| Commercial | $4,000 | $4,000 |
| | | |
| Application deposit revenue | | |
| Residential | $190,442 | $575,596 |
| Commercial | $360,000 | $1,084,000 |
| Total amount by type | $550,442 | $1,659,596 |

Table 12 shows the amount of solar capacity added by the number of projects identified in the previous tables given the given size of residential and commercial projects. A total of 27.5 MW would be added in solar capacity as a result of projects equivalent to half the available tax credits which would be 2.8% of the 1,000 MW goal. A total of 83.0 MW would be added in solar capacity as a result of projects equivalent to all the available tax credits which would be 8.3% of the 1,000 MW goal.

**Table 12**
**Amount of Solar Capacity Added**

| | Capacity added for half of tax credits for applications FY 2018 | Capacity added for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 1,561.0 | 4,718.0 |
| Commercial | 90.0 | 271.0 |
| Total amount by type | 1,651.0 | 4,989.0 |
| | | |
| kW generated by construction | | |
| Residential (6.1 kW/project) | 9,522.1 | 28,779.8 |
| Commercial (200 kW/project) | 18,000.0 | 54,200.0 |
| Total amount by type | 27,522.1 | 82,979.8 |
| | | |
| MW generated by construction | | |
| Residential | 9.5 | 28.8 |
| Commercial | 18.0 | 54.2 |
| Total amount by type | 27.5 | 83.0 |
| | | |
| % of 1,000 MW goal achieved | 2.8% | 8.3% |

**Taxes**

As noted on pages 10-11 of this fiscal analysis, the Missouri State Energy Plan published in October 2015 describes the current capacity, industry size, and investments being made in Missouri. The plan also describes the potential for jobs and economic development in the state. The 1,000 MW target represents a dramatic increase in current capacity. The following analysis assumes that due to the dramatic size of the 1,000 MW target that the investments driven by the clean energy tax credits will result in new jobs and industry expansion.

Table 13 shows the cost components of a solar construction project. Labor is assumed to be 35% of the project costs, materials 40%, and Profit 10%. It is assumed that 15% of the project cost is overhead and it is assumed that no taxes would be applied. Since Missouri already has a base of manufacturers and distributors it is assumed that all materials will be Missouri taxed.

**Table 13**
**Construction Project Components, Tax Type, and Tax Rate**

| Project components | % of job | Missouri tax rate | Type tax |
|---|---|---|---|
| Labor | 35.0% | 6.00% | Income tax |
| Materials and local materials | 40.0% | 4.225% | Sales |
| Profit | 10.0% | 6.25% | Corporate |
| Overhead | 15.0% | 0.00% | N/A |
| subtotal by taxable type | 100.0% | | |

Table 14 computes the state and local taxes based on the value of construction and the project components and tax rates shown in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $2.8 million to $8.5 million in FY 2018. The other three state funds (Prop C, Conservation, Parks/Soils) are estimated to receive between $0.4 million to $1.1 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $1.1 million to $3.3 million in local sales tax revenue in FY 2018.

**Table 14**
**State and Local Taxes Generated by Construction**

| | Low Range | Higher Range |
|---|---|---|
| Amount of construction value needed to generate value of 35% tax credits | $71,428,571 | $215,831,436 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $25,000,000 | $75,541,003 |
| Materials and local materials | $28,571,428 | $86,332,574 |
| Profit | $7,142,857 | $21,583,144 |
| subtotal by taxable type | $60,714,285 | $183,456,721 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $1,500,000 | $4,532,460 |
| Materials and local materials - Sales/Use Tax | $857,143 | $2,589,977 |
| Profit - General Revenue Corporate Tax | $446,429 | $1,348,947 |
| subtotal GR | $2,803,571 | $8,471,384 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $285,714 | $863,326 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $35,714 | $107,916 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $28,571 | $86,333 |
| subtotal State Taxes | $3,153,571 | $9,528,958 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $1,108,571 | $3,349,704 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $4,262,143 | $12,878,662 |

The taxes generated from the construction activity shown in Table 14 likely underestimate the state revenue that will be generated by the construction of clean energy projects even within the short time period allowed in the fiscal note. As noted earlier there are multiplier effects that ripple through the economy. The Department of Economic Development through MERIC has a sophisticated model that it uses to evaluate the impact of tax credits and other business investments made in the State of Missouri. Using the information in this fiscal analysis MERIC should be able to provide supplementary information regarding the extra economic activity and increased revenues.

Similarly, generating additional clean energy within the State of Missouri will result in a decrease in the importation of power and energy producing raw materials from other states. Such money leakage from the state, businesses and citizens, decreases the amount of purchasing could be done for other purposes such as increased jobs within the state and thus the tax revenues that would be generated. For example, the Missouri State Energy Plan notes that Missouri is the sixth largest consumer of coal in the country and 92.5% of the coal used in 2013 was imported from Wyoming.[21] The plan reports that the state sends billions of dollars out of state for purchases of imported coal, natural gas, and transportation fuels.[22]

**Community Solar Act** - Applies to Versions 10, 12, 13, 14, 16, and 18
The Community Solar Act, section 386.910 of the proposal, directs the Missouri Public Service Commission to establish rules allowing customers to participate in a "community solar facility." Community solar facilities allow participants to benefit from solar energy and receive electric bill credits substantially similar to net metering.

Paragraph 3 of that section states that the "aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous fiscal year." Table 15 shows the total peak demand data compiled by the Public Service Commission for the four utilities affected by this section. The report shows that using peak demand leads to a cap of 504.5 MW on the amount of aggregated capacity of community solar facilities statewide.

**Table 15 - Peak Demand for Community Solar**

| Utility Name | Peak Demand |
|---|---|
| Union Electric Co - (MO) | 7,713.0 |
| Kansas City Power & Light Co | 1,878.0 |
| KCP&L Greater Missouri Operations Co. | 1,860.0 |
| Empire District Electric Co | 1,162.0 |
| Total | 12,613.0 |
| 4% overall cap | 504.5 |

Paragraph 2 of that section defines a community solar facility as a photovoltaic electric generation facility with a capacity of between 100 and 1,000 kW. For purposes of this fiscal note it is assumed that all community solar projects will be the same as the 200 kW project limit established in the clean energy tax credit language of 386.1000. In Table 12 above a low and high range was calculated for the percentage of solar capacity added through the tax credits based on the expectations of the phase-in necessary for the Department of Economic Development's implementation of the clean energy tax credits. The same percentage is used - 2.8% low range and 8.3% higher range. Similarly, for the purposes of this fiscal note the cost per kW will be $2,392 for a total project cost of $478,400 as shown in Table 9.

Table 16 shows the data and calculations needed to identify the number of projects. At the low end of the range 14.1 MW of added community solar capacity would be created which would require 71 projects of 200 kW. At the higher range 41.9 MW of added community solar capacity would be created which would require 209 projects of 200 kW.

Table 16 also shows that at an average project cost of $478,400 the low range results in $34.0 million in construction spending. The higher range results in $100 million in construction spending.

**Table 16**
**Community Solar Capacity and Projects**

| | Low Range | Higher Range |
|---|---|---|
| Assumed % of aggregate capacity | 2.8% | 8.3% |
| Added capacity - MW | 14.13 | 41.88 |
| Added capacity - kW | 14,126.56 | 41,875.16 |
| # projects at commercial 200 kW per project | 71 | 209 |
| Construction cost - commercial project per 200 Kw project | $478,400 | $478,400 |
| Construction value | $33,966,400 | $99,985,600 |

Table 17 computes the state and local taxes based on the value of construction and the project components and tax rates shown earlier in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $1.3 million to $3.9 million in FY 2018. The other three state funds (Prop C, Conservation, Parks/Soils) are estimated to receive between $0.2 million to $0.5 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $0.5 million to $1.6 million in local sales tax revenue in FY 2018.

**Table 17**
**State and Local Taxes Generated by Construction of Community Solar Projects**

| | Low range | Higher range |
|---|---|---|
| Amount of construction value needed to generate estimated MW | $33,966,400 | $99,985,600 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $11,888,240 | $34,994,960 |
| Materials and local materials | $13,586,560 | $39,994,240 |
| Profit | $3,396,640 | $9,998,560 |
| subtotal by taxable type | $28,871,440 | $84,987,760 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $713,294 | $2,099,698 |
| Materials and local materials - Sales/Use Tax | $407,597 | $1,199,827 |
| Profit - General Revenue Corporate Tax | $212,290 | $624,910 |
| subtotal GR | $1,333,181 | $3,924,435 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $135,866 | $399,942 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $16,983 | $49,993 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $13,587 | $39,994 |
| subtotal State Taxes | $1,499,617 | $4,414,364 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $527,159 | $1,551,777 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $2,026,775 | $5,966,141 |

**Net metering bills** - Applies to Versions 10, 11, 12, 13, 14, 17 and 18
The Missouri General Assembly has considered six net metering bills over the past three legislative sessions. Table 14 below identifies the bills and provides links to the fiscal note and bill summary prepared for each bill. All of the fiscal notes prepared and available indicated that there was no state impact from the net metering bills.

**Table 14**
**NET METERING**
**2013, 2014, AND 2015 LEGISLATIVE SESSIONS**

| Session | Bill | Sponsor | Fiscal Note Impact | Fiscal Note Summary Link | Bill Summary Link |
|---|---|---|---|---|---|
| 2015 | SB 75 | Holsman | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0622-01N.ORG.pdf | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=82&BillID=174 |
| 2015 | SB 509 | Holsman | No impact | N/A | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=664&BillID=4599469 |
| 2015 | HB 481 | Berry (38) | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0502-01N.ORG.pdf | http://house.mo.gov/billtracking/bills151/sumpdf/HB0481C.pdf |
| 2014 | HB 1795 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER14/fishtm/5552-02N.ORG.htm | http://house.mo.gov/billtracking/bills141/sumpdf/HB1795I.pdf |
| 2013 | HB 119 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/0794-02N.ORG.htm | http://house.mo.gov/billtracking/bills131/sumpdf/HB0119I.pdf |
| 2013 | SB 396 | Holsman | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/1078-07N.ORG.htm | http://www.senate.mo.gov/13info/BTS_Web/Bill.aspx?SessionType=R&BillID=19218703 |

**Electric Vehicle Charging Stations** - Applies to Versions 12, 13, 14, 16, and 17
The petition authorizes investor-owned utilities to recover costs for infrastructure investments in electric vehicle charging stations, provided the energy output from the stations is offset in part by clean energy. There should be no fiscal impact to the state.

ENDNOTES

[1] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25
https://energy.mo.gov/energy/docs/MCSEP.pdf

[2] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25-26
https://energy.mo.gov/energy/docs/MCSEP.pdf

[3] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[4] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 200
https://energy.mo.gov/energy/docs/MCSEP.pdf

[5] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 5
http://www.nrel.gov/docs/fy15osti/64898.pdf

[6] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 4
http://www.nrel.gov/docs/fy15osti/64898.pdf

[7] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 172
https://energy.mo.gov/energy/docs/MCSEP.pdf

[8] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 173
https://energy.mo.gov/energy/docs/MCSEP.pdf

[9] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[10] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[11] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 174
https://energy.mo.gov/energy/docs/MCSEP.pdf

[12] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 175
https://energy.mo.gov/energy/docs/MCSEP.pdf

[13] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 190-191, 193, 195-199, 201, 203
https://energy.mo.gov/energy/docs/MCSEP.pdf

[14] Thomas A Loudat, Blue Planet Foundation. "*The Economic and Fiscal Effects of Hawaii's Solar Tax Credit*" - January 2013.
http://blueplanetfoundation.org/renewable-energy-tax-credit-2013.html?highlight=WyJsb3VkYXQiXQ==

[15] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 154
https://energy.mo.gov/energy/docs/MCSEP.pdf

[16] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 165 for both sentences in this bullet point
https://energy.mo.gov/energy/docs/MCSEP.pdf

[17] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[18] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[19] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[20] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 178
https://energy.mo.gov/energy/docs/MCSEP.pdf

[21] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 20-21
https://energy.mo.gov/energy/docs/MCSEP.pdf

[22] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 42
https://energy.mo.gov/energy/docs/MCSEP.pdf

**Edward D, Greim** provided the following information as an opponent of this initiative petition.

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December 28, 2015

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Re: *Fiscal Note in Initiative Petitions 2016-173 through 2016-180 and 2016-190*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petitions 173, 175, 177, and 180:

> Lost revenue to state government is $498 million over the tax credit period, with annual losses of $9.5 million to $11.5 million thereafter. Lost revenue to local government is $189.1 million over the tax credit period, with annual losses of $31.5 million to $33.9 million thereafter.

We propose the following fiscal note summary for petition 174:

> Lost revenue to state government is $320.9 million over the tax credit period, with annual losses of $5.6 million to $9.6 million thereafter. Lost revenue to local government is $100.9 million over the tax credit period, with annual losses of $20 million to $28.1 million thereafter.

We propose the following fiscal note summary for petition 176:

> Lost revenue to state government is $328.8 million over the tax credit period, with annual losses of $7.5 million to $11.5 million thereafter. Lost revenue to local government is $175.3 million over the tax credit period, with annual losses of $32.4 million to $40.5 million thereafter.

We propose the following fiscal note summary for petition 178:

> Lost revenue to state government is $475.8 million over the tax credit period, with annual losses of $5.7 million to $7.7 million thereafter. Lost revenue to local government is $40.4 million over the tax credit period, with annual losses of $11.5 million to $15.7 million thereafter.

We propose the following fiscal note summary for petitions 179 and 190:

> Lost revenue to state government is $483.7 million over the tax credit period, with annual losses of $7.6 million to $9.6 million thereafter. Lost revenue to local government is $114.8 million over the tax credit period, with annual losses of $23.9 million to $28.1 million thereafter.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments. These taxes, however, will no longer be collected for electricity that is never sold due to the customer-generator production and community solar encouraged by the initiative petitions. Petition signers and voters must be informed of the certainty that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume. On the other hand, any positive fiscal impacts of the initiative petitions are speculative.

**Description of Policy**

Initiative Petitions 173 – 180 and 190 contains one or more of three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of the "Community Solar Act"; and (3) A state tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, or certain natural gas technologies.

1. Changes to Net Metering for Investor-owned electric utilities and municipal electric utilities, and, in 177, rural electric cooperatives
    A. Raise net metering cap to 7% (is currently 5%);
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);



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D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

2. Community Solar Act
   A. The Missouri Public Service Commission ("PSC") adopts rules and regulations allowing groups of 5 or more electrical corporation customers to offset energy usage with solar located in the service territory of the electrical corporation where they have an account;
   B. Facilities are 100 kilowatts to 1 megawatt;
   C. Community solar facilities may, in total, generate electricity of 4% or less of single-hour peak load, but that amount does not count toward net metering; Electrical corporations can own half (max of 2%), which may be included in the rate base. Others may own the other half (max of 2%);
   D. Community Solar facilities are not eligible for tax credits provided in the petition;
   E. Commission sets a community solar rate, not less than electrical corporation's average retail rate;
   F. Value of allocated solar bill credits reduces customer's total bill;
   G. The current value-of-community-solar rate may be locked in for 20 years beginning when a community solar facility is put in operation.

3. Tax credit
   A. 35% tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, etc.
   B. Total value of eligible credits shall not exceed 1% of the value of electricity used in Missouri[1] – defined as revenue from sale of electricity in Missouri; or tax credits are capped at$50 million each year. Unused credits carryover year to year until June 30, 2022
   C. No tax credits after June 30, 2022, or after 1000 megawatts of new generation have been installed using the tax credits.

**Burdens on State Government**

In determining the fiscal impact of each petition, it is generally reasonable to assume that the various statutory changes in the petitions will have independent fiscal impacts. The reasonableness of this assumption is demonstrated by the various iterations of the petitions themselves, some of which propose tax credits with no proposed changes to the Net Metering and Easy Connection Act. *See* Petitions 178 and 190.

[1] The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. *See* U.S. Energy Information Administration – Independent Statistics and Analysis.



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*i. Decreased tax collection due to changes to net metering – Initiative Petitions 173-177 and 179-180*

Raising the net metering cap from the current 5% of peak hour demand to 7% of peak hour demand will, conservatively, result in a 2% decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase from 5% to 7%. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in the petition provides a strong financial incentive to solar or wind energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[2], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, the net-metering cap applies to single-hour peak load, determined yearly, which means that the cap is a higher percentage of the single hour average load. This fact means that the total increase in generation is higher than it appears. Fourth, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[3] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by at least $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities. The additional decreases in sales tax revenues from municipal electric utilities and, in petition 177, from electric cooperatives, are unknown but substantial.[4]

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 173, 175-177, 180, and 190*

Community solar facilities are in addition to net metering and represent an additional capacity amounting to 4% of each electrical corporation's single-hour peak load. Energy

[2] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[3] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.
[4] Assuming $7.6 billion in electricity is sold in Missouri per year (the actual 2014 figure), a 2% decrease will decrease overall state sales tax revenues by 6.4 million annually, but some petitions enact net metering changes on rural electric cooperatives, and some do not.



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generated from the community solar facility is allocated pro rata by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. There is the potential for such bill credits to decrease overall electrical bills by more than 4% because the "bill credits" are calculated using a "value of solar rate" which is at least as high as the retail rate for electricity, but may be higher. If, for example, solar energy received a 50% rate premium due to its benefits, the amount of bill credits would increase and sales would decrease by more than the 6%, rather than 4% figure. Half of these community solar facilities—the half not owned by electrical corporations—may be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoid property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership model, similar to net metering, because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%).

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by at least $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities.

*iii. Tax credits – Initiative Petitions 173-180 and 190*

*a. Decreased tax collections due to tax credits – Credits capped at 1% of value of electricity sold in Missouri, annually ($76 million based on 2014 figures) – Initiative Petitions 173, 175, 177-180, and 190*

According to 2014 figures, Missouri retail customers bought 7.6 billion dollars worth of electricity in 2014. Accordingly, it is reasonable for fiscal note purposes to estimate that Missouri retail customer will continue to buy the same value of electricity. Electricity rates have historically risen over time, but the increasing price of electricity may be approximately the same over the relevant period as the decreases in quantity as a result of the initiative petitions. Accordingly, the 35% tax credits in these petitions will directly result in a loss of state income of approximately $76 million, annually.

*b. Decreased tax collections due to tax credits – Credits capped at $50 million annually – Initiative Petitions 174 and 176*

Similar to the loss described in subpart a, the 35% tax credits in these petitions will directly result in a loss of state income of approximately $50 million, annually.



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*c. Cost of eroding tax base due to new energy generation – Initiative Petitions 173-180 and 190*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer-generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in Missouri. Accordingly, if the tax credits were phased out due to reaching the 1000 MWh/1,000,000 kWh maximum on new electricity generation, new production from such tax credits would produce approximately 1,825,000 MWh per year, also expressed as 1,825,000,000 KWh, or 1,825 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour [5], this new production is valued at $182,500,000.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

In practice, the 1 gigawatt limit on new customer-generated energy production may never be met. Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[6] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for renewable energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology. The petition itself limits tax credits to a maximum of $3.00 per watt, but market forces should make rates in Missouri similar to those in other states, at or around $1.77.

For Initiative Petitions 173, 175, 177-180, and 190, the total, annual loss to state governments *due to the tax credits* is 76.9 million to 81.7 million over the tax credit period. There is an annual loss in perpetuity after the tax credit period of 5.7 to 7.7 million, depending on how much new customer-generation is developed. See attached table.

For Initiative Petitions 174 and 176, the total, annual loss to state governments *due to the tax credits* is 50.6 million to 53.7 million over the tax credit period. There is an annual loss in

[5] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.

[6] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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perpetuity after the tax credit period of 3.7 to 7.7 million, depending on how much new customer-generation is developed. *See* attached table.

**Burdens on Local Governments**

Local governments face losses in revenue from the various petition provisions that are similar to those faced by state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 173-177 and 179-180*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 173, 175-177, 180, and 190*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*iii. Tax credits – Cost of eroding tax base due to new energy generation – Initiative Petitions 173-180 and 190*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petitions may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to



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local governments, all of which may be reduced or discontinued if the initiative petitions are enacted.

The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[7] Based on this estimate, the population-weighted combined average local sales tax is 3.585%. Assuming the tax credits sunset due to reaching the 1 Gigawatt production cap, the yearly loss to local governments from lost sales tax from the tax credit is $6,541,578. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,123,540.

For petitions 173, 175, 177-180, and 190, the loss to local governments due to the tax credits is at least $40.4 million over the tax credit period, then $11.5 to $15.7 million annually. For initiative petitions 174 and 176, the loss to local governments due to the tax credits is at least $26.6 million over the tax credit period, then $7.5 to $15.7 million annually.

**In Conclusion**

The initiative petitions will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petitions, such as increases in net metering and community solar. The total tax burden on state government imposed by the petitions range from $313 million over the tax credit period, with $3.7 to $7.7 million in lost revenues in perpetuity, to approximately $498.6 million over the tax credit period,[8] with $9.5 million to 11.5 million in lost revenues in perpetuity thereafter.

Sincerely,

Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues

[7] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.
[8] $475.8 million + [(1.9 million + 1.9 million)*6 years]



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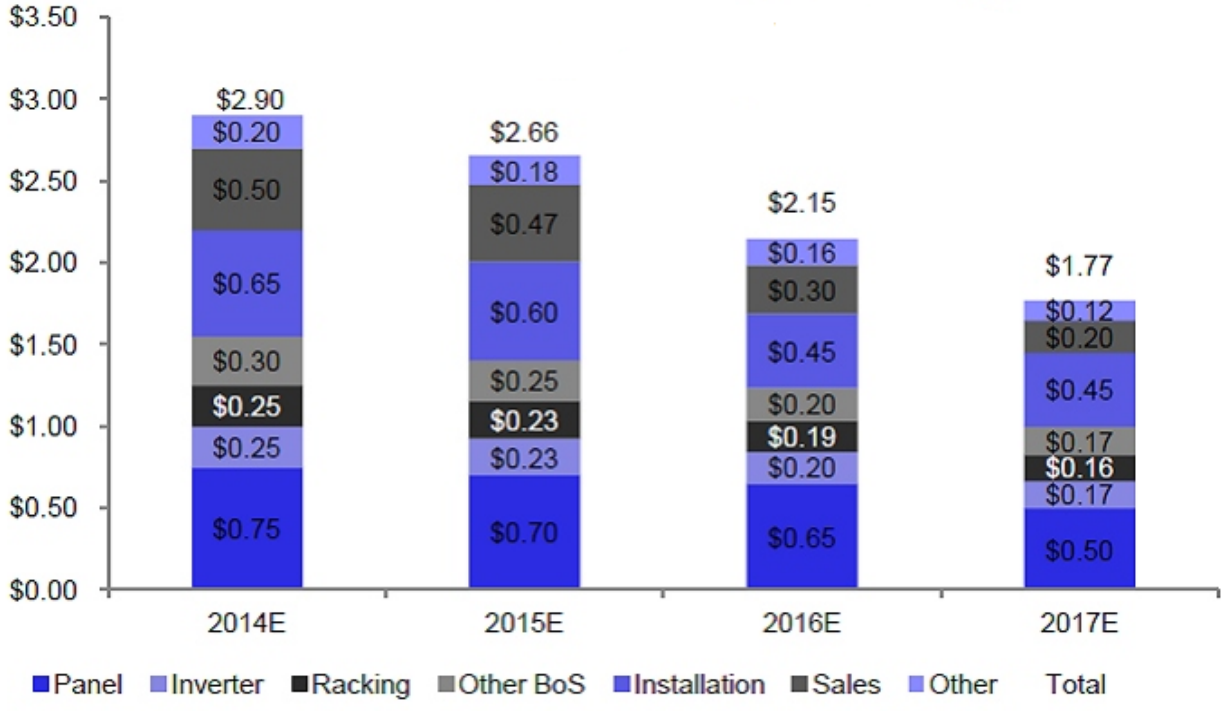
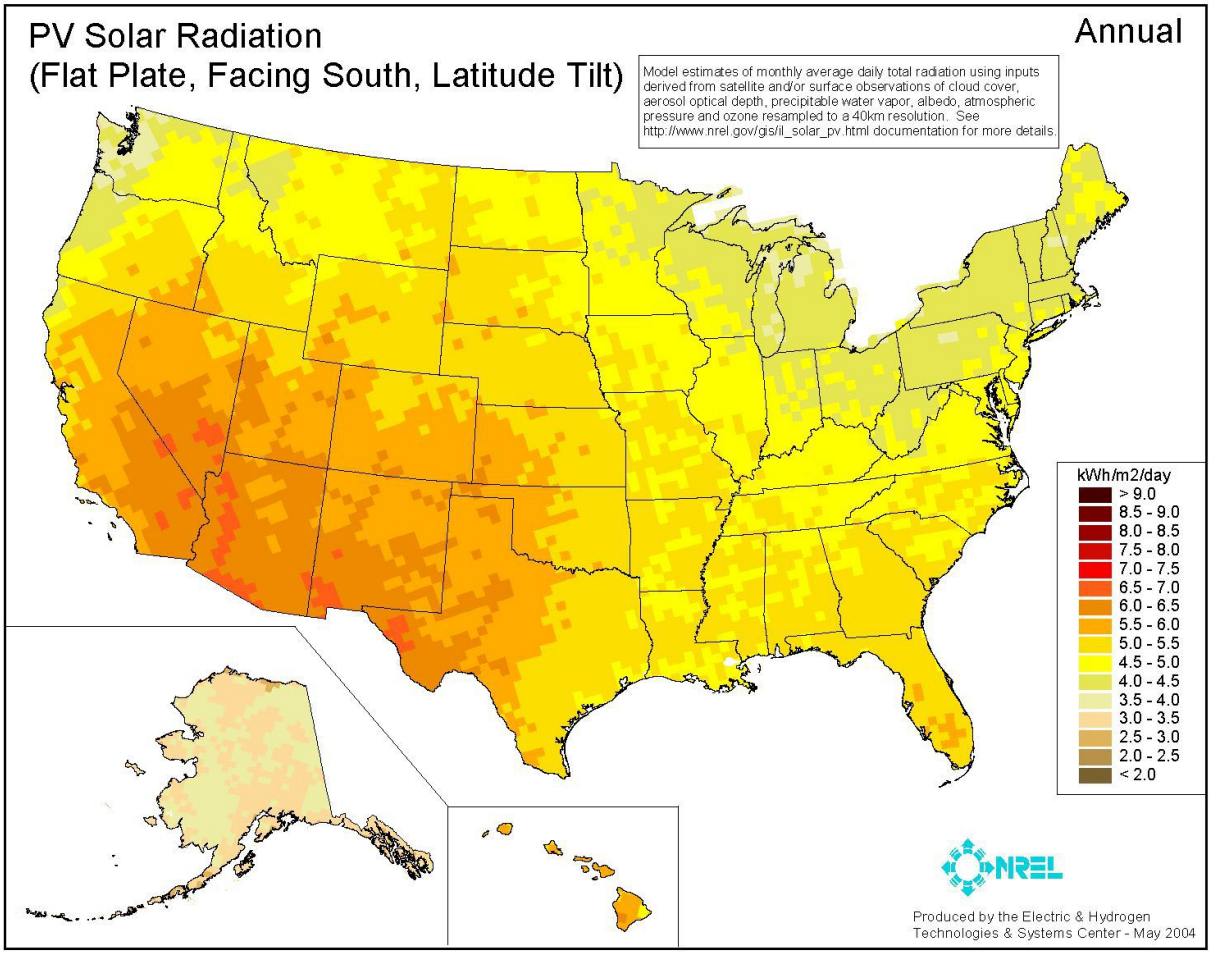
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0

Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017

https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm



National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Brightergy Renewable Tax Credit Fiscal Analysis (1% Value of Electricity Cap) - Initiative Petitions 173, 175, 177-180, and 190**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 122.68 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $76,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 223,854 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $76,000,000 | 122.68 | 122.68 | 223,854 | $100 | $22,385,441 | 4.225% | $945,785 | $76,945,785 | 3.585% | $802,518 | 5.000% | $1,119,272 | $1,921,790 |
| 2018 | $76,000,000 | 122.68 | 245.36 | 447,709 | $100 | $44,770,882 | 4.225% | $1,891,570 | $77,891,570 | 3.585% | $1,605,036 | 5.000% | $2,238,544 | $3,843,580 |
| 2019 | $76,000,000 | 122.68 | 368.04 | 671,563 | $100 | $67,156,323 | 4.225% | $2,837,355 | $78,837,355 | 3.585% | $2,407,554 | 5.000% | $3,357,816 | $5,765,370 |
| 2020 | $76,000,000 | 122.68 | 490.72 | 895,418 | $100 | $89,541,765 | 4.225% | $3,783,140 | $79,783,140 | 3.585% | $3,210,072 | 5.000% | $4,477,088 | $7,687,160 |
| 2021 | $76,000,000 | 122.68 | 613.40 | 1,119,272 | $100 | $111,927,206 | 4.225% | $4,728,924 | $80,728,924 | 3.585% | $4,012,590 | 5.000% | $5,596,360 | $9,608,951 |
| 2022 | $76,000,000 | 122.68 | 736.08 | 1,343,126 | $100 | $134,312,647 | 4.225% | $5,674,709 | $81,674,709 | 3.585% | $4,815,108 | 5.000% | $6,715,632 | $11,530,741 |
| | | | | | | | | **Total State Tax Burden** | **$475,861,483** | | **Total Local Tax Burden (Sales + Franchise)** | | **$40,357,593** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

**Brightergy Renewable Tax Credit Fiscal Analysis (50 Million Tax Credit Cap) - Initiative Petitions 174 and 176**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 80.71 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $50,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 147,273 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $50,000,000 | 80.71 | 80.71 | 147,273 | $100 | $14,727,264 | 4.225% | $622,227 | $50,622,227 | 3.585% | $527,972 | 5.000% | $736,363 | $1,264,336 |
| 2018 | $50,000,000 | 80.71 | 161.42 | 294,545 | $100 | $29,454,528 | 4.225% | $1,244,454 | $51,244,454 | 3.585% | $1,055,945 | 5.000% | $1,472,726 | $2,528,671 |
| 2019 | $50,000,000 | 80.71 | 242.13 | 441,818 | $100 | $44,181,792 | 4.225% | $1,866,681 | $51,866,681 | 3.585% | $1,583,917 | 5.000% | $2,209,090 | $3,793,007 |
| 2020 | $50,000,000 | 80.71 | 322.84 | 589,091 | $100 | $58,909,056 | 4.225% | $2,488,908 | $52,488,908 | 3.585% | $2,111,890 | 5.000% | $2,945,453 | $5,057,342 |
| 2021 | $50,000,000 | 80.71 | 403.55 | 736,363 | $100 | $73,636,320 | 4.225% | $3,111,135 | $53,111,135 | 3.585% | $2,639,862 | 5.000% | $3,681,816 | $6,321,678 |
| 2022 | $50,000,000 | 80.71 | 484.26 | 883,636 | $100 | $88,363,584 | 4.225% | $3,733,361 | $53,733,361 | 3.585% | $3,167,834 | 5.000% | $4,418,179 | $7,586,014 |
| | | | | | | | | **Total State Tax Burden** | **$313,066,765** | | **Total Local Tax Burden (Sales + Franchise)** | | **$26,551,048** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

**Brent Stewart** provided the following information as an opponent of this initiative petition.

**Association of Missouri Electric Cooperatives**

2722 East McCarty Street, P.O. Box 1645
Jefferson City, Missouri 65102
Telephone: (573) 635-6857
Fax: (573) 635-2314
www.amec.coop

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December 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: Fiscal Note in Initiative Petitions 2016-173 through 2016-190

To Whom It May Concern:

The Association of Missouri Electric Cooperatives (AMEC), representing the state's forty-seven member-owned, nonprofit rural electric cooperatives that serve close to one million electric consumers, respectfully submit the following brief comments to assist in your preparation of the fiscal notes on the above-mentioned initiative petitions.

All these petitions, in one way or another, involve solar and renewable energy mandates. The practical effect of each, to one extent or another, is to encourage consumers to substitute self-generation for traditional electric service, thereby creating an unfair electric rate subsidy in favor of those who can afford to install their own generation at the expense of the majority of the other consumers who cannot.

Missouri's forty distribution (retail level) cooperatives serve a wide variety of governmental entities throughout rural Missouri, including state facilities (e.g. prisons), local government facilities, hospitals, schools, rural water districts, regional sewer districts and others. To the extent these entities cannot afford to install their own generation, which most cannot, they necessarily will be forced to pay higher rates if these initiative petitions are enacted. Unfortunately, it is impossible without more time for AMEC to identify all those government-related entities and facilities or estimate with any accuracy the adverse fiscal impact. However, it is clear that even a modest rate increase necessarily will have a significant adverse fiscal impact on governmental entities, in millions of dollars, especially those in the primarily less affluent rural areas served by Missouri's nonprofit electric cooperatives.

Respectfully submitted,

Brent Stewart

Brent Stewart
AMEC Counsel

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State government revenue may decrease up to $456 million during the tax credit period with approximately $1 million annual increased operating costs. Local governmental entities estimate $23.9 million in annual electricity sales reductions. Other resulting economic activity will have an unknown impact on state and local governments.

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JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-176

December 17, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 13 (2016-176)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 16, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-126

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

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2015 DEC 16 PM 4:46
SECRETARY OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-176

*Be it enacted by the people of the state of Missouri:*

Section A: Section 386.890 is amended and sections 386.860, 386.870, 386.900, 386.910 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.900 to 386.1000 shall be known and cited as the "Clean Energy Independence and Investment Act of 2016".

386.870. An electrical corporation shall be allowed to recover its costs and add in its rate base prudently incurred costs to install electric vehicle charging stations intended to recharge electric motor vehicles, provided the energy consumed at such stations is partially powered by a clean energy resource, as defined in 386.900, or offset with renewable energy credits, as defined in 393.1025. Investments made pursuant to this section shall not raise the retail rates charged to the customers of electrical corporations by more than one half of one percent in any year.

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any [municipal electric utility,] rural electric cooperative as provided in chapter 394[, or electrical corporation as provided in this chapter];

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

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(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of natural resources;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any [municipal utility, electrical corporation regulated under this chapter, or] rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which [the commission for a public utility or] the governing body for the supplier[other electric utilities] may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing,

maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) [For any rural electric cooperative under chapter 394, or municipal utility, u]Upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional

liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, [the commission for public utilities and] the governing body for the supplier[other utilities] shall, by rule or equivalent formal action[ by each respective governing body]:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. [Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated s]Suppliers shall submit [the same] an annual net metering report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. [The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section

and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10.] The governing body of a supplier [rural electric cooperative or municipal utility] shall[, within nine months of January 1, 2008,] adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

[11.] 10. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

[12.] 11. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

[13.] 12. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

[14.] 13. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

[15.] 14. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

[16.] 15. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

[17.] 16. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.900. 1. This section shall be known and may be cited as the "Enhanced Net Metering and Easy Connection Act". It shall be the policy of the state to facilitate the use of customer-sited or controlled clean energy resources.

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2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal utility or electrical corporation as provided in this chapter;

(2) "Clean energy resource", electrical energy produced from:

(a) Wind;
(b) Solar thermal sources;
(c) Hydroelectric sources;
(d) Photovoltaic cells and panels;
(e) Fuel cells using hydrogen produced by a source listed in paragraphs (a) through (d) of this subdivision; or
(f) Other sources of energy that become available after January 1, 2017, and are certified as clean by the department.

(3) "Commission", the public service commission of the state of Missouri;

(4) "Customer-generator", the owner, lessee or operator of a qualified electric energy generation unit which:

(a) Is powered by a clean energy resource or micro CHP;

(b) Has an electrical generating system with a capacity of not more than five hundred kilowatts, measured in alternating current;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(5) "Department", the department of natural resources;

(6) "Micro CHP", combined heat and power or cogeneration systems that simultaneously generate electricity and thermal energy in a single integrated system with a nameplate rated capacity equal to or lower than 130 kilowatts, measured in alternating current;

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(7) "Net excess energy", the amount of energy expressed in kilowatt hours delivered by a customer-generator to a supplier that exceeds the amount of energy delivered by the supplier to the customer-generator over a single billing period;

(8) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(9) "Retail electric supplier" or "supplier", any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals seven percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for a municipal utility may increase the total rated generating capacity of net metering systems to an amount above seven percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds two percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the retail electric supplier shall pay for the costs to purchase and install the necessary additional equipment, unless the commission or governing body makes a determination that the customer-generator is the only customer benefiting from the additional distribution equipment. If the commission determines the customer-generator is the only customer benefiting, such customer-generator shall reimburse the electric supplier for reasonably incurred equipment expenses. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

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(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subdivision (2) of subsection 3 of this section and all net excess energy shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent months;

(4) Any net excess energy credits carried forward under subdivision (3) of this subsection shall expire without any compensation at the earlier of either the next subsequent March billing period or when the customer-generator disconnects service or otherwise terminates the net metering relationship with the supplier;

(5) For any municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule:

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(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (4) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems one hundred kilowatts or less and within sixty days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application. Retail electric suppliers shall interconnect qualified energy generation units within thirty days of being notified the generation unit is installed and meets the requirements of this section.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for notifying the retail electric supplier.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall by June 1, 2017 promulgate any rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after June 1, 2017, shall be invalid and void.

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10. The governing body of a municipal utility shall by June 1, 2017 adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs, including lost revenues and lost earnings opportunities associated with reduced demand or kilowatt hours sales, incurred under this section by a retail electric supplier shall be recovered in a timely manner in that utility's rate structure in the form of a tracker or other appropriate rate recovery mechanism. At the time of any general change in a supplier's rates, any over-recovery or under-recovery balance shall be included in the supplier's revenue requirement used to set rates as amortized over a period not exceeding three years, and shall be recovered from each rate class pursuant to the supplier's approved rate design. At the time any general change in prospective rates is proposed, the commission shall permit the supplier to estimate the total generation output from all customer-owned generation for each rate class for the twelve-month period following the effective date of any change in rates, and rates shall be set using energy and demand billing units that reflect the estimated reduction of energy and demand likely to occur due to customer-owned generation. When considering costs, the commission may evaluate the value of distributed generation and clean energy resources. To the extent any costs, lost revenues, or lost earnings are recovered under this section, they shall not raise the retail rates charged to the customers of electrical corporations by an average of more than one percent in any year. Any limitation on cost recovery shall not limit the availability of net metering except as provided in subsection 3 of this section.

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

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16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.910. 1. This section shall be known and cited as the "Community Solar Act."

2. Within thirty days of enactment of this section, the commission shall open a docket and by August 1, 2017, the commission shall adopt rules and regulations allowing customers to participate in community solar facilities and set a value-of-community-solar rate. For purposes of this section, a "community solar facility" is a photovoltaic electric generation facility with a capacity of between one hundred and one thousand kilowatts, measured in alternating current, that allows five or more customers of an electrical corporation to offset their energy usage with solar energy and such facility is located within the Missouri service territory of the electrical corporation where such customers have one or more electrical accounts. For the purposes of this section, an electrical corporation is as defined in 386.020.

3. The aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous calendar year, and such capacity of community solar facilities shall not count towards the system-wide net metering cap defined in subsection 3 of section 386.900. Electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. Entities or individuals that are not electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of an electrical corporation's single-hour peak load during the previous year. The commission shall allow prudently incurred costs and expenses for community solar facilities owned by an electrical corporation to be included in such electrical corporation's rate base. Once a four percent aggregate cap is reached for community solar facilities, the commission shall open a docket to determine whether or not the community solar program shall be expanded, and the commission may increase the aggregate capacity cap above four percent, or adjust the percentage cap of electrical corporations owning community solar facilities. The commission shall consider all benefits and costs of such an expansion when making its decision. Community solar facilities shall not be eligible for tax credits under section 386.1000.

4. For any community solar facility that is owned or operated by an entity other than an electrical corporation, the energy generated by such community solar facility shall be provided to the electrical corporation to which it is interconnected in exchange for the allocation and facilitation of bill credits as provided in subsection 5 of this section.

5. Kilowatt hours generated from community solar facilities shall be allocated, on a pro rata basis, to the designated subscribers of the community solar facility at the direction of the community solar facility owner or operator. Allocated bill credits shall be set at a community solar rate per kilowatt hour determined by the commission. The commission shall determine the value of bill credits per kilowatt hour taking into consideration costs and benefits of solar energy including but not limited to energy value, generation value, environmental value, transmission and distribution system value, disaster recovery value, reactive power value and other grid benefit value, but such bill credits shall not be less than the electrical corporation's average retail rate. The value of allocated community solar bill credits shall be used to reduce the customer's total bill. Owners and operators of community solar facilities shall not be considered a public utility as defined in section 386.020, except that this provision shall not apply to any owner or operator who is an electrical corporation. When a community solar facility is placed in service it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years.

6. The commission shall promulgate rules and regulations it deems necessary to carry out the provisions of this section. The commission's rules shall: allow electrical corporations to recover costs; provide earning opportunities for electrical corporations; provide an orderly process, including a reservation system, to allow potential community solar facility owners and operators to develop projects within the capacity limits in subsection 2 of this section; and provide options, which may include financial incentives, to encourage low-income participation.

7. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section, shall be invalid and void.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The

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maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

2. The department of economic development shall certify when the tax credits provided in this section have resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. The total amount of clean energy tax credits provided in this section allocated annually shall not exceed fifty million dollars in the aggregate per fiscal year. The aggregate amount of the clean energy resources tax credits available annually as specified in this section shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. If the amount of the clean energy tax credits offered in any fiscal year, other than 2017, is less than the annual statutory cap contained in this section then the cap for the following fiscal year shall be increased by that amount. The carryover of any unused clean energy tax credit authority shall extend until it is used. The provisions of this section notwithstanding, a claimant may only apply for and receive the credit authorized by this section for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

4. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

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The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

5. To obtain approval for tax credits allowed under this section, a taxpayer shall submit an initial application for tax credits to the department of economic development. Each application shall be prioritized for review and approval, in the order of the date on which the application was received, with the oldest received date receiving priority. Applications received on the same day shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. Such application deposit shall be refunded at completion of the project or if the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. The taxpayer may request a refund of the application deposit; however, any refunds of the deposit for an application shall cause such application to lose its spot in the priority queue. If the taxpayer wants to maintain its position in the priority queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

6. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

7. Disapproved applications shall lose priority in the review process. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision of its intent to disapprove and to remove such application. The taxpayer shall have one opportunity, not to exceed ten days of notification of intent to disapprove, to

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correct any deficiencies in the initial application without losing its priority before becoming disapproved. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

8. If the department of economic development deems the application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 5 of this section.

9. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for initial approval shall be notified by the department of economic development that the maximum amount of credits authorized have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available due to the rescission of approvals or reserved for a future fiscal year.

10. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial approval for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

11. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1 and 3 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

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12. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by letter and shall issue, to the taxpayer, a tax credit certificate within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

13. If the amount of the credit under subsection 12 of this section exceeds the taxpayer's total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. The state tax credit shall not be subject to recapture provisions. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

14. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsections 8 or 9 of this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

15. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-176)**

## Subject

Initiative petition from Andy Zellers regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received December 17, 2015)

## Date

January 6, 2016

## Description

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Public Service Commission.**

**Mark R. Reading** provided information to the State Auditor's Office as a proponent of this initiative petition.

**Edward D, Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Brent Stewart** of Association of Missouri Electric Cooperatives provided information to the State Auditor's Office as an opponent of this initiative petition.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no known fiscal impact on their department.

Officials from the **Department of Economic Development** (DED) provided the following information:

The Division of Business and Community Services (BCS) indicated the proposed legislation adds Sections 386.860, 386.870, 386.900, 386.910, and 386.1000, RSMo.

- 386.860
  - States policy of the state to value clean energy, energy price stability and energy independence. Says Sections 386.900 to 386.1000, RSMo, will be the Clean Energy Independence and Investment Act of 2016.
- 386.870
  - Allow an electrical corporation to recover its costs to install electric vehicle charging stations provided energy consumed is partially clan energy or offset with renewable energy credits.
- 386.900
  - Called Enhanced Net Metering and Easy Connection Act.
  - .3 – requires a retail electric supplier make net metering available to customer generators.
- 386.910
  - .1 – Known as the “Community Solar Act”.
  - .2 – requires the PSC to adopt rules and regulations to allow customers to participate in community solar facilities and set a value-of-community-solar rate.
  - .3 – the aggregate capacity of a facility shall not be greater than 4% of the electrical corporation’s single-hour peak load during the previous calendar year.
- 386.1000
  - .1 - Beginning January 1, 2016, taxpayers can get a tax credit up to 30% of the costs of installation of a clean energy resource project. Can only get tax credit up to $3/watt created.
  - .2 – DED to certify when program limit of 1000 megawatts is met. After certified but no later than June 30, 2022, the program sunsets.
  - .3 – total allocated annually shall not exceed $50 million. The $50 million shall be increased/decreased by the percentage of increase or decrease of the Consumer Price Index. If the full $50 million isn’t used in one year, the remainder can be

carried over to the next year. No project can claim more than 200 kilowatts in credits.
- .4 – creates the Clean Energy Fund and requires DED to administer it.
- .5 – Application process through DED.
- Remainder of sections explain application process and how DED shall administer it.
-

DED BCS estimates a negative fiscal impact of $50 million per year for seven years.

The Division of Energy (DE) indicated this petition will result in increased operating expenses of $723,522 for fiscal year 2017, $792,438 for fiscal year 2018, and $800,141 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Section 386.870 – Electric Vehicle Charging Stations

DE participates in PSC regulatory cases to evaluate issues from a formal state policy and planning perspective consistent with its interests in clean, affordable, abundant energy, and its efficient use. DE is active in cases before the PSC related to energy efficiency and renewable energy and has responsibilities associated with certifying clean energy sources under Missouri's Renewable Energy Standard and net metering statutes. As such, DE assumes it would be involved in the implementation of this provision by monitoring and participating in cases that allow regulated electric utilities to install and recover costs associated with electric vehicle recharging stations that are partially powered by a clean energy source or offset with renewable energy credits.

Section 386.900 – Enhanced Net Metering and Easy Connection Act

DE assumes it would be involved in the implementation of this provision that modifies the existing net metering and interconnection requirements for regulated electric utilities. It is assumed there would be a rulemaking docket to set the process and details associated with this proposal. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where enhanced net metering provisions are considered.

Section 386.910 – Community Solar Act

DE assumes it would be involved in the implementation of the Community Solar Act provisions. It is assumed there would be a rulemaking docket to set the process and details associated with this section. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where community solar facilities are established for purposes of determination of

eligibility and certification under the Renewable Energy Standard (RES). DE assumes this provision would result in additional RES certifications that would need to be performed.

Section 386.1000 – Clean Energy Tax Credit
DE is required to administer the Clean Energy Fund created by this section and promulgate rules to implement the Clean Energy Tax Credit. The proposal requires DE to receive applications and deposits, review and initially approve applications and required information within 30 days, review final approval applications, issue certificates and provide notifications, refund deposits for completed and disapproved projects, at least quarterly publish a list of the amount of tax credits initially and finally approved for each fiscal year and amounts reserved for future years, notify individual applicants of disapproved applications and approval within specified timeframes, notify applicants if the maximum amount of credits authorized have been allocated for the fiscal year and grant three-month extensions if needed for project completion with additional deposit payments.

**Long-range implications**

Fiscal impacts associated with the Clean Energy Tax Credits could continue until June 30, 2022. The authorization for the tax credit would sunset sooner if the 1,000 megawatt limit is reached. Economic benefits associated with construction of solar facilities would also have long-range implications.

**Assumptions and methodology used in arriving at state fiscal impact**

Section 386.870 – Electric Vehicle Charging Stations
For purposes of this fiscal note, DE assumes it would be involved in cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

Section 386.900 – Enhanced Net Metering and Easy Connection Act
For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

386.910-Community Solar Act
The RES requires investor-owned utilities in Missouri to either produce green power or purchase Renewable Energy Certificates (RECs) for compliance. One REC represents 1 megawatt-hour (MWh) of electricity generated from an eligible renewable energy resource. The in-state renewable energy generation can receive a multiplier of 1.25 for RES compliance purpose. DE has statutory authority to certify eligible renewable energy resources before RECs associated with those renewable energy resources can be used for RES compliance. DE does not charge any certification fees.

A community solar facility is defined as a solar photovoltaic facility with a capacity of 100-1000 kilowatts (kW) under this section. DE anticipates that enactment of a tax credit in Section 386.1000, RSMo, will result in an increase in community solar facilities constructed and that in-state community solar facilities will request DE to certify their renewable energy resources/projects for the purpose of generating additional revenue from REC sales. DE's review primarily focuses on environmental impacts of renewable electric generation facilities on air, water or land use. The actual staff time spent on each application varies from one project to another. Solar photovoltaic facilities with a larger capacity typically require more staff time for reviewing their third-party environmental impact assessments in addition to verifying applicable environmental permits. Staff time will be also needed for data requests and discussion, data collection, database management, report production and website maintenance.

Current average staff time to review and certify renewable energy facilities ranges from 2 hours for small projects of a few hundred kW and 8-10 hours for larger projects of a few hundred kW to 1000 kW. It is assumed that small projects will account for two-thirds of the total community solar facilities and one-third will be larger projects. The weighted average of staff time (based on 2 hours for smaller projects and 8 hours for larger projects) is 4 hours (calculation: 2*{2/3}+8*{1/3}). The number of projects at the assumed 200 kW ranges from 71 to 209 if the full amount of tax credits are used (Source: Mark Reading). By multiplying the average staff time of 4 hours, the annual staff time will range from 284 to 836 hours. For purposes of this fiscal note, DE assumes it could implement the provisions of this section with staff requested to implement the clean energy tax credit in Section 386.1000, RSMo (see below).

<u>Section 386.1000 – Clean Energy Tax Credit</u>
If all tax credits were used up to the cap of $50 million per year, and with consideration to the estimated cost and size of the projects, it is estimated there would be 4,718 residential project applications and 271 commercial project applications submitted for tax credit reviews (Source: Mark Reading). DE assumes that it would take approximately 2 hours each to do the initial review/approval of each application and another 2 hours to do the review and issuance of a certification after a project is completed for residential projects. Each of these would include clerical time for input/issuing letters/filing, etc. For larger commercial projects, an estimated 8 hours is anticipated for each of these two steps. See response above for detailed tasks required by the proposal.

18,872 hours for residential applications
4,336 hours for commercial applications
23,208 hours total

DE assumes it will need a total of 11 full-time employees (FTE) to implement the clean energy tax credit and community solar provisions of this proposal as follows:
6 – Energy Specialist I/II
2 – Energy Engineer II
1 – Energy Engineer III
2 – Administrative Office Support Assistant (AOSA)

- Energy Specialist I/II - Professional level staff to review the renewable energy project applications and to complete project evaluation activities.
- Energy Engineer II/III - Professional staff with expertise in engineering aspects of renewable energy projects to review the technical aspects of the projects, review of projects related to the Renewable Energy Standard and Renewable Energy Certificates and familiar with environmental impacts of renewable electric generation.
- AOSA - Staff to assist with the administrative requirements of the reviews such as drafting and sending communication to applicants, maintaining the database of applicants, and tracking status of applications.

DE also assumes that the DED's existing tax credit database will be used to track the applications. Some IT costs to generate the necessary reports are estimated.

Note that although an application deposit is required to be paid to DE and deposited in the Clean Energy Fund, because the deposit must be refunded to the applicant upon completion of the project or if the project is disapproved, DE assumes it is unable to use these funds to administer the proposal. Therefore, General Revenue funds are requested. Based on the estimated number of residential and commercial projects, application deposits at 2 cents/watt to the Clean Energy Fund would total approximately $1.7 million/year.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated the responsibilities of this proposal appear to fall under the Division of Energy. With Executive Order 13-03 the Division of Energy was transferred from the Missouri Department of Natural Resources to the Missouri Department of Economic Development, by Type I transfer. Therefore, they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** estimate this petition will result in increased operating expenses of $243,282 for fiscal year 2017, $181,985 for fiscal year 2018, and $183,470 for fiscal year 2019.

The legislation creates a negative impact of up to $50 million per fiscal year to total state revenue by creating a new tax credit.

**Section 386.1000**
The provisions of this section authorize the issuance of a clean energy tax credit to taxpayers incurring costs for the installation of a clean energy resource project. The taxpayer may claim 35 percent of the total cost of the project. The aggregate amount of tax credits cannot exceed $50 million per fiscal year, which will be increased or decreased each year by the Consumer Price Index.

**Section 386.1000.13**
The department suggests changing the provisions pertaining to the transfer of the tax to the Department of Revenue as this is currently the department's responsibility based on a previously issued executive order.

**Administrative Impact:**
**Personal Tax:**
Personal Tax requires one (1) Revenue Processing Technician I (Range 10, Step L) for every 6,000 credits claimed.

**Corporate Tax:**
Corporate Tax requires three (3) Revenue Processing Technicians I (Range 10, Step L) for every 4,000 credits redeemed, 4,000 credits transferred, and for every 520 SB 1099 compliance mailings and correspondence.

**Integrated Tax System:**
The integrated tax system incurs additional costs of $43,680 to implement the provisions of this petition.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of West Plains** indicated the 86 cities with municipal electric utilities depend on the revenues of this service for their citizen/owners to off-set the cost of electric service and operation to citizens as well as to support the activities of city government.

Based primarily on data from the Federal Department of Energy's (DOE) Energy Information Administration (EIA) Table 6 plus additional data gleaned from the National Renewable Energy Lab's Photovoltaic Calculator and the Missouri Association of Municipal Utilities for peak loads in 73 cities, they have determined that municipalities in Missouri face a loss of at least $23.9 million in revenue should this initiative petition become law. The impact alone to the City of West Plains appears to be $352,000 annually, or over 6.5% of their annual electric utility revenue budget. This figure does not reflect any additional costs they will be required to incur for required pleadings before the state Public Service Commission or local compliance costs for other requirements contained in this proposal.

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art. X, Sec. 16) that reduces income or increases costs without "full state financing," they anticipate that local government costs would be reflected in the final state cost when the fiscal note is completed. Necessary litigation costs incurred for Mo. Const. Art. X, Sec. 16 and other potential legal inconsistencies are unknown.

Methodology for City Loss Calculation
Renewable Energy Initiative Petitions

| **Assumptions and Methods** | **Information Source** |
|---|---|
| 1. A combined federal and state tax credit of 60% of installation costs, would prompt city customers to achieve the 7% capacity cap in a reasonable period of time | Proposed Legislation |
| 2. 1 kW solar panel at this latitude would generate 1350 kWHr per year | National Renewable Energy Lab's PV Calculator |
| 3. Annual Peaks | Municipal reports to the Missouri Association of Municipal Utilities |
| 4. Current City Electric Rates | DOE EIA Database (Table 6 for 2010) |

5. Calculation:
   Annual Peak
   7% of Annual Peak for Capacity Cap
   Total Solar Generation = (Capacity Cap * 1350 kWHrs)*1000
   City's lost revenue: City rate * Solar Generation

6. State calculation based on the sum of "Assumption 5" calculations for
73 reporting cities (out of 86)
Total ≥ $23.8 million

**Calculation for City of West Plains**

| | |
|---|---|
| 44.453 | Annual Peak (MW) |
| 3.11171 | 7% of Annual Peak for Capacity Cap MW |
| 4,200,809 | Total Solar Generation (KWHR) |
| 8.38 | City Rate (cents per kWHR) |
| $352,028 | Lost Revenue |

Officials from **University of Missouri** indicated they have not seen cost impact studies on this initiative from their electric utility suppliers, but they do not believe this will have a significant impact on their university.

Officials from the **Public Service Commission** (PSC) indicated without the benefit of the rulemaking process to explore potential issues and clearly delineate parameters, the first year clean energy tax credit cap would be $50 million per fiscal year. For subsequent years, this amount will change by the Consumer Price Index and any unused portion. Some versions of the petitions state unused portions will carry over to subsequent years for a maximum cap of $70 million in a fiscal year. Other versions of the petitions state the carryover of unused clean energy tax credits shall extend to subsequent years until used.

Section 386.870, RSMo, allows an electrical corporation to recover its costs and add in its rate base prudently incurred costs to install electric vehicle charging stations provided the energy consumed is partially powered by a clean energy resource or offset with renewable energy credits. It is not clear if the renewable energy credits can be used to meet Section 386.870, RSMo, and also used to meet the utility's renewable portfolio standard in Section 393.1030, RSMo.

Section 386.870, RSMo, also states investments made pursuant to this section shall not raise the retail rates charged to customers of electrical corporations by more than one half of one percent in any year. The PSC suggests this requirement be clarified. A similar cap is placed on the renewable mandate of Section 393.1045, RSMo. It has been over 7 years since the enactment of this provision and parties continue to argue its meaning before the PSC.

Sections 386.890 and 386.900, RSMo, define "department" as the department of natural resources. "Department" should be defined as the department of economic development, division of energy.

Sections 386.890 and 386.900, RSMo, both use the terms "Retail electric supplier" or "supplier", but in Section 386.890, RSMo, a "retail electric supplier" or "supplier" is any rural electric cooperative under Chapter 394, RSMo, that provides retail electric service in this state and in Section 386.900, RSMo, a "retail electric supplier" or "supplier" is any

municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state. Although the terms are in different statutes, it may be confusing to define the same term in a different manner. It may be clearer to use different terms applicable to the respective intent. Further since Section 386.890. RSMo, is only applicable to rural electric cooperatives, it may make sense to move the entire provision to Chapter 394, RSMo.

Sections 386.890 and 386.900, RSMo, use the term "wholesale generator". The PSC respectfully suggests this term be defined.

Section 386.900, RSMo, uses terms such as "commission-regulated supplier" and "public utilities" to describe suppliers that are subject to PSC jurisdiction. The PSC respectfully suggests the terms be used consistently.

Section 386.900, RSMo, requires the PSC to promulgate rules by June 1, 2017 and Section 386.910, RSMo, requires the PSC to adopt rules by August 1, 2017. The PSC respectfully suggests these dates may be aggressive for final rules to be effective.

Section 386.900.6.(2), RSMo, references "subsection 4 of this section". This appears to be an inaccurate cross-reference as there is no subsection 4 of the section.

Section 386.900.12, RSMo, says the estimated generating capacity of all net metering systems shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate, but the renewable energy portfolio deals with "energy" not "capacity".

Section 386.900.14, RSMo, says any costs, including lost revenues and lost earnings opportunities. The PSC respectfully suggests "lost revenues" and "lost earnings opportunities" be clearly defined as to how to calculate those amounts. The interpretation and calculation of these terms has been the subject of on-going disagreement as they relate to the Missouri Energy Efficiency Investment Act.

Section 386.900.14, RSMo, states the commission may evaluate the value of distributed generation and clean energy resources, but it is not clear how to determine those values.

Section 386.900.14, RSMo, states any costs, lost revenues or lost earnings recovered under this section shall not raise the retail rates charged to customers by an average of more than one percent in any year. The PSC suggests this requirement be clarified. A similar cap is placed on the renewable mandate of Section 393.1045, RSMo. It has been over seven years since the enactment of this provision and parties continue to argue over its meaning before the commission.

Section 386.910.5, RSMo, states that when a community solar facility is placed in service, it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years. It appears this provision would require the utility ratepayers to fund the facility at the current rate for 20 years without adjustment for changes in the

utility's costs or revenues that would occur over the 20 year period. It is also not clear if the cost-of-solar value contemplates an earnings opportunity for the commission-regulated utility.

Section 386.1000, RSMo, discusses a "clean energy tax credit". It is not clear why the tax credit is in the PSC statute and not in a tax-related statute.

**Mark R. Reading** provided the following information as a proponent of this initiative petition.

Submitted by:

_____

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(573) 694-6828
*Primary Contact Person*

**Clean Energy Independence and Investment Act of 2016 - Versions 10, 12, 14, 16, and 18**
**Sec. of State # 173, 175, 177, 190, and 180**

**Proposed Statement of Fiscal Impact**
**for Clean Energy Independence and Investment Act of 2016 - Versions 10, 12, 14, 16, and 18**
**Sec. of State # 173, 175, 177, 190, and 180**

**Fiscal Impact Information Submitted Pursuant to Section 23.140.2**

The amendment's estimated impact decreases state revenue between $31 to $63 million depending upon the speed of up to $225 million in additional clean energy project construction and implementation by the Department of Economic Development, residential homeowners, and businesses. Local revenue is estimated to grow between $2.6 to $5.1 million.

| ESTIMATED NET EFFECT ON STATE FUNDS | | |
|---|---|---|
| **Fund Affected** | **FY 2017** | **FY 2018** |
| **General Revenue** | $0 | From ($33,037,828) to ($66,019,325) |
| | | |
| **Total Estimated Net Effect on All State Funds** | $0 | From ($31,362,880) to ($62,666,273) |
| **ESTIMATED NET EFFECT ON LOCAL FUNDS** | | |
| Local Funds | $0 | From $2,553,188 to $5,128,651 |
| | | |
| **Total Estimated Net Effect on All Local Funds** | $0 | From $2,553,188 to $5,128,651 |

**SUMMARY OF VERSIONS OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT**

Nine versions of the Clean Energy Independence and Investment Act of 2016 have been submitted for review. A summary of which topics are in each version is provided below.

**CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT OF 2016**
**SUMMARY OF VERSIONS**

| Petition version | 386.870 - Electric vehicle | 386.890 - Net metering | 386.900 - Enhanced net metering | 386.910 - Community Solar | 386.1000 - Tax credits |
|---|---|---|---|---|---|
| | | | | | |
| **1% Electric Versions** | | | | | |
| Version 10 | N/A | X | X | X | X |
| Version 12 | X | X | X | X | X |
| Version 14 | X | Deletes | X | X | X |
| Version 15 | N/A | N/A | N/A | N/A | X |
| Version 16 | X | N/A | N/A | X | X |
| Version 17 | X | X | X | N/A | X |
| Version 18 | N/A | X | X | X | X |
| | | | | | |
| **$50 million cap Versions** | | | | | |
| Version 11 | N/A | X | X | N/A | X |
| Version 13 | X | X | X | X | X |

## ANALYSIS OF FISCAL IMPACT OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT

The fiscal impact analysis contained herein focuses on estimating the fee and tax revenue resulting from the statutory changes proposed in the initiative petition. Table 1 summarizes the revenue estimated by source and by fiscal year. Page and Table numbers are provided to help readers find specific subjects.

**Table 1 -**
**Summary of Fiscal Impact by Fund**

| Page # | Table # | Purpose | FY 2017 | FY 2018 - low range | FY 2018 - high range | Revenue Type |
|---|---|---|---|---|---|---|
| 9-12 | Table 10 | Tax credit | $0 | ($39,494,829) | ($78,989,658) | Income |
| 13-15 | Table 14 | Taxes from clean energy tax credit construction | $0 | $4,429,063 | $8,858,126 | Various |
| 16-17 | Table 17 | Taxes from community solar construction | $0 | $2,027,938 | $4,112,207 | Various |
| | | subtotal General Revenue Fund | $0 | ($33,037,828) | ($66,019,325) | |
| | | | | | | |
| 8-13 | Table 11 | Clean Energy Fund | $0 | $868,852 | $1,733,826 | Application deposit |
| | | | | | | |
| 13-15 | Table 14 | Prop C sales tax - clean energy | $0 | $451,369 | $902,739 | Sales tax |
| 16-18 | Table 17 | Prop C sales tax - community solar | $0 | $206,669 | $419,078 | Sales tax |
| | | subtotal Prop C | $0 | $658,038 | $1,321,817 | |
| | | | | | | |
| 13-15 | Table 14 | Conservation sales tax - clean energy | $0 | $56,421 | $112,842 | Sales tax |
| 16-18 | Table 17 | Conservation sales tax - community solar | $0 | $25,834 | $52,385 | Sales tax |
| | | subtotal Conservation | $0 | $82,255 | $165,227 | |
| | | | | | | |
| 13-15 | Table 14 | Parks and Soils sales tax - clean energy | $0 | $45,137 | $90,274 | Sales tax |
| 16-18 | Table 17 | Parks and Soils sales tax - community solar | $0 | $20,667 | $41,908 | Sales tax |
| | | subtotal Parks and Soils | $0 | $65,804 | $132,182 | |
| | | | | | | |
| | | subtotal Other State Funds | $0 | $1,674,949 | $3,353,052 | |
| | | | | | | |
| | | subtotal all state funds | $0 | ($31,362,880) | ($62,666,273) | |
| | | | | | | |
| 13-15 | Table 14 | Local Sales Tax - clean energy | $0 | $1,751,314 | $3,502,627 | Sales tax |
| 16-18 | Table 17 | Local Sales Tax - community solar | $0 | $801,875 | $1,626,024 | Sales tax |
| | | subtotal Local Funds | $0 | $2,553,188 | $5,128,651 | |
| | | Grand Total State and Local | $0 | ($28,809,691) | ($57,537,622) | |

**Clean Energy tax credits**

The proposal creates a clean energy tax credit in Chapter 386 RSMo. The annual level of tax credits for each calendar year shall not exceed one percent of the annual statewide Missouri revenue of Missouri retail electric suppliers. The Public Service Commission (PSC) is required to determine the revenue for retail electric suppliers using available reports, including FERC Form Number 1 as allowed by 18 CFR § 141 or an equivalent determined by the PSC.

The data for this calculation is gathered and published by the U.S. Energy Information Administration on its website.[1] Table 2 shows the revenues reported by each Missouri entity in 2014. Retail sales totaled $7.6 billion in 2014 for the 74 entities.

**Table 2**
**2014 Utility Bundled Retail Sales - Total**
(Data from forms EIA-861- schedules 4A & 4D and EIA-861S)

| Entity | Ownership | Revenues (Thousands Dollars) |
|---|---|---|
| Atchison-Holt Electric Coop | Cooperative | $6,727 |
| Barry Electric Coop | Cooperative | $16,654 |
| Barton County Elec Coop, Inc | Cooperative | $16,262 |
| Black River Electric Coop - (MO) | Cooperative | $42,554 |
| Boone Electric Coop | Cooperative | $55,335 |
| Callaway Electric Cooperative | Cooperative | $24,618 |
| Carroll Electric Coop Corp - (AR) | Cooperative | $14,104 |
| Central Missouri Elec Coop Inc | Cooperative | $25,350 |
| Chillicothe Municipal Utils | Municipal | $10,035 |
| Citizens Electric Corporation - (MO) | Cooperative | $123,087 |
| City Utilities of Springfield - (MO) | Municipal | $249,286 |
| City of Ava - (MO) | Municipal | $2,894 |
| City of Cameron | Municipal | $7,728 |
| City of Carthage - (MO) | Municipal | $24,493 |
| City of Columbia - (MO) | Municipal | $109,927 |
| City of Farmington - (MO) | Municipal | $18,390 |
| City of Fulton - (MO) | Municipal | $14,228 |
| City of Hannibal - (MO) | Municipal | $25,785 |
| City of Harrisonville - (MO) | Municipal | $12,072 |
| City of Independence - (MO) | Municipal | $135,338 |
| City of Jackson - (MO) | Municipal | $16,281 |
| City of Kennett - (MO) | Municipal | $10,988 |
| City of Kirkwood - (MO) | Municipal | $21,547 |
| City of Lamar - (MO) | Municipal | $6,961 |
| City of Lebanon - (MO) | Municipal | $22,949 |
| City of Macon - (MO) | Municipal | $9,740 |
| City of Marshall - (MO) | Municipal | $17,390 |
| City of Monett - (MO) | Municipal | $20,534 |
| City of Mount Vernon - (MO) | Municipal | $6,790 |
| City of Nixa - (MO) | Municipal | $14,132 |
| City of Poplar Bluff - (MO) | Municipal | $31,686 |
| City of Rolla - (MO) | Municipal | $27,694 |
| City of Sikeston - (MO) | Municipal | $17,528 |

| | | |
|---|---|---|
| City of Sullivan - (MO) | Municipal | $9,645 |
| City of West Plains - (MO) | Municipal | $15,208 |
| Clay County Electric Coop Corp | Cooperative | $96 |
| Co-Mo Electric Coop Inc | Cooperative | $46,302 |
| Consolidated Electric Coop | Cooperative | $21,936 |
| Crawford Electric Coop, Inc | Cooperative | $30,705 |
| Cuivre River Electric Coop Inc | Cooperative | $105,621 |
| Empire District Electric Co | Investor Owned | $456,324 |
| Farmers Electric Coop, Inc - (MO) | Cooperative | $28,697 |
| Gascosage Electric Coop | Cooperative | $17,074 |
| Grundy Electric Coop, Inc | Cooperative | $12,214 |
| Howard Electric Coop | Cooperative | $6,057 |
| Howell-Oregon Elec Coop, Inc | Cooperative | $38,226 |
| Intercounty Electric Coop Assn | Cooperative | $53,855 |
| KCP&L Greater Missouri Operations Co. | Investor Owned | $802,845 |
| Kansas City Power & Light Co | Investor Owned | $824,706 |
| Laclede Electric Coop, Inc | Cooperative | $63,330 |
| Lewis County Rural E C A | Cooperative | $13,534 |
| Macon Electric Coop | Cooperative | $23,795 |
| Missouri Rural Electric Coop | Cooperative | $17,812 |
| New-Mac Electric Coop, Inc | Cooperative | $38,876 |
| North Central MO Elec Coop Inc | Cooperative | $14,098 |
| Osage Valley Elec Coop Assn | Cooperative | $28,034 |
| Ozark Border Electric Coop | Cooperative | $68,293 |
| Ozark Electric Coop Inc - (MO) | Cooperative | $52,354 |
| Pemiscot-Dunklin Elec Coop Inc | Cooperative | $19,856 |
| Platte-Clay Electric Coop, Inc | Cooperative | $51,737 |
| Ralls County Electric Coop | Cooperative | $12,711 |
| SE-MA-NO Electric Coop | Cooperative | $9,438 |
| SEMO Electric Cooperative | Cooperative | $33,195 |
| Sac-Osage Electric Coop Inc | Cooperative | $16,676 |
| Southwest Electric Coop, Inc | Cooperative | $58,853 |
| Sunnova | Behind the Meter | $1 |
| Three Rivers Electric Coop | Cooperative | $36,751 |
| Trenton Municipal Utilities - (MO) | Municipal | $8,647 |
| Tri-County Electric Coop Assn | Cooperative | $12,512 |
| Union Electric Co - (MO) | Investor Owned | $3,112,534 |
| United Electric Coop, Inc - (MO) | Cooperative | $21,579 |
| Webster Electric Coop | Cooperative | $28,828 |
| West Central Electric Coop Inc - (MO) | Cooperative | $25,967 |
| White River Valley El Coop Inc | Cooperative | $86,488 |
| Adjustment 2014 | Other | $159,914 |
| Total | | $7,644,407 |

Source: http://www.eia.gov/electricity/sales_revenue_price/
Table 10: All Sectors - Class of ownership, number of consumers, sales, revenue, and average retail price by State and utility:

Table 3 shows the data series by year from 1990 through 2014 reported by the U.S. Energy Information Administration.[2] The average annual increase in these revenues is 3.33 percent.

**Table 3**
**Revenue from Sales to Ultimate Customers**
**(Thousand Dollars) for Missouri, 1990-2014**

| Year | Total Revenue | $ Growth over previous year | % Growth over previous year |
|---|---|---|---|
| 1990 | $3,484,572,000 | | |
| 1991 | $3,653,391,000 | $1,688,190 | 4.8% |
| 1992 | $3,489,099,000 | ($1,642,920) | (4.5%) |
| 1993 | $3,709,661,000 | $2,205,620 | 6.3% |
| 1994 | $3,749,115,000 | $394,540 | 1.1% |
| 1995 | $3,891,751,000 | $1,426,360 | 3.8% |
| 1996 | $3,961,895,000 | $701,440 | 1.8% |
| 1997 | $4,005,066,000 | $431,710 | 1.1% |
| 1998 | $4,196,674,000 | $1,916,080 | 4.8% |
| 1999 | $4,185,713,000 | ($109,610) | (0.3%) |
| 2000 | $4,370,246,000 | $1,845,330 | 4.4% |
| 2001 | $4,414,434,000 | $441,880 | 1.0% |
| 2002 | $4,565,227,000 | $1,507,930 | 3.4% |
| 2003 | $4,470,188,000 | ($950,390) | (2.1%) |
| 2004 | $4,494,108,000 | $239,200 | 0.5% |
| 2005 | $4,959,849,000 | $4,657,410 | 10.4% |
| 2006 | $5,169,747,000 | $2,098,980 | 4.2% |
| 2007 | $5,614,317,000 | $4,445,700 | 8.6% |
| 2008 | $5,768,459,000 | $1,541,420 | 2.7% |
| 2009 | $5,871,973,000 | $1,035,140 | 1.8% |
| 2010 | $6,698,608,000 | $8,266,350 | 14.1% |
| 2011 | $7,008,476,000 | $3,098,680 | 4.6% |
| 2012 | $7,029,475,000 | $209,990 | 0.3% |
| 2013 | $7,538,092,000 | $5,086,170 | 7.2% |
| 2014 | $7,644,407,000 | $1,063,150 | 1.4% |
| | | Avg. annual growth | 3.33% |

Source: http://www.eia.gov/electricity/sales_revenue_price/
Supplemental Data: 1990 - 2013 Revenue from Retail Sales of Electricity by State by Sector by Provider (EIA-861)

For purposes of this fiscal analysis it is assumed that the Public Service Commission will use the most recent available data for establishing the annual cap. The state is currently in FY 2016 and the most recent available data is from 2014. Thus, for the fiscal periods included for consideration by the State Auditor's Office the FY 2017 cap will be established using 2015 data published by the U.S. Energy Information Administration. Similarly, the FY 2018 cap will be established using 2016 data. In this manner the cap for each calendar year will be established eight months before it begins instead of four months after it starts.

**Table 4**
**Data and Timeline for Establishing Annual Tax Credit Cap**

| Data available | Time period of data | CY year for the cap |
|---|---|---|
| April 2015 | 2014 actual data | CY 2016 |
| April 2016 | 2015 actual data | CY 2017 |
| April 2017 | 2016 actual data | CY 2018 |

As shown in Table 3 the average annual growth rate from 1990 to 2014 was 3.33 percent. Table 5 assumes that the average annual growth rate will carry forward for the next several years. The clean energy tax credits cap is estimated at $76.4 million for CY 2016, $79 million for CY 2017 and $81.6 million for CY 2018.

**Table 5**
**Clean Energy Tax Credit Estimate of Cap**

| Calendar Year for cap | Fiscal Year for likely redemption of credits | Revenue data | Total Revenue | Tax credit at 1.0% |
|---|---|---|---|---|
| CY 2016 | FY 2017 | 2014 actual data | $7,644,407,000 | $76,444,070 |
| CY 2017 | FY 2018 | 2015 projection | $7,898,965,753 | $78,989,658 |
| CY 2018 | FY 2019 | 2016 projection | $8,162,001,313 | $81,620,013 |

For purposes of the fiscal note the State Auditor's office asks that estimates be provided for the first two fiscal years of implementation which are FY 2017 and FY 2018 since the provisions of the proposal would go into effect in December 2016. Almost all taxpayers file their taxes on the April 15th deadline. Therefore, CY 2016 taxes would be due on April 15, 2017 which is in FY 2017 as shown in Table 5.

The proposal establishes a cap beginning for CY 2016. However, the provisions of the act will go into effect in December 2016. Paragraph 13 of the proposed section 386.1000 states that any taxpayer verified by the Department of Economic Development to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with the provisions shall be deemed eligible for the tax credit. This allows for the Department of Economic Development to include projects in 2016 before its processes are in place. Paragraph 17 of the proposed section 386.1000 provides that the Department of Economic Development shall issue rules necessary to administer the act. In addition, paragraph 10 gives the Department of Economic Development 45 days to notify an applicant of approval after the application is submitted.

Issuing rules is at best a months long process. The 45 day processing time allowed for any completed application filed after the rules are adopted makes it very unlikely that the Department of Economic Development will issue any CY 2016 tax credits before April 15, 2017 that would affect the taxpayers initial tax filing and reduce taxes paid during FY 2017. Tax credits issued between April 15 and June 30, 2017 would require an amended filing which also would be unlikely to be completed by June 30, 2017. Thus, this fiscal analysis assumes a de minimis or no impact on FY 2017 general revenue tax collections. Any CY 2016 tax credit impact would at most impact the FY 2018 tax collections through amended returns or through CY 2017 taxes.

**Application Deposit revenue**

The proposed Section 386.1000 RSMo requires that taxpayers submit an application to the Department of Economic Development to receive approval for tax credits (paragraph 7). Each application must include a two cent per watt application deposit. The total revenue from application deposits is dependent upon:

- the number of projects that will be submitted;
- the number of watts generated from all of those projects

Each of these is affected by the:

- percentage of residential v commercial projects
- number of kW generated by residential v commercial projects
- cost of residential and commercial projects
- total construction completed
- any phase-in period as the Department of Economic Development institutes rules and prepares the program
- any phase-in period as the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available

All of these factors must be estimated and evaluated in order to calculate the amount of application deposit revenue that will be received by the Department of Economic Development.

Tax credits are available to both residential and commercial projects. Paragraph 5 of the proposed Section 386.1000 RSMo provides that no electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit.

The Missouri Department of Economic Development, Division of Energy published a Missouri Comprehensive State Energy Plan in October 2015. The report states that half of the installed net-metered PV solar is residential and the other half commercial customers.[3] However, the report also indicates that there are challenges that face residential customers making it more difficult and expensive to install solar projects. These challenges include local ordinances or homeowner's association rules the may prohibit installation or require design changes that decrease efficiency or add to the cost.[4] In addition, over the past decade an industry has developed to assist with the financing of solar projects. Such financing alternatives are easier to obtain by commercial projects because of their size, scope, and estimated return on investment.[5] Commercial projects can have a longer-term outlook than homeowners who may not know how long they may live in their current house. The Missouri State Energy Plan indicates that residential rooftop solar is a relatively expensive energy option due to these and other factors.[6]

For all of the reasons identified in the preceding paragraph, for purposes of this fiscal analysis residential solar installation is assumed to be 40% of the total solar construction. Commercial solar installation is assumed to be 60% of the total solar construction. This fiscal analysis has already indicated that 2016 solar construction will likely not be affected by the approval of the petition by voters in November 2016. Thus, CY 2017 is the first full year of impact. Tax credits resulting from such construction will first affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office.

The next factor to consider is the number of kW generated by residential and commercial projects. A recent report on photovoltaic system pricing trends published by the U.S. Department of Energy indicates that the median residential project is 6.1 kW while the modeled commercial system is 200 kW. Paragraph 5 of the proposed section 386.1000 establishes a 200 kW limit on installations that are authorized for tax credits.[7] For purposes of this fiscal analysis it is assumed that all commercial projects will be at the 200 kW size and that residential projects will be 6.1 kW. Paragraph 7 of the proposed section 386.1000 requires a two cent per watt application deposit fee. Table 6 shows that there would be a $122

application deposit required for the median residential project. There would be a $4,000 application deposit required for the 200 kW commercial project.

**Table 6**
**Application Deposit Required for Projects**

| Construction type | Project size in kW | Project size in watts | Application deposit for project at 2 cents per watt |
|---|---|---|---|
| Residential | 6.1 | 6,100 | $122 |
| Commercial | 200.0 | 200,000 | $4,000 |

The recent report on photovoltaic system pricing trends published by the U.S. Department of Energy also discusses the historical, recent, and near-term pricing of solar projects.[8] Project cost information was obtained on more than 400,000 systems in 42 states. The modeled system prices identified in the report showed a Q1 2015 residential system price of $3.12/watt and a commercial 200 kW system cost of $2.17/watt. These were reductions in price of from Q4 2013 of 7% and 19% respectively. The report also indicates that prices for residential and commercial PV systems have decreased by 6-12% per year, on average, from 1998-2014. In addition, the report indicates that analysts project the system prices will fall 16-33% for residential systems between 2014-2020.

Table 7 projects residential solar project costs. Projections are made to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 7 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $3,000/kW for residential solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 6.1 kW residential project is estimated at $18,300.

**Table 7**
**Residential Solar Project Estimate**

| | Cost of Residential project per kW | Cost of Residential project at 6.1 kW project size |
|---|---|---|
| CY 2015 | $3,120 | $19,032 |
| CY 2016 | $3,039 | $18,538 |
| CY 2017 | $2,960 | $18,056 |
| average cost of CY16 and CY17 estimates | $3,000 | $18,300 |

The modeled commercial system price identified in the report showed a Q1 2015 commercial 200 kW system cost of $2.17/watt. However, the national average cost of commercial projects is affected by states with more mature solar markets and industries and large companies, like Wal-Mart and Ikea, that have moved to install significant solar projects on their facilities. The first Missouri commercial systems are less likely to meet the $2.17/watt cost projections. Table 8 uses other data in the report to amend the estimate of commercial solar project costs. The report shows that the price of the modeled 200 kW commercial system has fallen from $2.68/watt to $2.17 between 2013 Q4 and 2015 Q1. The mid-point of that decrease is $2.425/watt. Further, it is assumed that the cost of Missouri projects will be higher by 2.6%, or one-year's worth of the low end of the price declines found in the report. The result is that this analysis will assume that the Missouri 2015 Q1 price is $2.488/watt.

**Table 8**
**Commercial Solar Project Cost Estimate per kW**

| | |
|---|---|
| 2013 Q4 | $2,680 |
| 2015 Q5 | $2,170 |
| Mid-point | $2,425 |
| One-year behind (2.6%) | $2,488 |

Table 9 then projects the $2,488/kW 2015 Q1 cost to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 9 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $2,392/kW for commercial solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 200 kW commercial project is estimated at $478,400.

**Table 9**
**Commercial Solar Project Estimate**

| | Cost of Commercial project per kW | Cost of Commercial project at 200 kW project size |
|---|---|---|
| CY 2015 | $2,488 | $497,600 |
| CY 2016 | $2,423 | $484,600 |
| CY 2017 | $2,360 | $472,000 |
| average cost of CY16 and CY17 estimates | $2,392 | $478,400 |

The analysis so far has identified:

- a $79 million estimate of the maximum clean energy tax credits using one percent of the annual statewide Missouri revenue of Missouri retail electric suppliers as directed by paragraph 1 of the proposed section 386.1000.
- an estimate that 40% of total solar construction would be residential and 60% commercial
- project cost estimates of $18,300 for 6.1 kW residential projects and $478,400 for 200 kW commercial projects

The final factor to calculate before arriving at the amount of application deposit revenue is any phase-in period as the Department of Economic Development issues rules and prepares its processes and the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available. The Missouri State Energy plan reports that Missouri currently has 111 MW of installed solar PV capacity. The plan also reports that there is 42.8 MW of installed net-metered PV solar developed over the years largely as a result of rebates from large utility companies in Missouri.

The proposal being analyzed establishes a statutory program of clean energy tax credits that will sunset after the Department of Economic Development certifies that 1,000 MW of capacity has been added as a result of the tax credits but no later than June 30, 2022. The 1,000 MW target represents a dramatic increase in current capacity.

The Missouri State Energy plan provides a wealth of information about the current state of "green jobs" and the solar industry in Missouri. The report includes the following along with other findings about the industry.

- Missouri had over 100,000 "green jobs" according to a 2009 study.[9]
- Missouri was identified as 10th in the nation for growth in clean energy and clean transportation jobs in 2013.[10]

- $187 million was invested by Missouri's solar industry in 2014 to install solar photovoltaic systems for residential, commercial, and utility use.[11]
- There are more than 97 solar companies at work throughout the supply chain in Missouri, employing 2,500 people including manufacturers, contractors, installers, project developers, distributors.[12]
- Missouri could create 8,500 new jobs to design, install, and operate energy efficiency measures by 2025 according to a 2011 study.[13]
- In 2010 Missouri ranked 6th in the nation in photovoltaic jobs.[14]

The clean energy tax credit does not sunset until the 1,000 MW target of additional capacity is met but no later than June 30, 2022. The size and the long-term nature of the 1,000 MW target should encourage the development of the Missouri solar industry even after it sunsets. It should also result in long-term planning and the build out of a native Missouri solar industry. The target also provides an incentive for the industry to meet the growth potential described in the Missouri State Energy Plan.

In the long-term the impact of the 1,000 MW target will grow and build the industry. In addition, investment in solar will allow longer term benefits in reduced fuel usage, cleaner air, better health and the resulting lower costs among other things. The Missouri State Energy Plan identifies the public health impacts of various energy sources with clean energy sources providing significant positive benefits over other sources.[15] A 2013 study of Hawaii's solar tax credit program found that the State recovered the full cost of the tax credit in 9 to 11 years - a rate of return on its investment ranging from 8.9% to 10.3%.[16] In addition, the study found that for each dollar spent by Hawaii on tax credits the amount of additional sales stimulated was $34.69 for residential solar PV and $55.03 for commercial PV.

However, the fiscal note format required for initiative petitions focuses on the short-term revenue and costs. Thus, the longer-term benefits are not included in this fiscal analysis. As explained elsewhere in this fiscal analysis the impact of the availability of tax credits is somewhat dependent upon the speed with which the Department of Economic Development issues the necessary rules and regulations, develops and makes available the application forms, and the industry's reaction to voter approval and the department's actions. Thus, two alternatives are calculated to create a possible range for the likely outcome in the short-term.

The first alternative assumes that construction will be sufficient to use half of the $79 million in possible tax credits. The first alternative assumes that the program is not implemented until July 2017 thus reducing its effect by half in CY 2017. The second alternative assumes that construction will be sufficient to use all of the $79 million in possible tax credits. The second alternative assumes that the industry is energized by the tax credit and pushes forward with construction under the assumption that the Department of Economic Development will recognize all projects that have been started after voter approval of the proposal.

Table 10 takes that information and shows two possible alternatives for CY 2017.

- Construction leading to use of **half** the available tax credits ($39.5 million) - A total of $112.8 million in construction would be required to generate $39.5 million in tax credits. Residential construction of $45.1 million (assuming 40% of construction) would result in $15.8 million in tax credits. Commercial construction of $67.7 million (assuming 60% share of construction) would result in $23.7 million in tax credits.

- Construction leading to use of **all** the available tax credits ($79 million) - **A total of $225.7 million in construction would be required to generate $79 million in tax credits**. Residential construction of $90.3 million (assuming 40% of construction) would result in $31.6 million in tax credits. Commercial construction of $135.4 million (assuming 60% share of construction) would result in $47.4 million in tax credits.

In addition, using the average cost and size of projects it is possible to compute the number of residential and commercial projects that will be constructed. A total of 2,608 projects would be constructed with half

the tax credits (2,466 residential, 142 commercial). A total of 5,216 projects would be constructed with all the tax credits (4,933 residential, 283 commercial).

**Table 10**
**Number of Projects using Half or All of Tax Credit Cap**

| | CY 2017 construction needed for half of tax credits to be used in FY 2018 | CY 2017 construction needed for all of tax credits to be used in FY 2018 |
|---|---|---|
| Tax credits estimate from CY 2017 construction | $39,494,829 | $78,989,658 |
| Amount of construction value needed to generate value of 35% tax credits | $112,842,369 | $225,684,737 |
| | | |
| % of residential per year of credits issued | 40.0% | 40.0% |
| % of commercial per year of credits issued | 60.0% | 60.0% |
| | | |
| Tax credits by type of construction | | |
| Residential | $15,797,932 | $31,595,863 |
| Commercial | $23,696,897 | $47,393,795 |
| Total amount by type | $39,494,829 | $78,989,658 |
| | | |
| Construction value by type of construction | | |
| Residential | $45,136,948 | $90,273,895 |
| Commercial | $67,705,421 | $135,410,842 |
| Total amount by type | $112,842,369 | $225,684,737 |
| | | |
| Cost of solar projects per project | | |
| Residential (6.1 kW/project) | $18,300 | $18,300 |
| Commercial (200 kW/project) | $478,400 | $478,400 |
| | | |
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |

Table 10 shows a significant number of projects that would be completed throughout the state as a result of the clean energy tax credit. These numbers are possible for a variety of reasons identified in the Missouri State Energy Plan.

- Missouri households use about 12% more than the average U.S. household, thus projects would put real dollars into Missourians pockets for other uses and spending.[17]
- Nationally about ten percent of small business owners state that energy is their single biggest cost according to the National Federation of Independent Business. The same report indicates that an additional 25% of small business owners claim that energy is one of their top three business costs.[18] Thus, clean energy projects that reduce energy usage make businesses more profitable, allow for expansion, and could lead to higher wages for employees.
- Businesses can lower costs through on-site generation while also achieving other benefits.[19]
- Significant operational savings are possible through energy efficiency projects with rates of return as high as 25%.[20]

- A wealth of financing alternatives now exist for clean energy projects.[21]
- "Approximately 60% of the largest U.S. businesses have set public climate and energy goals to increase their use of renewable energy."[22]

Table 11 calculates the amount of application deposit revenue that the Department of Economic Development would receive given the number of projects identified in Table 10. If applications are submitted for projects equivalent to half the available tax credits then the department would receive $0.9 million in application deposit revenue. If applications are submitted for projects equivalent to all the available tax credits then the department would receive $1.7 million in application deposit revenue.

**Table 11**
**Application Deposit Revenue**

| | Application Deposit Estimate for half of tax credits for applications FY 2018 | Application Deposit Estimate for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |
| | | |
| Application deposit required per project | | |
| Residential | $122 | $122 |
| Commercial | $4,000 | $4,000 |
| | | |
| Application deposit revenue | | |
| Residential | $300,852 | $601,826 |
| Commercial | $568,000 | $1,132,000 |
| Total amount by type | $868,852 | $1,733,826 |

Table 12 shows the amount of solar capacity added by the number of projects identified in the previous tables given the given size of residential and commercial projects. A total of 43.4 MW would be added in solar capacity as a result of projects equivalent to half the available tax credits which would be 4.3% of the 1,000 MW goal that when achieved will sunset the tax credits. A total of 86.7 MW would be added in solar capacity as a result of projects equivalent to all the available tax credits which would be 8.7% of the 1,000 MW goal that when achieved will sunset the tax credits.

**Table 12 Amount of Solar Capacity Added**

| | Capacity added for half of tax credits for applications FY 2018 | Capacity added for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 2,466.00 | 4,933.00 |
| Commercial | 142.00 | 283.00 |
| Total amount by type | 2,608 | 5,216 |
| | | |
| kW generated by construction | | |
| Residential (6.1 kW/project) | 15,043 | 30,091 |
| Commercial (200 kW/project) | 28,400 | 56,600 |
| Total amount by type | 43,443 | 86,691 |
| | | |
| MW generated by construction | | |
| Residential | 15.0 | 30.1 |
| Commercial | 28.4 | 56.6 |
| Total amount by type | 43.4 | 86.7 |
| | | |
| % of 1,000 MW goal achieved | 4.3% | 8.7% |

**Taxes**

As noted on pages 10-11 of this fiscal analysis, the Missouri State Energy Plan published in October 2015 describes the current capacity, industry size, and investments being made in Missouri. The plan also describes the potential for jobs and economic development in the state. The 1,000 MW target represents a dramatic increase in current capacity. The following analysis assumes that due to the dramatic size of the 1,000 MW target that the investments driven by the clean energy tax credits will result in new jobs and industry expansion.

Table 13 shows the cost components of a solar construction project. Labor is assumed to be 35% of the project costs, materials 40%, and Profit 10%. It is assumed that 15% of the project cost is overhead and it is assumed that no taxes would be applied. Since Missouri already has a base of manufacturers and distributors it is assumed that all materials will be Missouri taxed.

**Table 13**
**Construction Project Components, Tax Type, and Tax Rate**

| Project components | % of job | Missouri tax rate | Type tax |
|---|---|---|---|
| Labor | 35.0% | 6.00% | Income tax |
| Materials and local materials | 40.0% | 4.225% | Sales |
| Profit | 10.0% | 6.25% | Corporate |
| Overhead | 15.0% | 0.00% | N/A |
| subtotal by taxable type | 100.0% | | |

Table 14 computes the state and local taxes based on the value of construction and the project components and tax rates shown in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $4.4 million to $8.9 million in FY 2018. The other three state funds (Prop C, Conservation, Parks/Soils) are estimated to receive between $0.6 million to $1.1 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $1.75 million to $3.5 million in local sales tax revenue in FY 2018.

**Table 14**
**State and Local Taxes Generated by Construction**

| | Half of tax credits used - CY 2017 | All of tax credits used - CY 2017 |
|---|---|---|
| Amount of construction value needed to generate value of 35% tax credits | $112,842,369 | $225,684,737 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $39,494,829 | $78,989,658 |
| Materials and local materials | $45,136,947 | $90,273,895 |
| Profit | $11,284,237 | $22,568,474 |
| subtotal by taxable type | $95,916,013 | $191,832,027 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $2,369,690 | $4,739,379 |
| Materials and local materials - Sales/Use Tax | $1,354,108 | $2,708,217 |
| Profit - General Revenue Corporate Tax | $705,265 | $1,410,530 |
| subtotal GR | $4,429,063 | $8,858,126 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $451,369 | $902,739 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $56,421 | $112,842 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $45,137 | $90,274 |
| subtotal State Taxes | $4,981,991 | $9,963,981 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $1,751,314 | $3,502,627 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $6,733,304 | $13,466,608 |

The taxes generated from the construction activity shown in Table 14 likely underestimate the state revenue that will be generated by the construction of clean energy projects even within the short time period allowed in the fiscal note. As noted earlier there are multiplier effects that ripple through the economy. The Department of Economic Development through MERIC has a sophisticated model that it uses to evaluate the impact of tax credits and other business investments made in the State of Missouri. Using the information in this fiscal analysis MERIC should be able to provide supplementary information regarding the extra economic activity and increased revenues.

Similarly, generating additional clean energy within the State of Missouri will result in a decrease in the importation of power and energy producing raw materials from other states. Such money leakage from the state, businesses and citizens, decreases the amount of purchasing could be done for other purposes such as increased jobs within the state and thus the tax revenues that would be generated. For example, the Missouri State Energy Plan notes that Missouri is the sixth largest consumer of coal in the country and 92.5% of the coal used in 2013 was imported from Wyoming.[23] The plan reports that the state sends billions of dollars out of state for purchases of imported coal, natural gas, and transportation fuels.[24]

**Community Solar Act** - Applies to Versions 10, 12, 13, 14, 16, and 18
The Community Solar Act, section 386.910 of the proposal, directs the Missouri Public Service Commission to establish rules allowing customers to participate in a “community solar facility.” Community solar facilities allow participants to benefit from solar energy and receive electric bill credits substantially similar to net metering.

Paragraph 3 of that section states that the "aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous fiscal year." Table 15 shows the total peak demand data compiled by the Public Service Commission for the four utilities affected by this section. The report shows that using peak demand leads to a cap of 504.5 MW on the amount of aggregated capacity of community solar facilities statewide.

**Table 15 - Peak Demand for Community Solar**

| Utility Name | Peak Demand |
|---|---|
| Union Electric Co - (MO) | 7,713.0 |
| Kansas City Power & Light Co | 1,878.0 |
| KCP&L Greater Missouri Operations Co. | 1,860.0 |
| Empire District Electric Co | 1,162.0 |
| Total | 12,613.0 |
| 4% overall cap | 504.5 |

Paragraph 2 of that section defines a community solar facility as a photovoltaic electric generation facility with a capacity of between 100 and 1,000 kW. For purposes of this fiscal note it is assumed that all community solar projects will be the same as the 200 kW project limit established in the clean energy tax credit language of 386.1000. In Table 12 above a low and high range was calculated for the percentage of solar capacity added through the tax credits based on the expectations of the phase-in necessary for the Department of Economic Development's implementation of the clean energy tax credits. The same percentage is used - 4.3% low range and 8.7% higher range. Similarly, for the purposes of this fiscal note the cost per kW will be $2,392 for a total project cost of $478,400 as shown in Table 9.

Table 16 shows the data and calculations needed to identify the number of projects. At the low end of the range 21.7 MW of added community solar capacity would be created which would require 108 projects of 200 kW. At the higher range 43.9 MW of added community solar capacity would be created which would require 219 projects of 200 kW.

Table 16 also shows that at an average project cost of $478,400 the low range results in $51.7 million in construction spending. The higher range results in $104.8 million in construction spending.

**Table 16**
**Community Solar Capacity and Projects**

| | Low Range | Higher Range |
|---|---|---|
| Assumed % of aggregate capacity | 4.3% | 8.7% |
| Added capacity - MW | 21.69 | 43.89 |
| Added capacity - kW | 21,694.36 | 43,893.24 |
| # projects at commercial 200 kW per project | 108 | 219 |
| Construction cost - commercial project per 200 kW project | $478,400 | $478,400 |
| Construction value | $51,667,200 | $104,769,600 |

Table 17 computes the state and local taxes based on the value of construction and the project components and tax rates shown earlier in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $2.0 million to $4.1 million in FY 2018. The other three state funds (Prop C, Conservation, Parks/Soils) are estimated to receive between $0.2 million to $0.5 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $0.8 million to $1.6 million in local sales tax revenue in FY 2018.

**Table 17**
**State and Local Taxes Generated by Construction of Community Solar Projects**

| | Low range | Higher range |
|---|---|---|
| Amount of construction value needed to generate estimated MW | $51,667,200 | $104,769,600 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $18,083,520 | $36,669,360 |
| Materials and local materials | $20,666,880 | $41,907,840 |
| Profit | $5,166,720 | $10,476,960 |
| subtotal by taxable type | $43,917,120 | $89,054,160 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $1,085,011 | $2,200,162 |
| Materials and local materials - Sales/Use Tax | $620,006 | $1,257,235 |
| Profit - General Revenue Corporate Tax | $322,920 | $654,810 |
| subtotal GR | $2,027,938 | $4,112,207 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $206,669 | $419,078 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $25,834 | $52,385 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $20,667 | $41,908 |
| subtotal State Taxes | $2,281,107 | $4,625,578 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $801,875 | $1,626,024 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $3,082,982 | $6,251,602 |

**Net metering bills** - Applies to Versions 10, 11, 12, 13, 14, 17 and 18
The Missouri General Assembly has considered six net metering bills over the past three legislative sessions. Table 18 below identifies the bills and provides links to the fiscal note and bill summary prepared for each bill. All of the fiscal notes prepared and available indicated that there was no state impact from the net metering bills.

**Table 18**
**NET METERING**
**2013, 2014, AND 2015 LEGISLATIVE SESSIONS**

| Session | Bill | Sponsor | Fiscal Note Impact | Fiscal Note Summary Link | Bill Summary Link |
|---|---|---|---|---|---|
| 2015 | SB 75 | Holsman | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0622-01N.ORG.pdf | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=82&BillID=174 |
| 2015 | SB 509 | Holsman | No impact | N/A | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=664&BillID=4599469 |
| 2015 | HB 481 | Berry (38) | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0502-01N.ORG.pdf | http://house.mo.gov/billtracking/bills151/sumpdf/HB0481C.pdf |
| 2014 | HB 1795 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER14/fishtm/5552-02N.ORG.htm | http://house.mo.gov/billtracking/bills141/sumpdf/HB1795I.pdf |
| 2013 | HB 119 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/0794-02N.ORG.htm | http://house.mo.gov/billtracking/bills131/sumpdf/HB0119I.pdf |
| 2013 | SB 396 | Holsman | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/1078-07N.ORG.htm | http://www.senate.mo.gov/13info/BTS_Web/Bill.aspx?SessionType=R&BillID=19218703 |

**Electric Vehicle Charging Stations** - Applies to Versions 12, 13, 14, 16, and 17
The petition authorizes investor-owned utilities to recover costs for infrastructure investments in electric vehicle charging stations, provided the energy output from the stations is offset in part by clean energy. There should be no fiscal impact to the state. Utility investment in electric charging stations will result in positive economic activity similar to other capital investments. However, the range of the benefits is unknown at this time.

ENDNOTES

[1] U.S. Energy Information Administration: *Table 10: All Sectors - Class of ownership, number of consumers, sales, revenue, and average retail price by State and utility*
http://www.eia.gov/electricity/sales_revenue_price/

[2] U.S. Energy Information Administration: *Supplemental Data: 1990 - 2013 Revenue from Retail Sales of Electricity by State by Sector by Provider (EIA-861)*
http://www.eia.gov/electricity/sales_revenue_price/

[3] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25
https://energy.mo.gov/energy/docs/MCSEP.pdf

[4] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25-26
https://energy.mo.gov/energy/docs/MCSEP.pdf

[5] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[6] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 200
https://energy.mo.gov/energy/docs/MCSEP.pdf

[7] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 5
http://www.nrel.gov/docs/fy15osti/64898.pdf

[8] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 4
http://www.nrel.gov/docs/fy15osti/64898.pdf

[9] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 172
https://energy.mo.gov/energy/docs/MCSEP.pdf

[10] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 173
https://energy.mo.gov/energy/docs/MCSEP.pdf

[11] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[12] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[13] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 174
https://energy.mo.gov/energy/docs/MCSEP.pdf

[14] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 175
https://energy.mo.gov/energy/docs/MCSEP.pdf

[15] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 190-191, 193, 195-199, 201, 203
https://energy.mo.gov/energy/docs/MCSEP.pdf

[16] Thomas A Loudat, Blue Planet Foundation. "*The Economic and Fiscal Effects of Hawaii's Solar Tax Credit*" - January 2013.
http://blueplanetfoundation.org/renewable-energy-tax-credit-2013.html?highlight=WyJsb3VkYXQiXQ==

[17] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 154
https://energy.mo.gov/energy/docs/MCSEP.pdf

[18] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 165 for both sentences in this bullet point
https://energy.mo.gov/energy/docs/MCSEP.pdf

[19] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[20] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[21] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[22] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 178
https://energy.mo.gov/energy/docs/MCSEP.pdf

[23] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 20-21
https://energy.mo.gov/energy/docs/MCSEP.pdf

[24] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 42
https://energy.mo.gov/energy/docs/MCSEP.pdf

**Edward D, Greim** provided the following information as an opponent of this initiative petition.

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December 28, 2015

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301 West High Street
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Re: *Fiscal Note in Initiative Petitions 2016-173 through 2016-180 and 2016-190*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petitions 173, 175, 177, and 180:

> Lost revenue to state government is $498 million over the tax credit period, with annual losses of $9.5 million to $11.5 million thereafter. Lost revenue to local government is $189.1 million over the tax credit period, with annual losses of $31.5 million to $33.9 million thereafter.

We propose the following fiscal note summary for petition 174:

> Lost revenue to state government is $320.9 million over the tax credit period, with annual losses of $5.6 million to $9.6 million thereafter. Lost revenue to local government is $100.9 million over the tax credit period, with annual losses of $20 million to $28.1 million thereafter.

We propose the following fiscal note summary for petition 176:

> Lost revenue to state government is $328.8 million over the tax credit period, with annual losses of $7.5 million to $11.5 million thereafter. Lost revenue to local government is $175.3 million over the tax credit period, with annual losses of $32.4 million to $40.5 million thereafter.

We propose the following fiscal note summary for petition 178:

> Lost revenue to state government is $475.8 million over the tax credit period, with annual losses of $5.7 million to $7.7 million thereafter. Lost revenue to local government is $40.4 million over the tax credit period, with annual losses of $11.5 million to $15.7 million thereafter.

We propose the following fiscal note summary for petitions 179 and 190:

> Lost revenue to state government is $483.7 million over the tax credit period, with annual losses of $7.6 million to $9.6 million thereafter. Lost revenue to local government is $114.8 million over the tax credit period, with annual losses of $23.9 million to $28.1 million thereafter.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments. These taxes, however, will no longer be collected for electricity that is never sold due to the customer-generator production and community solar encouraged by the initiative petitions. Petition signers and voters must be informed of the certainty that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume. On the other hand, any positive fiscal impacts of the initiative petitions are speculative.

**Description of Policy**

Initiative Petitions 173 – 180 and 190 contains one or more of three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of the "Community Solar Act"; and (3) A state tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, or certain natural gas technologies.

1. Changes to Net Metering for Investor-owned electric utilities and municipal electric utilities, and, in 177, rural electric cooperatives
    A. Raise net metering cap to 7% (is currently 5%);
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);



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D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

2. Community Solar Act
   A. The Missouri Public Service Commission ("PSC") adopts rules and regulations allowing groups of 5 or more electrical corporation customers to offset energy usage with solar located in the service territory of the electrical corporation where they have an account;
   B. Facilities are 100 kilowatts to 1 megawatt;
   C. Community solar facilities may, in total, generate electricity of 4% or less of single-hour peak load, but that amount does not count toward net metering; Electrical corporations can own half (max of 2%), which may be included in the rate base. Others may own the other half (max of 2%);
   D. Community Solar facilities are not eligible for tax credits provided in the petition;
   E. Commission sets a community solar rate, not less than electrical corporation's average retail rate;
   F. Value of allocated solar bill credits reduces customer's total bill;
   G. The current value-of-community-solar rate may be locked in for 20 years beginning when a community solar facility is put in operation.

3. Tax credit
   A. 35% tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, etc.
   B. Total value of eligible credits shall not exceed 1% of the value of electricity used in Missouri[1] – defined as revenue from sale of electricity in Missouri; or tax credits are capped at$50 million each year. Unused credits carryover year to year until June 30, 2022
   C. No tax credits after June 30, 2022, or after 1000 megawatts of new generation have been installed using the tax credits.

**Burdens on State Government**

In determining the fiscal impact of each petition, it is generally reasonable to assume that the various statutory changes in the petitions will have independent fiscal impacts. The reasonableness of this assumption is demonstrated by the various iterations of the petitions themselves, some of which propose tax credits with no proposed changes to the Net Metering and Easy Connection Act. *See* Petitions 178 and 190.

[1] The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. *See* U.S. Energy Information Administration – Independent Statistics and Analysis.



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*i. Decreased tax collection due to changes to net metering – Initiative Petitions 173-177 and 179-180*

Raising the net metering cap from the current 5% of peak hour demand to 7% of peak hour demand will, conservatively, result in a 2% decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase from 5% to 7%. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in the petition provides a strong financial incentive to solar or wind energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[2], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, the net-metering cap applies to single-hour peak load, determined yearly, which means that the cap is a higher percentage of the single hour average load. This fact means that the total increase in generation is higher than it appears. Fourth, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[3] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by at least $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities. The additional decreases in sales tax revenues from municipal electric utilities and, in petition 177, from electric cooperatives, are unknown but substantial.[4]

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 173, 175-177, 180, and 190*

Community solar facilities are in addition to net metering and represent an additional capacity amounting to 4% of each electrical corporation's single-hour peak load. Energy

[2] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[3] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.
[4] Assuming $7.6 billion in electricity is sold in Missouri per year (the actual 2014 figure), a 2% decrease will decrease overall state sales tax revenues by 6.4 million annually, but some petitions enact net metering changes on rural electric cooperatives, and some do not.



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generated from the community solar facility is allocated pro rata by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. There is the potential for such bill credits to decrease overall electrical bills by more than 4% because the "bill credits" are calculated using a "value of solar rate" which is at least as high as the retail rate for electricity, but may be higher. If, for example, solar energy received a 50% rate premium due to its benefits, the amount of bill credits would increase and sales would decrease by more than the 6%, rather than 4% figure. Half of these community solar facilities—the half not owned by electrical corporations—may be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoid property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership model, similar to net metering, because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%).

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by at least $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities.

*iii. Tax credits – Initiative Petitions 173-180 and 190*

*a. Decreased tax collections due to tax credits – Credits capped at 1% of value of electricity sold in Missouri, annually ($76 million based on 2014 figures) – Initiative Petitions 173, 175, 177-180, and 190*

According to 2014 figures, Missouri retail customers bought 7.6 billion dollars worth of electricity in 2014. Accordingly, it is reasonable for fiscal note purposes to estimate that Missouri retail customer will continue to buy the same value of electricity. Electricity rates have historically risen over time, but the increasing price of electricity may be approximately the same over the relevant period as the decreases in quantity as a result of the initiative petitions. Accordingly, the 35% tax credits in these petitions will directly result in a loss of state income of approximately $76 million, annually.

*b. Decreased tax collections due to tax credits – Credits capped at $50 million annually – Initiative Petitions 174 and 176*

Similar to the loss described in subpart a, the 35% tax credits in these petitions will directly result in a loss of state income of approximately $50 million, annually.



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*c. Cost of eroding tax base due to new energy generation – Initiative Petitions 173-180 and 190*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer-generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in Missouri. Accordingly, if the tax credits were phased out due to reaching the 1000 MWh/1,000,000 kWh maximum on new electricity generation, new production from such tax credits would produce approximately 1,825,000 MWh per year, also expressed as 1,825,000,000 KWh, or 1,825 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour [5], this new production is valued at $182,500,000.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

In practice, the 1 gigawatt limit on new customer-generated energy production may never be met. Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[6] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for renewable energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology. The petition itself limits tax credits to a maximum of $3.00 per watt, but market forces should make rates in Missouri similar to those in other states, at or around $1.77.

For Initiative Petitions 173, 175, 177-180, and 190, the total, annual loss to state governments *due to the tax credits* is 76.9 million to 81.7 million over the tax credit period. There is an annual loss in perpetuity after the tax credit period of 5.7 to 7.7 million, depending on how much new customer-generation is developed. See attached table.

For Initiative Petitions 174 and 176, the total, annual loss to state governments *due to the tax credits* is 50.6 million to 53.7 million over the tax credit period. There is an annual loss in

[5] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.

[6] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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perpetuity after the tax credit period of 3.7 to 7.7 million, depending on how much new customer-generation is developed. *See* attached table.

**Burdens on Local Governments**

Local governments face losses in revenue from the various petition provisions that are similar to those faced by state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 173-177 and 179-180*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 173, 175-177, 180, and 190*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*iii. Tax credits – Cost of eroding tax base due to new energy generation – Initiative Petitions 173-180 and 190*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petitions may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to



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local governments, all of which may be reduced or discontinued if the initiative petitions are enacted.

The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[7] Based on this estimate, the population-weighted combined average local sales tax is 3.585%. Assuming the tax credits sunset due to reaching the 1 Gigawatt production cap, the yearly loss to local governments from lost sales tax from the tax credit is $6,541,578. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,123,540.

For petitions 173, 175, 177-180, and 190, the loss to local governments due to the tax credits is at least $40.4 million over the tax credit period, then $11.5 to $15.7 million annually. For initiative petitions 174 and 176, the loss to local governments due to the tax credits is at least $26.6 million over the tax credit period, then $7.5 to $15.7 million annually.

**In Conclusion**

The initiative petitions will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petitions, such as increases in net metering and community solar. The total tax burden on state government imposed by the petitions range from $313 million over the tax credit period, with $3.7 to $7.7 million in lost revenues in perpetuity, to approximately $498.6 million over the tax credit period,[8] with $9.5 million to 11.5 million in lost revenues in perpetuity thereafter.

Sincerely,

Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues

[7] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.
[8] $475.8 million + [(1.9 million + 1.9 million)*6 years]



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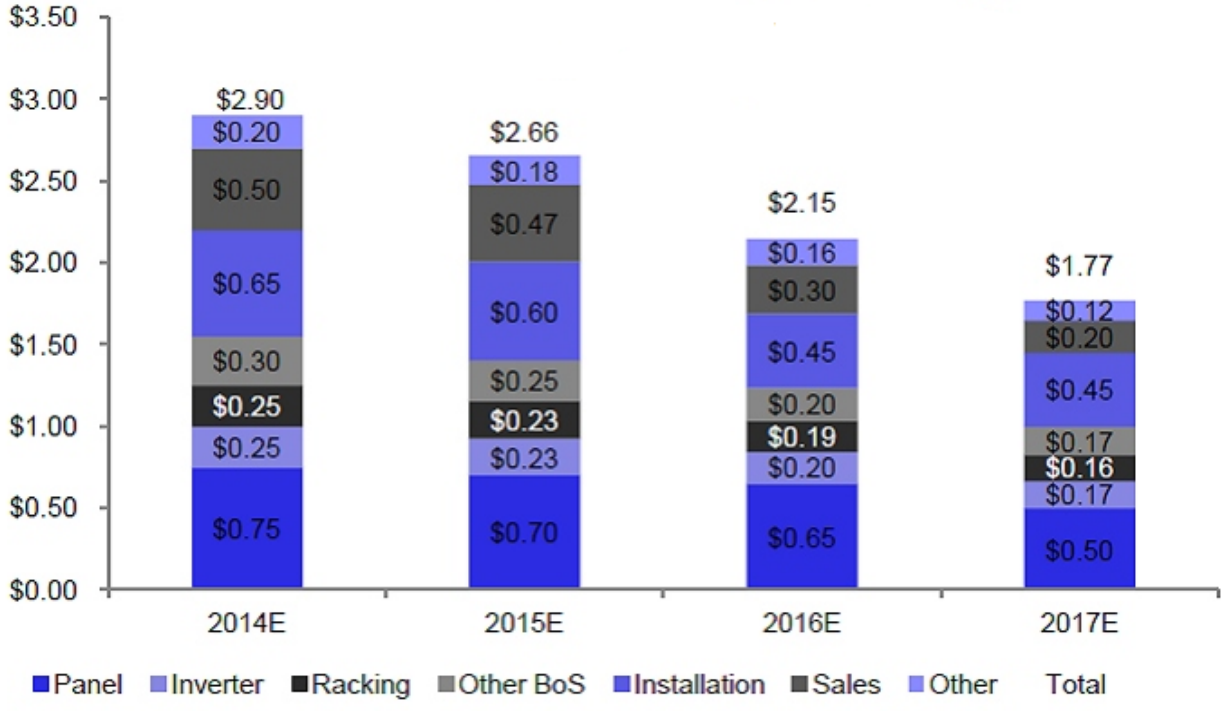
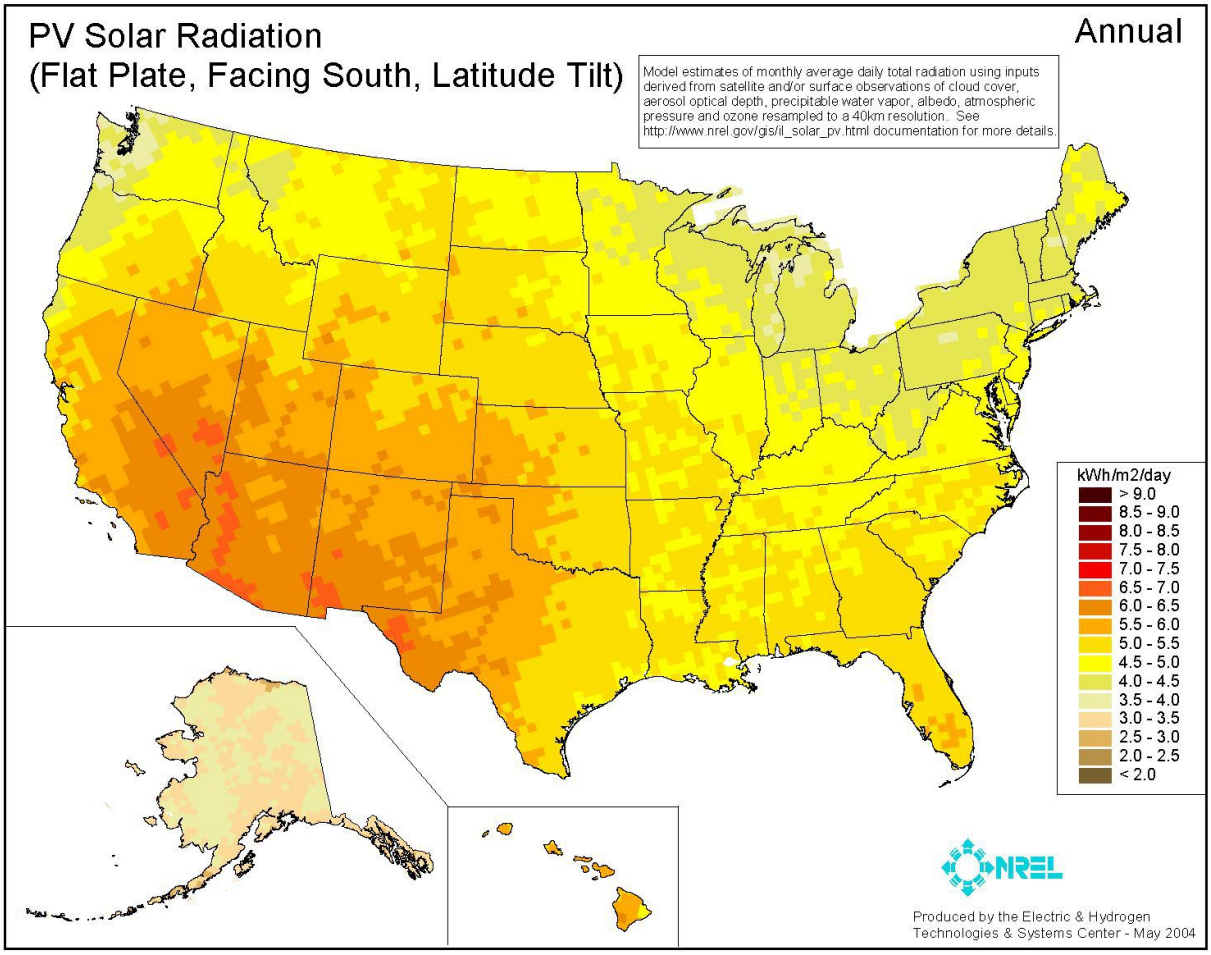
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0

Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017

https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm



National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Brightergy Renewable Tax Credit Fiscal Analysis (1% Value of Electricity Cap) - Initiative Petitions 173, 175, 177-180, and 190**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 122.68 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $76,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 223,854 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $76,000,000 | 122.68 | 122.68 | 223,854 | $100 | $22,385,441 | 4.225% | $945,785 | $76,945,785 | 3.585% | $802,518 | 5.000% | $1,119,272 | $1,921,790 |
| 2018 | $76,000,000 | 122.68 | 245.36 | 447,709 | $100 | $44,770,882 | 4.225% | $1,891,570 | $77,891,570 | 3.585% | $1,605,036 | 5.000% | $2,238,544 | $3,843,580 |
| 2019 | $76,000,000 | 122.68 | 368.04 | 671,563 | $100 | $67,156,323 | 4.225% | $2,837,355 | $78,837,355 | 3.585% | $2,407,554 | 5.000% | $3,357,816 | $5,765,370 |
| 2020 | $76,000,000 | 122.68 | 490.72 | 895,418 | $100 | $89,541,765 | 4.225% | $3,783,140 | $79,783,140 | 3.585% | $3,210,072 | 5.000% | $4,477,088 | $7,687,160 |
| 2021 | $76,000,000 | 122.68 | 613.40 | 1,119,272 | $100 | $111,927,206 | 4.225% | $4,728,924 | $80,728,924 | 3.585% | $4,012,590 | 5.000% | $5,596,360 | $9,608,951 |
| 2022 | $76,000,000 | 122.68 | 736.08 | 1,343,126 | $100 | $134,312,647 | 4.225% | $5,674,709 | $81,674,709 | 3.585% | $4,815,108 | 5.000% | $6,715,632 | $11,530,741 |
| | | | | | | | | **Total State Tax Burden** | **$475,861,483** | | **Total Local Tax Burden (Sales + Franchise)** | | **$40,357,593** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

**Brightergy Renewable Tax Credit Fiscal Analysis (50 Million Tax Credit Cap) - Initiative Petitions 174 and 176**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 80.71 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $50,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 147,273 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $50,000,000 | 80.71 | 80.71 | 147,273 | $100 | $14,727,264 | 4.225% | $622,227 | $50,622,227 | 3.585% | $527,972 | 5.000% | $736,363 | $1,264,336 |
| 2018 | $50,000,000 | 80.71 | 161.42 | 294,545 | $100 | $29,454,528 | 4.225% | $1,244,454 | $51,244,454 | 3.585% | $1,055,945 | 5.000% | $1,472,726 | $2,528,671 |
| 2019 | $50,000,000 | 80.71 | 242.13 | 441,818 | $100 | $44,181,792 | 4.225% | $1,866,681 | $51,866,681 | 3.585% | $1,583,917 | 5.000% | $2,209,090 | $3,793,007 |
| 2020 | $50,000,000 | 80.71 | 322.84 | 589,091 | $100 | $58,909,056 | 4.225% | $2,488,908 | $52,488,908 | 3.585% | $2,111,890 | 5.000% | $2,945,453 | $5,057,342 |
| 2021 | $50,000,000 | 80.71 | 403.55 | 736,363 | $100 | $73,636,320 | 4.225% | $3,111,135 | $53,111,135 | 3.585% | $2,639,862 | 5.000% | $3,681,816 | $6,321,678 |
| 2022 | $50,000,000 | 80.71 | 484.26 | 883,636 | $100 | $88,363,584 | 4.225% | $3,733,361 | $53,733,361 | 3.585% | $3,167,834 | 5.000% | $4,418,179 | $7,586,014 |
| | | | | | | | | **Total State Tax Burden** | **$313,066,765** | | **Total Local Tax Burden (Sales + Franchise)** | | **$26,551,048** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

**Brent Stewart** provided the following information as an opponent of this initiative petition.

**Association of Missouri Electric Cooperatives**

2722 East McCarty Street, P.O. Box 1645
Jefferson City, Missouri 65102
Telephone: (573) 635-6857
Fax: (573) 635-2314
www.amec.coop

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STATE AUDITORS OFFICE

December 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: Fiscal Note in Initiative Petitions 2016-173 through 2016-190

To Whom It May Concern:

The Association of Missouri Electric Cooperatives (AMEC), representing the state's forty-seven member-owned, nonprofit rural electric cooperatives that serve close to one million electric consumers, respectfully submit the following brief comments to assist in your preparation of the fiscal notes on the above-mentioned initiative petitions.

All these petitions, in one way or another, involve solar and renewable energy mandates. The practical effect of each, to one extent or another, is to encourage consumers to substitute self-generation for traditional electric service, thereby creating an unfair electric rate subsidy in favor of those who can afford to install their own generation at the expense of the majority of the other consumers who cannot.

Missouri's forty distribution (retail level) cooperatives serve a wide variety of governmental entities throughout rural Missouri, including state facilities (e.g. prisons), local government facilities, hospitals, schools, rural water districts, regional sewer districts and others. To the extent these entities cannot afford to install their own generation, which most cannot, they necessarily will be forced to pay higher rates if these initiative petitions are enacted. Unfortunately, it is impossible without more time for AMEC to identify all those government-related entities and facilities or estimate with any accuracy the adverse fiscal impact. However, it is clear that even a modest rate increase necessarily will have a significant adverse fiscal impact on governmental entities, in millions of dollars, especially those in the primarily less affluent rural areas served by Missouri's nonprofit electric cooperatives.

Respectfully submitted,

Brent Stewart

Brent Stewart
AMEC Counsel

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State government revenue may decrease up to $300 million during the tax credit period with approximately $1 million annual increased operating costs. Local governmental entities estimate $23.9 million in annual electricity sales reductions. Other resulting economic activity will have an unknown impact on state and local governments.

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JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-175

December 17, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 12 (2016-175)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 16, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-175 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

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2015 DEC 16 PM 1:45
SECRETARY OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-175

*Be it enacted by the people of the state of Missouri:*

Section A: Section 386.890 is amended and sections 386.860, 386.870, 386.900, 386.910 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.900 to 386.1000 shall be known and cited as the "Clean Energy Independence and Investment Act of 2016".

386.870. An electrical corporation shall be allowed to recover its costs and add in its rate base prudently incurred costs to install electric vehicle charging stations intended to recharge electric motor vehicles, provided the energy consumed at such stations is partially powered by a clean energy resource, as defined in 386.900, or offset with renewable energy credits, as defined in 393.1025. Investments made pursuant to this section shall not raise the retail rates charged to the customers of electrical corporations by more than one half of one percent in any year.

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any [municipal electric utility,] rural electric cooperative as provided in chapter 394[, or electrical corporation as provided in this chapter];

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of natural resources;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any [municipal utility, electrical corporation regulated under this chapter, or] rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which [the commission for a public utility or] the governing body for the supplier[other electric utilities] may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing,

maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) [For any rural electric cooperative under chapter 394, or municipal utility, u]Upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional

liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, [the commission for public utilities and] the governing body for the supplier[other utilities] shall, by rule or equivalent formal action[ by each respective governing body]:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. [Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated s]Suppliers shall submit [the same] an annual net metering report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. [The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section

and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10.] The governing body of a supplier [rural electric cooperative or municipal utility] shall[, within nine months of January 1, 2008,] adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

[11.] 10. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

[12.] 11. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

[13.] 12. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

[14.] 13. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

[15.] 14. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

[16.] 15. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

[17.] 16. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.900. 1. This section shall be known and may be cited as the "Enhanced Net Metering and Easy Connection Act". It shall be the policy of the state to facilitate the use of customer-sited or controlled clean energy resources.

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2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal utility or electrical corporation as provided in this chapter;

(2) "Clean energy resource", electrical energy produced from:

(a) Wind;
(b) Solar thermal sources;
(c) Hydroelectric sources;
(d) Photovoltaic cells and panels;
(e) Fuel cells using hydrogen produced by a source listed in paragraphs (a) through (d) of this subdivision; or
(f) Other sources of energy that become available after January 1, 2017, and are certified as clean by the department.

(3) "Commission", the public service commission of the state of Missouri;

(4) "Customer-generator", the owner, lessee or operator of a qualified electric energy generation unit which:

(a) Is powered by a clean energy resource or micro CHP;

(b) Has an electrical generating system with a capacity of not more than five hundred kilowatts, measured in alternating current;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(5) "Department", the department of natural resources;

(6) "Micro CHP", combined heat and power or cogeneration systems that simultaneously generate electricity and thermal energy in a single integrated system with a nameplate rated capacity equal to or lower than 130 kilowatts, measured in alternating current;

(7) "Net excess energy", the amount of energy expressed in kilowatt hours delivered by a customer-generator to a supplier that exceeds the amount of energy delivered by the supplier to the customer-generator over a single billing period;

(8) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(9) "Retail electric supplier" or "supplier", any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals seven percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for a municipal utility may increase the total rated generating capacity of net metering systems to an amount above seven percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds two percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the retail electric supplier shall pay for the costs to purchase and install the necessary additional equipment, unless the commission or governing body makes a determination that the customer-generator is the only customer benefiting from the additional distribution equipment. If the commission determines the customer-generator is the only customer benefiting, such customer-generator shall reimburse the electric supplier for reasonably incurred equipment expenses. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subdivision (2) of subsection 3 of this section and all net excess energy shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent months;

(4) Any net excess energy credits carried forward under subdivision (3) of this subsection shall expire without any compensation at the earlier of either the next subsequent March billing period or when the customer-generator disconnects service or otherwise terminates the net metering relationship with the supplier;

(5) For any municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule:

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(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (4) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems one hundred kilowatts or less and within sixty days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application. Retail electric suppliers shall interconnect qualified energy generation units within thirty days of being notified the generation unit is installed and meets the requirements of this section.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for notifying the retail electric supplier.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall by June 1, 2017 promulgate any rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after June 1, 2017, shall be invalid and void.

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10. The governing body of a municipal utility shall by June 1, 2017 adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs, including lost revenues and lost earnings opportunities associated with reduced demand or kilowatt hours sales, incurred under this section by a retail electric supplier shall be recovered in a timely manner in that utility's rate structure in the form of a tracker or other appropriate rate recovery mechanism. At the time of any general change in a supplier's rates, any over-recovery or under-recovery balance shall be included in the supplier's revenue requirement used to set rates as amortized over a period not exceeding three years, and shall be recovered from each rate class pursuant to the supplier's approved rate design. At the time any general change in prospective rates is proposed, the commission shall permit the supplier to estimate the total generation output from all customer-owned generation for each rate class for the twelve-month period following the effective date of any change in rates, and rates shall be set using energy and demand billing units that reflect the estimated reduction of energy and demand likely to occur due to customer-owned generation. When considering costs, the commission may evaluate the value of distributed generation and clean energy resources. To the extent any costs, lost revenues, or lost earnings are recovered under this section, they shall not raise the retail rates charged to the customers of electrical corporations by an average of more than one percent in any year. Any limitation on cost recovery shall not limit the availability of net metering except as provided in subsection 3 of this section.

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

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16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.910. 1. This section shall be known and cited as the "Community Solar Act."

2. Within thirty days of enactment of this section, the commission shall open a docket and by August 1, 2017, the commission shall adopt rules and regulations allowing customers to participate in community solar facilities and set a value-of-community-solar rate. For purposes of this section, a "community solar facility" is a photovoltaic electric generation facility with a capacity of between one hundred and one thousand kilowatts, measured in alternating current, that allows five or more customers of an electrical corporation to offset their energy usage with solar energy and such facility is located within the Missouri service territory of the electrical corporation where such customers have one or more electrical accounts. For the purposes of this section, an electrical corporation is as defined in 386.020.

3. The aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous calendar year, and such capacity of community solar facilities shall not count towards the system-wide net metering cap defined in subsection 3 of section 386.900. Electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. Entities or individuals that are not electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of an electrical corporation's single-hour peak load during the previous year. The commission shall allow prudently incurred costs and expenses for community solar facilities owned by an electrical corporation to be included in such electrical corporation's rate base. Once a four percent aggregate cap is reached for community solar facilities, the commission shall open a docket to determine whether or not the community solar program shall be expanded, and the commission may increase the aggregate capacity cap above four percent, or adjust the percentage cap of electrical corporations owning community solar facilities. The commission shall consider all benefits and costs of such an expansion when making its decision. Community solar facilities shall not be eligible for tax credits under section 386.1000.

4. For any community solar facility that is owned or operated by an entity other than an electrical corporation, the energy generated by such community solar facility shall be provided to the electrical corporation to which it is interconnected in exchange for the allocation and facilitation of bill credits as provided in subsection 5 of this section.

5. Kilowatt hours generated from community solar facilities shall be allocated, on a pro rata basis, to the designated subscribers of the community solar facility at the direction of the community solar facility owner or operator. Allocated bill credits shall be set at a community solar rate per kilowatt hour determined by the commission. The commission shall determine the value of bill credits per kilowatt hour taking into consideration costs and benefits of solar energy including but not limited to energy value, generation value, environmental value, transmission and distribution system value, disaster recovery value, reactive power value and other grid benefit value, but such bill credits shall not be less than the electrical corporation's average retail rate. The value of allocated community solar bill credits shall be used to reduce the customer's total bill. Owners and operators of community solar facilities shall not be considered a public utility as defined in section 386.020, except that this provision shall not apply to any owner or operator who is an electrical corporation. When a community solar facility is placed in service it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years.

6. The commission shall promulgate rules and regulations it deems necessary to carry out the provisions of this section. The commission's rules shall: allow electrical corporations to recover costs; provide earning opportunities for electrical corporations; provide an orderly process, including a reservation system, to allow potential community solar facility owners and operators to develop projects within the capacity limits in subsection 2 of this section; and provide options, which may include financial incentives, to encourage low-income participation.

7. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section, shall be invalid and void.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. The total amount of clean energy tax credits offered annually shall not exceed one percent of the value of electricity used in Missouri as determined in subsection 4 of this section.

2. The department of economic development shall certify when the tax credits provided in this section have resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit

has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.890 and 386.900, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on available reports, including FERC Form Number 1 as allowed by 18 CFR § 141 or an equivalent as determined by the commission, of megawatt hours sales of retail electricity and corresponding revenues for the preceding year or most current reporting period as determined by the commission. The commission shall publish the value of electricity used in Missouri to the public and department of economic development within forty-five days of the enactment of this section and at least sixty days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may only apply for and receive the credit authorized by this section for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain

in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

7. To obtain approval for tax credits allowed under this section, a taxpayer shall submit an initial application for tax credits to the department of economic development. Each application shall be prioritized for review and approval, in the order of the date on which the application was received, with the oldest received date receiving priority. Applications received on the same day shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. Such application deposit shall be refunded at completion of the project or if the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. The taxpayer may request a refund of the application deposit; however, any refunds of the deposit for an application shall cause such application to lose its spot in the priority queue. If the taxpayer wants to maintain its position in the priority queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

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9. Disapproved applications shall lose priority in the review process. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision of its intent to disapprove and to remove such application. The taxpayer shall have one opportunity, not to exceed ten days of notification of intent to disapprove, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

10. If the department of economic development deems the application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for initial approval shall be notified by the department of economic development that the maximum amount of credits authorized have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available due to the rescission of approvals or reserved for a future fiscal year.

12. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial approval for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by letter and shall issue, to the taxpayer, a tax credit certificate within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

15. If the amount of the credit under subsection 14 of this section exceeds the taxpayer's total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. The state tax credit shall not be subject to recapture provisions. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

16. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsections 10 or 11 of this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

17. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-175)**

## Subject

Initiative petition from Andy Zellers regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received December 17, 2015)

## Date

January 6, 2016

## Description

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Public Service Commission.**

**Mark R. Reading** provided information to the State Auditor's Office as a proponent of this initiative petition.

**Edward D, Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Brent Stewart** of Association of Missouri Electric Cooperatives provided information to the State Auditor's Office as an opponent of this initiative petition.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no known fiscal impact on their department.

Officials from the **Department of Economic Development** (DED) provided the following information:

The Division of Energy (DE) indicated this petition will result in increased operating expenses of $758,642 for fiscal year 2017, $827,781 for fiscal year 2018, and $835,826 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Section 386.870 – Electric Vehicle Charging Stations
DE participates in PSC regulatory cases to evaluate issues from a formal state policy and planning perspective consistent with its interests in clean, affordable, abundant energy, and its efficient use. DE is active in cases before the PSC related to energy efficiency and renewable energy and has responsibilities associated with certifying clean energy sources under Missouri's Renewable Energy Standard and net metering statutes. As such, DE assumes it would be involved in the implementation of this provision by monitoring and participating in cases that allow regulated electric utilities to install and recover costs associated with electric vehicle recharging stations that are partially powered by a clean energy source or offset with renewable energy credits.

Section 386.900 – Enhanced Net Metering and Easy Connection Act
DE assumes it would be involved in the implementation of this provision that modifies the existing net metering and interconnection requirements for regulated electric utilities. It is assumed there would be a rulemaking docket to set the process and details associated with this proposal. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where enhanced net metering provisions are considered.

Section 386.910 – Community Solar Act
DE assumes it would be involved in the implementation of the Community Solar Act provisions. It is assumed there would be a rulemaking docket to set the process and details associated with this section. DE assumes it would monitor and participate in tariff and other related cases where community solar facilities are established for purposes of determination of eligibility and certification under the Renewable Energy Standard (RES). DE assumes this provision would result in additional RES certifications that would need to be performed.

Section 386.1000 – Clean Energy Tax Credit
DE is required to administer the Clean Energy Fund created by this section and promulgate rules to implement the Clean Energy Tax Credit. The proposal requires DE to receive applications and deposits, review and initially approve applications and required information within 30 days, review final approval applications, issue certificates and provide notifications, refund deposits for completed and disapproved projects, at least quarterly publish a list of the amount of tax credits initially and finally approved for each fiscal year and amounts reserved for future years, notify individual applicants of disapproved applications and approval within specified timeframes, notify applicants if the maximum amount of credits authorized have been allocated for the fiscal year and grant three-month extensions if needed for project completion with additional deposit payments.

**Long-range implications**

Fiscal impacts associated with the Clean Energy Tax Credits could continue until June 30, 2022. The authorization for the tax credit would sunset sooner if the 1,000 megawatt limit is reached. Economic benefits associated with construction of solar facilities would also have long-range implications.

**Assumptions and methodology used in arriving at state fiscal impact**

Section 386.870 – Electric Vehicle Charging Stations
For purposes of this fiscal note, DE assumes it would be involved in cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

Section 386.900 – Enhanced Net Metering and Easy Connection Act
For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

386.910-Community Solar Act
The RES requires investor-owned utilities in Missouri to either produce green power or purchase Renewable Energy Certificates (RECs) for compliance. One REC represents 1

megawatt-hour (MWh) of electricity generated from an eligible renewable energy resource. The in-state renewable energy generation can receive a multiplier of 1.25 for RES compliance purpose. DE has statutory authority to certify eligible renewable energy resources before RECs associated with those renewable energy resources can be used for RES compliance. DE does not charge any certification fees.

A community solar facility is defined as a solar photovoltaic facility with a capacity of 100-1000 kilowatts (kW) under this section. DE anticipates that enactment of a tax credit in Section 386.1000, RSMo, will result in an increase in community solar facilities constructed and that in-state community solar facilities will request DE to certify their renewable energy resources/projects for the purpose of generating additional revenue from REC sales. DE's review primarily focuses on environmental impacts of renewable electric generation facilities on air, water or land use. The actual staff time spent on each application varies from one project to another. Solar photovoltaic facilities with a larger capacity typically require more staff time for reviewing their third-party environmental impact assessments in addition to verifying applicable environmental permits. Staff time will be also needed for data requests and discussion, data collection, database management, report production and website maintenance.

Current average staff time to review and certify renewable energy facilities ranges from 2 hours for small projects of a few hundred kW and 8-10 hours for larger projects of a few hundred kW to 1000 kW. It is assumed that small projects will account for two-thirds of the total community solar facilities and one-third will be larger projects. The weighted average of staff time (based on 2 hours for smaller projects and 8 hours for larger projects) is 4 hours (calculation: 2*{2/3}+8*{1/3}). The number of projects at the assumed 200 kW ranges from 71 to 209 if the full amount of tax credits are used (Source: Mark Reading). By multiplying the average staff time of 4 hours, the annual staff time will range from 284 to 836 hours. For purposes of this fiscal note, DE assumes it could implement the provisions of this section with staff requested to implement the clean energy tax credit in Section 386.1000, RSMo (see below).

<u>Section 386.1000 – Clean Energy Tax Credit</u>

Retail sales of Missouri's utilities totaled $7.6 billion in 2014 (Source: Mark Reading; U.S. DOE/EIA). If all tax credits were used up to the cap of 1% of the annual statewide Missouri revenue of Missouri's retail electric suppliers (approximately $76 million/year), and with consideration to the estimated cost and size of the projects, it is estimated there would be 4,933 residential project applications and 283 commercial project applications submitted for tax credit reviews (Source: Mark Reading). DE assumes that it would take approximately 2 hours each to do the initial review/approval of each application and another 2 hours to do the review and issuance of a certification after a project is completed for residential projects. Each of these would include clerical time for input/issuing letters/filing, etc. For larger commercial projects, an estimated 8 hours is anticipated for each of these two steps. See response above for detailed tasks required by the proposal.

19,732 hours for residential applications
4,528 hours for commercial applications

24,260 hours total

To implement this provision, DE assumes it will need a total of 12 full-time employees (FTE) (including a portion of an FTE to implement Community Solar provisions, Section 386.910, RSMo) as follows:
8 – Energy Specialist I/II
2 – Energy Engineer II
2 – Administrative Office Support Assistant (AOSA)

- Energy Specialist I/II - Professional level staff to review the renewable energy project applications and to complete project evaluation activities.
- Energy Engineer II - Professional staff with expertise in engineering aspects of renewable energy projects to review the technical aspects of the projects, review of projects related to the Renewable Energy Standard and Renewable Energy Certificates and familiar with environmental impacts of renewable electric generation.
- AOSA - Staff to assist with the administrative requirements of the reviews such as drafting and sending communication to applicants, maintaining the database of applicants, and tracking status of applications.

DE also assumes that the DED's existing tax credit database will be used to track the applications. Some IT costs to generate the necessary reports are estimated.

Note that although an application deposit is required to be paid to DE and deposited in the Clean Energy Fund, because the deposit must be refunded to the applicant upon completion of the project or if the project is disapproved, DE assumes it is unable to use these funds to administer the proposal. Therefore, General Revenue funds are requested. Based on the estimated number of residential and commercial projects, application deposits at 2 cents/watt to the Clean Energy Fund would total approximately $1.7 million/year.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated the responsibilities of this proposal appear to fall under the Division of Energy. With Executive Order 13-03 the Division of Energy was transferred from the Missouri Department of Natural Resources

to the Missouri Department of Economic Development, by Type I transfer. Therefore, they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** estimate this petition will result in increased operating expenses of $243,282 for fiscal year 2017, $181,985 for fiscal year 2018, and $183,470 for fiscal year 2019.

The legislation creates an unknown, negative impact to total state revenue by creating a new tax credit.

**Section 386.1000**
The provisions of this section authorize the issuance of a clean energy tax credit to taxpayers incurring costs for the installation of a clean energy resource project. The taxpayer may claim 35 percent of the total cost of the project. The legislation caps the amount of tax credits at not more than one percent of the value of the electricity used in Missouri.

**Section 386.1000.13**
The department suggests changing the provisions pertaining to the transfer of the tax to the Department of Revenue as this is currently the department's responsibility based on a previously issued executive order.

**Administrative Impact:**
**Personal Tax:**
Personal Tax requires one (1) Revenue Processing Technician I (Range 10, Step L) for every 6,000 credits claimed.

**Corporate Tax:**
Corporate Tax requires three (3) Revenue Processing Technicians I (Range 10, Step L) for every 4,000 credits redeemed, 4,000 credits transferred, and for every 520 SB 1099 compliance mailings and correspondence.

**Integrated Tax System:**
The integrated tax system incurs additional costs of $43,680 to implement the provisions of this petition.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of West Plains** indicated the 86 cities with municipal electric utilities depend on the revenues of this service for their citizen/owners to off-set the cost of electric service and operation to citizens as well as to support the activities of city government.

Based primarily on data from the Federal Department of Energy's (DOE) Energy Information Administration (EIA) Table 6 plus additional data gleaned from the National Renewable Energy Lab's Photovoltaic Calculator and the Missouri Association of Municipal Utilities for peak loads in 73 cities, they have determined that municipalities in Missouri face a loss of at least $23.9 million in revenue should this initiative petition become law. The impact alone to the City of West Plains appears to be $352,000 annually, or over 6.5% of their annual electric utility revenue budget. This figure does not reflect any additional costs they will be required to incur for required pleadings before the state Public Service Commission or local compliance costs for other requirements contained in this proposal.

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art. X, Sec. 16) that reduces income or increases costs without "full state financing," they anticipate that local government costs would be reflected in the final state cost when the fiscal note is completed. Necessary litigation costs incurred for Mo. Const. Art. X, Sec. 16 and other potential legal inconsistencies are unknown.

Methodology for City Loss Calculation
Renewable Energy Initiative Petitions

| **Assumptions and Methods** | **Information Source** |
|---|---|
| 1. A combined federal and state tax credit of 60% of installation costs, would prompt city customers to achieve the 7% capacity cap in a reasonable period of time | Proposed Legislation |
| 2. 1 kW solar panel at this latitude would generate 1350 kWHr per year | National Renewable Energy Lab's PV Calculator |
| 3. Annual Peaks | Municipal reports to the Missouri Association of Municipal Utilities |
| 4. Current City Electric Rates | DOE EIA Database (Table 6 for 2010) |

5. Calculation:
   Annual Peak
   7% of Annual Peak for Capacity Cap
   Total Solar Generation = (Capacity Cap * 1350 kWHrs)*1000
   City's lost revenue: City rate * Solar Generation

6. State calculation based on the sum of "Assumption 5" calculations for
   73 reporting cities (out of 86)
      Total ≥ $23.8 million

**Calculation for City of West Plains**

| | |
|---|---|
| 44.453 | Annual Peak (MW) |
| 3.11171 | 7% of Annual Peak for Capacity Cap MW |
| 4,200,809 | Total Solar Generation (KWHR) |
| 8.38 | City Rate (cents per kWHR) |
| $352,028 | Lost Revenue |

Officials from **University of Missouri** indicated they have not seen cost impact studies on this initiative from their electric utility suppliers, but they do not believe this will have a significant impact on their university.

Officials from the **Public Service Commission** (PSC) indicated without the benefit of the rulemaking process to explore potential issues and clearly delineate parameters, and assuming the "value of electricity" is clearly defined as the **calendar** year Missouri revenue for retail sales of electricity, the first year clean energy tax credit cap would be approximately $76,444,000 based on the most recent data currently available. For subsequent years, this amount will change based on the most recent Missouri revenue for retail sales of electricity and whether any tax credits exceed the total tax liability for a given fiscal year. In that case, the amount that exceeds the tax liability may be carried back 3 years or forward 10 years, involving additional calculations.

Section 386.870, RSMo, allows an electrical corporation to recover its costs and add in its rate base prudently incurred costs to install electric vehicle charging stations provided the energy consumed is partially powered by a clean energy resource or offset with renewable energy credits. It is not clear if the renewable energy credits can be used to meet Section 386.870, RSMo, and also used to meet the utility's renewable portfolio standard in Section 393.1030, RSMo.

Section 386.870, RSMo, also states investments made pursuant to this section shall not raise the retail rates charged to customers of electrical corporations by more than one half of one percent in any year. The PSC suggests this requirement be clarified. A similar cap is placed on the renewable mandate of Section 393.1045, RSMo. It has been over 7 years since the enactment of this provision and parties continue to argue its meaning before the PSC.

Sections 386.890 and 386.900, RSMo, define "department" as the department of natural resources. "Department" should be defined as the department of economic development, division of energy.

Sections 386.890 and 386.900, RSMo, both use the terms "Retail electric supplier" or "supplier", but in Section 386.890, RSMo, a "retail electric supplier" or "supplier" is any rural electric cooperative under Chapter 394, RSMo, that provides retail electric service in this state and in Section 386.900, RSMo, a "retail electric supplier" or "supplier" is any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state. Although the terms are in different statutes, it may be confusing to define the same term in a different manner. It may be clearer to use different terms applicable to the respective intent. Further since Section 386.890. RSMo, is only applicable to rural electric cooperatives, it may make sense to move the entire provision to Chapter 394, RSMo.

Sections 386.890 and 386.900, RSMo, use the term "wholesale generator". The PSC respectfully suggests this term be defined.

Section 386.900, RSMo, uses terms such as "commission-regulated supplier" and "public utilities" to describe suppliers that are subject to PSC jurisdiction. The PSC respectfully suggests the terms be used consistently.

Section 386.900, RSMo, requires the PSC to promulgate rules by June 1, 2017 and Section 386.910, RSMo, requires the PSC to adopt rules by August 1, 2017. The PSC respectfully suggests these dates may be aggressive for final rules to be effective.

Section 386.900.6.(2), RSMo, references "subsection 4 of this section". This appears to be an inaccurate cross-reference as there is no subsection 4 of the section.

Section 386.900.12, RSMo, says the estimated generating capacity of all net metering systems shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate, but the renewable energy portfolio deals with "energy" not "capacity".

Section 386.900.14, RSMo, says any costs, including lost revenues and lost earnings opportunities. The PSC respectfully suggests "lost revenues" and "lost earnings opportunities" be clearly defined as to how to calculate those amounts. The interpretation and calculation of these terms has been the subject of on-going disagreement as they relate to the Missouri Energy Efficiency Investment Act.

Section 386.900.14, RSMo, states the commission may evaluate the value of distributed generation and clean energy resources, but it is not clear how to determine those values.

Section 386.900.14, RSMo, states any costs, lost revenues or lost earnings recovered under this section shall not raise the retail rates charged to customers by an average of more than one percent in any year. The PSC suggests this requirement be clarified. A

similar cap is placed on the renewable mandate of Section 393.1045, RSMo. It has been over seven years since the enactment of this provision and parties continue to argue over its meaning before the commission.

Section 386.910.5, RSMo, states that when a community solar facility is placed in service, it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years. It appears this provision would require the utility ratepayers to fund the facility at the current rate for 20 years without adjustment for changes in the utility's costs or revenues that would occur over the 20 year period. It is also not clear if the cost-of-solar value contemplates an earnings opportunity for the commission-regulated utility.

Section 386.1000, RSMo, discusses a "clean energy tax credit". It is not clear why the tax credit is in the PSC statute and not in a tax-related statute.

**Mark R. Reading** provided the following information as a proponent of this initiative petition.

Submitted by:

_____

Mark R. Reading
2604 Lakeland Drive
Jefferson City, MO 65109
(573) 694-6828
*Primary Contact Person*

**Clean Energy Independence and Investment Act of 2016 - Version 11**
**Sec. of State # 174**

**Proposed Statement of Fiscal Impact**
**for Clean Energy Independence and Investment Act of 2016 - Version 11**
**Sec. of State # 174**

**Fiscal Impact Information Submitted Pursuant to Section 23.140.2**

The amendment's estimated impact decreases state revenue between $21 to $63 million depending upon the speed of up to $216 million in additional clean energy project construction and implementation by the Department of Economic Development, residential homeowners, and businesses. Local revenue is estimated to grow between $1.1 to $3.3 million.

| ESTIMATED NET EFFECT ON STATE FUNDS | | |
|---|---|---|
| **Fund Affected** | **FY 2017** | **FY 2018** |
| **General Revenue** | $0 | From ($22,196,429) to ($67,069,619) |
| | | |
| **Total Estimated Net Effect on All State Funds** | $0 | From ($20,974,558) to ($63,381,207) |
| **ESTIMATED NET EFFECT ON LOCAL FUNDS** | | |
| Local Funds | $0 | From $1,108,571 to $3,349,704 |
| | | |
| **Total Estimated Net Effect on All Local Funds** | $0 | From $1,108,571 to $3,349,704 |

**SUMMARY OF VERSIONS OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT**

Nine versions of the Clean Energy Independence and Investment Act of 2016 have been submitted for review. A summary of which topics are in each version is provided below.

**CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT OF 2016**
**SUMMARY OF VERSIONS**

| Petition version | 386.870 - Electric vehicle | 386.890 - Net metering | 386.900 - Enhanced net metering | 386.910 - Community Solar | 386.1000 - Tax credits |
|---|---|---|---|---|---|
| | | | | | |
| **1% Electric Versions** | | | | | |
| Version 10 | N/A | X | X | X | X |
| Version 12 | X | X | X | X | X |
| Version 14 | X | Deletes | X | X | X |
| Version 15 | N/A | N/A | N/A | N/A | X |
| Version 16 | X | N/A | N/A | X | X |
| Version 17 | X | X | X | N/A | X |
| Version 18 | N/A | X | X | X | X |
| | | | | | |
| **$50 million cap Versions** | | | | | |
| Version 11 | N/A | X | X | N/A | X |
| Version 13 | X | X | X | X | X |

## ANALYSIS OF FISCAL IMPACT OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT

The fiscal impact analysis contained herein focuses on estimating the fee and tax revenue resulting from the statutory changes proposed in the initiative petition. Table 1 summarizes the revenue estimated by source and by fiscal year. Page and Table numbers are provided to help readers find specific subjects.

**Table 1**
**Summary of Fiscal Impact by Fund**

| Page # | Table # | Purpose | FY 2017 | FY 2018 - low range | FY 2018 - high range | Revenue Type |
|---|---|---|---|---|---|---|
| 9-11 | Table 9 | Tax credit | $0 | ($25,000,000) | ($75,541,003) | Income |
| 12-14 | Table 14 | Taxes from clean energy tax credit construction | $0 | $2,803,571 | $8,471,384 | Various |
| 14-16 | Table 17 | Taxes from community solar construction | N/A | N/A | N/A | Various |
| | | subtotal General Revenue Fund | $0 | ($22,196,429) | ($67,069,619) | |
| | | | | | | |
| 5-11 | Table 11 | Clean Energy Fund | $0 | $550,442 | $1,659,596 | Application deposit |
| | | | | | | |
| 12-14 | Table 14 | Prop C sales tax - clean energy | $0 | $285,714 | $863,326 | Sales tax |
| 14-16 | Table 17 | Prop C sales tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Prop C | $0 | $285,714 | $863,326 | |
| | | | | | | |
| 12-14 | Table 14 | Conservation sales tax - clean energy | $0 | $35,714 | $107,916 | Sales tax |
| 14-16 | Table 17 | Conservation sales tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Conservation | $0 | $35,714 | $107,916 | |
| | | | | | | |
| 12-14 | Table 14 | Parks and Soils sales tax - clean energy | $0 | $28,571 | $86,333 | Sales tax |
| 14-16 | Table 17 | Parks and Soils sales tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Parks and Soils | $0 | $28,571 | $86,333 | |
| | | | | | | |
| | | subtotal Other State Funds | $0 | $1,221,871 | $3,688,411 | |
| | | | | | | |
| | | subtotal all state funds | $0 | ($20,974,558) | ($63,381,207) | |
| | | | | | | |
| 12-14 | Table 14 | Local Sales Tax - clean energy | $0 | $1,108,571 | $3,349,704 | Sales tax |
| 14-16 | Table 17 | Local Sales Tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Local Funds | $0 | $1,108,571 | $3,349,704 | |
| | | Grand Total State and Local | $0 | ($19,865,987) | ($60,031,503) | |

**Clean Energy tax credits**

The proposal creates a clean energy tax credit in Chapter 386 RSMo. The annual level of tax credits shall be $50 million at the beginning of the program. The proposal also provides that the tax credit cap shall be increased or decreased each year by the percentage increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency.

Table 2 shows the CPI values reported for December from 2000 to 2014. The annual average growth over the period was 2.16%. Recent CPI increases have been lower than the early part of the series due to the most recent recession and concerted action by the Federal Reserve to keep interest rates low. The Federal Reserve is expected to raise interest rates in the near future. This is likely to raise CPI inflation. To ensure a better prediction of future anticipated CPI the longer time period is used to determine the average annual increase.

**Table 2**
**Consumer Price Index (CPI-U) History**
**December Reported**

| Year | CPI value | Increase | % increase |
|---|---|---|---|
| 2000 | 174.000 | | |
| 2001 | 176.700 | 2.700 | 1.6% |
| 2002 | 180.900 | 4.200 | 2.4% |
| 2003 | 184.300 | 3.400 | 1.9% |
| 2004 | 190.300 | 6.000 | 3.3% |
| 2005 | 196.800 | 6.500 | 3.4% |
| 2006 | 201.800 | 5.000 | 2.5% |
| 2007 | 210.036 | 8.236 | 4.1% |
| 2008 | 210.228 | 0.192 | 0.1% |
| 2009 | 215.949 | 5.721 | 2.7% |
| 2010 | 219.179 | 3.230 | 1.5% |
| 2011 | 225.672 | 6.493 | 3.0% |
| 2012 | 229.601 | 3.929 | 1.7% |
| 2013 | 233.049 | 3.448 | 1.5% |
| 2014 | 234.812 | 1.763 | 0.8% |
| | Avg. annual increase | | 2.16% |

Table 3 uses the average annual growth rate for 2000 to 2014 to project the tax credit cap into the future. The election date of November 2016 on the proposal is in the State's FY 2017. Therefore, FY 2017 is the base year for the $50 million clean energy tax credit cap. The clean energy tax credits cap is estimated at $50 million for FY 2017, $51.1 million for FY 2018 and $52.2 million for FY 2019.

**Table 3**
**Clean Energy Tax Credit Estimate of Cap**

| Fiscal Year | Clean Energy Tax Credit Cap |
|---|---|
| FY 2017 | $50,000,000 |
| FY 2018 | $51,082,005 |
| FY 2019 | $52,187,425 |

For purposes of the fiscal note the State Auditor's office asks that estimates be provided for the first two fiscal years of implementation which are FY 2017 and FY 2018 since the provisions of the proposal would

go into effect in December 2016. Almost all taxpayers file their taxes on the April 15th deadline. Therefore, CY 2016 taxes would be due on April 15, 2017 which is in FY 2017.

The provisions of the act will go into effect in December 2016. Paragraph 11 of the proposed section 386.1000 states that any taxpayer verified by the Department of Economic Development to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with the provisions shall be deemed eligible for the tax credit. This allows for the Department of Economic Development to include projects in 2016 before its processes are in place. Paragraph 15 of the proposed section 386.1000 provides that the Department of Economic Development shall issue rules necessary to administer the act. In addition, paragraph 8 gives the Department of Economic Development 45 days to notify an applicant of approval after the application is submitted.

Issuing rules is at best a months long process. The 45 day processing time allowed for any completed application filed after the rules are adopted makes it very unlikely that the Department of Economic Development will issue any FY 2017 tax credits before April 15, 2017 that would affect the taxpayers initial tax filing and reduce taxes paid during FY 2017. Tax credits issued between April 15 and June 30, 2017 would require an amended filing which also would be unlikely to be completed by June 30, 2017. Thus, this fiscal analysis assumes a de minimis or no impact on FY 2017 general revenue tax collections. Any CY 2016 project with tax credit impact would at most impact the FY 2018 tax collections through amended returns or through CY 2017 taxes paid in FY 2018.

Paragraph 2 of the proposed section 386.1000 provides for the carryover of any unused clean energy tax credit authority until it is used. If the Department of Economic Development is slow to issue clean energy tax credits in FY 2017 at the beginning of the program then the unused authority of the cap carries over to FY 2018. Table 4 shows what the FY 2018 clean energy tax credit cap would be if all of the FY 2017 tax credit authority provided carries over - $101.1 million. This does not mean that the State's general revenue fund collections would be affected by $101.1 million. Clean energy construction of $288.8 million would be necessary to qualify for the entire $101.1 million in tax credits.

**Table 4**
**FY 2018 Tax Credit Cap with FY 2017 Possible Carryover**

| Fiscal Year | FY 2018 |
|---|---|
| Original cap | $51,082,005 |
| Carry over from previous year | $50,000,000 |
| Total | $101,082,005 |

**Application Deposit revenue**

The proposed Section 386.1000 RSMo requires that taxpayers submit an application to the Department of Economic Development to receive approval for tax credits (paragraph 5). Each application must include a two cent per watt application deposit. The total revenue from application deposits is dependent upon:

- the number of projects that will be submitted;
- the number of watts generated from all of those projects

Each of these is affected by the:

- percentage of residential v commercial projects
- number of kW generated by residential v commercial projects
- cost of residential and commercial projects
- total construction completed
- any phase-in period as the Department of Economic Development institutes rules and prepares the program

- any phase-in period as the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available

All of these factors must be estimated and evaluated in order to calculate the amount of application deposit revenue that will be received by the Department of Economic Development.

Tax credits are available to both residential and commercial projects. Paragraph 2 of the proposed Section 386.1000 RSMo provides that no electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit.

The Missouri Department of Economic Development, Division of Energy published a Missouri Comprehensive State Energy Plan in October 2015. The report states that half of the installed net-metered PV solar is residential and the other half commercial customers.[1] However, the report also indicates that there are challenges that face residential customers making it more difficult and expensive to install solar projects. These challenges include local ordinances or homeowner's association rules the may prohibit installation or require design changes that decrease efficiency or add to the cost.[2] In addition, over the past decade an industry has developed to assist with the financing of solar projects. Such financing alternatives are easier to obtain by commercial projects because of their size, scope, and estimated return on investment.[3] Commercial projects can have a longer-term outlook than homeowners who may not know how long they may live in their current house. The Missouri State Energy Plan indicates that residential rooftop solar is a relatively expensive energy option due to these and other factors.[4]

For all of the reasons identified in the preceding paragraph, for purposes of this fiscal analysis residential solar installation is assumed to be 40% of the total solar construction. Commercial solar installation is assumed to be 60% of the total solar construction. This fiscal analysis has already indicated that CY 2016 solar construction will likely not be affected by the approval of the petition by voters in November 2016. Thus, CY 2017 is the first full year of impact. Tax credits resulting from such construction will first affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office.

The next factor to consider is the number of kW generated by residential and commercial projects. A recent report on photovoltaic system pricing trends published by the U.S. Department of Energy indicates that the median residential project is 6.1 kW while the modeled commercial system is 200 kW. Paragraph 2 of the proposed section 386.1000 establishes a 200 kW limit on installations that are authorized for tax credits.[5] For purposes of this fiscal analysis it is assumed that all commercial projects will be at the 200 kW size and that residential projects will be 6.1 kW. Paragraph 5 of the proposed section 386.1000 requires a two cent per watt application deposit fee. Table 5 shows that there would be a $122 application deposit required for the median residential project. There would be a $4,000 application deposit required for the 200 kW commercial project.

**Table 5**
**Application Deposit Required for Projects**

| Construction type | Project size in kW | Project size in watts | Application deposit for project at 2 cents per watt |
|---|---|---|---|
| Residential | 6.1 | 6,100 | $122 |
| Commercial | 200.0 | 200,000 | $4,000 |

The recent report on photovoltaic system pricing trends published by the U.S. Department of Energy also discusses the historical, recent, and near-term pricing of solar projects.[6] Project cost information was obtained on more than 400,000 systems in 42 states. The modeled system prices identified in the report showed a Q1 2015 residential system price of $3.12/watt and a commercial 200 kW system cost of $2.17/watt. These were reductions in price of from Q4 2013 of 7% and 19% respectively. The report also

indicates that prices for residential and commercial PV systems have decreased by 6-12% per year, on average, from 1998-2014. In addition, the report indicates that analysts project the system prices will fall 16-33% for residential systems between 2014-2020.

Table 6 projects residential solar project costs. Projections are made to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 6 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $3,000/kW for residential solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 6.1 kW residential project is estimated at $18,300.

**Table 6**
**Residential Solar Project Estimate**

| | Cost of Residential project per kW | Cost of Residential project at 6.1 kW project size |
|---|---|---|
| CY 2015 | $3,120 | $19,032 |
| CY 2016 | $3,039 | $18,538 |
| CY 2017 | $2,960 | $18,056 |
| average cost of CY16 and CY17 estimates | $3,000 | $18,300 |

The modeled commercial system price identified in the report showed a Q1 2015 commercial 200 kW system cost of $2.17/watt. However, the national average cost of commercial projects is affected by states with more mature solar markets and industries and large companies, like Wal-Mart and Ikea, that have moved to install significant solar projects on their facilities. The first Missouri commercial systems are less likely to meet the $2.17/watt cost projections. Table 7 uses other data in the report to amend the estimate of commercial solar project costs. The report shows that the price of the modeled 200 kW commercial system has fallen from $2.68/watt to $2.17 between 2013 Q4 and 2015 Q1. The mid-point of that decrease is $2.425/watt. Further, it is assumed that the cost of Missouri projects will be higher by 2.6%, or one-year's worth of the low end of the price declines found in the report. The result is that this analysis will assume that the Missouri 2015 Q1 price is $2.488/watt.

**Table 7**
**Commercial Solar Project Cost Estimate per kW**

| | |
|---|---|
| 2013 Q4 | $2,680 |
| 2015 Q5 | $2,170 |
| Mid-point | $2,425 |
| One-year behind (2.6%) | $2,488 |

Table 8 then projects the $2,488/kW 2015 Q1 cost to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 8 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $2,392/kW for commercial solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 200 kW commercial project is estimated at $478,400.

**Table 8**
**Commercial Solar Project Estimate**

| | Cost of Commercial project per kW | Cost of Commercial project at 200 kW project size |
|---|---|---|
| CY 2015 | $2,488 | $497,600 |
| CY 2016 | $2,423 | $484,600 |
| CY 2017 | $2,360 | $472,000 |
| average cost of CY16 and CY17 estimates | $2,392 | $478,400 |

The analysis so far has identified:

- estimates of $50 million in FY 2017 and $51.1 million in FY 2018 clean energy tax credits in accordance with paragraph 2 of the proposed section 386.1000. The FY 2018 clean energy tax credit limit may be higher depending on any unused authority that is carried over from FY 2017.
- an estimate that 40% of total solar construction would be residential and 60% commercial
- project cost estimates of $18,300 for 6.1 kW residential projects and $478,400 for 200 kW commercial projects

The final factor to calculate before arriving at the amount of application deposit revenue is any phase-in period as the Department of Economic Development issues rules and prepares its processes and the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available. The Missouri State Energy plan reports that Missouri currently has 111 MW of installed solar PV capacity. The plan also reports that there is 42.8 MW of installed net-metered PV solar developed over the years largely as a result of rebates from large utility companies in Missouri.

The proposal being analyzed establishes a statutory program of clean energy tax credits that will sunset after the Department of Economic Development certifies that 1,000 MW of capacity has been added as a result of the tax credits but no later than June 30, 2022. The 1,000 MW target represents a dramatic increase in current capacity.

The Missouri State Energy plan provides a wealth of information about the current state of "green jobs" and the solar industry in Missouri. The report includes the following along with other findings about the industry.

- Missouri had over 100,000 "green jobs" according to a 2009 study.[7]
- Missouri was identified as 10th in the nation for growth in clean energy and clean transportation jobs in 2013.[8]
- $187 million was invested by Missouri's solar industry in 2014 to install solar photovoltaic systems for residential, commercial, and utility use.[9]
- There are more than 97 solar companies at work throughout the supply chain in Missouri, employing 2,500 people including manufacturers, contractors, installers, project developers, distributors.[10]
- Missouri could create 8,500 new jobs to design, install, and operate energy efficiency measures by 2025 according to a 2011 study.[11]
- In 2010 Missouri ranked 6th in the nation in photovoltaic jobs.[12]

The clean energy tax credit does not sunset until the 1,000 MW target of additional capacity is met but no later than June 30, 2022. The size and the long-term nature of the 1,000 MW target should encourage the development of the Missouri solar industry even after it sunsets. It should also result in long-term planning and the build out of a native Missouri solar industry. The target also provides an incentive for the industry to meet the growth potential described in the Missouri State Energy Plan.

In the long-term the impact of the 1,000 MW target will grow and build the industry. In addition, investment in solar will allow longer term benefits in reduced fuel usage, cleaner air, better health and the resulting lower costs among other things. The Missouri State Energy Plan identifies the public health impacts of various energy sources with clean energy sources providing significant positive benefits over other sources.[13] A 2013 study of Hawaii's solar tax credit program found that the State recovered the full cost of the tax credit in 9 to 11 years - a rate of return on its investment ranging from 8.9% to 10.3%.[14] In addition, the study found that for each dollar spent by Hawaii on tax credits the amount of additional sales stimulated was $34.69 for residential solar PV and $55.03 for commercial PV.

However, the fiscal note format required for initiative petitions focuses on the short-term revenue and costs. Thus, the longer-term benefits are not included in this fiscal analysis. As explained elsewhere in this fiscal analysis the impact of the availability of tax credits is somewhat dependent upon the speed with which the Department of Economic Development issues the necessary rules and regulations, develops and makes available the application forms, and the industry's reaction to voter approval and the department's actions. Thus, two alternatives are calculated to create a possible range for the likely outcome in the short-term.

Table 9 shows two possible alternatives estimating the effect on FY 2018.

- Construction leading to use of **half** the available FY 2017 tax credits ($25 million) - These tax credits would cover any CY 2016 clean energy construction allowed under paragraph 11 of the proposal and any CY 2017 clean energy construction that qualifies for FY 2017 tax credits that the Department of Economic Development could process by the end of CY 2017 in order to affect FY 2018 state tax collections. It is assumed that the Department of Economic Development would most likely issue such tax credits during the last half of CY 2017 after its processes are in place. Table 10 shows that total of $71.4 million in construction would be required to generate $25 million in tax credits. Residential construction of $28.6 million (assuming 40% of construction) would result in $10.0 million in tax credits. Commercial construction of $42.9 million (assuming 60% share of construction) would result in $15.0 million in tax credits.

- Construction leading to use of **all** the available FY 2017 tax credits and half of the FY 2018 tax credits ($75.5 million) - These tax credits would cover any CY 2016 clean energy construction allowed under paragraph 11 of the proposal and any CY 2017 clean energy construction that qualifies for FY 2017 tax credits that the Department of Economic Development could process by the end of CY 2017 in order to affect FY 2018 state tax collections. It is assumed that even the Department of Economic Development would most likely issue such tax credits during the last half of CY 2017 after its processes are in place that the department would be able to authorize all of the FY 2017 credits and half the FY 2018 credits. **Table 10 shows that a total of $215.8 million in construction would be required to generate $75.5 million in tax credits.** Residential construction of $86.3 million (assuming 40% of construction) would result in $30.2 million in tax credits. Commercial construction of $129.5 million (assuming 60% share of construction) would result in $45.3 million in tax credits.

**Table 9**
**FY 2018 Tax Credit Effect - Possible Range**

| Fiscal Year | Low range | Higher range |
|---|---|---|
| FY 2017 credits | $25,000,000 | $50,000,000 |
| FY 2018 credits | $0 | $25,541,003 |
| Total | $25,000,000 | $75,541,003 |

**Table 10**
**Number of Projects - Low Range v Higher Range**

| | Low Range | Higher Range |
|---|---|---|
| Tax credits estimate | $25,000,000 | $75,541,003 |
| Amount of construction value needed to generate value of 35% tax credits | $71,428,571 | $215,831,436 |
| - | | |
| % of residential per year of credits issued | 40.0% | 40.0% |
| % of commercial per year of credits issued | 60.0% | 60.0% |
| | | |
| Tax credits by type of construction | | |
| Residential | $10,000,000 | $30,216,401 |
| Commercial | $15,000,000 | $45,324,602 |
| Total amount by type | $25,000,000 | $75,541,003 |
| - | | |
| Construction value by type of construction | | |
| Residential | $28,571,428 | $86,332,574 |
| Commercial | $42,857,143 | $129,498,862 |
| Total amount by type | $71,428,571 | $215,831,436 |
| | | |
| Cost of solar projects per project | | |
| Residential (6.1 kW/project) | $18,300 | $18,300 |
| Commercial (200 kW/project) | $478,400 | $478,400 |
| | | |
| # of projects | | |
| Residential | 1,561 | 4,718 |
| Commercial | 90 | 271 |
| Total amount by type | 1,651 | 4,989 |

In addition, using the average cost and size of projects it is possible to compute the number of residential and commercial projects that will be constructed. Table 10 shows a total of 1,651 projects would be constructed at the low range of the tax credits (1,561 residential, 90 commercial). A total of 4,989 projects would be constructed at the higher range of the tax credits (4,718 residential, 271 commercial).

Table 10 shows a significant number of projects that would be completed throughout the state as a result of the clean energy tax credit. These numbers are possible for a variety of reasons identified in the Missouri State Energy Plan.

- Missouri households use about 12% more than the average U.S. household, thus projects would put real dollars into Missourians pockets for other uses and spending.[15]
- Nationally about ten percent of small business owners state that energy is their single biggest cost according to the National Federation of Independent Business. The same report indicates that an additional 25% of small business owners claim that energy is one of their top three business costs.[16] Thus, clean energy projects that reduce energy usage make businesses more profitable, allow for expansion, and could lead to higher wages for employees.
- Businesses can lower costs through on-site generation while also achieving other benefits.[17]
- Significant operational savings are possible through energy efficiency projects with rates of return as high as 25%.[18]
- A wealth of financing alternatives now exist for clean energy projects.[19]

- "Approximately 60% of the largest U.S. businesses have set public climate and energy goals to increase their use of renewable energy."[20]

Table 11 calculates the amount of application deposit revenue that the Department of Economic Development would receive given the number of projects identified in Table 10. If applications are submitted for projects equivalent to half the available tax credits then the department would receive $0.6 million in application deposit revenue. If applications are submitted for projects equivalent to all the available tax credits then the department would receive $1.7 million in application deposit revenue.

**Table 11**
**Application Deposit Revenue**

| | Lower Range | Higher Range |
|---|---|---|
| # of projects | | |
| Residential | 1,561 | 4,718 |
| Commercial | 90 | 271 |
| Total amount by type | 1,651 | 4,989 |
| | | |
| Application deposit required per project | | |
| Residential | $122 | $122 |
| Commercial | $4,000 | $4,000 |
| | | |
| Application deposit revenue | | |
| Residential | $190,442 | $575,596 |
| Commercial | $360,000 | $1,084,000 |
| Total amount by type | $550,442 | $1,659,596 |

Table 12 shows the amount of solar capacity added by the number of projects identified in the previous tables given the given size of residential and commercial projects. A total of 27.5 MW would be added in solar capacity as a result of projects equivalent to half the available tax credits which would be 2.8% of the 1,000 MW goal. A total of 83.0 MW would be added in solar capacity as a result of projects equivalent to all the available tax credits which would be 8.3% of the 1,000 MW goal.

**Table 12**
**Amount of Solar Capacity Added**

| | Capacity added for half of tax credits for applications FY 2018 | Capacity added for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 1,561.0 | 4,718.0 |
| Commercial | 90.0 | 271.0 |
| Total amount by type | 1,651.0 | 4,989.0 |
| | | |
| kW generated by construction | | |
| Residential (6.1 kW/project) | 9,522.1 | 28,779.8 |
| Commercial (200 kW/project) | 18,000.0 | 54,200.0 |
| Total amount by type | 27,522.1 | 82,979.8 |
| | | |
| MW generated by construction | | |
| Residential | 9.5 | 28.8 |
| Commercial | 18.0 | 54.2 |
| Total amount by type | 27.5 | 83.0 |
| | | |
| % of 1,000 MW goal achieved | 2.8% | 8.3% |

**Taxes**

As noted on pages 10-11 of this fiscal analysis, the Missouri State Energy Plan published in October 2015 describes the current capacity, industry size, and investments being made in Missouri. The plan also describes the potential for jobs and economic development in the state. The 1,000 MW target represents a dramatic increase in current capacity. The following analysis assumes that due to the dramatic size of the 1,000 MW target that the investments driven by the clean energy tax credits will result in new jobs and industry expansion.

Table 13 shows the cost components of a solar construction project. Labor is assumed to be 35% of the project costs, materials 40%, and Profit 10%. It is assumed that 15% of the project cost is overhead and it is assumed that no taxes would be applied. Since Missouri already has a base of manufacturers and distributors it is assumed that all materials will be Missouri taxed.

**Table 13**
**Construction Project Components, Tax Type, and Tax Rate**

| Project components | % of job | Missouri tax rate | Type tax |
|---|---|---|---|
| Labor | 35.0% | 6.00% | Income tax |
| Materials and local materials | 40.0% | 4.225% | Sales |
| Profit | 10.0% | 6.25% | Corporate |
| Overhead | 15.0% | 0.00% | N/A |
| subtotal by taxable type | 100.0% | | |

Table 14 computes the state and local taxes based on the value of construction and the project components and tax rates shown in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $2.8 million to $8.5 million in FY 2018. The other three state funds (Prop C, Conservation, Parks/Soils) are estimated to receive between $0.4 million to $1.1 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $1.1 million to $3.3 million in local sales tax revenue in FY 2018.

**Table 14**
**State and Local Taxes Generated by Construction**

| | Low Range | Higher Range |
|---|---|---|
| Amount of construction value needed to generate value of 35% tax credits | $71,428,571 | $215,831,436 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $25,000,000 | $75,541,003 |
| Materials and local materials | $28,571,428 | $86,332,574 |
| Profit | $7,142,857 | $21,583,144 |
| subtotal by taxable type | $60,714,285 | $183,456,721 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $1,500,000 | $4,532,460 |
| Materials and local materials - Sales/Use Tax | $857,143 | $2,589,977 |
| Profit - General Revenue Corporate Tax | $446,429 | $1,348,947 |
| subtotal GR | $2,803,571 | $8,471,384 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $285,714 | $863,326 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $35,714 | $107,916 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $28,571 | $86,333 |
| subtotal State Taxes | $3,153,571 | $9,528,958 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $1,108,571 | $3,349,704 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $4,262,143 | $12,878,662 |

The taxes generated from the construction activity shown in Table 14 likely underestimate the state revenue that will be generated by the construction of clean energy projects even within the short time period allowed in the fiscal note. As noted earlier there are multiplier effects that ripple through the economy. The Department of Economic Development through MERIC has a sophisticated model that it uses to evaluate the impact of tax credits and other business investments made in the State of Missouri. Using the information in this fiscal analysis MERIC should be able to provide supplementary information regarding the extra economic activity and increased revenues.

Similarly, generating additional clean energy within the State of Missouri will result in a decrease in the importation of power and energy producing raw materials from other states. Such money leakage from the state, businesses and citizens, decreases the amount of purchasing could be done for other purposes such as increased jobs within the state and thus the tax revenues that would be generated. For example, the Missouri State Energy Plan notes that Missouri is the sixth largest consumer of coal in the country and 92.5% of the coal used in 2013 was imported from Wyoming.[21] The plan reports that the state sends billions of dollars out of state for purchases of imported coal, natural gas, and transportation fuels.[22]

**Community Solar Act** - Applies to Versions 10, 12, 13, 14, 16, and 18
The Community Solar Act, section 386.910 of the proposal, directs the Missouri Public Service Commission to establish rules allowing customers to participate in a "community solar facility." Community solar facilities allow participants to benefit from solar energy and receive electric bill credits substantially similar to net metering.

Paragraph 3 of that section states that the "aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous fiscal year." Table 15 shows the total peak demand data compiled by the Public Service Commission for the four utilities affected by this section. The report shows that using peak demand leads to a cap of 504.5 MW on the amount of aggregated capacity of community solar facilities statewide.

**Table 15 - Peak Demand for Community Solar**

| Utility Name | Peak Demand |
|---|---|
| Union Electric Co - (MO) | 7,713.0 |
| Kansas City Power & Light Co | 1,878.0 |
| KCP&L Greater Missouri Operations Co. | 1,860.0 |
| Empire District Electric Co | 1,162.0 |
| Total | 12,613.0 |
| 4% overall cap | 504.5 |

Paragraph 2 of that section defines a community solar facility as a photovoltaic electric generation facility with a capacity of between 100 and 1,000 kW. For purposes of this fiscal note it is assumed that all community solar projects will be the same as the 200 kW project limit established in the clean energy tax credit language of 386.1000. In Table 12 above a low and high range was calculated for the percentage of solar capacity added through the tax credits based on the expectations of the phase-in necessary for the Department of Economic Development's implementation of the clean energy tax credits. The same percentage is used - 2.8% low range and 8.3% higher range. Similarly, for the purposes of this fiscal note the cost per kW will be $2,392 for a total project cost of $478,400 as shown in Table 9.

Table 16 shows the data and calculations needed to identify the number of projects. At the low end of the range 14.1 MW of added community solar capacity would be created which would require 71 projects of 200 kW. At the higher range 41.9 MW of added community solar capacity would be created which would require 209 projects of 200 kW.

Table 16 also shows that at an average project cost of $478,400 the low range results in $34.0 million in construction spending. The higher range results in $100 million in construction spending.

**Table 16**
**Community Solar Capacity and Projects**

| | Low Range | Higher Range |
|---|---|---|
| Assumed % of aggregate capacity | 2.8% | 8.3% |
| Added capacity - MW | 14.13 | 41.88 |
| Added capacity - kW | 14,126.56 | 41,875.16 |
| # projects at commercial 200 kW per project | 71 | 209 |
| Construction cost - commercial project per 200 Kw project | $478,400 | $478,400 |
| Construction value | $33,966,400 | $99,985,600 |

Table 17 computes the state and local taxes based on the value of construction and the project components and tax rates shown earlier in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $1.3 million to $3.9 million in FY 2018. The other three state funds (Prop C, Conservation, Parks/Soils) are estimated to receive between $0.2 million to $0.5 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $0.5 million to $1.6 million in local sales tax revenue in FY 2018.

**Table 17**
**State and Local Taxes Generated by Construction of Community Solar Projects**

| | Low range | Higher range |
|---|---|---|
| Amount of construction value needed to generate estimated MW | $33,966,400 | $99,985,600 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $11,888,240 | $34,994,960 |
| Materials and local materials | $13,586,560 | $39,994,240 |
| Profit | $3,396,640 | $9,998,560 |
| subtotal by taxable type | $28,871,440 | $84,987,760 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $713,294 | $2,099,698 |
| Materials and local materials - Sales/Use Tax | $407,597 | $1,199,827 |
| Profit - General Revenue Corporate Tax | $212,290 | $624,910 |
| subtotal GR | $1,333,181 | $3,924,435 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $135,866 | $399,942 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $16,983 | $49,993 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $13,587 | $39,994 |
| subtotal State Taxes | $1,499,617 | $4,414,364 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $527,159 | $1,551,777 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $2,026,775 | $5,966,141 |

**Net metering bills** - Applies to Versions 10, 11, 12, 13, 14, 17 and 18
The Missouri General Assembly has considered six net metering bills over the past three legislative sessions. Table 14 below identifies the bills and provides links to the fiscal note and bill summary prepared for each bill. All of the fiscal notes prepared and available indicated that there was no state impact from the net metering bills.

**Table 14**
**NET METERING**
**2013, 2014, AND 2015 LEGISLATIVE SESSIONS**

| Session | Bill | Sponsor | Fiscal Note Impact | Fiscal Note Summary Link | Bill Summary Link |
|---|---|---|---|---|---|
| 2015 | SB 75 | Holsman | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0622-01N.ORG.pdf | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=82&BillID=174 |
| 2015 | SB 509 | Holsman | No impact | N/A | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=664&BillID=4599469 |
| 2015 | HB 481 | Berry (38) | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0502-01N.ORG.pdf | http://house.mo.gov/billtracking/bills151/sumpdf/HB0481C.pdf |
| 2014 | HB 1795 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER14/fishtm/5552-02N.ORG.htm | http://house.mo.gov/billtracking/bills141/sumpdf/HB1795I.pdf |
| 2013 | HB 119 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/0794-02N.ORG.htm | http://house.mo.gov/billtracking/bills131/sumpdf/HB0119I.pdf |
| 2013 | SB 396 | Holsman | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/1078-07N.ORG.htm | http://www.senate.mo.gov/13info/BTS_Web/Bill.aspx?SessionType=R&BillID=19218703 |

**Electric Vehicle Charging Stations** - Applies to Versions 12, 13, 14, 16, and 17
The petition authorizes investor-owned utilities to recover costs for infrastructure investments in electric vehicle charging stations, provided the energy output from the stations is offset in part by clean energy. There should be no fiscal impact to the state.

ENDNOTES

[1] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25
https://energy.mo.gov/energy/docs/MCSEP.pdf

[2] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25-26
https://energy.mo.gov/energy/docs/MCSEP.pdf

[3] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[4] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 200
https://energy.mo.gov/energy/docs/MCSEP.pdf

[5] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 5
http://www.nrel.gov/docs/fy15osti/64898.pdf

[6] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 4
http://www.nrel.gov/docs/fy15osti/64898.pdf

[7] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 172
https://energy.mo.gov/energy/docs/MCSEP.pdf

[8] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 173
https://energy.mo.gov/energy/docs/MCSEP.pdf

[9] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[10] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[11] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 174
https://energy.mo.gov/energy/docs/MCSEP.pdf

[12] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 175
https://energy.mo.gov/energy/docs/MCSEP.pdf

[13] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 190-191, 193, 195-199, 201, 203
https://energy.mo.gov/energy/docs/MCSEP.pdf

[14] Thomas A Loudat, Blue Planet Foundation. "*The Economic and Fiscal Effects of Hawaii's Solar Tax Credit*" - January 2013.
http://blueplanetfoundation.org/renewable-energy-tax-credit-2013.html?highlight=WyJsb3VkYXQiXQ==

[15] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 154
https://energy.mo.gov/energy/docs/MCSEP.pdf

[16] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 165 for both sentences in this bullet point
https://energy.mo.gov/energy/docs/MCSEP.pdf

[17] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[18] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[19] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[20] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 178
https://energy.mo.gov/energy/docs/MCSEP.pdf

[21] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 20-21
https://energy.mo.gov/energy/docs/MCSEP.pdf

[22] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 42
https://energy.mo.gov/energy/docs/MCSEP.pdf

**Edward D, Greim** provided the following information as an opponent of this initiative petition.

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December 28, 2015

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Re: *Fiscal Note in Initiative Petitions 2016-173 through 2016-180 and 2016-190*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petitions 173, 175, 177, and 180:

> Lost revenue to state government is $498 million over the tax credit period, with annual losses of $9.5 million to $11.5 million thereafter. Lost revenue to local government is $189.1 million over the tax credit period, with annual losses of $31.5 million to $33.9 million thereafter.

We propose the following fiscal note summary for petition 174:

> Lost revenue to state government is $320.9 million over the tax credit period, with annual losses of $5.6 million to $9.6 million thereafter. Lost revenue to local government is $100.9 million over the tax credit period, with annual losses of $20 million to $28.1 million thereafter.

We propose the following fiscal note summary for petition 176:

> Lost revenue to state government is $328.8 million over the tax credit period, with annual losses of $7.5 million to $11.5 million thereafter. Lost revenue to local government is $175.3 million over the tax credit period, with annual losses of $32.4 million to $40.5 million thereafter.

We propose the following fiscal note summary for petition 178:

> Lost revenue to state government is $475.8 million over the tax credit period, with annual losses of $5.7 million to $7.7 million thereafter. Lost revenue to local government is $40.4 million over the tax credit period, with annual losses of $11.5 million to $15.7 million thereafter.

We propose the following fiscal note summary for petitions 179 and 190:

> Lost revenue to state government is $483.7 million over the tax credit period, with annual losses of $7.6 million to $9.6 million thereafter. Lost revenue to local government is $114.8 million over the tax credit period, with annual losses of $23.9 million to $28.1 million thereafter.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments. These taxes, however, will no longer be collected for electricity that is never sold due to the customer-generator production and community solar encouraged by the initiative petitions. Petition signers and voters must be informed of the certainty that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume. On the other hand, any positive fiscal impacts of the initiative petitions are speculative.

**Description of Policy**

Initiative Petitions 173 – 180 and 190 contains one or more of three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of the "Community Solar Act"; and (3) A state tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, or certain natural gas technologies.

1. Changes to Net Metering for Investor-owned electric utilities and municipal electric utilities, and, in 177, rural electric cooperatives
    A. Raise net metering cap to 7% (is currently 5%);
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);



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D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

2. Community Solar Act
   A. The Missouri Public Service Commission ("PSC") adopts rules and regulations allowing groups of 5 or more electrical corporation customers to offset energy usage with solar located in the service territory of the electrical corporation where they have an account;
   B. Facilities are 100 kilowatts to 1 megawatt;
   C. Community solar facilities may, in total, generate electricity of 4% or less of single-hour peak load, but that amount does not count toward net metering; Electrical corporations can own half (max of 2%), which may be included in the rate base. Others may own the other half (max of 2%);
   D. Community Solar facilities are not eligible for tax credits provided in the petition;
   E. Commission sets a community solar rate, not less than electrical corporation's average retail rate;
   F. Value of allocated solar bill credits reduces customer's total bill;
   G. The current value-of-community-solar rate may be locked in for 20 years beginning when a community solar facility is put in operation.

3. Tax credit
   A. 35% tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, etc.
   B. Total value of eligible credits shall not exceed 1% of the value of electricity used in Missouri[1] – defined as revenue from sale of electricity in Missouri; or tax credits are capped at$50 million each year. Unused credits carryover year to year until June 30, 2022
   C. No tax credits after June 30, 2022, or after 1000 megawatts of new generation have been installed using the tax credits.

**Burdens on State Government**

In determining the fiscal impact of each petition, it is generally reasonable to assume that the various statutory changes in the petitions will have independent fiscal impacts. The reasonableness of this assumption is demonstrated by the various iterations of the petitions themselves, some of which propose tax credits with no proposed changes to the Net Metering and Easy Connection Act. *See* Petitions 178 and 190.

[1] The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. *See* U.S. Energy Information Administration – Independent Statistics and Analysis.



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*i. Decreased tax collection due to changes to net metering – Initiative Petitions 173-177 and 179-180*

Raising the net metering cap from the current 5% of peak hour demand to 7% of peak hour demand will, conservatively, result in a 2% decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase from 5% to 7%. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in the petition provides a strong financial incentive to solar or wind energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[2], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, the net-metering cap applies to single-hour peak load, determined yearly, which means that the cap is a higher percentage of the single hour average load. This fact means that the total increase in generation is higher than it appears. Fourth, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[3] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by at least $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities. The additional decreases in sales tax revenues from municipal electric utilities and, in petition 177, from electric cooperatives, are unknown but substantial.[4]

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 173, 175-177, 180, and 190*

Community solar facilities are in addition to net metering and represent an additional capacity amounting to 4% of each electrical corporation's single-hour peak load. Energy

[2] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[3] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.
[4] Assuming $7.6 billion in electricity is sold in Missouri per year (the actual 2014 figure), a 2% decrease will decrease overall state sales tax revenues by 6.4 million annually, but some petitions enact net metering changes on rural electric cooperatives, and some do not.



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generated from the community solar facility is allocated pro rata by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. There is the potential for such bill credits to decrease overall electrical bills by more than 4% because the "bill credits" are calculated using a "value of solar rate" which is at least as high as the retail rate for electricity, but may be higher. If, for example, solar energy received a 50% rate premium due to its benefits, the amount of bill credits would increase and sales would decrease by more than the 6%, rather than 4% figure. Half of these community solar facilities—the half not owned by electrical corporations—may be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoid property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership model, similar to net metering, because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%).

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by at least $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities.

*iii. Tax credits – Initiative Petitions 173-180 and 190*

*a. Decreased tax collections due to tax credits – Credits capped at 1% of value of electricity sold in Missouri, annually ($76 million based on 2014 figures) – Initiative Petitions 173, 175, 177-180, and 190*

According to 2014 figures, Missouri retail customers bought 7.6 billion dollars worth of electricity in 2014. Accordingly, it is reasonable for fiscal note purposes to estimate that Missouri retail customer will continue to buy the same value of electricity. Electricity rates have historically risen over time, but the increasing price of electricity may be approximately the same over the relevant period as the decreases in quantity as a result of the initiative petitions. Accordingly, the 35% tax credits in these petitions will directly result in a loss of state income of approximately $76 million, annually.

*b. Decreased tax collections due to tax credits – Credits capped at $50 million annually – Initiative Petitions 174 and 176*

Similar to the loss described in subpart a, the 35% tax credits in these petitions will directly result in a loss of state income of approximately $50 million, annually.



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*c. Cost of eroding tax base due to new energy generation – Initiative Petitions 173-180 and 190*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer-generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in Missouri. Accordingly, if the tax credits were phased out due to reaching the 1000 MWh/1,000,000 kWh maximum on new electricity generation, new production from such tax credits would produce approximately 1,825,000 MWh per year, also expressed as 1,825,000,000 KWh, or 1,825 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour [5], this new production is valued at $182,500,000.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

In practice, the 1 gigawatt limit on new customer-generated energy production may never be met. Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[6] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for renewable energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology. The petition itself limits tax credits to a maximum of $3.00 per watt, but market forces should make rates in Missouri similar to those in other states, at or around $1.77.

For Initiative Petitions 173, 175, 177-180, and 190, the total, annual loss to state governments *due to the tax credits* is 76.9 million to 81.7 million over the tax credit period. There is an annual loss in perpetuity after the tax credit period of 5.7 to 7.7 million, depending on how much new customer-generation is developed. See attached table.

For Initiative Petitions 174 and 176, the total, annual loss to state governments *due to the tax credits* is 50.6 million to 53.7 million over the tax credit period. There is an annual loss in

[5] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.

[6] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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perpetuity after the tax credit period of 3.7 to 7.7 million, depending on how much new customer-generation is developed. *See* attached table.

**Burdens on Local Governments**

Local governments face losses in revenue from the various petition provisions that are similar to those faced by state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 173-177 and 179-180*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 173, 175-177, 180, and 190*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*iii. Tax credits – Cost of eroding tax base due to new energy generation – Initiative Petitions 173-180 and 190*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petitions may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to



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local governments, all of which may be reduced or discontinued if the initiative petitions are enacted.

The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[7] Based on this estimate, the population-weighted combined average local sales tax is 3.585%. Assuming the tax credits sunset due to reaching the 1 Gigawatt production cap, the yearly loss to local governments from lost sales tax from the tax credit is $6,541,578. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,123,540.

For petitions 173, 175, 177-180, and 190, the loss to local governments due to the tax credits is at least $40.4 million over the tax credit period, then $11.5 to $15.7 million annually. For initiative petitions 174 and 176, the loss to local governments due to the tax credits is at least $26.6 million over the tax credit period, then $7.5 to $15.7 million annually.

**In Conclusion**

The initiative petitions will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petitions, such as increases in net metering and community solar. The total tax burden on state government imposed by the petitions range from $313 million over the tax credit period, with $3.7 to $7.7 million in lost revenues in perpetuity, to approximately $498.6 million over the tax credit period,[8] with $9.5 million to 11.5 million in lost revenues in perpetuity thereafter.

Sincerely,

Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues

[7] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.
[8] $475.8 million + [(1.9 million + 1.9 million)*6 years]

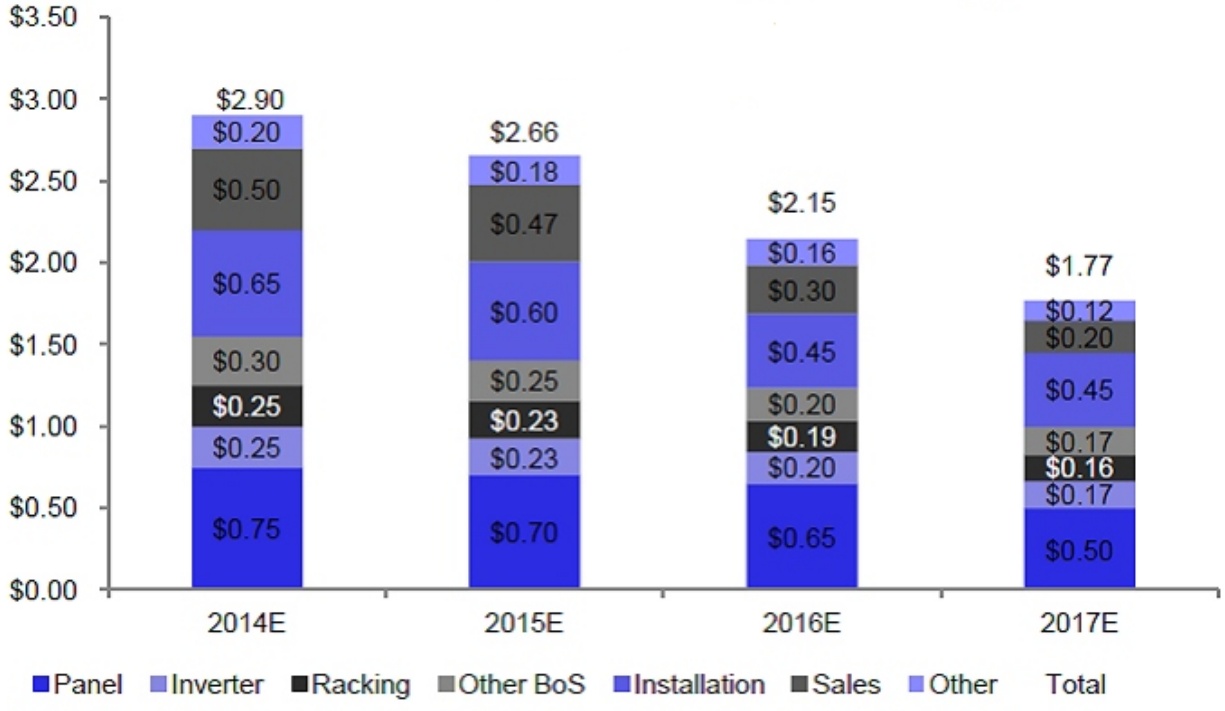


1100 Main Street, Suite 2700 Kansas City, MO 64105 ph 816.256.3181 www.gravesgarrett.com

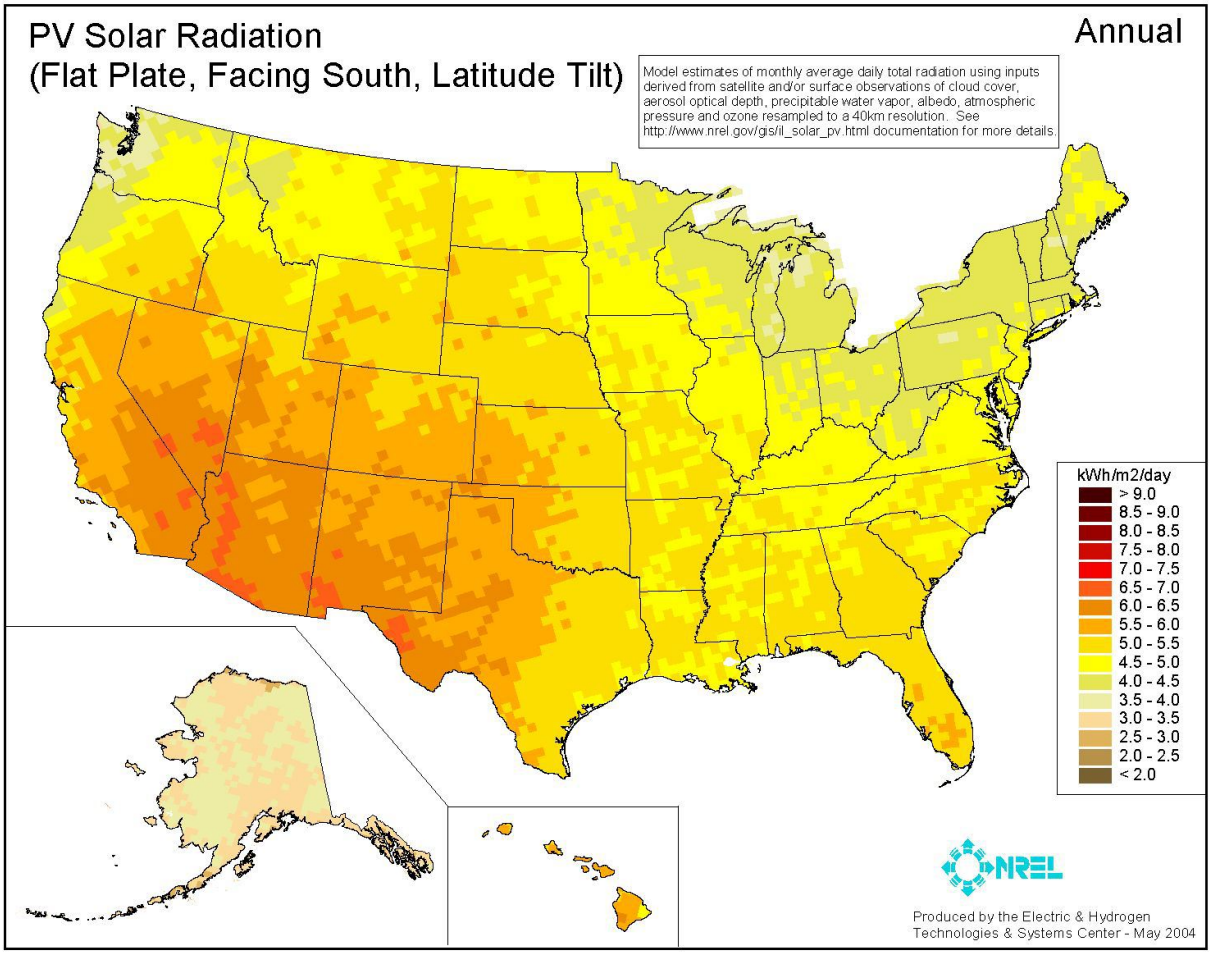
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0

Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017

https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm



National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Brightergy Renewable Tax Credit Fiscal Analysis (1% Value of Electricity Cap) - Initiative Petitions 173, 175, 177-180, and 190**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 122.68 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $76,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 223,854 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $76,000,000 | 122.68 | 122.68 | 223,854 | $100 | $22,385,441 | 4.225% | $945,785 | $76,945,785 | 3.585% | $802,518 | 5.000% | $1,119,272 | $1,921,790 |
| 2018 | $76,000,000 | 122.68 | 245.36 | 447,709 | $100 | $44,770,882 | 4.225% | $1,891,570 | $77,891,570 | 3.585% | $1,605,036 | 5.000% | $2,238,544 | $3,843,580 |
| 2019 | $76,000,000 | 122.68 | 368.04 | 671,563 | $100 | $67,156,323 | 4.225% | $2,837,355 | $78,837,355 | 3.585% | $2,407,554 | 5.000% | $3,357,816 | $5,765,370 |
| 2020 | $76,000,000 | 122.68 | 490.72 | 895,418 | $100 | $89,541,765 | 4.225% | $3,783,140 | $79,783,140 | 3.585% | $3,210,072 | 5.000% | $4,477,088 | $7,687,160 |
| 2021 | $76,000,000 | 122.68 | 613.40 | 1,119,272 | $100 | $111,927,206 | 4.225% | $4,728,924 | $80,728,924 | 3.585% | $4,012,590 | 5.000% | $5,596,360 | $9,608,951 |
| 2022 | $76,000,000 | 122.68 | 736.08 | 1,343,126 | $100 | $134,312,647 | 4.225% | $5,674,709 | $81,674,709 | 3.585% | $4,815,108 | 5.000% | $6,715,632 | $11,530,741 |
| | | | | | | | | **Total State Tax Burden** | **$475,861,483** | | **Total Local Tax Burden (Sales + Franchise)** | | **$40,357,593** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

**Brightergy Renewable Tax Credit Fiscal Analysis (50 Million Tax Credit Cap) - Initiative Petitions 174 and 176**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 80.71 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $50,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 147,273 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $50,000,000 | 80.71 | 80.71 | 147,273 | $100 | $14,727,264 | 4.225% | $622,227 | $50,622,227 | 3.585% | $527,972 | 5.000% | $736,363 | $1,264,336 |
| 2018 | $50,000,000 | 80.71 | 161.42 | 294,545 | $100 | $29,454,528 | 4.225% | $1,244,454 | $51,244,454 | 3.585% | $1,055,945 | 5.000% | $1,472,726 | $2,528,671 |
| 2019 | $50,000,000 | 80.71 | 242.13 | 441,818 | $100 | $44,181,792 | 4.225% | $1,866,681 | $51,866,681 | 3.585% | $1,583,917 | 5.000% | $2,209,090 | $3,793,007 |
| 2020 | $50,000,000 | 80.71 | 322.84 | 589,091 | $100 | $58,909,056 | 4.225% | $2,488,908 | $52,488,908 | 3.585% | $2,111,890 | 5.000% | $2,945,453 | $5,057,342 |
| 2021 | $50,000,000 | 80.71 | 403.55 | 736,363 | $100 | $73,636,320 | 4.225% | $3,111,135 | $53,111,135 | 3.585% | $2,639,862 | 5.000% | $3,681,816 | $6,321,678 |
| 2022 | $50,000,000 | 80.71 | 484.26 | 883,636 | $100 | $88,363,584 | 4.225% | $3,733,361 | $53,733,361 | 3.585% | $3,167,834 | 5.000% | $4,418,179 | $7,586,014 |
| | | | | | | | | **Total State Tax Burden** | **$313,066,765** | | **Total Local Tax Burden (Sales + Franchise)** | | **$26,551,048** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

**Brent Stewart** provided the following information as an opponent of this initiative petition.

**Association of Missouri Electric Cooperatives**

2722 East McCarty Street, P.O. Box 1645
Jefferson City, Missouri 65102
Telephone: (573) 635-6857
Fax: (573) 635-2314
www.amec.coop

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DEC 28 2015
STATE AUDITORS OFFICE

December 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: Fiscal Note in Initiative Petitions 2016-173 through 2016-190

To Whom It May Concern:

The Association of Missouri Electric Cooperatives (AMEC), representing the state's forty-seven member-owned, nonprofit rural electric cooperatives that serve close to one million electric consumers, respectfully submit the following brief comments to assist in your preparation of the fiscal notes on the above-mentioned initiative petitions.

All these petitions, in one way or another, involve solar and renewable energy mandates. The practical effect of each, to one extent or another, is to encourage consumers to substitute self-generation for traditional electric service, thereby creating an unfair electric rate subsidy in favor of those who can afford to install their own generation at the expense of the majority of the other consumers who cannot.

Missouri's forty distribution (retail level) cooperatives serve a wide variety of governmental entities throughout rural Missouri, including state facilities (e.g. prisons), local government facilities, hospitals, schools, rural water districts, regional sewer districts and others. To the extent these entities cannot afford to install their own generation, which most cannot, they necessarily will be forced to pay higher rates if these initiative petitions are enacted. Unfortunately, it is impossible without more time for AMEC to identify all those government-related entities and facilities or estimate with any accuracy the adverse fiscal impact. However, it is clear that even a modest rate increase necessarily will have a significant adverse fiscal impact on governmental entities, in millions of dollars, especially those in the primarily less affluent rural areas served by Missouri's nonprofit electric cooperatives.

Respectfully submitted,

Brent Stewart

Brent Stewart
AMEC Counsel

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State government revenue may decrease up to $456 million during the tax credit period with approximately $1 million annual increased operating costs. Local governmental entities estimate $23.9 million in annual electricity sales reductions. Other resulting economic activity will have an unknown impact on state and local governments.

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DEC 17 2015
STATE AUDITORS OFFICE

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

December 17, 2015

16-174

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 11 (2016-174)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 16, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-174

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
DEC 16 PM 4:14
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-174

*Be it enacted by the people of the state of Missouri:*

Section A: Section 386.890 is amended and sections 386.860, 386.900 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.900 to 386.1000 shall be known and cited as the "Clean Energy Independence and Investment Act of 2016".

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any [municipal electric utility,] rural electric cooperative as provided in chapter 394[, or electrical corporation as provided in this chapter];

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of natural resources;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical

16-174

energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any [municipal utility, electrical corporation regulated under this chapter, or] rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which [the commission for a public utility or] the governing body for the supplier[other electric utilities] may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices

for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) [For any rural electric cooperative under chapter 394, or municipal utility, u]Upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, [the commission for public utilities and] the governing body for the supplier[other utilities] shall, by rule or equivalent formal action[ by each respective governing body]:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. [Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated s]Suppliers shall submit [the same] an annual net metering report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. [The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10.] The governing body of a supplier [rural electric cooperative or municipal utility] shall[, within nine months of January 1, 2008,] adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process

shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

[11.] 10. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

[12.] 11. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

[13.] 12. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

[14.] 13. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

[15.] 14. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

[16.] 15. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

[17.] 16. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.900. 1. This section shall be known and may be cited as the "Enhanced Net Metering and Easy Connection Act". It shall be the policy of the state to facilitate the use of customer-sited or controlled clean energy resources.

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal utility or electrical corporation as provided in this chapter;

(2) "Clean energy resource", electrical energy produced from:

(a) Wind;

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(b) Solar thermal sources;

(c) Hydroelectric sources;

(d) Photovoltaic cells and panels;

(e) Fuel cells using hydrogen produced by a source listed in paragraphs (a) through (d) of this subdivision; or

(f) Other sources of energy that become available after January 1, 2017, and are certified as clean by the department.

(3) "Commission", the public service commission of the state of Missouri;

(4) "Customer-generator", the owner, lessee or operator of a qualified electric energy generation unit which:

(a) Is powered by a clean energy resource or micro CHP;

(b) Has an electrical generating system with a capacity of not more than five hundred kilowatts, measured in alternating current;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(5) "Department", the department of natural resources;

(6) "Micro CHP", combined heat and power or cogeneration systems that simultaneously generate electricity and thermal energy in a single integrated system with a nameplate rated capacity equal to or lower than 130 kilowatts, measured in alternating current;

(7) "Net excess energy", the amount of energy expressed in kilowatt hours delivered by a customer-generator to a supplier that exceeds the amount of energy delivered by the supplier to the customer-generator over a single billing period;

(8) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(9) "Retail electric supplier" or "supplier", any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals seven percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for a municipal utility may increase the total rated generating capacity of net metering systems to an amount above seven percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds two percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the retail electric supplier shall pay for the costs to purchase and install the necessary additional equipment, unless the commission or governing body makes a determination that the customer-generator is the only customer benefiting from the additional distribution equipment. If the commission determines the customer-generator is the only customer benefiting, such customer-generator shall reimburse the electric supplier for reasonably incurred equipment expenses. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subdivision (2) of subsection 3 of this section and all net excess energy shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent months;

(4) Any net excess energy credits carried forward under subdivision (3) of this subsection shall expire without any compensation at the earlier of either the next subsequent March billing period or when the customer-generator disconnects service or otherwise terminates the net metering relationship with the supplier;

(5) For any municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (4) of subsection 2 of this section to the

distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems one hundred kilowatts or less and within sixty days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application. Retail electric suppliers shall interconnect qualified energy generation units within thirty days of being notified the generation unit is installed and meets the requirements of this section.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for notifying the retail electric supplier.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall by June 1, 2017 promulgate any rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after June 1, 2017, shall be invalid and void.

10. The governing body of a municipal utility shall by June 1, 2017 adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

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12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If

the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

2. The department of economic development shall certify when the tax credits provided in this section have resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. The total amount of clean energy tax credits provided in this section allocated annually shall not exceed fifty million dollars in the aggregate per fiscal year. The aggregate amount of the clean energy resources tax credits available annually as specified in this section shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. If the amount of the clean energy tax credits offered in any fiscal year, other than 2017, is less than the annual statutory cap contained in this section then the cap for the following fiscal year shall be increased by that amount. The carryover of any unused clean energy tax credit authority shall extend until it is used. The provisions of this section notwithstanding, a claimant may only apply for and receive the credit authorized by this section for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

4. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

5. To obtain approval for tax credits allowed under this section, a taxpayer shall submit an initial application for tax credits to the department of economic development. Each application shall be prioritized for review and approval, in the order of the date on which the application was received, with the oldest received date receiving priority. Applications received on the same day shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. Such application deposit shall be refunded at completion of the project or if the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. The taxpayer may request a refund of the application deposit; however, any refunds of the deposit for an application shall cause such application to lose its spot in the priority queue. If the taxpayer wants to maintain its position in the priority queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

6. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

7. Disapproved applications shall lose priority in the review process. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision of its intent to disapprove and to remove such application. The taxpayer shall have one opportunity, not to exceed ten days of notification of intent to disapprove, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

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8. If the department of economic development deems the application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 5 of this section.

9. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for initial approval shall be notified by the department of economic development that the maximum amount of credits authorized have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available due to the rescission of approvals or reserved for a future fiscal year.

10. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial approval for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

11. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1 and 3 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

12. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and

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expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by letter and shall issue, to the taxpayer, a tax credit certificate within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

13. If the amount of the credit under subsection 12 of this section exceeds the taxpayer's total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. The state tax credit shall not be subject to recapture provisions. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

14. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsections 8 or 9 of this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

15. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-174)**

## Subject

Initiative petition from Andy Zellers regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received December 17, 2015)

## Date

January 6, 2016

## Description

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Public Service Commission.**

**Mark R. Reading** provided information to the State Auditor's Office as a proponent of this initiative petition.

**Edward D, Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Brent Stewart** of Association of Missouri Electric Cooperatives provided information to the State Auditor's Office as an opponent of this initiative petition.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no known fiscal impact on their department.

Officials from the **Department of Economic Development** (DED) provided the following information:

The Division of Business and Community Services (BCS) indicated the proposed legislation adds Section 386.860, amends Section 386.890, and adds Sections 386.900, and 386.1000, RSMo.

- 386.860
  - States policy of the state to value clean energy, energy price stability and energy independence. Says Sections 386.900 to 386.1000, RSMo, will be the Clean Energy Independence and Investment Act of 2016.
- 386.890
  - .10 – Removes "rural electric coop or municipal utility" and changes it to "supplier". Removes "within nine months of January 1, 2008" as date after which the supplier shall adopt policies establishing a simple contract to be used for interconnection and net metering.
- 386.900
  - .3 – requires net metering be available to customer-generators on first-come first-served basis until total capacity equals 7% of the utility's single-hour peak load during the previous year.
- 386.1000
  - .1 – beginning January 1, 2016 creates “Clean Energy Tax Credit” for installation of a clean energy resource project.
    - Amount total is 35% of costs.
    - The max tax credit is limited to $3K/watt produced.
  - .2 – DED shall certify when the tax credits have resulted in the installation of one thousand megawatts of additional clean energy and notify the governor, general assembly, public, and applicants that 1000 megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional credits shall sunset.
  - .3 – annual max of credits is $50 million per fiscal year. A claimant may only apply for and receive credit for up to 200 kilowatts per project.

- .4 – creates the Clean Energy Fund. DED shall administer the fund. Monies are to be used for purposes authorized by this section.
- .5 – describes process to get tax credits. Submit application to DED. DED reviews and approves. Must pay 2 cent/watt application deposit into Clean Energy Fund that is refunded at completion or if DED disapproves the project. Once per quarter DED shall publish a list identifying the amount of credits receiving initial and final approval.
- .6 – DED must review applications within 30 days.

DED BCS estimates a fiscal impact to the state of negative $50 million per fiscal year beginning January 1, 2016.

The Division of Energy (DE) indicated this petition will result in increased operating expenses of $723,522 for fiscal year 2017, $792,438 for fiscal year 2018, and $800,141 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Section 386.900 – Enhanced Net Metering and Easy Connection Act

The Division of Energy (DE) participates in PSC regulatory cases to evaluate issues from a formal state policy and planning perspective consistent with its interests in clean, affordable, abundant energy, and its efficient use. DE is active in cases before the PSC related to energy efficiency and renewable energy. As such, DE assumes it would be involved in the implementation of this provision that modifies the existing net metering and interconnection requirements for regulated electric utilities. It is assumed there would be a rulemaking docket to set the process and details associated with this proposal. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where enhanced net metering provisions are considered.

Section 386.1000 – Clean Energy Tax Credit

DE is required to administer the Clean Energy Fund created by this section and promulgate rules to implement the Clean Energy Tax Credit. The proposal requires DE to receive applications and deposits, review and initially approve applications and required information within 30 days, review final approval applications, issue certificates and provide notifications, refund deposits for completed and disapproved projects, at least quarterly publish a list of the amount of tax credits initially and finally approved for each fiscal year and amounts reserved for future years, notify individual applicants of disapproved applications and approval within specified timeframes, notify applicants if the maximum amount of credits authorized have been allocated for the fiscal year, and grant three-month extensions if needed for project completion with additional deposit payments.

**Long-range implications**

Fiscal impacts associated with the Clean Energy Tax Credits could continue until June 30, 2022. The authorization for the tax credit would sunset sooner if the 1,000 megawatt limit is reached. Economic benefits associated with construction of solar facilities would also have long-range implications.

**Assumptions and methodology used in arriving at state fiscal impact**

Section 386.900 – Enhanced Net Metering and Easy Connection Act
For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

Section 386.1000 – Clean Energy Tax Credit
If all tax credits were used up to the cap of $50 million per year, and with consideration to the estimated cost and size of the projects, it is estimated there would be 4,718 residential project applications and 271 commercial project applications submitted for tax credit reviews (Source: Mark Reading). DE assumes that it would take approximately 2 hours each to do the initial review/approval of each application and another 2 hours to do the review and issuance of a certification after a project is completed for residential projects. Each of these would include clerical time for input/issuing letters/filing, etc. For larger commercial projects, an estimated 8 hours is anticipated for each of these two steps. See response above for detailed tasks required by the proposal.

18,872 hours for residential applications
4,336 hours for commercial applications
23,208 hours total

DE assumes it will need a total of 11 full-time employees to implement the clean energy tax credit and community solar provisions of this proposal as follows:
6 – Energy Specialist I/II
2 – Energy Engineer II
1 – Energy Engineer III
2 – Administrative Office Support Assistant (AOSA)

- Energy Specialist I/II - Professional level staff to review the renewable energy project applications and to complete project evaluation activities.
- Energy Engineer II/III - Professional staff with expertise in engineering aspects of renewable energy projects to review the technical aspects of the projects, review of projects related to the Renewable Energy Standard and Renewable Energy Certificates and familiar with environmental impacts of renewable electric generation.
- AOSA - Staff to assist with the administrative requirements of the reviews such as drafting and sending communication to applicants, maintaining the database of applicants, and tracking status of applications.

DE also assumes that the Department of Economic Development's existing tax credit database will be used to track the applications. Some IT costs to generate the necessary reports are estimated.

Note that although an application deposit is required to be paid to DE and deposited in the Clean Energy Fund, because the deposit must be refunded to the applicant upon completion of the project or if the project is disapproved, DE assumes it is unable to use these funds to administer the proposal. Therefore, General Revenue funds are requested. Based on the estimated number of residential and commercial projects, application deposits at 2 cents/watt to the Clean Energy Fund would total approximately $1.7 million/year.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated the responsibilities of this proposal appear to fall under the Division of Energy. With Executive Order 13-03 the Division of Energy was transferred from the Missouri Department of Natural Resources to the Missouri Department of Economic Development, by Type I transfer. Therefore, they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** estimate this petition will result in increased operating expenses of $243,282 for fiscal year 2017, $181,985 for fiscal year 2018, and $183,470 for fiscal year 2019.

The legislation creates a negative impact of up to $50 million per fiscal year to total state revenue by creating a new tax credit.

**Section 386.1000**
The provisions of this section authorize the issuance of a clean energy tax credit to taxpayers incurring costs for the installation of a clean energy resource project. The

taxpayer may claim 35 percent of the total cost of the project. The aggregate amount of tax credits cannot exceed $50 million per fiscal year, which will be increased of decreased each year by the Consumer Price Index.

**Section 386.1000.13**
The department suggests changing the provisions pertaining to the transfer of the tax to the Department of Revenue as this is currently the department's responsibility based on a previously issued executive order.

**Administrative Impact:**
**Personal Tax:**
Personal Tax requires one (1) Revenue Processing Technician I (Range 10, Step L) for every 6,000 credits claimed.

**Corporate Tax:**
Corporate Tax requires three (3) Revenue Processing Technicians I (Range 10, Step L) for every 4,000 credits redeemed, 4,000 credits transferred, and for every 520 SB 1099 compliance mailings and correspondence.

**Integrated Tax System:**
The integrated tax system incurs additional costs of $43,680 to implement the provisions of this petition.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of West Plains** indicated the 86 cities with municipal electric utilities depend on the revenues of this service for their citizen/owners to off-set the cost of electric service and operation to citizens as well as to support the activities of city government.

Based primarily on data from the Federal Department of Energy's (DOE) Energy Information Administration (EIA) Table 6 plus additional data gleaned from the National Renewable Energy Lab's Photovoltaic Calculator and the Missouri Association of Municipal Utilities for peak loads in 73 cities, they have determined that municipalities in Missouri face a loss of at least $23.9 million in revenue should this initiative petition become law. The impact alone to the City of West Plains appears to be $352,000 annually, or over 6.5% of their annual electric utility revenue budget. This figure does not

reflect any additional costs they will be required to incur for required pleadings before the state Public Service Commission or local compliance costs for other requirements contained in this proposal.

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art. X, Sec. 16) that reduces income or increases costs without "full state financing," they anticipate that local government costs would be reflected in the final state cost when the fiscal note is completed. Necessary litigation costs incurred for Mo. Const. Art. X, Sec. 16 and other potential legal inconsistencies are unknown.

Methodology for City Loss Calculation
Renewable Energy Initiative Petitions

| **Assumptions and Methods** | **Information Source** |
|---|---|
| 1. A combined federal and state tax credit of 60% of installation costs, would prompt city customers to achieve the 7% capacity cap in a reasonable period of time | Proposed Legislation |
| 2. 1 kW solar panel at this latitude would generate 1350 kWHr per year | National Renewable Energy Lab's PV Calculator |
| 3. Annual Peaks | Municipal reports to the Missouri Association of Municipal Utilities |
| 4. Current City Electric Rates | DOE EIA Database (Table 6 for 2010) |

5. Calculation:
   Annual Peak
   7% of Annual Peak for Capacity Cap
   Total Solar Generation = (Capacity Cap * 1350 kWHrs)*1000
   City's lost revenue: City rate * Solar Generation

6. State calculation based on the sum of "Assumption 5" calculations for
   73 reporting cities (out of 86)
      Total ≥ $23.8 million

**Calculation for City of West Plains**

| | |
|---|---|
| 44.453 | Annual Peak (MW) |
| 3.11171 | 7% of Annual Peak for Capacity Cap MW |
| 4,200,809 | Total Solar Generation (KWHR) |
| 8.38 | City Rate (cents per kWHR) |
| $352,028 | Lost Revenue |

Officials from **University of Missouri** indicated they have not seen cost impact studies on this initiative from their electric utility suppliers, but they do not believe this will have a significant impact on their university.

Officials from the **Public Service Commission** (PSC) indicated without the benefit of the rulemaking process to explore potential issues and clearly delineate parameters, the first year clean energy tax credit cap would be $50 million per fiscal year. For subsequent years, this amount will change by the Consumer Price Index and any unused portion. Some versions of the petitions state unused portions will carry over to subsequent years for a maximum cap of $70 million in a fiscal year. Other versions of the petitions state the carryover of unused clean energy tax credits shall extend to subsequent years until used.

Sections 386.890 and 386.900, RSMo, define "department" as the department of natural resources. "Department" should be defined as the department of economic development, division of energy.

Sections 386.890 and 386.900, RSMo, both use the terms "Retail electric supplier" or "supplier", but in Section 386.890, RSMo, a "retail electric supplier" or "supplier" is any rural electric cooperative under Chapter 394, RSMo, that provides retail electric service in this state, and in Section 386.900, RSMo, a "retail electric supplier" or "supplier" is any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state. Although the terms are in different statutes, it may be confusing to define the same term in a different manner. It may be clearer to use different terms applicable to the respective intent. Further since Section 386.890, RSMo, is only applicable to rural electric cooperatives, it may make sense to move the entire provision to Chapter 394, RSMo.

Sections 386.890 and 386.900, RSMo, use the term "wholesale generator". The PSC respectfully suggests this term be defined.

Section 386.900, RSMo, uses terms such as "commission-regulated supplier" and "public utilities" to describe suppliers that are subject to PSC jurisdiction. The PSC respectfully suggests the terms be used consistently.

Section 386.900. RSMo, requires the PSC to promulgate rules by June 1, 2017. The PSC respectfully suggests these dates may be aggressive for final rules to be effective.

Section 386.900.6.(2), RSMo, references "subsection 4 of this section". This appears to be an inaccurate cross-reference as there is no subsection 4 of the section.

Section 386.900.12, RSMo, says the estimated generating capacity of all net metering systems shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate, but the renewable energy portfolio deals with "energy" not "capacity".

Section 386.1000, RSMo, discusses a "clean energy tax credit". It is not clear why the tax credit is in the PSC statute and not in a tax-related statute.

**Mark R. Reading** provided the following information as a proponent of this initiative petition.

Submitted by:

_____

Mark R. Reading
2604 Lakeland Drive
Jefferson City, MO 65109
(573) 694-6828
*Primary Contact Person*

**Clean Energy Independence and Investment Act of 2016 - Version 11**
**Sec. of State # 174**

**Proposed Statement of Fiscal Impact**
**for Clean Energy Independence and Investment Act of 2016 - Version 11**
**Sec. of State # 174**

**Fiscal Impact Information Submitted Pursuant to Section 23.140.2**

The amendment's estimated impact decreases state revenue between $21 to $63 million depending upon the speed of up to $216 million in additional clean energy project construction and implementation by the Department of Economic Development, residential homeowners, and businesses. Local revenue is estimated to grow between $1.1 to $3.3 million.

| ESTIMATED NET EFFECT ON STATE FUNDS | | |
|---|---|---|
| **Fund Affected** | **FY 2017** | **FY 2018** |
| **General Revenue** | $0 | From ($22,196,429) to ($67,069,619) |
| | | |
| **Total Estimated Net Effect on All State Funds** | $0 | From ($20,974,558) to ($63,381,207) |
| **ESTIMATED NET EFFECT ON LOCAL FUNDS** | | |
| Local Funds | $0 | From $1,108,571 to $3,349,704 |
| | | |
| **Total Estimated Net Effect on All Local Funds** | $0 | From $1,108,571 to $3,349,704 |

**SUMMARY OF VERSIONS OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT**

Nine versions of the Clean Energy Independence and Investment Act of 2016 have been submitted for review. A summary of which topics are in each version is provided below.

**CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT OF 2016**
**SUMMARY OF VERSIONS**

| Petition version | 386.870 - Electric vehicle | 386.890 - Net metering | 386.900 - Enhanced net metering | 386.910 - Community Solar | 386.1000 - Tax credits |
|---|---|---|---|---|---|
| | | | | | |
| **1% Electric Versions** | | | | | |
| Version 10 | N/A | X | X | X | X |
| Version 12 | X | X | X | X | X |
| Version 14 | X | Deletes | X | X | X |
| Version 15 | N/A | N/A | N/A | N/A | X |
| Version 16 | X | N/A | N/A | X | X |
| Version 17 | X | X | X | N/A | X |
| Version 18 | N/A | X | X | X | X |
| | | | | | |
| **$50 million cap Versions** | | | | | |
| Version 11 | N/A | X | X | N/A | X |
| Version 13 | X | X | X | X | X |

## ANALYSIS OF FISCAL IMPACT OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT

The fiscal impact analysis contained herein focuses on estimating the fee and tax revenue resulting from the statutory changes proposed in the initiative petition. Table 1 summarizes the revenue estimated by source and by fiscal year. Page and Table numbers are provided to help readers find specific subjects.

**Table 1**
**Summary of Fiscal Impact by Fund**

| Page # | Table # | Purpose | FY 2017 | FY 2018 - low range | FY 2018 - high range | Revenue Type |
|---|---|---|---|---|---|---|
| 9-11 | Table 9 | Tax credit | $0 | ($25,000,000) | ($75,541,003) | Income |
| 12-14 | Table 14 | Taxes from clean energy tax credit construction | $0 | $2,803,571 | $8,471,384 | Various |
| 14-16 | Table 17 | Taxes from community solar construction | N/A | N/A | N/A | Various |
| | | subtotal General Revenue Fund | $0 | ($22,196,429) | ($67,069,619) | |
| | | | | | | |
| 5-11 | Table 11 | Clean Energy Fund | $0 | $550,442 | $1,659,596 | Application deposit |
| | | | | | | |
| 12-14 | Table 14 | Prop C sales tax - clean energy | $0 | $285,714 | $863,326 | Sales tax |
| 14-16 | Table 17 | Prop C sales tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Prop C | $0 | $285,714 | $863,326 | |
| | | | | | | |
| 12-14 | Table 14 | Conservation sales tax - clean energy | $0 | $35,714 | $107,916 | Sales tax |
| 14-16 | Table 17 | Conservation sales tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Conservation | $0 | $35,714 | $107,916 | |
| | | | | | | |
| 12-14 | Table 14 | Parks and Soils sales tax - clean energy | $0 | $28,571 | $86,333 | Sales tax |
| 14-16 | Table 17 | Parks and Soils sales tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Parks and Soils | $0 | $28,571 | $86,333 | |
| | | | | | | |
| | | subtotal Other State Funds | $0 | $1,221,871 | $3,688,411 | |
| | | | | | | |
| | | subtotal all state funds | $0 | ($20,974,558) | ($63,381,207) | |
| | | | | | | |
| 12-14 | Table 14 | Local Sales Tax - clean energy | $0 | $1,108,571 | $3,349,704 | Sales tax |
| 14-16 | Table 17 | Local Sales Tax - community solar | N/A | N/A | N/A | Sales tax |
| | | subtotal Local Funds | $0 | $1,108,571 | $3,349,704 | |
| | | Grand Total State and Local | $0 | ($19,865,987) | ($60,031,503) | |

**Clean Energy tax credits**

The proposal creates a clean energy tax credit in Chapter 386 RSMo. The annual level of tax credits shall be $50 million at the beginning of the program. The proposal also provides that the tax credit cap shall be increased or decreased each year by the percentage increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency.

Table 2 shows the CPI values reported for December from 2000 to 2014. The annual average growth over the period was 2.16%. Recent CPI increases have been lower than the early part of the series due to the most recent recession and concerted action by the Federal Reserve to keep interest rates low. The Federal Reserve is expected to raise interest rates in the near future. This is likely to raise CPI inflation. To ensure a better prediction of future anticipated CPI the longer time period is used to determine the average annual increase.

**Table 2**
**Consumer Price Index (CPI-U) History**
**December Reported**

| Year | CPI value | Increase | % increase |
|---|---|---|---|
| 2000 | 174.000 | | |
| 2001 | 176.700 | 2.700 | 1.6% |
| 2002 | 180.900 | 4.200 | 2.4% |
| 2003 | 184.300 | 3.400 | 1.9% |
| 2004 | 190.300 | 6.000 | 3.3% |
| 2005 | 196.800 | 6.500 | 3.4% |
| 2006 | 201.800 | 5.000 | 2.5% |
| 2007 | 210.036 | 8.236 | 4.1% |
| 2008 | 210.228 | 0.192 | 0.1% |
| 2009 | 215.949 | 5.721 | 2.7% |
| 2010 | 219.179 | 3.230 | 1.5% |
| 2011 | 225.672 | 6.493 | 3.0% |
| 2012 | 229.601 | 3.929 | 1.7% |
| 2013 | 233.049 | 3.448 | 1.5% |
| 2014 | 234.812 | 1.763 | 0.8% |
| | Avg. annual increase | | 2.16% |

Table 3 uses the average annual growth rate for 2000 to 2014 to project the tax credit cap into the future. The election date of November 2016 on the proposal is in the State's FY 2017. Therefore, FY 2017 is the base year for the $50 million clean energy tax credit cap. The clean energy tax credits cap is estimated at $50 million for FY 2017, $51.1 million for FY 2018 and $52.2 million for FY 2019.

**Table 3**
**Clean Energy Tax Credit Estimate of Cap**

| Fiscal Year | Clean Energy Tax Credit Cap |
|---|---|
| FY 2017 | $50,000,000 |
| FY 2018 | $51,082,005 |
| FY 2019 | $52,187,425 |

For purposes of the fiscal note the State Auditor's office asks that estimates be provided for the first two fiscal years of implementation which are FY 2017 and FY 2018 since the provisions of the proposal would

go into effect in December 2016. Almost all taxpayers file their taxes on the April 15th deadline. Therefore, CY 2016 taxes would be due on April 15, 2017 which is in FY 2017.

The provisions of the act will go into effect in December 2016. Paragraph 11 of the proposed section 386.1000 states that any taxpayer verified by the Department of Economic Development to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with the provisions shall be deemed eligible for the tax credit. This allows for the Department of Economic Development to include projects in 2016 before its processes are in place. Paragraph 15 of the proposed section 386.1000 provides that the Department of Economic Development shall issue rules necessary to administer the act. In addition, paragraph 8 gives the Department of Economic Development 45 days to notify an applicant of approval after the application is submitted.

Issuing rules is at best a months long process. The 45 day processing time allowed for any completed application filed after the rules are adopted makes it very unlikely that the Department of Economic Development will issue any FY 2017 tax credits before April 15, 2017 that would affect the taxpayers initial tax filing and reduce taxes paid during FY 2017. Tax credits issued between April 15 and June 30, 2017 would require an amended filing which also would be unlikely to be completed by June 30, 2017. Thus, this fiscal analysis assumes a de minimis or no impact on FY 2017 general revenue tax collections. Any CY 2016 project with tax credit impact would at most impact the FY 2018 tax collections through amended returns or through CY 2017 taxes paid in FY 2018.

Paragraph 2 of the proposed section 386.1000 provides for the carryover of any unused clean energy tax credit authority until it is used. If the Department of Economic Development is slow to issue clean energy tax credits in FY 2017 at the beginning of the program then the unused authority of the cap carries over to FY 2018. Table 4 shows what the FY 2018 clean energy tax credit cap would be if all of the FY 2017 tax credit authority provided carries over - $101.1 million. This does not mean that the State's general revenue fund collections would be affected by $101.1 million. Clean energy construction of $288.8 million would be necessary to qualify for the entire $101.1 million in tax credits.

**Table 4**
**FY 2018 Tax Credit Cap with FY 2017 Possible Carryover**

| Fiscal Year | FY 2018 |
|---|---|
| Original cap | $51,082,005 |
| Carry over from previous year | $50,000,000 |
| Total | $101,082,005 |

**Application Deposit revenue**

The proposed Section 386.1000 RSMo requires that taxpayers submit an application to the Department of Economic Development to receive approval for tax credits (paragraph 5). Each application must include a two cent per watt application deposit. The total revenue from application deposits is dependent upon:

- the number of projects that will be submitted;
- the number of watts generated from all of those projects

Each of these is affected by the:

- percentage of residential v commercial projects
- number of kW generated by residential v commercial projects
- cost of residential and commercial projects
- total construction completed
- any phase-in period as the Department of Economic Development institutes rules and prepares the program

- any phase-in period as the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available

All of these factors must be estimated and evaluated in order to calculate the amount of application deposit revenue that will be received by the Department of Economic Development.

Tax credits are available to both residential and commercial projects. Paragraph 2 of the proposed Section 386.1000 RSMo provides that no electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit.

The Missouri Department of Economic Development, Division of Energy published a Missouri Comprehensive State Energy Plan in October 2015. The report states that half of the installed net-metered PV solar is residential and the other half commercial customers.[1] However, the report also indicates that there are challenges that face residential customers making it more difficult and expensive to install solar projects. These challenges include local ordinances or homeowner's association rules the may prohibit installation or require design changes that decrease efficiency or add to the cost.[2] In addition, over the past decade an industry has developed to assist with the financing of solar projects. Such financing alternatives are easier to obtain by commercial projects because of their size, scope, and estimated return on investment.[3] Commercial projects can have a longer-term outlook than homeowners who may not know how long they may live in their current house. The Missouri State Energy Plan indicates that residential rooftop solar is a relatively expensive energy option due to these and other factors.[4]

For all of the reasons identified in the preceding paragraph, for purposes of this fiscal analysis residential solar installation is assumed to be 40% of the total solar construction. Commercial solar installation is assumed to be 60% of the total solar construction. This fiscal analysis has already indicated that CY 2016 solar construction will likely not be affected by the approval of the petition by voters in November 2016. Thus, CY 2017 is the first full year of impact. Tax credits resulting from such construction will first affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office.

The next factor to consider is the number of kW generated by residential and commercial projects. A recent report on photovoltaic system pricing trends published by the U.S. Department of Energy indicates that the median residential project is 6.1 kW while the modeled commercial system is 200 kW. Paragraph 2 of the proposed section 386.1000 establishes a 200 kW limit on installations that are authorized for tax credits.[5] For purposes of this fiscal analysis it is assumed that all commercial projects will be at the 200 kW size and that residential projects will be 6.1 kW. Paragraph 5 of the proposed section 386.1000 requires a two cent per watt application deposit fee. Table 5 shows that there would be a $122 application deposit required for the median residential project. There would be a $4,000 application deposit required for the 200 kW commercial project.

**Table 5**
**Application Deposit Required for Projects**

| Construction type | Project size in kW | Project size in watts | Application deposit for project at 2 cents per watt |
|---|---|---|---|
| Residential | 6.1 | 6,100 | $122 |
| Commercial | 200.0 | 200,000 | $4,000 |

The recent report on photovoltaic system pricing trends published by the U.S. Department of Energy also discusses the historical, recent, and near-term pricing of solar projects.[6] Project cost information was obtained on more than 400,000 systems in 42 states. The modeled system prices identified in the report showed a Q1 2015 residential system price of $3.12/watt and a commercial 200 kW system cost of $2.17/watt. These were reductions in price of from Q4 2013 of 7% and 19% respectively. The report also

indicates that prices for residential and commercial PV systems have decreased by 6-12% per year, on average, from 1998-2014. In addition, the report indicates that analysts project the system prices will fall 16-33% for residential systems between 2014-2020.

Table 6 projects residential solar project costs. Projections are made to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 6 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $3,000/kW for residential solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 6.1 kW residential project is estimated at $18,300.

**Table 6**
**Residential Solar Project Estimate**

| | Cost of Residential project per kW | Cost of Residential project at 6.1 kW project size |
|---|---|---|
| CY 2015 | $3,120 | $19,032 |
| CY 2016 | $3,039 | $18,538 |
| CY 2017 | $2,960 | $18,056 |
| average cost of CY16 and CY17 estimates | $3,000 | $18,300 |

The modeled commercial system price identified in the report showed a Q1 2015 commercial 200 kW system cost of $2.17/watt. However, the national average cost of commercial projects is affected by states with more mature solar markets and industries and large companies, like Wal-Mart and Ikea, that have moved to install significant solar projects on their facilities. The first Missouri commercial systems are less likely to meet the $2.17/watt cost projections. Table 7 uses other data in the report to amend the estimate of commercial solar project costs. The report shows that the price of the modeled 200 kW commercial system has fallen from $2.68/watt to $2.17 between 2013 Q4 and 2015 Q1. The mid-point of that decrease is $2.425/watt. Further, it is assumed that the cost of Missouri projects will be higher by 2.6%, or one-year's worth of the low end of the price declines found in the report. The result is that this analysis will assume that the Missouri 2015 Q1 price is $2.488/watt.

**Table 7**
**Commercial Solar Project Cost Estimate per kW**

| | |
|---|---|
| 2013 Q4 | $2,680 |
| 2015 Q5 | $2,170 |
| Mid-point | $2,425 |
| One-year behind (2.6%) | $2,488 |

Table 8 then projects the $2,488/kW 2015 Q1 cost to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 8 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $2,392/kW for commercial solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 200 kW commercial project is estimated at $478,400.

**Table 8**
**Commercial Solar Project Estimate**

| | Cost of Commercial project per kW | Cost of Commercial project at 200 kW project size |
|---|---|---|
| CY 2015 | $2,488 | $497,600 |
| CY 2016 | $2,423 | $484,600 |
| CY 2017 | $2,360 | $472,000 |
| average cost of CY16 and CY17 estimates | $2,392 | $478,400 |

The analysis so far has identified:

- estimates of $50 million in FY 2017 and $51.1 million in FY 2018 clean energy tax credits in accordance with paragraph 2 of the proposed section 386.1000. The FY 2018 clean energy tax credit limit may be higher depending on any unused authority that is carried over from FY 2017.
- an estimate that 40% of total solar construction would be residential and 60% commercial
- project cost estimates of $18,300 for 6.1 kW residential projects and $478,400 for 200 kW commercial projects

The final factor to calculate before arriving at the amount of application deposit revenue is any phase-in period as the Department of Economic Development issues rules and prepares its processes and the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available. The Missouri State Energy plan reports that Missouri currently has 111 MW of installed solar PV capacity. The plan also reports that there is 42.8 MW of installed net-metered PV solar developed over the years largely as a result of rebates from large utility companies in Missouri.

The proposal being analyzed establishes a statutory program of clean energy tax credits that will sunset after the Department of Economic Development certifies that 1,000 MW of capacity has been added as a result of the tax credits but no later than June 30, 2022. The 1,000 MW target represents a dramatic increase in current capacity.

The Missouri State Energy plan provides a wealth of information about the current state of "green jobs" and the solar industry in Missouri. The report includes the following along with other findings about the industry.

- Missouri had over 100,000 "green jobs" according to a 2009 study.[7]
- Missouri was identified as 10th in the nation for growth in clean energy and clean transportation jobs in 2013.[8]
- $187 million was invested by Missouri's solar industry in 2014 to install solar photovoltaic systems for residential, commercial, and utility use.[9]
- There are more than 97 solar companies at work throughout the supply chain in Missouri, employing 2,500 people including manufacturers, contractors, installers, project developers, distributors.[10]
- Missouri could create 8,500 new jobs to design, install, and operate energy efficiency measures by 2025 according to a 2011 study.[11]
- In 2010 Missouri ranked 6th in the nation in photovoltaic jobs.[12]

The clean energy tax credit does not sunset until the 1,000 MW target of additional capacity is met but no later than June 30, 2022. The size and the long-term nature of the 1,000 MW target should encourage the development of the Missouri solar industry even after it sunsets. It should also result in long-term planning and the build out of a native Missouri solar industry. The target also provides an incentive for the industry to meet the growth potential described in the Missouri State Energy Plan.

In the long-term the impact of the 1,000 MW target will grow and build the industry. In addition, investment in solar will allow longer term benefits in reduced fuel usage, cleaner air, better health and the resulting lower costs among other things. The Missouri State Energy Plan identifies the public health impacts of various energy sources with clean energy sources providing significant positive benefits over other sources.[13] A 2013 study of Hawaii's solar tax credit program found that the State recovered the full cost of the tax credit in 9 to 11 years - a rate of return on its investment ranging from 8.9% to 10.3%.[14] In addition, the study found that for each dollar spent by Hawaii on tax credits the amount of additional sales stimulated was $34.69 for residential solar PV and $55.03 for commercial PV.

However, the fiscal note format required for initiative petitions focuses on the short-term revenue and costs. Thus, the longer-term benefits are not included in this fiscal analysis. As explained elsewhere in this fiscal analysis the impact of the availability of tax credits is somewhat dependent upon the speed with which the Department of Economic Development issues the necessary rules and regulations, develops and makes available the application forms, and the industry's reaction to voter approval and the department's actions. Thus, two alternatives are calculated to create a possible range for the likely outcome in the short-term.

Table 9 shows two possible alternatives estimating the effect on FY 2018.

- Construction leading to use of **half** the available FY 2017 tax credits ($25 million) - These tax credits would cover any CY 2016 clean energy construction allowed under paragraph 11 of the proposal and any CY 2017 clean energy construction that qualifies for FY 2017 tax credits that the Department of Economic Development could process by the end of CY 2017 in order to affect FY 2018 state tax collections. It is assumed that the Department of Economic Development would most likely issue such tax credits during the last half of CY 2017 after its processes are in place. Table 10 shows that total of $71.4 million in construction would be required to generate $25 million in tax credits. Residential construction of $28.6 million (assuming 40% of construction) would result in $10.0 million in tax credits. Commercial construction of $42.9 million (assuming 60% share of construction) would result in $15.0 million in tax credits.

- Construction leading to use of **all** the available FY 2017 tax credits and half of the FY 2018 tax credits ($75.5 million) - These tax credits would cover any CY 2016 clean energy construction allowed under paragraph 11 of the proposal and any CY 2017 clean energy construction that qualifies for FY 2017 tax credits that the Department of Economic Development could process by the end of CY 2017 in order to affect FY 2018 state tax collections. It is assumed that even the Department of Economic Development would most likely issue such tax credits during the last half of CY 2017 after its processes are in place that the department would be able to authorize all of the FY 2017 credits and half the FY 2018 credits. **Table 10 shows that a total of $215.8 million in construction would be required to generate $75.5 million in tax credits.** Residential construction of $86.3 million (assuming 40% of construction) would result in $30.2 million in tax credits. Commercial construction of $129.5 million (assuming 60% share of construction) would result in $45.3 million in tax credits.

**Table 9**
**FY 2018 Tax Credit Effect - Possible Range**

| Fiscal Year | Low range | Higher range |
|---|---|---|
| FY 2017 credits | $25,000,000 | $50,000,000 |
| FY 2018 credits | $0 | $25,541,003 |
| Total | $25,000,000 | $75,541,003 |

**Table 10**
**Number of Projects - Low Range v Higher Range**

| | Low Range | Higher Range |
|---|---|---|
| Tax credits estimate | $25,000,000 | $75,541,003 |
| Amount of construction value needed to generate value of 35% tax credits | $71,428,571 | $215,831,436 |
| - | | |
| % of residential per year of credits issued | 40.0% | 40.0% |
| % of commercial per year of credits issued | 60.0% | 60.0% |
| | | |
| Tax credits by type of construction | | |
| Residential | $10,000,000 | $30,216,401 |
| Commercial | $15,000,000 | $45,324,602 |
| Total amount by type | $25,000,000 | $75,541,003 |
| - | | |
| Construction value by type of construction | | |
| Residential | $28,571,428 | $86,332,574 |
| Commercial | $42,857,143 | $129,498,862 |
| Total amount by type | $71,428,571 | $215,831,436 |
| | | |
| Cost of solar projects per project | | |
| Residential (6.1 kW/project) | $18,300 | $18,300 |
| Commercial (200 kW/project) | $478,400 | $478,400 |
| | | |
| # of projects | | |
| Residential | 1,561 | 4,718 |
| Commercial | 90 | 271 |
| Total amount by type | 1,651 | 4,989 |

In addition, using the average cost and size of projects it is possible to compute the number of residential and commercial projects that will be constructed. Table 10 shows a total of 1,651 projects would be constructed at the low range of the tax credits (1,561 residential, 90 commercial). A total of 4,989 projects would be constructed at the higher range of the tax credits (4,718 residential, 271 commercial).

Table 10 shows a significant number of projects that would be completed throughout the state as a result of the clean energy tax credit. These numbers are possible for a variety of reasons identified in the Missouri State Energy Plan.

- Missouri households use about 12% more than the average U.S. household, thus projects would put real dollars into Missourians pockets for other uses and spending.[15]
- Nationally about ten percent of small business owners state that energy is their single biggest cost according to the National Federation of Independent Business. The same report indicates that an additional 25% of small business owners claim that energy is one of their top three business costs.[16] Thus, clean energy projects that reduce energy usage make businesses more profitable, allow for expansion, and could lead to higher wages for employees.
- Businesses can lower costs through on-site generation while also achieving other benefits.[17]
- Significant operational savings are possible through energy efficiency projects with rates of return as high as 25%.[18]
- A wealth of financing alternatives now exist for clean energy projects.[19]

- "Approximately 60% of the largest U.S. businesses have set public climate and energy goals to increase their use of renewable energy."[20]

Table 11 calculates the amount of application deposit revenue that the Department of Economic Development would receive given the number of projects identified in Table 10. If applications are submitted for projects equivalent to half the available tax credits then the department would receive $0.6 million in application deposit revenue. If applications are submitted for projects equivalent to all the available tax credits then the department would receive $1.7 million in application deposit revenue.

**Table 11**
**Application Deposit Revenue**

| | Lower Range | Higher Range |
|---|---|---|
| # of projects | | |
| Residential | 1,561 | 4,718 |
| Commercial | 90 | 271 |
| Total amount by type | 1,651 | 4,989 |
| | | |
| Application deposit required per project | | |
| Residential | $122 | $122 |
| Commercial | $4,000 | $4,000 |
| | | |
| Application deposit revenue | | |
| Residential | $190,442 | $575,596 |
| Commercial | $360,000 | $1,084,000 |
| Total amount by type | $550,442 | $1,659,596 |

Table 12 shows the amount of solar capacity added by the number of projects identified in the previous tables given the given size of residential and commercial projects. A total of 27.5 MW would be added in solar capacity as a result of projects equivalent to half the available tax credits which would be 2.8% of the 1,000 MW goal. A total of 83.0 MW would be added in solar capacity as a result of projects equivalent to all the available tax credits which would be 8.3% of the 1,000 MW goal.

**Table 12**
**Amount of Solar Capacity Added**

| | Capacity added for half of tax credits for applications FY 2018 | Capacity added for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 1,561.0 | 4,718.0 |
| Commercial | 90.0 | 271.0 |
| Total amount by type | 1,651.0 | 4,989.0 |
| | | |
| kW generated by construction | | |
| Residential (6.1 kW/project) | 9,522.1 | 28,779.8 |
| Commercial (200 kW/project) | 18,000.0 | 54,200.0 |
| Total amount by type | 27,522.1 | 82,979.8 |
| | | |
| MW generated by construction | | |
| Residential | 9.5 | 28.8 |
| Commercial | 18.0 | 54.2 |
| Total amount by type | 27.5 | 83.0 |
| | | |
| % of 1,000 MW goal achieved | 2.8% | 8.3% |

**Taxes**

As noted on pages 10-11 of this fiscal analysis, the Missouri State Energy Plan published in October 2015 describes the current capacity, industry size, and investments being made in Missouri. The plan also describes the potential for jobs and economic development in the state. The 1,000 MW target represents a dramatic increase in current capacity. The following analysis assumes that due to the dramatic size of the 1,000 MW target that the investments driven by the clean energy tax credits will result in new jobs and industry expansion.

Table 13 shows the cost components of a solar construction project. Labor is assumed to be 35% of the project costs, materials 40%, and Profit 10%. It is assumed that 15% of the project cost is overhead and it is assumed that no taxes would be applied. Since Missouri already has a base of manufacturers and distributors it is assumed that all materials will be Missouri taxed.

**Table 13**
**Construction Project Components, Tax Type, and Tax Rate**

| Project components | % of job | Missouri tax rate | Type tax |
|---|---|---|---|
| Labor | 35.0% | 6.00% | Income tax |
| Materials and local materials | 40.0% | 4.225% | Sales |
| Profit | 10.0% | 6.25% | Corporate |
| Overhead | 15.0% | 0.00% | N/A |
| subtotal by taxable type | 100.0% | | |

Table 14 computes the state and local taxes based on the value of construction and the project components and tax rates shown in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $2.8 million to $8.5 million in FY 2018. The other three state funds (Prop C, Conservation, Parks/Soils) are estimated to receive between $0.4 million to $1.1 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $1.1 million to $3.3 million in local sales tax revenue in FY 2018.

**Table 14**
**State and Local Taxes Generated by Construction**

| | Low Range | Higher Range |
|---|---|---|
| Amount of construction value needed to generate value of 35% tax credits | $71,428,571 | $215,831,436 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $25,000,000 | $75,541,003 |
| Materials and local materials | $28,571,428 | $86,332,574 |
| Profit | $7,142,857 | $21,583,144 |
| subtotal by taxable type | $60,714,285 | $183,456,721 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $1,500,000 | $4,532,460 |
| Materials and local materials - Sales/Use Tax | $857,143 | $2,589,977 |
| Profit - General Revenue Corporate Tax | $446,429 | $1,348,947 |
| subtotal GR | $2,803,571 | $8,471,384 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $285,714 | $863,326 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $35,714 | $107,916 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $28,571 | $86,333 |
| subtotal State Taxes | $3,153,571 | $9,528,958 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $1,108,571 | $3,349,704 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $4,262,143 | $12,878,662 |

The taxes generated from the construction activity shown in Table 14 likely underestimate the state revenue that will be generated by the construction of clean energy projects even within the short time period allowed in the fiscal note. As noted earlier there are multiplier effects that ripple through the economy. The Department of Economic Development through MERIC has a sophisticated model that it uses to evaluate the impact of tax credits and other business investments made in the State of Missouri. Using the information in this fiscal analysis MERIC should be able to provide supplementary information regarding the extra economic activity and increased revenues.

Similarly, generating additional clean energy within the State of Missouri will result in a decrease in the importation of power and energy producing raw materials from other states. Such money leakage from the state, businesses and citizens, decreases the amount of purchasing could be done for other purposes such as increased jobs within the state and thus the tax revenues that would be generated. For example, the Missouri State Energy Plan notes that Missouri is the sixth largest consumer of coal in the country and 92.5% of the coal used in 2013 was imported from Wyoming.[21] The plan reports that the state sends billions of dollars out of state for purchases of imported coal, natural gas, and transportation fuels.[22]

**Community Solar Act** - Applies to Versions 10, 12, 13, 14, 16, and 18
The Community Solar Act, section 386.910 of the proposal, directs the Missouri Public Service Commission to establish rules allowing customers to participate in a "community solar facility." Community solar facilities allow participants to benefit from solar energy and receive electric bill credits substantially similar to net metering.

Paragraph 3 of that section states that the "aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous fiscal year." Table 15 shows the total peak demand data compiled by the Public Service Commission for the four utilities affected by this section. The report shows that using peak demand leads to a cap of 504.5 MW on the amount of aggregated capacity of community solar facilities statewide.

**Table 15 - Peak Demand for Community Solar**

| Utility Name | Peak Demand |
|---|---|
| Union Electric Co - (MO) | 7,713.0 |
| Kansas City Power & Light Co | 1,878.0 |
| KCP&L Greater Missouri Operations Co. | 1,860.0 |
| Empire District Electric Co | 1,162.0 |
| Total | 12,613.0 |
| 4% overall cap | 504.5 |

Paragraph 2 of that section defines a community solar facility as a photovoltaic electric generation facility with a capacity of between 100 and 1,000 kW. For purposes of this fiscal note it is assumed that all community solar projects will be the same as the 200 kW project limit established in the clean energy tax credit language of 386.1000. In Table 12 above a low and high range was calculated for the percentage of solar capacity added through the tax credits based on the expectations of the phase-in necessary for the Department of Economic Development's implementation of the clean energy tax credits. The same percentage is used - 2.8% low range and 8.3% higher range. Similarly, for the purposes of this fiscal note the cost per kW will be $2,392 for a total project cost of $478,400 as shown in Table 9.

Table 16 shows the data and calculations needed to identify the number of projects. At the low end of the range 14.1 MW of added community solar capacity would be created which would require 71 projects of 200 kW. At the higher range 41.9 MW of added community solar capacity would be created which would require 209 projects of 200 kW.

Table 16 also shows that at an average project cost of $478,400 the low range results in $34.0 million in construction spending. The higher range results in $100 million in construction spending.

**Table 16**
**Community Solar Capacity and Projects**

| | Low Range | Higher Range |
|---|---|---|
| Assumed % of aggregate capacity | 2.8% | 8.3% |
| Added capacity - MW | 14.13 | 41.88 |
| Added capacity - kW | 14,126.56 | 41,875.16 |
| # projects at commercial 200 kW per project | 71 | 209 |
| Construction cost - commercial project per 200 Kw project | $478,400 | $478,400 |
| Construction value | $33,966,400 | $99,985,600 |

Table 17 computes the state and local taxes based on the value of construction and the project components and tax rates shown earlier in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $1.3 million to $3.9 million in FY 2018. The other three state funds (Prop C, Conservation, Parks/Soils) are estimated to receive between $0.2 million to $0.5 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $0.5 million to $1.6 million in local sales tax revenue in FY 2018.

**Table 17**
**State and Local Taxes Generated by Construction of Community Solar Projects**

| | Low range | Higher range |
|---|---|---|
| Amount of construction value needed to generate estimated MW | $33,966,400 | $99,985,600 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $11,888,240 | $34,994,960 |
| Materials and local materials | $13,586,560 | $39,994,240 |
| Profit | $3,396,640 | $9,998,560 |
| subtotal by taxable type | $28,871,440 | $84,987,760 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $713,294 | $2,099,698 |
| Materials and local materials - Sales/Use Tax | $407,597 | $1,199,827 |
| Profit - General Revenue Corporate Tax | $212,290 | $624,910 |
| subtotal GR | $1,333,181 | $3,924,435 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $135,866 | $399,942 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $16,983 | $49,993 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $13,587 | $39,994 |
| subtotal State Taxes | $1,499,617 | $4,414,364 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $527,159 | $1,551,777 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $2,026,775 | $5,966,141 |

**Net metering bills** - Applies to Versions 10, 11, 12, 13, 14, 17 and 18
The Missouri General Assembly has considered six net metering bills over the past three legislative sessions. Table 14 below identifies the bills and provides links to the fiscal note and bill summary prepared for each bill. All of the fiscal notes prepared and available indicated that there was no state impact from the net metering bills.

**Table 14**
**NET METERING**
**2013, 2014, AND 2015 LEGISLATIVE SESSIONS**

| Session | Bill | Sponsor | Fiscal Note Impact | Fiscal Note Summary Link | Bill Summary Link |
|---|---|---|---|---|---|
| 2015 | SB 75 | Holsman | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0622-01N.ORG.pdf | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=82&BillID=174 |
| 2015 | SB 509 | Holsman | No impact | N/A | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=664&BillID=4599469 |
| 2015 | HB 481 | Berry (38) | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0502-01N.ORG.pdf | http://house.mo.gov/billtracking/bills151/sumpdf/HB0481C.pdf |
| 2014 | HB 1795 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER14/fishtm/5552-02N.ORG.htm | http://house.mo.gov/billtracking/bills141/sumpdf/HB1795I.pdf |
| 2013 | HB 119 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/0794-02N.ORG.htm | http://house.mo.gov/billtracking/bills131/sumpdf/HB0119I.pdf |
| 2013 | SB 396 | Holsman | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/1078-07N.ORG.htm | http://www.senate.mo.gov/13info/BTS_Web/Bill.aspx?SessionType=R&BillID=19218703 |

**Electric Vehicle Charging Stations** - Applies to Versions 12, 13, 14, 16, and 17
The petition authorizes investor-owned utilities to recover costs for infrastructure investments in electric vehicle charging stations, provided the energy output from the stations is offset in part by clean energy. There should be no fiscal impact to the state.

ENDNOTES

[1] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25
https://energy.mo.gov/energy/docs/MCSEP.pdf

[2] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25-26
https://energy.mo.gov/energy/docs/MCSEP.pdf

[3] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[4] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 200
https://energy.mo.gov/energy/docs/MCSEP.pdf

[5] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 5
http://www.nrel.gov/docs/fy15osti/64898.pdf

[6] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 4
http://www.nrel.gov/docs/fy15osti/64898.pdf

[7] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 172
https://energy.mo.gov/energy/docs/MCSEP.pdf

[8] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 173
https://energy.mo.gov/energy/docs/MCSEP.pdf

[9] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[10] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[11] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 174
https://energy.mo.gov/energy/docs/MCSEP.pdf

[12] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 175
https://energy.mo.gov/energy/docs/MCSEP.pdf

[13] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 190-191, 193, 195-199, 201, 203
https://energy.mo.gov/energy/docs/MCSEP.pdf

[14] Thomas A Loudat, Blue Planet Foundation. "*The Economic and Fiscal Effects of Hawaii's Solar Tax Credit*" - January 2013.
http://blueplanetfoundation.org/renewable-energy-tax-credit-2013.html?highlight=WyJsb3VkYXQiXQ==

[15] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 154
https://energy.mo.gov/energy/docs/MCSEP.pdf

[16] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 165 for both sentences in this bullet point
https://energy.mo.gov/energy/docs/MCSEP.pdf

[17] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[18] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[19] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[20] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 178
https://energy.mo.gov/energy/docs/MCSEP.pdf

[21] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 20-21
https://energy.mo.gov/energy/docs/MCSEP.pdf

[22] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 42
https://energy.mo.gov/energy/docs/MCSEP.pdf

**Edward D, Greim** provided the following information as an opponent of this initiative petition.

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December 28, 2015

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Re: *Fiscal Note in Initiative Petitions 2016-173 through 2016-180 and 2016-190*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petitions 173, 175, 177, and 180:

> Lost revenue to state government is $498 million over the tax credit period, with annual losses of $9.5 million to $11.5 million thereafter. Lost revenue to local government is $189.1 million over the tax credit period, with annual losses of $31.5 million to $33.9 million thereafter.

We propose the following fiscal note summary for petition 174:

> Lost revenue to state government is $320.9 million over the tax credit period, with annual losses of $5.6 million to $9.6 million thereafter. Lost revenue to local government is $100.9 million over the tax credit period, with annual losses of $20 million to $28.1 million thereafter.

We propose the following fiscal note summary for petition 176:

> Lost revenue to state government is $328.8 million over the tax credit period, with annual losses of $7.5 million to $11.5 million thereafter. Lost revenue to local government is $175.3 million over the tax credit period, with annual losses of $32.4 million to $40.5 million thereafter.

We propose the following fiscal note summary for petition 178:

> Lost revenue to state government is $475.8 million over the tax credit period, with annual losses of $5.7 million to $7.7 million thereafter. Lost revenue to local government is $40.4 million over the tax credit period, with annual losses of $11.5 million to $15.7 million thereafter.

We propose the following fiscal note summary for petitions 179 and 190:

> Lost revenue to state government is $483.7 million over the tax credit period, with annual losses of $7.6 million to $9.6 million thereafter. Lost revenue to local government is $114.8 million over the tax credit period, with annual losses of $23.9 million to $28.1 million thereafter.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments. These taxes, however, will no longer be collected for electricity that is never sold due to the customer-generator production and community solar encouraged by the initiative petitions. Petition signers and voters must be informed of the certainty that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume. On the other hand, any positive fiscal impacts of the initiative petitions are speculative.

**Description of Policy**

Initiative Petitions 173 – 180 and 190 contains one or more of three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of the "Community Solar Act"; and (3) A state tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, or certain natural gas technologies.

1. Changes to Net Metering for Investor-owned electric utilities and municipal electric utilities, and, in 177, rural electric cooperatives
    A. Raise net metering cap to 7% (is currently 5%);
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);



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D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

2. Community Solar Act
   A. The Missouri Public Service Commission ("PSC") adopts rules and regulations allowing groups of 5 or more electrical corporation customers to offset energy usage with solar located in the service territory of the electrical corporation where they have an account;
   B. Facilities are 100 kilowatts to 1 megawatt;
   C. Community solar facilities may, in total, generate electricity of 4% or less of single-hour peak load, but that amount does not count toward net metering; Electrical corporations can own half (max of 2%), which may be included in the rate base. Others may own the other half (max of 2%);
   D. Community Solar facilities are not eligible for tax credits provided in the petition;
   E. Commission sets a community solar rate, not less than electrical corporation's average retail rate;
   F. Value of allocated solar bill credits reduces customer's total bill;
   G. The current value-of-community-solar rate may be locked in for 20 years beginning when a community solar facility is put in operation.

3. Tax credit
   A. 35% tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, etc.
   B. Total value of eligible credits shall not exceed 1% of the value of electricity used in Missouri[1] – defined as revenue from sale of electricity in Missouri; or tax credits are capped at$50 million each year. Unused credits carryover year to year until June 30, 2022
   C. No tax credits after June 30, 2022, or after 1000 megawatts of new generation have been installed using the tax credits.

**Burdens on State Government**

In determining the fiscal impact of each petition, it is generally reasonable to assume that the various statutory changes in the petitions will have independent fiscal impacts. The reasonableness of this assumption is demonstrated by the various iterations of the petitions themselves, some of which propose tax credits with no proposed changes to the Net Metering and Easy Connection Act. *See* Petitions 178 and 190.

[1] The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. *See* U.S. Energy Information Administration – Independent Statistics and Analysis.



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*i. Decreased tax collection due to changes to net metering – Initiative Petitions 173-177 and 179-180*

Raising the net metering cap from the current 5% of peak hour demand to 7% of peak hour demand will, conservatively, result in a 2% decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase from 5% to 7%. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in the petition provides a strong financial incentive to solar or wind energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[2], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, the net-metering cap applies to single-hour peak load, determined yearly, which means that the cap is a higher percentage of the single hour average load. This fact means that the total increase in generation is higher than it appears. Fourth, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[3] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by at least $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities. The additional decreases in sales tax revenues from municipal electric utilities and, in petition 177, from electric cooperatives, are unknown but substantial.[4]

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 173, 175-177, 180, and 190*

Community solar facilities are in addition to net metering and represent an additional capacity amounting to 4% of each electrical corporation's single-hour peak load. Energy

[2] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[3] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.
[4] Assuming $7.6 billion in electricity is sold in Missouri per year (the actual 2014 figure), a 2% decrease will decrease overall state sales tax revenues by 6.4 million annually, but some petitions enact net metering changes on rural electric cooperatives, and some do not.



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generated from the community solar facility is allocated pro rata by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. There is the potential for such bill credits to decrease overall electrical bills by more than 4% because the "bill credits" are calculated using a "value of solar rate" which is at least as high as the retail rate for electricity, but may be higher. If, for example, solar energy received a 50% rate premium due to its benefits, the amount of bill credits would increase and sales would decrease by more than the 6%, rather than 4% figure. Half of these community solar facilities—the half not owned by electrical corporations—may be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoid property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership model, similar to net metering, because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%).

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by at least $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities.

*iii. Tax credits – Initiative Petitions 173-180 and 190*

*a. Decreased tax collections due to tax credits – Credits capped at 1% of value of electricity sold in Missouri, annually ($76 million based on 2014 figures) – Initiative Petitions 173, 175, 177-180, and 190*

According to 2014 figures, Missouri retail customers bought 7.6 billion dollars worth of electricity in 2014. Accordingly, it is reasonable for fiscal note purposes to estimate that Missouri retail customer will continue to buy the same value of electricity. Electricity rates have historically risen over time, but the increasing price of electricity may be approximately the same over the relevant period as the decreases in quantity as a result of the initiative petitions. Accordingly, the 35% tax credits in these petitions will directly result in a loss of state income of approximately $76 million, annually.

*b. Decreased tax collections due to tax credits – Credits capped at $50 million annually – Initiative Petitions 174 and 176*

Similar to the loss described in subpart a, the 35% tax credits in these petitions will directly result in a loss of state income of approximately $50 million, annually.



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*c. Cost of eroding tax base due to new energy generation – Initiative Petitions 173-180 and 190*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer-generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in Missouri. Accordingly, if the tax credits were phased out due to reaching the 1000 MWh/1,000,000 kWh maximum on new electricity generation, new production from such tax credits would produce approximately 1,825,000 MWh per year, also expressed as 1,825,000,000 KWh, or 1,825 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour [5], this new production is valued at $182,500,000.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

In practice, the 1 gigawatt limit on new customer-generated energy production may never be met. Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[6] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for renewable energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology. The petition itself limits tax credits to a maximum of $3.00 per watt, but market forces should make rates in Missouri similar to those in other states, at or around $1.77.

For Initiative Petitions 173, 175, 177-180, and 190, the total, annual loss to state governments *due to the tax credits* is 76.9 million to 81.7 million over the tax credit period. There is an annual loss in perpetuity after the tax credit period of 5.7 to 7.7 million, depending on how much new customer-generation is developed. See attached table.

For Initiative Petitions 174 and 176, the total, annual loss to state governments *due to the tax credits* is 50.6 million to 53.7 million over the tax credit period. There is an annual loss in

[5] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.

[6] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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perpetuity after the tax credit period of 3.7 to 7.7 million, depending on how much new customer-generation is developed. *See* attached table.

**Burdens on Local Governments**

Local governments face losses in revenue from the various petition provisions that are similar to those faced by state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 173-177 and 179-180*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 173, 175-177, 180, and 190*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*iii. Tax credits – Cost of eroding tax base due to new energy generation – Initiative Petitions 173-180 and 190*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petitions may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to



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local governments, all of which may be reduced or discontinued if the initiative petitions are enacted.

The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[7] Based on this estimate, the population-weighted combined average local sales tax is 3.585%. Assuming the tax credits sunset due to reaching the 1 Gigawatt production cap, the yearly loss to local governments from lost sales tax from the tax credit is $6,541,578. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,123,540.

For petitions 173, 175, 177-180, and 190, the loss to local governments due to the tax credits is at least $40.4 million over the tax credit period, then $11.5 to $15.7 million annually. For initiative petitions 174 and 176, the loss to local governments due to the tax credits is at least $26.6 million over the tax credit period, then $7.5 to $15.7 million annually.

**In Conclusion**

The initiative petitions will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petitions, such as increases in net metering and community solar. The total tax burden on state government imposed by the petitions range from $313 million over the tax credit period, with $3.7 to $7.7 million in lost revenues in perpetuity, to approximately $498.6 million over the tax credit period,[8] with $9.5 million to 11.5 million in lost revenues in perpetuity thereafter.

Sincerely,

Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues

[7] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.
[8] $475.8 million + [(1.9 million + 1.9 million)*6 years]



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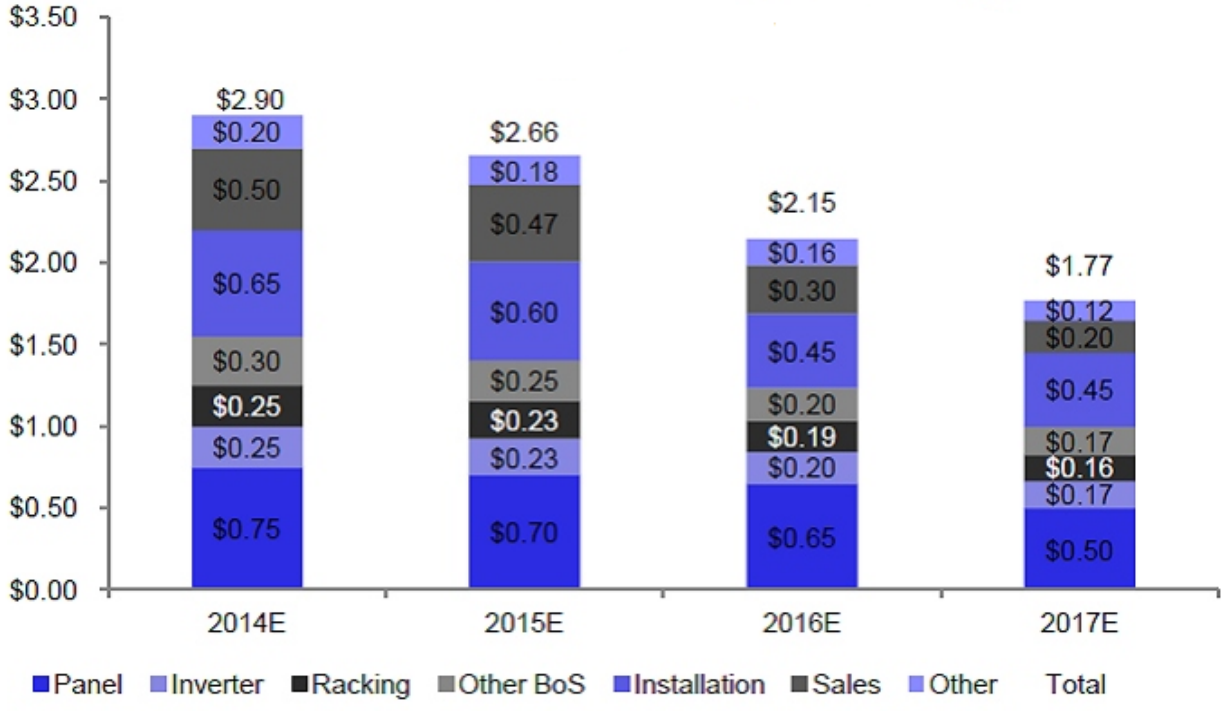
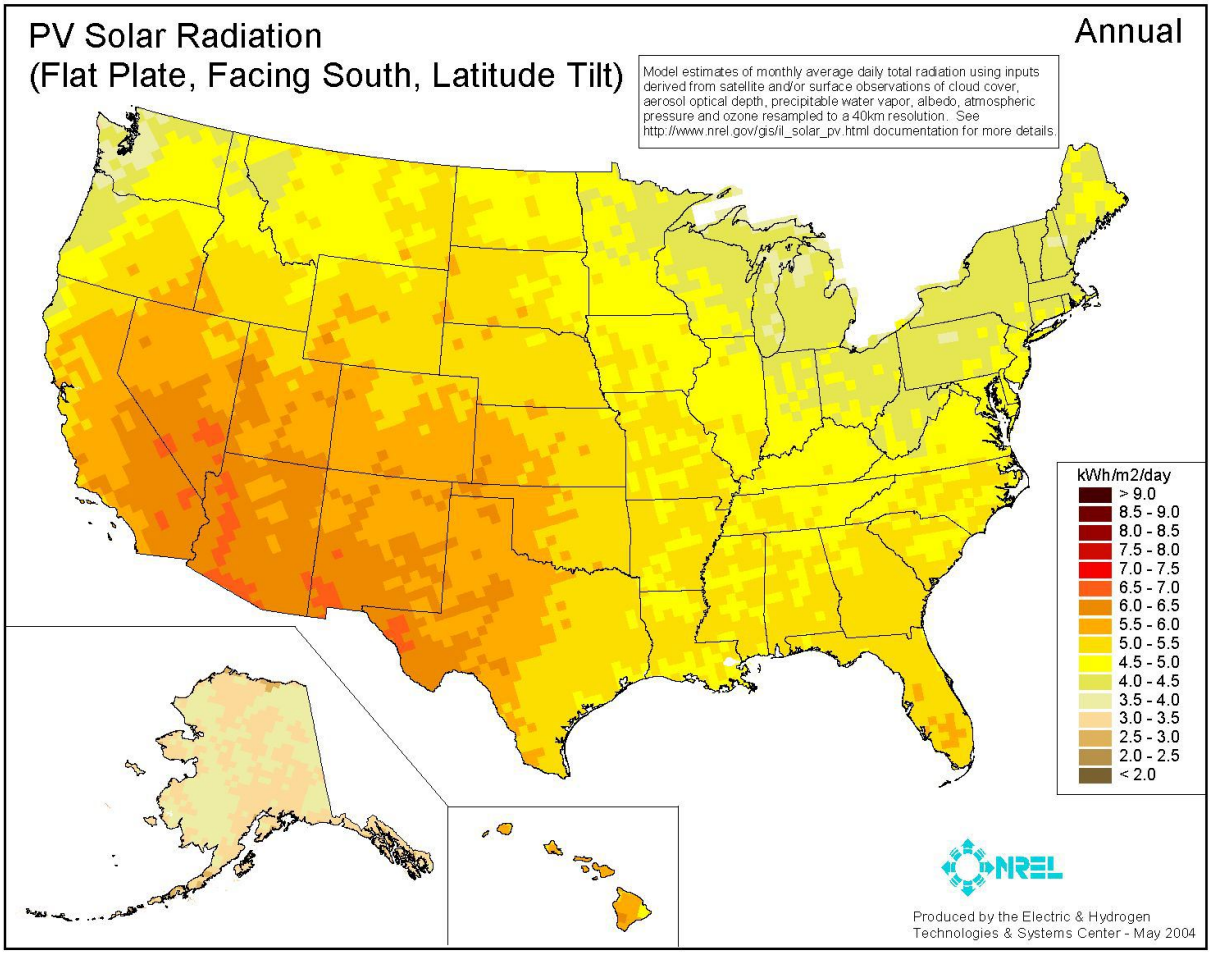
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0

Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017

https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm



National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Brightergy Renewable Tax Credit Fiscal Analysis (1% Value of Electricity Cap) - Initiative Petitions 173, 175, 177-180, and 190**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 122.68 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $76,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 223,854 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $76,000,000 | 122.68 | 122.68 | 223,854 | $100 | $22,385,441 | 4.225% | $945,785 | $76,945,785 | 3.585% | $802,518 | 5.000% | $1,119,272 | $1,921,790 |
| 2018 | $76,000,000 | 122.68 | 245.36 | 447,709 | $100 | $44,770,882 | 4.225% | $1,891,570 | $77,891,570 | 3.585% | $1,605,036 | 5.000% | $2,238,544 | $3,843,580 |
| 2019 | $76,000,000 | 122.68 | 368.04 | 671,563 | $100 | $67,156,323 | 4.225% | $2,837,355 | $78,837,355 | 3.585% | $2,407,554 | 5.000% | $3,357,816 | $5,765,370 |
| 2020 | $76,000,000 | 122.68 | 490.72 | 895,418 | $100 | $89,541,765 | 4.225% | $3,783,140 | $79,783,140 | 3.585% | $3,210,072 | 5.000% | $4,477,088 | $7,687,160 |
| 2021 | $76,000,000 | 122.68 | 613.40 | 1,119,272 | $100 | $111,927,206 | 4.225% | $4,728,924 | $80,728,924 | 3.585% | $4,012,590 | 5.000% | $5,596,360 | $9,608,951 |
| 2022 | $76,000,000 | 122.68 | 736.08 | 1,343,126 | $100 | $134,312,647 | 4.225% | $5,674,709 | $81,674,709 | 3.585% | $4,815,108 | 5.000% | $6,715,632 | $11,530,741 |
| | | | | | | | | **Total State Tax Burden** | **$475,861,483** | | **Total Local Tax Burden (Sales + Franchise)** | | **$40,357,593** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

**Brightergy Renewable Tax Credit Fiscal Analysis (50 Million Tax Credit Cap) - Initiative Petitions 174 and 176**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 80.71 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $50,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 147,273 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $50,000,000 | 80.71 | 80.71 | 147,273 | $100 | $14,727,264 | 4.225% | $622,227 | $50,622,227 | 3.585% | $527,972 | 5.000% | $736,363 | $1,264,336 |
| 2018 | $50,000,000 | 80.71 | 161.42 | 294,545 | $100 | $29,454,528 | 4.225% | $1,244,454 | $51,244,454 | 3.585% | $1,055,945 | 5.000% | $1,472,726 | $2,528,671 |
| 2019 | $50,000,000 | 80.71 | 242.13 | 441,818 | $100 | $44,181,792 | 4.225% | $1,866,681 | $51,866,681 | 3.585% | $1,583,917 | 5.000% | $2,209,090 | $3,793,007 |
| 2020 | $50,000,000 | 80.71 | 322.84 | 589,091 | $100 | $58,909,056 | 4.225% | $2,488,908 | $52,488,908 | 3.585% | $2,111,890 | 5.000% | $2,945,453 | $5,057,342 |
| 2021 | $50,000,000 | 80.71 | 403.55 | 736,363 | $100 | $73,636,320 | 4.225% | $3,111,135 | $53,111,135 | 3.585% | $2,639,862 | 5.000% | $3,681,816 | $6,321,678 |
| 2022 | $50,000,000 | 80.71 | 484.26 | 883,636 | $100 | $88,363,584 | 4.225% | $3,733,361 | $53,733,361 | 3.585% | $3,167,834 | 5.000% | $4,418,179 | $7,586,014 |
| | | | | | | | | **Total State Tax Burden** | **$313,066,765** | | **Total Local Tax Burden (Sales + Franchise)** | | **$26,551,048** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

**Brent Stewart** provided the following information as an opponent of this initiative petition.

**Association of Missouri Electric Cooperatives**

2722 East McCarty Street, P.O. Box 1645
Jefferson City, Missouri 65102
Telephone: (573) 635-6857
Fax: (573) 635-2314
www.amec.coop

RECEIVED
DEC 28 2015
STATE AUDITORS OFFICE

December 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: Fiscal Note in Initiative Petitions 2016-173 through 2016-190

To Whom It May Concern:

The Association of Missouri Electric Cooperatives (AMEC), representing the state's forty-seven member-owned, nonprofit rural electric cooperatives that serve close to one million electric consumers, respectfully submit the following brief comments to assist in your preparation of the fiscal notes on the above-mentioned initiative petitions.

All these petitions, in one way or another, involve solar and renewable energy mandates. The practical effect of each, to one extent or another, is to encourage consumers to substitute self-generation for traditional electric service, thereby creating an unfair electric rate subsidy in favor of those who can afford to install their own generation at the expense of the majority of the other consumers who cannot.

Missouri's forty distribution (retail level) cooperatives serve a wide variety of governmental entities throughout rural Missouri, including state facilities (e.g. prisons), local government facilities, hospitals, schools, rural water districts, regional sewer districts and others. To the extent these entities cannot afford to install their own generation, which most cannot, they necessarily will be forced to pay higher rates if these initiative petitions are enacted. Unfortunately, it is impossible without more time for AMEC to identify all those government-related entities and facilities or estimate with any accuracy the adverse fiscal impact. However, it is clear that even a modest rate increase necessarily will have a significant adverse fiscal impact on governmental entities, in millions of dollars, especially those in the primarily less affluent rural areas served by Missouri's nonprofit electric cooperatives.

Respectfully submitted,

Brent Stewart

Brent Stewart
AMEC Counsel

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State government revenue may decrease up to $300 million during the tax credit period with approximately $1 million annual increased operating costs. Local governmental entities estimate $23.9 million in annual electricity sales reductions. Other resulting economic activity will have an unknown impact on state and local governments.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

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16-173

December 17, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 10 (2016-173)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 16, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16+73 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 16 PM 4:13
SECRETARY OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-123

*Be it enacted by the people of the state of Missouri:*

Section A: Section 386.890 is amended and sections 386.860, 386.900, 386.910 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.900 to 386.1000 shall be known and cited as the "Clean Energy Independence and Investment Act of 2016".

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any [municipal electric utility,] rural electric cooperative as provided in chapter 394[, or electrical corporation as provided in this chapter];

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of natural resources;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical

16-123

energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any [municipal utility, electrical corporation regulated under this chapter, or] rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which [the commission for a public utility or] the governing body for the supplier[other electric utilities] may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices

for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) [For any rural electric cooperative under chapter 394, or municipal utility, u]Upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, [the commission for public utilities and] the governing body for the supplier[other utilities] shall, by rule or equivalent formal action[ by each respective governing body]:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. [Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated s]Suppliers shall submit [the same] an annual net metering report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. [The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10.] The governing body of a supplier [rural electric cooperative or municipal utility] shall[, within nine months of January 1, 2008,] adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process

shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

[11.] 10. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

[12.] 11. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

[13.] 12. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

[14.] 13. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

[15.] 14. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

[16.] 15. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

[17.] 16. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.900. 1. This section shall be known and may be cited as the "Enhanced Net Metering and Easy Connection Act". It shall be the policy of the state to facilitate the use of customer-sited or controlled clean energy resources.

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal utility or electrical corporation as provided in this chapter;

(2) "Clean energy resource", electrical energy produced from:

(a) Wind;

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(b) Solar thermal sources;

(c) Hydroelectric sources;

(d) Photovoltaic cells and panels;

(e) Fuel cells using hydrogen produced by a source listed in paragraphs (a) through (d) of this subdivision; or

(f) Other sources of energy that become available after January 1, 2017, and are certified as clean by the department.

(3) "Commission", the public service commission of the state of Missouri;

(4) "Customer-generator", the owner, lessee or operator of a qualified electric energy generation unit which:

(a) Is powered by a clean energy resource or micro CHP;

(b) Has an electrical generating system with a capacity of not more than five hundred kilowatts, measured in alternating current;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(5) "Department", the department of natural resources;

(6) “Micro CHP”, combined heat and power or cogeneration systems that simultaneously generate electricity and thermal energy in a single integrated system with a nameplate rated capacity equal to or lower than 130 kilowatts, measured in alternating current;

(7) “Net excess energy”, the amount of energy expressed in kilowatt hours delivered by a customer-generator to a supplier that exceeds the amount of energy delivered by the supplier to the customer-generator over a single billing period;

(8) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

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(9) "Retail electric supplier" or "supplier", any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals seven percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for a municipal utility may increase the total rated generating capacity of net metering systems to an amount above seven percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds two percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the retail electric supplier shall pay for the costs to purchase and install the necessary additional equipment, unless the commission or governing body makes a determination that the customer-generator is the only customer benefiting from the additional distribution equipment. If the commission determines the customer-generator is the only customer benefiting, such customer-generator shall reimburse the electric supplier for reasonably incurred equipment expenses. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subdivision (2) of subsection 3 of this section and all net excess energy shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent months;

(4) Any net excess energy credits carried forward under subdivision (3) of this subsection shall expire without any compensation at the earlier of either the next subsequent March billing period or when the customer-generator disconnects service or otherwise terminates the net metering relationship with the supplier;

(5) For any municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (4) of subsection 2 of this section to the

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distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems one hundred kilowatts or less and within sixty days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application. Retail electric suppliers shall interconnect qualified energy generation units within thirty days of being notified the generation unit is installed and meets the requirements of this section.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for notifying the retail electric supplier.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall by June 1, 2017 promulgate any rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after June 1, 2017, shall be invalid and void.

10. The governing body of a municipal utility shall by June 1, 2017 adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.910. 1. This section shall be known and cited as the "Community Solar Act."

2. Within thirty days of enactment of this section, the commission shall open a docket and by August 1, 2017, the commission shall adopt rules and regulations allowing customers to participate in community solar facilities and set a value-of-community-solar rate. For purposes of this section, a "community solar facility" is a photovoltaic electric generation facility with a capacity of between one hundred and one thousand kilowatts, measured in alternating current, that allows five or more customers of an electrical corporation to offset their energy usage with solar energy and such facility is located within the Missouri service territory of the electrical corporation where such customers have one or more electrical accounts. For the purposes of this section, an electrical corporation is as defined in 386.020.

3. The aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous calendar year, and such capacity of community solar facilities shall not count towards the system-wide net metering cap defined in subsection 3 of section 386.900. Electrical corporations shall be allowed to own or operate

community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. Entities or individuals that are not electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of an electrical corporation's single-hour peak load during the previous year. The commission shall allow prudently incurred costs and expenses for community solar facilities owned by an electrical corporation to be included in such electrical corporation's rate base. Once a four percent aggregate cap is reached for community solar facilities, the commission shall open a docket to determine whether or not the community solar program shall be expanded, and the commission may increase the aggregate capacity cap above four percent, or adjust the percentage cap of electrical corporations owning community solar facilities. The commission shall consider all benefits and costs of such an expansion when making its decision. Community solar facilities shall not be eligible for tax credits under section 386.1000.

4. For any community solar facility that is owned or operated by an entity other than an electrical corporation, the energy generated by such community solar facility shall be provided to the electrical corporation to which it is interconnected in exchange for the allocation and facilitation of bill credits as provided in subsection 5 of this section.

5. Kilowatt hours generated from community solar facilities shall be allocated, on a pro rata basis, to the designated subscribers of the community solar facility at the direction of the community solar facility owner or operator. Allocated bill credits shall be set at a community solar rate per kilowatt hour determined by the commission. The commission shall determine the value of bill credits per kilowatt hour taking into consideration costs and benefits of solar energy including but not limited to energy value, generation value, environmental value, transmission and distribution system value, disaster recovery value, reactive power value and other grid benefit value, but such bill credits shall not be less than the electrical corporation's average retail rate. The value of allocated community solar bill credits shall be used to reduce the customer's total bill. Owners and operators of community solar facilities shall not be considered a public utility as defined in section 386.020, except that this provision shall not apply to any owner or operator who is an electrical corporation. When a community solar facility is placed in service it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years.

6. The commission shall promulgate rules and regulations it deems necessary to carry out the provisions of this section. The commission's rules shall: allow electrical corporations to recover costs; provide earning opportunities for electrical corporations; provide an orderly process, including a reservation system, to allow potential community solar facility owners and operators to develop projects within the capacity limits in subsection 2 of this section; and provide options, which may include financial incentives, to encourage low-income participation.

7. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is

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subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section, shall be invalid and void.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. The total amount of clean energy tax credits offered annually shall not exceed one percent of the value of electricity used in Missouri as determined in subsection 4 of this section.

2. The department of economic development shall certify when the tax credits provided in this section have resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.890 and 386.900, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on available reports, including FERC Form Number 1 as allowed by 18 CFR § 141 or an equivalent as determined by the commission, of megawatt hours sales of retail electricity and corresponding revenues for the preceding year or most current reporting period as determined by the commission. The commission shall publish the value of electricity used in Missouri to the public and department of economic development within forty-

five days of the enactment of this section and at least sixty days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may only apply for and receive the credit authorized by this section for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

7. To obtain approval for tax credits allowed under this section, a taxpayer shall submit an initial application for tax credits to the department of economic development. Each application shall be prioritized for review and approval, in the order of the date on which the application was received, with the oldest received date receiving priority. Applications received on the same day shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. Such application deposit shall be refunded at completion of the project or if the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. The taxpayer may request a refund of the application deposit; however, any refunds of the deposit for an application shall cause such application to lose its spot in the priority queue. If the taxpayer wants to maintain its position in the priority queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount

of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

9. Disapproved applications shall lose priority in the review process. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision of its intent to disapprove and to remove such application. The taxpayer shall have one opportunity, not to exceed ten days of notification of intent to disapprove, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

10. If the department of economic development deems the application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for initial approval shall be notified by the department of economic development that the maximum amount of credits authorized have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available due to the rescission of approvals or reserved for a future fiscal year.

12. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial approval for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by letter and shall issue, to the taxpayer, a tax credit certificate within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

15. If the amount of the credit under subsection 14 of this section exceeds the taxpayer's total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign

the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. The state tax credit shall not be subject to recapture provisions. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

16. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsections 10 or 11 of this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

17. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-173)**

## Subject

Initiative petition from Andy Zellers regarding a proposed amendment to Chapter 386 of the Revised Statutes of Missouri. (Received December 17, 2015)

## Date

January 6, 2016

## Description

This proposal would amend Chapter 386 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Public Service Commission.**

**Mark R. Reading** provided information to the State Auditor's Office as a proponent of this initiative petition.

**Edward D, Greim** of Graves Garrett LLC provided information to the State Auditor's Office as an opponent of this initiative petition.

**Brent Stewart** of Association of Missouri Electric Cooperatives provided information to the State Auditor's Office as an opponent of this initiative petition.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no known fiscal impact on their department.

Officials from the **Department of Economic Development** (DED) provided the following information:

The Division of Energy (DE) indicated this petition will result in increased operating expenses of $758,642 for fiscal year 2017, $827,781 for fiscal year 2018, and $835,826 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Section 386.900 – Enhanced Net Metering and Easy Connection Act
The Division of Energy (DE) participates in PSC regulatory cases to evaluate issues from a formal state policy and planning perspective consistent with its interests in clean, affordable, abundant energy, and its efficient use. DE is active in cases before the PSC related to energy efficiency and renewable energy. As such, DE assumes it would be involved in the implementation of this provision that modifies the existing net metering and interconnection requirements for regulated electric utilities. It is assumed there would be a rulemaking docket to set the process and details associated with this proposal. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related cases where enhanced net metering provisions are considered.

Section 386.910 – Community Solar Act
DE assumes it would be involved in the implementation of the Community Solar Act provisions. It is assumed there would be a rulemaking docket to set the process and details associated with this section. Rulemaking cases before the PSC may be open for a year or more and include several full-day workshops. DE staff would participate in the workshops, monitor filings and review of other parties' proposals, research best practices and develop proposals and rule language, collaborate with other interested parties, and file comments. DE assumes it would monitor and participate in tariff and other related

cases where community solar facilities are established for purposes of determination of eligibility and certification under the Missouri Renewable Energy Standard (RES). DE assumes this provision would result in additional RES certifications that would need to be performed.

Section 386.1000 – Clean Energy Tax Credit
DE is required to administer the Clean Energy Fund created by this section and promulgate rules to implement the Clean Energy Tax Credit. The proposal requires DE to receive applications and deposits, review and initially approve applications and required information within 30 days, review final approval applications, issue certificates and provide notifications, refund deposits for completed and disapproved projects, at least quarterly publish a list of the amount of tax credits initially and finally approved for each fiscal year and amounts reserved for future years, notify individual applicants of disapproved applications and approval within specified timeframes, notify applicants if the maximum amount of credits authorized have been allocated for the fiscal year, and grant three-month extensions if needed for project completion with additional deposit payments.

**Long-range implications**

Fiscal impacts associated with the Clean Energy Tax Credits could continue until June 30, 2022. The authorization for the tax credit would sunset sooner if the 1,000 megawatt limit is reached. Economic benefits associated with construction of solar facilities would also have long-range implications.

**Assumptions and methodology used in arriving at state fiscal impact**

Section 386.900 – Enhanced Net Metering and Easy Connection Act
For purposes of this fiscal note, DE assumes it would be involved in the PSC rulemaking and related cases to implement this provision but could do so with existing resources. However, there could be a cumulative fiscal impact to DE if multiple provisions related to PSC regulatory issues pass due to DE's involvement in such cases.

386.910-Community Solar Act
The RES requires investor-owned utilities in Missouri to either produce green power or purchase Renewable Energy Certificates (RECs) for compliance. One REC represents 1 megawatt-hour (MWh) of electricity generated from an eligible renewable energy resource. The in-state renewable energy generation can receive a multiplier of 1.25 for RES compliance purpose. DE has statutory authority to certify eligible renewable energy resources before RECs associated with those renewable energy resources can be used for RES compliance. DE does not charge any certification fees.

A community solar facility is defined as a solar photovoltaic facility with a capacity of 100-1000 kilowatts (kW) under this section. DE anticipates that enactment of a tax credit in Section 386.1000, RSMo, will result in an increase in community solar facilities constructed and that in-state community solar facilities will request DE to certify their

renewable energy resources/projects for the purpose of generating additional revenue from REC sales. DE's review primarily focuses on environmental impacts of renewable electric generation facilities on air, water or land use. The actual staff time spent on each application varies from one project to another. Solar photovoltaic facilities with a larger capacity typically require more staff time for reviewing their third-party environmental impact assessments in addition to verifying applicable environmental permits. Staff time will be also needed for data requests and discussion, data collection, database management, report production and website maintenance.

Current average staff time to review and certify renewable energy facilities ranges from 2 hours for small projects of a few hundred kW and 8-10 hours for larger projects of a few hundred kW to 1000 kW. It is assumed that small projects will account for two-thirds of the total community solar facilities and one-third will be larger projects. The weighted average of staff time (based on 2 hours for smaller projects and 8 hours for larger projects) is 4 hours (calculation: 2*{2/3}+8*{1/3}). The number of projects at the assumed 200 kW ranges from 71 to 209 if the full amount of tax credits are used (Source: Mark Reading). By multiplying the average staff time of 4 hours, the annual staff time will range from 284 to 836 hours. For purposes of this fiscal note, DE assumes it could implement the provisions of this section with staff requested to implement the clean energy tax credit in Section 386.1000, RSMo (see below).

Section 386.1000 – Clean Energy Tax Credit

Retail sales of Missouri's utilities totaled $7.6 billion in 2014 (Source: Mark Reading; U.S. DOE/EIA). If all tax credits were used up to the cap of 1% of the annual statewide Missouri revenue of Missouri's retail electric suppliers (approximately $76 million/year), and with consideration to the estimated cost and size of the projects, it is estimated there would be 4,933 residential project applications and 283 commercial project applications submitted for tax credit reviews (Source: Mark Reading). DE assumes that it would take approximately 2 hours each to do the initial review/approval of each application and another 2 hours to do the review and issuance of a certification after a project is completed for residential projects. Each of these would include clerical time for input/issuing letters/filing, etc. For larger commercial projects, an estimated 8 hours is anticipated for each of these two steps. See response above for detailed tasks required by the proposal.

19,732 hours for residential applications
4,528 hours for commercial applications
24,260 hours total

To implement this provision, DE assumes it will need a total of 12 full-time employees (FTE) (including a portion of an FTE to implement Community Solar provisions, Section 386.910, RSMo) as follows:

8 – Energy Specialist I/II
2 – Energy Engineer II
2 – Administrative Office Support Assistant (AOSA)

- Energy Specialist I/II - Professional level staff to review the renewable energy project applications and to complete project evaluation activities.
- Energy Engineer II - Professional staff with expertise in engineering aspects of renewable energy projects to review the technical aspects of the projects, review of projects related to the Renewable Energy Standard and Renewable Energy Certificates and familiar with environmental impacts of renewable electric generation.
- AOSA - Staff to assist with the administrative requirements of the reviews such as drafting and sending communication to applicants, maintaining the database of applicants, and tracking status of applications.

DE also assumes that the DED's existing tax credit database will be used to track the applications. Some IT costs to generate the necessary reports are estimated.

Note that although an application deposit is required to be paid to DE and deposited in the Clean Energy Fund, because the deposit must be refunded to the applicant upon completion of the project or if the project is disapproved, DE assumes it is unable to use these funds to administer the proposal. Therefore, General Revenue funds are requested. Based on the estimated number of residential and commercial projects, application deposits at 2 cents/watt to the Clean Energy Fund would total approximately $1.7 million/year.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated the responsibilities of this proposal appear to fall under the Division of Energy. With Executive Order 13-03 the Division of Energy was transferred from the Missouri Department of Natural Resources to the Missouri Department of Economic Development, by Type I transfer. Therefore, they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** estimate this petition will result in increased operating expenses of $243,282 for fiscal year 2017, $181,985 for fiscal year 2018, and $183,470 for fiscal year 2019.

The legislation creates an unknown, negative impact to total state revenue by creating a new tax credit.

**Section 386.1000**
The provisions of this section authorize the issuance of a clean energy tax credit to taxpayers incurring costs for the installation of a clean energy resource project. The taxpayer may claim 35 percent of the total cost of the project. The legislation caps the amount of tax credits at not more than one percent of the value of the electricity used in Missouri.

**Section 386.1000.13**
The department suggests changing the provisions pertaining to the transfer of the tax to the Department of Revenue as this is currently the department's responsibility based on a previously issued executive order.

**Administrative Impact:**
**Personal Tax:**
Personal Tax requires one (1) Revenue Processing Technician I (Range 10, Step L) for every 6,000 credits claimed.

**Corporate Tax:**
Corporate Tax requires three (3) Revenue Processing Technicians I (Range 10, Step L) for every 4,000 credits redeemed, 4,000 credits transferred, and for every 520 SB 1099 compliance mailings and correspondence.

**Integrated Tax System:**
The integrated tax system incurs additional costs of $43,680 to implement the provisions of this petition.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of West Plains** indicated the 86 cities with municipal electric utilities depend on the revenues of this service for their citizen/owners to off-set the cost of electric service and operation to citizens as well as to support the activities of city government.

Based primarily on data from the Federal Department of Energy's (DOE) Energy Information Administration (EIA) Table 6 plus additional data gleaned from the National Renewable Energy Lab's Photovoltaic Calculator and the Missouri Association of Municipal Utilities for peak loads in 73 cities, they have determined that municipalities in Missouri face a loss of at least $23.9 million in revenue should this initiative petition become law. The impact alone to the City of West Plains appears to be $352,000 annually, or over 6.5% of their annual electric utility revenue budget. This figure does not reflect any additional costs they will be required to incur for required pleadings before the state Public Service Commission or local compliance costs for other requirements contained in this proposal.

Because the State Constitution prohibits the imposition of any mandate on local governments (Mo. Const. Art. X, Sec. 16) that reduces income or increases costs without "full state financing," they anticipate that local government costs would be reflected in the final state cost when the fiscal note is completed. Necessary litigation costs incurred for Mo. Const. Art. X, Sec. 16 and other potential legal inconsistencies are unknown.

Methodology for City Loss Calculation
Renewable Energy Initiative Petitions

| **Assumptions and Methods** | **Information Source** |
|---|---|
| 1. A combined federal and state tax credit of 60% of installation costs, would prompt city customers to achieve the 7% capacity cap in a reasonable period of time | Proposed Legislation |
| 2. 1 kW solar panel at this latitude would generate 1350 kWHr per year | National Renewable Energy Lab's PV Calculator |
| 3. Annual Peaks | Municipal reports to the Missouri Association of Municipal Utilities |
| 4. Current City Electric Rates | DOE EIA Database (Table 6 for 2010) |

5. Calculation:
   Annual Peak
   7% of Annual Peak for Capacity Cap
   Total Solar Generation = (Capacity Cap * 1350 kWHrs)*1000
   City's lost revenue: City rate * Solar Generation

6. State calculation based on the sum of "Assumption 5" calculations for
73 reporting cities (out of 86)
Total ≥ $23.8 million

**Calculation for City of West Plains**

| | |
|---|---|
| 44.453 | Annual Peak (MW) |
| 3.11171 | 7% of Annual Peak for Capacity Cap MW |
| 4,200,809 | Total Solar Generation (KWHR) |
| 8.38 | City Rate (cents per kWHR) |
| $352,028 | Lost Revenue |

Officials from **University of Missouri** indicated they have not seen cost impact studies on this initiative from their electric utility suppliers, but they do not believe this will have a significant impact on their university.

Officials from the **Public Service Commission** (PSC) indicated without the benefit of the rulemaking process to explore potential issues and clearly delineate parameters, and assuming the "value of electricity" is clearly defined as the **calendar** year Missouri revenue for retail sales of electricity, the first year clean energy tax credit cap would be approximately $76,444,000 based on the most recent data currently available. For subsequent years, this amount will change based on the most recent Missouri revenue for retail sales of electricity and whether any tax credits exceed the total tax liability for a given fiscal year. In that case, the amount that exceeds the tax liability may be carried back 3 years or forward 10 years, involving additional calculations.

Sections 386.890 and 386.900, RSMo, define "department" as the department of natural resources. "Department" should be defined as the department of economic development, division of energy.

Sections 386.890 and 386.900, RSMo, both use the terms "Retail electric supplier" or "supplier", but in Section 386.890, RSMo, a "retail electric supplier" or "supplier" is any rural electric cooperative under Chapter 394, RSMo, that provides retail electric service in this state, and in Section 386.900, RSMo, a "retail electric supplier" or "supplier" is any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state. Although the terms are in different statutes, it may be confusing to define the same term in a different manner. It may be clearer to use different terms applicable to the respective intent. Further since Section 386.890, RSMo, is only applicable to rural electric cooperatives, it may make sense to move the entire provision to Chapter 394, RSMo.

Sections 386.890 and 386.900, RSMo, use the term "wholesale generator". The PSC respectfully suggests this term be defined.

Section 386.900, RSMo, uses terms such as "commission-regulated supplier" and "public utilities" to describe suppliers that are subject to PSC jurisdiction. The PSC respectfully suggests the terms be used consistently.

Section 386.900. RSMo, requires the PSC to promulgate rules by June 1, 2017, and Section 386.910, RSMo, requires the PSC to adopt rules by August 1, 2017. The PSC respectfully suggests these dates may be aggressive for final rules to be effective.

Section 386.900.6.(2), RSMo, references "subsection 4 of this section". This appears to be an inaccurate cross-reference as there is no subsection 4 of the section.

Section 386.900.12, RSMo, says the estimated generating capacity of all net metering systems shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate, but the renewable energy portfolio deals with "energy" not "capacity".

Section 386.910.5, RSMo, states that when a community solar facility is placed in service, it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years. It appears this provision would require the utility ratepayers to fund the facility at the current rate for 20 years without adjustment for changes in the utility's costs or revenues that would occur over the 20 year period. It is also not clear if the cost-of-solar value contemplates an earnings opportunity for the Commission-regulated utility.

Section 386.1000, RSMo, discusses a "clean energy tax credit". It is not clear why the tax credit is in the PSC statute and not in a tax-related statute.

**Mark R. Reading** provided the following information as a proponent of this initiative petition.

Submitted by:

_____

Mark R. Reading
2604 Lakeland Drive
Jefferson City, MO 65109
(573) 694-6828
*Primary Contact Person*

**Clean Energy Independence and Investment Act of 2016 - Versions 10, 12, 14, 16, and 18**
**Sec. of State # 173, 175, 177, 190, and 180**

**Proposed Statement of Fiscal Impact**
**for Clean Energy Independence and Investment Act of 2016 - Versions 10, 12, 14, 16, and 18**
**Sec. of State # 173, 175, 177, 190, and 180**

**Fiscal Impact Information Submitted Pursuant to Section 23.140.2**

The amendment's estimated impact decreases state revenue between $31 to $63 million depending upon the speed of up to $225 million in additional clean energy project construction and implementation by the Department of Economic Development, residential homeowners, and businesses. Local revenue is estimated to grow between $2.6 to $5.1 million.

| ESTIMATED NET EFFECT ON STATE FUNDS | | |
|---|---|---|
| **Fund Affected** | **FY 2017** | **FY 2018** |
| **General Revenue** | $0 | From ($33,037,828) to ($66,019,325) |
| | | |
| **Total Estimated Net Effect on All State Funds** | $0 | From ($31,362,880) to ($62,666,273) |
| **ESTIMATED NET EFFECT ON LOCAL FUNDS** | | |
| Local Funds | $0 | From $2,553,188 to $5,128,651 |
| | | |
| **Total Estimated Net Effect on All Local Funds** | $0 | From $2,553,188 to $5,128,651 |

**SUMMARY OF VERSIONS OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT**

Nine versions of the Clean Energy Independence and Investment Act of 2016 have been submitted for review. A summary of which topics are in each version is provided below.

**CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT OF 2016**
**SUMMARY OF VERSIONS**

| Petition version | 386.870 - Electric vehicle | 386.890 - Net metering | 386.900 - Enhanced net metering | 386.910 - Community Solar | 386.1000 - Tax credits |
|---|---|---|---|---|---|
| | | | | | |
| **1% Electric Versions** | | | | | |
| Version 10 | N/A | X | X | X | X |
| Version 12 | X | X | X | X | X |
| Version 14 | X | Deletes | X | X | X |
| Version 15 | N/A | N/A | N/A | N/A | X |
| Version 16 | X | N/A | N/A | X | X |
| Version 17 | X | X | X | N/A | X |
| Version 18 | N/A | X | X | X | X |
| | | | | | |
| **$50 million cap Versions** | | | | | |
| Version 11 | N/A | X | X | N/A | X |
| Version 13 | X | X | X | X | X |

## ANALYSIS OF FISCAL IMPACT OF CLEAN ENERGY INDEPENDENCE AND INVESTMENT ACT

The fiscal impact analysis contained herein focuses on estimating the fee and tax revenue resulting from the statutory changes proposed in the initiative petition. Table 1 summarizes the revenue estimated by source and by fiscal year. Page and Table numbers are provided to help readers find specific subjects.

**Table 1 -**
**Summary of Fiscal Impact by Fund**

| Page # | Table # | Purpose | FY 2017 | FY 2018 - low range | FY 2018 - high range | Revenue Type |
|---|---|---|---|---|---|---|
| 9-12 | Table 10 | Tax credit | $0 | ($39,494,829) | ($78,989,658) | Income |
| 13-15 | Table 14 | Taxes from clean energy tax credit construction | $0 | $4,429,063 | $8,858,126 | Various |
| 16-17 | Table 17 | Taxes from community solar construction | $0 | $2,027,938 | $4,112,207 | Various |
| | | subtotal General Revenue Fund | $0 | ($33,037,828) | ($66,019,325) | |
| | | | | | | |
| 8-13 | Table 11 | Clean Energy Fund | $0 | $868,852 | $1,733,826 | Application deposit |
| | | | | | | |
| 13-15 | Table 14 | Prop C sales tax - clean energy | $0 | $451,369 | $902,739 | Sales tax |
| 16-18 | Table 17 | Prop C sales tax - community solar | $0 | $206,669 | $419,078 | Sales tax |
| | | subtotal Prop C | $0 | $658,038 | $1,321,817 | |
| | | | | | | |
| 13-15 | Table 14 | Conservation sales tax - clean energy | $0 | $56,421 | $112,842 | Sales tax |
| 16-18 | Table 17 | Conservation sales tax - community solar | $0 | $25,834 | $52,385 | Sales tax |
| | | subtotal Conservation | $0 | $82,255 | $165,227 | |
| | | | | | | |
| 13-15 | Table 14 | Parks and Soils sales tax - clean energy | $0 | $45,137 | $90,274 | Sales tax |
| 16-18 | Table 17 | Parks and Soils sales tax - community solar | $0 | $20,667 | $41,908 | Sales tax |
| | | subtotal Parks and Soils | $0 | $65,804 | $132,182 | |
| | | | | | | |
| | | subtotal Other State Funds | $0 | $1,674,949 | $3,353,052 | |
| | | | | | | |
| | | subtotal all state funds | $0 | ($31,362,880) | ($62,666,273) | |
| | | | | | | |
| 13-15 | Table 14 | Local Sales Tax - clean energy | $0 | $1,751,314 | $3,502,627 | Sales tax |
| 16-18 | Table 17 | Local Sales Tax - community solar | $0 | $801,875 | $1,626,024 | Sales tax |
| | | subtotal Local Funds | $0 | $2,553,188 | $5,128,651 | |
| | | Grand Total State and Local | $0 | ($28,809,691) | ($57,537,622) | |

**Clean Energy tax credits**

The proposal creates a clean energy tax credit in Chapter 386 RSMo. The annual level of tax credits for each calendar year shall not exceed one percent of the annual statewide Missouri revenue of Missouri retail electric suppliers. The Public Service Commission (PSC) is required to determine the revenue for retail electric suppliers using available reports, including FERC Form Number 1 as allowed by 18 CFR § 141 or an equivalent determined by the PSC.

The data for this calculation is gathered and published by the U.S. Energy Information Administration on its website.[1] Table 2 shows the revenues reported by each Missouri entity in 2014. Retail sales totaled $7.6 billion in 2014 for the 74 entities.

**Table 2**
**2014 Utility Bundled Retail Sales - Total**
(Data from forms EIA-861- schedules 4A & 4D and EIA-861S)

| Entity | Ownership | Revenues (Thousands Dollars) |
|---|---|---|
| Atchison-Holt Electric Coop | Cooperative | $6,727 |
| Barry Electric Coop | Cooperative | $16,654 |
| Barton County Elec Coop, Inc | Cooperative | $16,262 |
| Black River Electric Coop - (MO) | Cooperative | $42,554 |
| Boone Electric Coop | Cooperative | $55,335 |
| Callaway Electric Cooperative | Cooperative | $24,618 |
| Carroll Electric Coop Corp - (AR) | Cooperative | $14,104 |
| Central Missouri Elec Coop Inc | Cooperative | $25,350 |
| Chillicothe Municipal Utils | Municipal | $10,035 |
| Citizens Electric Corporation - (MO) | Cooperative | $123,087 |
| City Utilities of Springfield - (MO) | Municipal | $249,286 |
| City of Ava - (MO) | Municipal | $2,894 |
| City of Cameron | Municipal | $7,728 |
| City of Carthage - (MO) | Municipal | $24,493 |
| City of Columbia - (MO) | Municipal | $109,927 |
| City of Farmington - (MO) | Municipal | $18,390 |
| City of Fulton - (MO) | Municipal | $14,228 |
| City of Hannibal - (MO) | Municipal | $25,785 |
| City of Harrisonville - (MO) | Municipal | $12,072 |
| City of Independence - (MO) | Municipal | $135,338 |
| City of Jackson - (MO) | Municipal | $16,281 |
| City of Kennett - (MO) | Municipal | $10,988 |
| City of Kirkwood - (MO) | Municipal | $21,547 |
| City of Lamar - (MO) | Municipal | $6,961 |
| City of Lebanon - (MO) | Municipal | $22,949 |
| City of Macon - (MO) | Municipal | $9,740 |
| City of Marshall - (MO) | Municipal | $17,390 |
| City of Monett - (MO) | Municipal | $20,534 |
| City of Mount Vernon - (MO) | Municipal | $6,790 |
| City of Nixa - (MO) | Municipal | $14,132 |
| City of Poplar Bluff - (MO) | Municipal | $31,686 |
| City of Rolla - (MO) | Municipal | $27,694 |
| City of Sikeston - (MO) | Municipal | $17,528 |

| | | |
|---|---|---|
| City of Sullivan - (MO) | Municipal | $9,645 |
| City of West Plains - (MO) | Municipal | $15,208 |
| Clay County Electric Coop Corp | Cooperative | $96 |
| Co-Mo Electric Coop Inc | Cooperative | $46,302 |
| Consolidated Electric Coop | Cooperative | $21,936 |
| Crawford Electric Coop, Inc | Cooperative | $30,705 |
| Cuivre River Electric Coop Inc | Cooperative | $105,621 |
| Empire District Electric Co | Investor Owned | $456,324 |
| Farmers Electric Coop, Inc - (MO) | Cooperative | $28,697 |
| Gascosage Electric Coop | Cooperative | $17,074 |
| Grundy Electric Coop, Inc | Cooperative | $12,214 |
| Howard Electric Coop | Cooperative | $6,057 |
| Howell-Oregon Elec Coop, Inc | Cooperative | $38,226 |
| Intercounty Electric Coop Assn | Cooperative | $53,855 |
| KCP&L Greater Missouri Operations Co. | Investor Owned | $802,845 |
| Kansas City Power & Light Co | Investor Owned | $824,706 |
| Laclede Electric Coop, Inc | Cooperative | $63,330 |
| Lewis County Rural E C A | Cooperative | $13,534 |
| Macon Electric Coop | Cooperative | $23,795 |
| Missouri Rural Electric Coop | Cooperative | $17,812 |
| New-Mac Electric Coop, Inc | Cooperative | $38,876 |
| North Central MO Elec Coop Inc | Cooperative | $14,098 |
| Osage Valley Elec Coop Assn | Cooperative | $28,034 |
| Ozark Border Electric Coop | Cooperative | $68,293 |
| Ozark Electric Coop Inc - (MO) | Cooperative | $52,354 |
| Pemiscot-Dunklin Elec Coop Inc | Cooperative | $19,856 |
| Platte-Clay Electric Coop, Inc | Cooperative | $51,737 |
| Ralls County Electric Coop | Cooperative | $12,711 |
| SE-MA-NO Electric Coop | Cooperative | $9,438 |
| SEMO Electric Cooperative | Cooperative | $33,195 |
| Sac-Osage Electric Coop Inc | Cooperative | $16,676 |
| Southwest Electric Coop, Inc | Cooperative | $58,853 |
| Sunnova | Behind the Meter | $1 |
| Three Rivers Electric Coop | Cooperative | $36,751 |
| Trenton Municipal Utilities - (MO) | Municipal | $8,647 |
| Tri-County Electric Coop Assn | Cooperative | $12,512 |
| Union Electric Co - (MO) | Investor Owned | $3,112,534 |
| United Electric Coop, Inc - (MO) | Cooperative | $21,579 |
| Webster Electric Coop | Cooperative | $28,828 |
| West Central Electric Coop Inc - (MO) | Cooperative | $25,967 |
| White River Valley El Coop Inc | Cooperative | $86,488 |
| Adjustment 2014 | Other | $159,914 |
| Total | | $7,644,407 |

Source: http://www.eia.gov/electricity/sales_revenue_price/
Table 10: All Sectors - Class of ownership, number of consumers, sales, revenue, and average retail price by State and utility:

Table 3 shows the data series by year from 1990 through 2014 reported by the U.S. Energy Information Administration.[2] The average annual increase in these revenues is 3.33 percent.

**Table 3**
**Revenue from Sales to Ultimate Customers**
**(Thousand Dollars) for Missouri, 1990-2014**

| Year | Total Revenue | $ Growth over previous year | % Growth over previous year |
|---|---|---|---|
| 1990 | $3,484,572,000 | | |
| 1991 | $3,653,391,000 | $1,688,190 | 4.8% |
| 1992 | $3,489,099,000 | ($1,642,920) | (4.5%) |
| 1993 | $3,709,661,000 | $2,205,620 | 6.3% |
| 1994 | $3,749,115,000 | $394,540 | 1.1% |
| 1995 | $3,891,751,000 | $1,426,360 | 3.8% |
| 1996 | $3,961,895,000 | $701,440 | 1.8% |
| 1997 | $4,005,066,000 | $431,710 | 1.1% |
| 1998 | $4,196,674,000 | $1,916,080 | 4.8% |
| 1999 | $4,185,713,000 | ($109,610) | (0.3%) |
| 2000 | $4,370,246,000 | $1,845,330 | 4.4% |
| 2001 | $4,414,434,000 | $441,880 | 1.0% |
| 2002 | $4,565,227,000 | $1,507,930 | 3.4% |
| 2003 | $4,470,188,000 | ($950,390) | (2.1%) |
| 2004 | $4,494,108,000 | $239,200 | 0.5% |
| 2005 | $4,959,849,000 | $4,657,410 | 10.4% |
| 2006 | $5,169,747,000 | $2,098,980 | 4.2% |
| 2007 | $5,614,317,000 | $4,445,700 | 8.6% |
| 2008 | $5,768,459,000 | $1,541,420 | 2.7% |
| 2009 | $5,871,973,000 | $1,035,140 | 1.8% |
| 2010 | $6,698,608,000 | $8,266,350 | 14.1% |
| 2011 | $7,008,476,000 | $3,098,680 | 4.6% |
| 2012 | $7,029,475,000 | $209,990 | 0.3% |
| 2013 | $7,538,092,000 | $5,086,170 | 7.2% |
| 2014 | $7,644,407,000 | $1,063,150 | 1.4% |
| | | Avg. annual growth | 3.33% |

Source: http://www.eia.gov/electricity/sales_revenue_price/
Supplemental Data: 1990 - 2013 Revenue from Retail Sales of Electricity by State by Sector by Provider (EIA-861)

For purposes of this fiscal analysis it is assumed that the Public Service Commission will use the most recent available data for establishing the annual cap. The state is currently in FY 2016 and the most recent available data is from 2014. Thus, for the fiscal periods included for consideration by the State Auditor's Office the FY 2017 cap will be established using 2015 data published by the U.S. Energy Information Administration. Similarly, the FY 2018 cap will be established using 2016 data. In this manner the cap for each calendar year will be established eight months before it begins instead of four months after it starts.

**Table 4**
**Data and Timeline for Establishing Annual Tax Credit Cap**

| Data available | Time period of data | CY year for the cap |
|---|---|---|
| April 2015 | 2014 actual data | CY 2016 |
| April 2016 | 2015 actual data | CY 2017 |
| April 2017 | 2016 actual data | CY 2018 |

As shown in Table 3 the average annual growth rate from 1990 to 2014 was 3.33 percent. Table 5 assumes that the average annual growth rate will carry forward for the next several years. The clean energy tax credits cap is estimated at $76.4 million for CY 2016, $79 million for CY 2017 and $81.6 million for CY 2018.

**Table 5**
**Clean Energy Tax Credit Estimate of Cap**

| Calendar Year for cap | Fiscal Year for likely redemption of credits | Revenue data | Total Revenue | Tax credit at 1.0% |
|---|---|---|---|---|
| CY 2016 | FY 2017 | 2014 actual data | $7,644,407,000 | $76,444,070 |
| CY 2017 | FY 2018 | 2015 projection | $7,898,965,753 | $78,989,658 |
| CY 2018 | FY 2019 | 2016 projection | $8,162,001,313 | $81,620,013 |

For purposes of the fiscal note the State Auditor's office asks that estimates be provided for the first two fiscal years of implementation which are FY 2017 and FY 2018 since the provisions of the proposal would go into effect in December 2016. Almost all taxpayers file their taxes on the April 15th deadline. Therefore, CY 2016 taxes would be due on April 15, 2017 which is in FY 2017 as shown in Table 5.

The proposal establishes a cap beginning for CY 2016. However, the provisions of the act will go into effect in December 2016. Paragraph 13 of the proposed section 386.1000 states that any taxpayer verified by the Department of Economic Development to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with the provisions shall be deemed eligible for the tax credit. This allows for the Department of Economic Development to include projects in 2016 before its processes are in place. Paragraph 17 of the proposed section 386.1000 provides that the Department of Economic Development shall issue rules necessary to administer the act. In addition, paragraph 10 gives the Department of Economic Development 45 days to notify an applicant of approval after the application is submitted.

Issuing rules is at best a months long process. The 45 day processing time allowed for any completed application filed after the rules are adopted makes it very unlikely that the Department of Economic Development will issue any CY 2016 tax credits before April 15, 2017 that would affect the taxpayers initial tax filing and reduce taxes paid during FY 2017. Tax credits issued between April 15 and June 30, 2017 would require an amended filing which also would be unlikely to be completed by June 30, 2017. Thus, this fiscal analysis assumes a de minimis or no impact on FY 2017 general revenue tax collections. Any CY 2016 tax credit impact would at most impact the FY 2018 tax collections through amended returns or through CY 2017 taxes.

**Application Deposit revenue**

The proposed Section 386.1000 RSMo requires that taxpayers submit an application to the Department of Economic Development to receive approval for tax credits (paragraph 7). Each application must include a two cent per watt application deposit. The total revenue from application deposits is dependent upon:

- the number of projects that will be submitted;
- the number of watts generated from all of those projects

Each of these is affected by the:

- percentage of residential v commercial projects
- number of kW generated by residential v commercial projects
- cost of residential and commercial projects
- total construction completed
- any phase-in period as the Department of Economic Development institutes rules and prepares the program
- any phase-in period as the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available

All of these factors must be estimated and evaluated in order to calculate the amount of application deposit revenue that will be received by the Department of Economic Development.

Tax credits are available to both residential and commercial projects. Paragraph 5 of the proposed Section 386.1000 RSMo provides that no electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit.

The Missouri Department of Economic Development, Division of Energy published a Missouri Comprehensive State Energy Plan in October 2015. The report states that half of the installed net-metered PV solar is residential and the other half commercial customers.[3] However, the report also indicates that there are challenges that face residential customers making it more difficult and expensive to install solar projects. These challenges include local ordinances or homeowner's association rules the may prohibit installation or require design changes that decrease efficiency or add to the cost.[4] In addition, over the past decade an industry has developed to assist with the financing of solar projects. Such financing alternatives are easier to obtain by commercial projects because of their size, scope, and estimated return on investment.[5] Commercial projects can have a longer-term outlook than homeowners who may not know how long they may live in their current house. The Missouri State Energy Plan indicates that residential rooftop solar is a relatively expensive energy option due to these and other factors.[6]

For all of the reasons identified in the preceding paragraph, for purposes of this fiscal analysis residential solar installation is assumed to be 40% of the total solar construction. Commercial solar installation is assumed to be 60% of the total solar construction. This fiscal analysis has already indicated that 2016 solar construction will likely not be affected by the approval of the petition by voters in November 2016. Thus, CY 2017 is the first full year of impact. Tax credits resulting from such construction will first affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office.

The next factor to consider is the number of kW generated by residential and commercial projects. A recent report on photovoltaic system pricing trends published by the U.S. Department of Energy indicates that the median residential project is 6.1 kW while the modeled commercial system is 200 kW. Paragraph 5 of the proposed section 386.1000 establishes a 200 kW limit on installations that are authorized for tax credits.[7] For purposes of this fiscal analysis it is assumed that all commercial projects will be at the 200 kW size and that residential projects will be 6.1 kW. Paragraph 7 of the proposed section 386.1000 requires a two cent per watt application deposit fee. Table 6 shows that there would be a $122

application deposit required for the median residential project. There would be a $4,000 application deposit required for the 200 kW commercial project.

**Table 6**
**Application Deposit Required for Projects**

| Construction type | Project size in kW | Project size in watts | Application deposit for project at 2 cents per watt |
|---|---|---|---|
| Residential | 6.1 | 6,100 | $122 |
| Commercial | 200.0 | 200,000 | $4,000 |

The recent report on photovoltaic system pricing trends published by the U.S. Department of Energy also discusses the historical, recent, and near-term pricing of solar projects.[8] Project cost information was obtained on more than 400,000 systems in 42 states. The modeled system prices identified in the report showed a Q1 2015 residential system price of $3.12/watt and a commercial 200 kW system cost of $2.17/watt. These were reductions in price of from Q4 2013 of 7% and 19% respectively. The report also indicates that prices for residential and commercial PV systems have decreased by 6-12% per year, on average, from 1998-2014. In addition, the report indicates that analysts project the system prices will fall 16-33% for residential systems between 2014-2020.

Table 7 projects residential solar project costs. Projections are made to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 7 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $3,000/kW for residential solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 6.1 kW residential project is estimated at $18,300.

**Table 7**
**Residential Solar Project Estimate**

| | Cost of Residential project per kW | Cost of Residential project at 6.1 kW project size |
|---|---|---|
| CY 2015 | $3,120 | $19,032 |
| CY 2016 | $3,039 | $18,538 |
| CY 2017 | $2,960 | $18,056 |
| average cost of CY16 and CY17 estimates | $3,000 | $18,300 |

The modeled commercial system price identified in the report showed a Q1 2015 commercial 200 kW system cost of $2.17/watt. However, the national average cost of commercial projects is affected by states with more mature solar markets and industries and large companies, like Wal-Mart and Ikea, that have moved to install significant solar projects on their facilities. The first Missouri commercial systems are less likely to meet the $2.17/watt cost projections. Table 8 uses other data in the report to amend the estimate of commercial solar project costs. The report shows that the price of the modeled 200 kW commercial system has fallen from $2.68/watt to $2.17 between 2013 Q4 and 2015 Q1. The mid-point of that decrease is $2.425/watt. Further, it is assumed that the cost of Missouri projects will be higher by 2.6%, or one-year's worth of the low end of the price declines found in the report. The result is that this analysis will assume that the Missouri 2015 Q1 price is $2.488/watt.

**Table 8**
**Commercial Solar Project Cost Estimate per kW**

| | |
|---|---|
| 2013 Q4 | $2,680 |
| 2015 Q5 | $2,170 |
| Mid-point | $2,425 |
| One-year behind (2.6%) | $2,488 |

Table 9 then projects the $2,488/kW 2015 Q1 cost to CY 2017 since it is the first full year of impact and such construction will affect state revenues in FY 2018 which is the second year covered in fiscal notes issued by the State Auditor's Office. Table 9 assumes the low end of falling prices indentified in the U.S Department of Energy report - 16% from 2014-2020 or about 2.6% per year. This fiscal analysis will assume a cost of $2,392/kW for commercial solar projects which is the average of the CY 2016 and CY 2017 projected costs. The cost for a 200 kW commercial project is estimated at $478,400.

**Table 9**
**Commercial Solar Project Estimate**

| | Cost of Commercial project per kW | Cost of Commercial project at 200 kW project size |
|---|---|---|
| CY 2015 | $2,488 | $497,600 |
| CY 2016 | $2,423 | $484,600 |
| CY 2017 | $2,360 | $472,000 |
| average cost of CY16 and CY17 estimates | $2,392 | $478,400 |

The analysis so far has identified:

- a $79 million estimate of the maximum clean energy tax credits using one percent of the annual statewide Missouri revenue of Missouri retail electric suppliers as directed by paragraph 1 of the proposed section 386.1000.
- an estimate that 40% of total solar construction would be residential and 60% commercial
- project cost estimates of $18,300 for 6.1 kW residential projects and $478,400 for 200 kW commercial projects

The final factor to calculate before arriving at the amount of application deposit revenue is any phase-in period as the Department of Economic Development issues rules and prepares its processes and the solar industry and residential and commercial customers begin to take advantage of the new tax credits that are available. The Missouri State Energy plan reports that Missouri currently has 111 MW of installed solar PV capacity. The plan also reports that there is 42.8 MW of installed net-metered PV solar developed over the years largely as a result of rebates from large utility companies in Missouri.

The proposal being analyzed establishes a statutory program of clean energy tax credits that will sunset after the Department of Economic Development certifies that 1,000 MW of capacity has been added as a result of the tax credits but no later than June 30, 2022. The 1,000 MW target represents a dramatic increase in current capacity.

The Missouri State Energy plan provides a wealth of information about the current state of "green jobs" and the solar industry in Missouri. The report includes the following along with other findings about the industry.

- Missouri had over 100,000 "green jobs" according to a 2009 study.[9]
- Missouri was identified as 10th in the nation for growth in clean energy and clean transportation jobs in 2013.[10]

- $187 million was invested by Missouri's solar industry in 2014 to install solar photovoltaic systems for residential, commercial, and utility use.[11]
- There are more than 97 solar companies at work throughout the supply chain in Missouri, employing 2,500 people including manufacturers, contractors, installers, project developers, distributors.[12]
- Missouri could create 8,500 new jobs to design, install, and operate energy efficiency measures by 2025 according to a 2011 study.[13]
- In 2010 Missouri ranked 6th in the nation in photovoltaic jobs.[14]

The clean energy tax credit does not sunset until the 1,000 MW target of additional capacity is met but no later than June 30, 2022. The size and the long-term nature of the 1,000 MW target should encourage the development of the Missouri solar industry even after it sunsets. It should also result in long-term planning and the build out of a native Missouri solar industry. The target also provides an incentive for the industry to meet the growth potential described in the Missouri State Energy Plan.

In the long-term the impact of the 1,000 MW target will grow and build the industry. In addition, investment in solar will allow longer term benefits in reduced fuel usage, cleaner air, better health and the resulting lower costs among other things. The Missouri State Energy Plan identifies the public health impacts of various energy sources with clean energy sources providing significant positive benefits over other sources.[15] A 2013 study of Hawaii's solar tax credit program found that the State recovered the full cost of the tax credit in 9 to 11 years - a rate of return on its investment ranging from 8.9% to 10.3%.[16] In addition, the study found that for each dollar spent by Hawaii on tax credits the amount of additional sales stimulated was $34.69 for residential solar PV and $55.03 for commercial PV.

However, the fiscal note format required for initiative petitions focuses on the short-term revenue and costs. Thus, the longer-term benefits are not included in this fiscal analysis. As explained elsewhere in this fiscal analysis the impact of the availability of tax credits is somewhat dependent upon the speed with which the Department of Economic Development issues the necessary rules and regulations, develops and makes available the application forms, and the industry's reaction to voter approval and the department's actions. Thus, two alternatives are calculated to create a possible range for the likely outcome in the short-term.

The first alternative assumes that construction will be sufficient to use half of the $79 million in possible tax credits. The first alternative assumes that the program is not implemented until July 2017 thus reducing its effect by half in CY 2017. The second alternative assumes that construction will be sufficient to use all of the $79 million in possible tax credits. The second alternative assumes that the industry is energized by the tax credit and pushes forward with construction under the assumption that the Department of Economic Development will recognize all projects that have been started after voter approval of the proposal.

Table 10 takes that information and shows two possible alternatives for CY 2017.

- Construction leading to use of **half** the available tax credits ($39.5 million) - A total of $112.8 million in construction would be required to generate $39.5 million in tax credits. Residential construction of $45.1 million (assuming 40% of construction) would result in $15.8 million in tax credits. Commercial construction of $67.7 million (assuming 60% share of construction) would result in $23.7 million in tax credits.

- Construction leading to use of **all** the available tax credits ($79 million) - **A total of $225.7 million in construction would be required to generate $79 million in tax credits**. Residential construction of $90.3 million (assuming 40% of construction) would result in $31.6 million in tax credits. Commercial construction of $135.4 million (assuming 60% share of construction) would result in $47.4 million in tax credits.

In addition, using the average cost and size of projects it is possible to compute the number of residential and commercial projects that will be constructed. A total of 2,608 projects would be constructed with half

the tax credits (2,466 residential, 142 commercial). A total of 5,216 projects would be constructed with all the tax credits (4,933 residential, 283 commercial).

**Table 10**
**Number of Projects using Half or All of Tax Credit Cap**

| | CY 2017 construction needed for half of tax credits to be used in FY 2018 | CY 2017 construction needed for all of tax credits to be used in FY 2018 |
|---|---|---|
| Tax credits estimate from CY 2017 construction | $39,494,829 | $78,989,658 |
| Amount of construction value needed to generate value of 35% tax credits | $112,842,369 | $225,684,737 |
| | | |
| % of residential per year of credits issued | 40.0% | 40.0% |
| % of commercial per year of credits issued | 60.0% | 60.0% |
| | | |
| Tax credits by type of construction | | |
| Residential | $15,797,932 | $31,595,863 |
| Commercial | $23,696,897 | $47,393,795 |
| Total amount by type | $39,494,829 | $78,989,658 |
| | | |
| Construction value by type of construction | | |
| Residential | $45,136,948 | $90,273,895 |
| Commercial | $67,705,421 | $135,410,842 |
| Total amount by type | $112,842,369 | $225,684,737 |
| | | |
| Cost of solar projects per project | | |
| Residential (6.1 kW/project) | $18,300 | $18,300 |
| Commercial (200 kW/project) | $478,400 | $478,400 |
| | | |
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |

Table 10 shows a significant number of projects that would be completed throughout the state as a result of the clean energy tax credit. These numbers are possible for a variety of reasons identified in the Missouri State Energy Plan.

- Missouri households use about 12% more than the average U.S. household, thus projects would put real dollars into Missourians pockets for other uses and spending.[17]
- Nationally about ten percent of small business owners state that energy is their single biggest cost according to the National Federation of Independent Business. The same report indicates that an additional 25% of small business owners claim that energy is one of their top three business costs.[18] Thus, clean energy projects that reduce energy usage make businesses more profitable, allow for expansion, and could lead to higher wages for employees.
- Businesses can lower costs through on-site generation while also achieving other benefits.[19]
- Significant operational savings are possible through energy efficiency projects with rates of return as high as 25%.[20]

- A wealth of financing alternatives now exist for clean energy projects.[21]
- "Approximately 60% of the largest U.S. businesses have set public climate and energy goals to increase their use of renewable energy."[22]

Table 11 calculates the amount of application deposit revenue that the Department of Economic Development would receive given the number of projects identified in Table 10. If applications are submitted for projects equivalent to half the available tax credits then the department would receive $0.9 million in application deposit revenue. If applications are submitted for projects equivalent to all the available tax credits then the department would receive $1.7 million in application deposit revenue.

**Table 11**
**Application Deposit Revenue**

| | Application Deposit Estimate for half of tax credits for applications FY 2018 | Application Deposit Estimate for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 2,466 | 4,933 |
| Commercial | 142 | 283 |
| Total amount by type | 2,608 | 5,216 |
| | | |
| Application deposit required per project | | |
| Residential | $122 | $122 |
| Commercial | $4,000 | $4,000 |
| | | |
| Application deposit revenue | | |
| Residential | $300,852 | $601,826 |
| Commercial | $568,000 | $1,132,000 |
| Total amount by type | $868,852 | $1,733,826 |

Table 12 shows the amount of solar capacity added by the number of projects identified in the previous tables given the given size of residential and commercial projects. A total of 43.4 MW would be added in solar capacity as a result of projects equivalent to half the available tax credits which would be 4.3% of the 1,000 MW goal that when achieved will sunset the tax credits. A total of 86.7 MW would be added in solar capacity as a result of projects equivalent to all the available tax credits which would be 8.7% of the 1,000 MW goal that when achieved will sunset the tax credits.

**Table 12 Amount of Solar Capacity Added**

| | Capacity added for half of tax credits for applications FY 2018 | Capacity added for all of tax credits for applications FY 2018 |
|---|---|---|
| # of projects | | |
| Residential | 2,466.00 | 4,933.00 |
| Commercial | 142.00 | 283.00 |
| Total amount by type | 2,608 | 5,216 |
| | | |
| kW generated by construction | | |
| Residential (6.1 kW/project) | 15,043 | 30,091 |
| Commercial (200 kW/project) | 28,400 | 56,600 |
| Total amount by type | 43,443 | 86,691 |
| | | |
| MW generated by construction | | |
| Residential | 15.0 | 30.1 |
| Commercial | 28.4 | 56.6 |
| Total amount by type | 43.4 | 86.7 |
| | | |
| % of 1,000 MW goal achieved | 4.3% | 8.7% |

**Taxes**

As noted on pages 10-11 of this fiscal analysis, the Missouri State Energy Plan published in October 2015 describes the current capacity, industry size, and investments being made in Missouri. The plan also describes the potential for jobs and economic development in the state. The 1,000 MW target represents a dramatic increase in current capacity. The following analysis assumes that due to the dramatic size of the 1,000 MW target that the investments driven by the clean energy tax credits will result in new jobs and industry expansion.

Table 13 shows the cost components of a solar construction project. Labor is assumed to be 35% of the project costs, materials 40%, and Profit 10%. It is assumed that 15% of the project cost is overhead and it is assumed that no taxes would be applied. Since Missouri already has a base of manufacturers and distributors it is assumed that all materials will be Missouri taxed.

**Table 13**
**Construction Project Components, Tax Type, and Tax Rate**

| Project components | % of job | Missouri tax rate | Type tax |
|---|---|---|---|
| Labor | 35.0% | 6.00% | Income tax |
| Materials and local materials | 40.0% | 4.225% | Sales |
| Profit | 10.0% | 6.25% | Corporate |
| Overhead | 15.0% | 0.00% | N/A |
| subtotal by taxable type | 100.0% | | |

Table 14 computes the state and local taxes based on the value of construction and the project components and tax rates shown in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $4.4 million to $8.9 million in FY 2018. The other three state funds (Prop C, Conservation, Parks/Soils) are estimated to receive between $0.6 million to $1.1 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $1.75 million to $3.5 million in local sales tax revenue in FY 2018.

**Table 14**
**State and Local Taxes Generated by Construction**

| | Half of tax credits used - CY 2017 | All of tax credits used - CY 2017 |
|---|---|---|
| Amount of construction value needed to generate value of 35% tax credits | $112,842,369 | $225,684,737 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $39,494,829 | $78,989,658 |
| Materials and local materials | $45,136,947 | $90,273,895 |
| Profit | $11,284,237 | $22,568,474 |
| subtotal by taxable type | $95,916,013 | $191,832,027 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $2,369,690 | $4,739,379 |
| Materials and local materials - Sales/Use Tax | $1,354,108 | $2,708,217 |
| Profit - General Revenue Corporate Tax | $705,265 | $1,410,530 |
| subtotal GR | $4,429,063 | $8,858,126 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $451,369 | $902,739 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $56,421 | $112,842 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $45,137 | $90,274 |
| subtotal State Taxes | $4,981,991 | $9,963,981 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $1,751,314 | $3,502,627 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $6,733,304 | $13,466,608 |

The taxes generated from the construction activity shown in Table 14 likely underestimate the state revenue that will be generated by the construction of clean energy projects even within the short time period allowed in the fiscal note. As noted earlier there are multiplier effects that ripple through the economy. The Department of Economic Development through MERIC has a sophisticated model that it uses to evaluate the impact of tax credits and other business investments made in the State of Missouri. Using the information in this fiscal analysis MERIC should be able to provide supplementary information regarding the extra economic activity and increased revenues.

Similarly, generating additional clean energy within the State of Missouri will result in a decrease in the importation of power and energy producing raw materials from other states. Such money leakage from the state, businesses and citizens, decreases the amount of purchasing could be done for other purposes such as increased jobs within the state and thus the tax revenues that would be generated. For example, the Missouri State Energy Plan notes that Missouri is the sixth largest consumer of coal in the country and 92.5% of the coal used in 2013 was imported from Wyoming.[23] The plan reports that the state sends billions of dollars out of state for purchases of imported coal, natural gas, and transportation fuels.[24]

**Community Solar Act** - Applies to Versions 10, 12, 13, 14, 16, and 18
The Community Solar Act, section 386.910 of the proposal, directs the Missouri Public Service Commission to establish rules allowing customers to participate in a "community solar facility." Community solar facilities allow participants to benefit from solar energy and receive electric bill credits substantially similar to net metering.

Paragraph 3 of that section states that the "aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous fiscal year." Table 15 shows the total peak demand data compiled by the Public Service Commission for the four utilities affected by this section. The report shows that using peak demand leads to a cap of 504.5 MW on the amount of aggregated capacity of community solar facilities statewide.

**Table 15 - Peak Demand for Community Solar**

| Utility Name | Peak Demand |
|---|---|
| Union Electric Co - (MO) | 7,713.0 |
| Kansas City Power & Light Co | 1,878.0 |
| KCP&L Greater Missouri Operations Co. | 1,860.0 |
| Empire District Electric Co | 1,162.0 |
| Total | 12,613.0 |
| 4% overall cap | 504.5 |

Paragraph 2 of that section defines a community solar facility as a photovoltaic electric generation facility with a capacity of between 100 and 1,000 kW. For purposes of this fiscal note it is assumed that all community solar projects will be the same as the 200 kW project limit established in the clean energy tax credit language of 386.1000. In Table 12 above a low and high range was calculated for the percentage of solar capacity added through the tax credits based on the expectations of the phase-in necessary for the Department of Economic Development's implementation of the clean energy tax credits. The same percentage is used - 4.3% low range and 8.7% higher range. Similarly, for the purposes of this fiscal note the cost per kW will be $2,392 for a total project cost of $478,400 as shown in Table 9.

Table 16 shows the data and calculations needed to identify the number of projects. At the low end of the range 21.7 MW of added community solar capacity would be created which would require 108 projects of 200 kW. At the higher range 43.9 MW of added community solar capacity would be created which would require 219 projects of 200 kW.

Table 16 also shows that at an average project cost of $478,400 the low range results in $51.7 million in construction spending. The higher range results in $104.8 million in construction spending.

**Table 16**
**Community Solar Capacity and Projects**

| | Low Range | Higher Range |
|---|---|---|
| Assumed % of aggregate capacity | 4.3% | 8.7% |
| Added capacity - MW | 21.69 | 43.89 |
| Added capacity - kW | 21,694.36 | 43,893.24 |
| # projects at commercial 200 kW per project | 108 | 219 |
| Construction cost - commercial project per 200 kW project | $478,400 | $478,400 |
| Construction value | $51,667,200 | $104,769,600 |

Table 17 computes the state and local taxes based on the value of construction and the project components and tax rates shown earlier in Table 13. Based on these assumptions the state general revenue fund is estimated to receive between $2.0 million to $4.1 million in FY 2018. The other three state funds (Prop C, Conservation, Parks/Soils) are estimated to receive between $0.2 million to $0.5 million in sales tax revenue in FY 2018.

For local tax revenue the General Assembly's Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of between $0.8 million to $1.6 million in local sales tax revenue in FY 2018.

**Table 17**
**State and Local Taxes Generated by Construction of Community Solar Projects**

| | Low range | Higher range |
|---|---|---|
| Amount of construction value needed to generate estimated MW | $51,667,200 | $104,769,600 |
| | | |
| Labor | 35% | 35% |
| Materials and local materials | 40% | 40% |
| Profit | 10% | 10% |
| | | |
| Amount of construction by taxable type | | |
| Labor | $18,083,520 | $36,669,360 |
| Materials and local materials | $20,666,880 | $41,907,840 |
| Profit | $5,166,720 | $10,476,960 |
| subtotal by taxable type | $43,917,120 | $89,054,160 |
| | | |
| **General Revenue** | | |
| Labor - General Revenue Income Tax | $1,085,011 | $2,200,162 |
| Materials and local materials - Sales/Use Tax | $620,006 | $1,257,235 |
| Profit - General Revenue Corporate Tax | $322,920 | $654,810 |
| subtotal GR | $2,027,938 | $4,112,207 |
| | | |
| **Prop C** | | |
| Materials and local materials - Sales/Use Tax | $206,669 | $419,078 |
| | | |
| **Conservation** | | |
| Materials and local materials - Sales/Use Tax | $25,834 | $52,385 |
| | | |
| **Parks and Soils** | | |
| Materials and local materials - Sales/Use Tax | $20,667 | $41,908 |
| subtotal State Taxes | $2,281,107 | $4,625,578 |
| | | |
| **Local Taxes** | | |
| Materials and local materials - Sales/Use Tax | | |
| subtotal Local Taxes | $801,875 | $1,626,024 |
| | | |
| **GRAND TOTAL - STATE AND LOCAL TAXES** | $3,082,982 | $6,251,602 |

**Net metering bills** - Applies to Versions 10, 11, 12, 13, 14, 17 and 18
The Missouri General Assembly has considered six net metering bills over the past three legislative sessions. Table 18 below identifies the bills and provides links to the fiscal note and bill summary prepared for each bill. All of the fiscal notes prepared and available indicated that there was no state impact from the net metering bills.

**Table 18**
**NET METERING**
**2013, 2014, AND 2015 LEGISLATIVE SESSIONS**

| Session | Bill | Sponsor | Fiscal Note Impact | Fiscal Note Summary Link | Bill Summary Link |
|---|---|---|---|---|---|
| 2015 | SB 75 | Holsman | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0622-01N.ORG.pdf | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=82&BillID=174 |
| 2015 | SB 509 | Holsman | No impact | N/A | http://www.senate.mo.gov/15info/BTS_Web/Summary.aspx?SessionType=R&SummaryID=664&BillID=4599469 |
| 2015 | HB 481 | Berry (38) | No impact | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0502-01N.ORG.pdf | http://house.mo.gov/billtracking/bills151/sumpdf/HB0481C.pdf |
| 2014 | HB 1795 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER14/fishtm/5552-02N.ORG.htm | http://house.mo.gov/billtracking/bills141/sumpdf/HB1795I.pdf |
| 2013 | HB 119 | Berry (38) | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/0794-02N.ORG.htm | http://house.mo.gov/billtracking/bills131/sumpdf/HB0119I.pdf |
| 2013 | SB 396 | Holsman | No impact | http://www.moga.mo.gov/Oversight/OVER13/fishtm/1078-07N.ORG.htm | http://www.senate.mo.gov/13info/BTS_Web/Bill.aspx?SessionType=R&BillID=19218703 |

**Electric Vehicle Charging Stations** - Applies to Versions 12, 13, 14, 16, and 17
The petition authorizes investor-owned utilities to recover costs for infrastructure investments in electric vehicle charging stations, provided the energy output from the stations is offset in part by clean energy. There should be no fiscal impact to the state. Utility investment in electric charging stations will result in positive economic activity similar to other capital investments. However, the range of the benefits is unknown at this time.

ENDNOTES

[1] U.S. Energy Information Administration: *Table 10: All Sectors - Class of ownership, number of consumers, sales, revenue, and average retail price by State and utility*
http://www.eia.gov/electricity/sales_revenue_price/

[2] U.S. Energy Information Administration: *Supplemental Data: 1990 - 2013 Revenue from Retail Sales of Electricity by State by Sector by Provider (EIA-861)*
http://www.eia.gov/electricity/sales_revenue_price/

[3] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25
https://energy.mo.gov/energy/docs/MCSEP.pdf

[4] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 25-26
https://energy.mo.gov/energy/docs/MCSEP.pdf

[5] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[6] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 200
https://energy.mo.gov/energy/docs/MCSEP.pdf

[7] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 5
http://www.nrel.gov/docs/fy15osti/64898.pdf

[8] National Renewable Energy Laboratory, "*Photovoltaic System Pricing Trends: Historical, Recent, and Near-Term Projections 2015 Edition*", p. 4
http://www.nrel.gov/docs/fy15osti/64898.pdf

[9] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 172
https://energy.mo.gov/energy/docs/MCSEP.pdf

[10] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 173
https://energy.mo.gov/energy/docs/MCSEP.pdf

[11] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[12] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 176
https://energy.mo.gov/energy/docs/MCSEP.pdf

[13] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 174
https://energy.mo.gov/energy/docs/MCSEP.pdf

[14] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 175
https://energy.mo.gov/energy/docs/MCSEP.pdf

[15] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 190-191, 193, 195-199, 201, 203
https://energy.mo.gov/energy/docs/MCSEP.pdf

[16] Thomas A Loudat, Blue Planet Foundation. "*The Economic and Fiscal Effects of Hawaii's Solar Tax Credit*" - January 2013.
http://blueplanetfoundation.org/renewable-energy-tax-credit-2013.html?highlight=WyJsb3VkYXQiXQ==

[17] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 154
https://energy.mo.gov/energy/docs/MCSEP.pdf

[18] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 165 for both sentences in this bullet point
https://energy.mo.gov/energy/docs/MCSEP.pdf

[19] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[20] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 166
https://energy.mo.gov/energy/docs/MCSEP.pdf

[21] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 162-164
https://energy.mo.gov/energy/docs/MCSEP.pdf

[22] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 178
https://energy.mo.gov/energy/docs/MCSEP.pdf

[23] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 20-21
https://energy.mo.gov/energy/docs/MCSEP.pdf

[24] Missouri Department of Economic Development, Division of Energy, "*Missouri Comprehensive State Energy Plan*" October 2015, p. 42
https://energy.mo.gov/energy/docs/MCSEP.pdf

**Edward D, Greim** provided the following information as an opponent of this initiative petition.

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December 28, 2015

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Re: *Fiscal Note in Initiative Petitions 2016-173 through 2016-180 and 2016-190*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary for petitions 173, 175, 177, and 180:

> Lost revenue to state government is $498 million over the tax credit period, with annual losses of $9.5 million to $11.5 million thereafter. Lost revenue to local government is $189.1 million over the tax credit period, with annual losses of $31.5 million to $33.9 million thereafter.

We propose the following fiscal note summary for petition 174:

> Lost revenue to state government is $320.9 million over the tax credit period, with annual losses of $5.6 million to $9.6 million thereafter. Lost revenue to local government is $100.9 million over the tax credit period, with annual losses of $20 million to $28.1 million thereafter.

We propose the following fiscal note summary for petition 176:

> Lost revenue to state government is $328.8 million over the tax credit period, with annual losses of $7.5 million to $11.5 million thereafter. Lost revenue to local government is $175.3 million over the tax credit period, with annual losses of $32.4 million to $40.5 million thereafter.

We propose the following fiscal note summary for petition 178:

> Lost revenue to state government is $475.8 million over the tax credit period, with annual losses of $5.7 million to $7.7 million thereafter. Lost revenue to local government is $40.4 million over the tax credit period, with annual losses of $11.5 million to $15.7 million thereafter.

We propose the following fiscal note summary for petitions 179 and 190:

> Lost revenue to state government is $483.7 million over the tax credit period, with annual losses of $7.6 million to $9.6 million thereafter. Lost revenue to local government is $114.8 million over the tax credit period, with annual losses of $23.9 million to $28.1 million thereafter.

**Introduction**

Missouri electric utilities are tightly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay hundreds of millions dollars of taxes to Missouri state government and local governments. These taxes, however, will no longer be collected for electricity that is never sold due to the customer-generator production and community solar encouraged by the initiative petitions. Petition signers and voters must be informed of the certainty that the initiative petition will result in the loss of hundreds of millions of dollars of tax revenue to state and local governments due to tax credits and decreases in electricity sales volume. On the other hand, any positive fiscal impacts of the initiative petitions are speculative.

**Description of Policy**

Initiative Petitions 173 – 180 and 190 contains one or more of three main statutory provisions: (1) Changes to the Missouri Net Metering and Easy Connection Act; (2) Adoption of the "Community Solar Act"; and (3) A state tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, or certain natural gas technologies.

1. Changes to Net Metering for Investor-owned electric utilities and municipal electric utilities, and, in 177, rural electric cooperatives
    A. Raise net metering cap to 7% (is currently 5%);
    B. Makes utilities generally responsible for purchasing necessary additional equipment/meter to accommodate the customer-generator's facility;
    C. Net excess energy credits expire every March, rather than after 12 months (but there is no compensation for net excess energy credits);



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D. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

2. Community Solar Act
   A. The Missouri Public Service Commission ("PSC") adopts rules and regulations allowing groups of 5 or more electrical corporation customers to offset energy usage with solar located in the service territory of the electrical corporation where they have an account;
   B. Facilities are 100 kilowatts to 1 megawatt;
   C. Community solar facilities may, in total, generate electricity of 4% or less of single-hour peak load, but that amount does not count toward net metering; Electrical corporations can own half (max of 2%), which may be included in the rate base. Others may own the other half (max of 2%);
   D. Community Solar facilities are not eligible for tax credits provided in the petition;
   E. Commission sets a community solar rate, not less than electrical corporation's average retail rate;
   F. Value of allocated solar bill credits reduces customer's total bill;
   G. The current value-of-community-solar rate may be locked in for 20 years beginning when a community solar facility is put in operation.

3. Tax credit
   A. 35% tax credit for projects producing electrical energy from a clean energy resource – solar, wind, hydroelectric, etc.
   B. Total value of eligible credits shall not exceed 1% of the value of electricity used in Missouri[1] – defined as revenue from sale of electricity in Missouri; or tax credits are capped at$50 million each year. Unused credits carryover year to year until June 30, 2022
   C. No tax credits after June 30, 2022, or after 1000 megawatts of new generation have been installed using the tax credits.

**Burdens on State Government**

In determining the fiscal impact of each petition, it is generally reasonable to assume that the various statutory changes in the petitions will have independent fiscal impacts. The reasonableness of this assumption is demonstrated by the various iterations of the petitions themselves, some of which propose tax credits with no proposed changes to the Net Metering and Easy Connection Act. *See* Petitions 178 and 190.

[1] The value of electricity used in Missouri in 2014 was 7.6 billion, and the value has increased every year since 2003. *See* U.S. Energy Information Administration – Independent Statistics and Analysis.



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*i. Decreased tax collection due to changes to net metering – Initiative Petitions 173-177 and 179-180*

Raising the net metering cap from the current 5% of peak hour demand to 7% of peak hour demand will, conservatively, result in a 2% decrease in electricity sales volume, when such changes are paired with other changes suggested by the petition. This assumption is conservative for several reasons. First, the current level of net metering is less than the current 5% cap due to the cost of solar and other residential net metering equipment, meaning that the changes to current net metering scheme may result in more than a simple increase from 5% to 7%. Second, the declining price of solar and other renewable energy sources, paired with federal solar tax credits (30% federal tax credit) and a 35% state tax credit as proposed in the petition provides a strong financial incentive to solar or wind energy net metering, because customers can buy increasingly affordable technology at an additional 55% discount[2], suggesting that individuals and corporations will take full advantage of the state and federal tax credits. In this sense, however, the move to full 5% net metering will eventually occur due to declining prices for residential and commercial customer energy generation, coupled with increasing prices in the retail price of electricity. Third, the net-metering cap applies to single-hour peak load, determined yearly, which means that the cap is a higher percentage of the single hour average load. This fact means that the total increase in generation is higher than it appears. Fourth, technology changes allow customers to decrease their bill by a greater percentage than they decrease their usage. The commercialization of residential and commercial energy storage technology, like home batteries,[3] also allows customers to use their net-metering capacity more efficiently, because customers can completely offset usage during costly high demand periods.

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by at least $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities. The additional decreases in sales tax revenues from municipal electric utilities and, in petition 177, from electric cooperatives, are unknown but substantial.[4]

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 173, 175-177, 180, and 190*

Community solar facilities are in addition to net metering and represent an additional capacity amounting to 4% of each electrical corporation's single-hour peak load. Energy

[2] The 35% state tax credit reduces the basis eligible for the 30% federal tax credit.
[3] One such energy storage/battery innovation is the Tesla Powerwall. https://www.teslamotors.com/powerwall.
[4] Assuming $7.6 billion in electricity is sold in Missouri per year (the actual 2014 figure), a 2% decrease will decrease overall state sales tax revenues by 6.4 million annually, but some petitions enact net metering changes on rural electric cooperatives, and some do not.



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generated from the community solar facility is allocated pro rata by the community solar facility owner or operator. Energy production allocation is done via "bill credits" that decrease the sales and gross receipts a utility receives from electricity sales. There is the potential for such bill credits to decrease overall electrical bills by more than 4% because the "bill credits" are calculated using a "value of solar rate" which is at least as high as the retail rate for electricity, but may be higher. If, for example, solar energy received a 50% rate premium due to its benefits, the amount of bill credits would increase and sales would decrease by more than the 6%, rather than 4% figure. Half of these community solar facilities—the half not owned by electrical corporations—may be operated in a manner, such as fractional ownership by customers or ownership by a nonprofit, that avoid property tax, sales tax, and license/franchise taxes. There is a strong financial incentive to operate these facilities in a fractional ownership model, similar to net metering, because doing so avoids state sales tax (4.225%), local sales tax (generally, 3.5-4%) and local utility license/franchise tax (generally, 5%).

A 2% decrease in electricity sales volume will reduce Missouri state sales tax revenues from investor-owned electric utilities by at least $1.9 million annually. The cost from 2017 through 2022 is $7.9 million. This number is calculated using actual state sales taxes paid in 2014 by investor-owned electric utilities.

*iii. Tax credits – Initiative Petitions 173-180 and 190*

*a. Decreased tax collections due to tax credits – Credits capped at 1% of value of electricity sold in Missouri, annually ($76 million based on 2014 figures) – Initiative Petitions 173, 175, 177-180, and 190*

According to 2014 figures, Missouri retail customers bought 7.6 billion dollars worth of electricity in 2014. Accordingly, it is reasonable for fiscal note purposes to estimate that Missouri retail customer will continue to buy the same value of electricity. Electricity rates have historically risen over time, but the increasing price of electricity may be approximately the same over the relevant period as the decreases in quantity as a result of the initiative petitions. Accordingly, the 35% tax credits in these petitions will directly result in a loss of state income of approximately $76 million, annually.

*b. Decreased tax collections due to tax credits – Credits capped at $50 million annually – Initiative Petitions 174 and 176*

Similar to the loss described in subpart a, the 35% tax credits in these petitions will directly result in a loss of state income of approximately $50 million, annually.



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*c. Cost of eroding tax base due to new energy generation – Initiative Petitions 173-180 and 190*

To determine the impact of new customer energy generation on state sales tax revenues, we must first calculate the value of sales lost due to new customer-generated energy production. Based on federal government data, we assume that the sun shines on average 5 hours per day in Missouri. Accordingly, if the tax credits were phased out due to reaching the 1000 MWh/1,000,000 kWh maximum on new electricity generation, new production from such tax credits would produce approximately 1,825,000 MWh per year, also expressed as 1,825,000,000 KWh, or 1,825 million KWh (1,000 MWh * 5 hours per day * 365 days per year). Based on an assumed average retail price of electricity in Missouri of $100 per megawatt/hour [5], this new production is valued at $182,500,000.

This new electricity generation is used by customers to offset charges they would otherwise incur on their bills. Accordingly, this amount of electricity will no longer be sold by Missouri utilities and electric cooperatives, and the state and local governments will lose sales tax revenues. The Missouri state sales tax rate is 4.225%.

In practice, the 1 gigawatt limit on new customer-generated energy production may never be met. Credible independent analysts believe the installed cost of solar will be $1.77 per watt in 2017 ($1770 per kilowatt).[6] The cost is expected to further decline over time, but it is reasonable to assume a constant $1.77 per watt installed cost for renewable energy resources according to the petition because of the competing forces of price inflation and decreased production costs of emerging technology. The petition itself limits tax credits to a maximum of $3.00 per watt, but market forces should make rates in Missouri similar to those in other states, at or around $1.77.

For Initiative Petitions 173, 175, 177-180, and 190, the total, annual loss to state governments *due to the tax credits* is 76.9 million to 81.7 million over the tax credit period. There is an annual loss in perpetuity after the tax credit period of 5.7 to 7.7 million, depending on how much new customer-generation is developed. See attached table.

For Initiative Petitions 174 and 176, the total, annual loss to state governments *due to the tax credits* is 50.6 million to 53.7 million over the tax credit period. There is an annual loss in

[5] In 2014, the average price of electricity in Missouri was $91.10 per megawatt/hour. The $100 an hour cost estimate is conservative as an average cost over the relevant period of the tax credits and beyond.

[6] Some solar companies have forecasted a cost of under $1.00 per watt full installed by 2017. Comments of First Solar CEO, 'By 2017, We'll Be Under $1.00 per Watt Fully Installed', June 24, 2015, http://www.greentechmedia.com/articles/read/First-Solar-CEO-By-2017-Well-be-Under-1.00-Per-Watt-Fully-Installed.



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perpetuity after the tax credit period of 3.7 to 7.7 million, depending on how much new customer-generation is developed. *See* attached table.

**Burdens on Local Governments**

Local governments face losses in revenue from the various petition provisions that are similar to those faced by state government (with the exception of the direct losses to state government for the tax credits). In fact, local governments face a more significant burden because utility revenues make up a comparatively higher portion of the local governments' tax base. Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax (on average 3.585%) and license tax (approximately 5%). The amounts at issue are substantial. For example, Missouri electric utilities paid over $522 million in license taxes to local governments in 2014. Determining exactly how much of this revenue will be lost due to various provisions in the petition is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

*i. Decreased tax collection due to changes to net metering – Initiative Petitions 173-177 and 179-180*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*ii. Decreased tax collections due to Community Solar Act – Initiative Petitions 173, 175-177, 180, and 190*

A 2% decrease in electricity sales volume will reduce local government tax revenues from investor-owned electric utilities by approximately 12.4 million annually (.02 * [sales tax and franchise/license taxes paid to Missouri local governments in 2014]). The cost from 2017 through 2022 is $74.4 million.

*iii. Tax credits – Cost of eroding tax base due to new energy generation – Initiative Petitions 173-180 and 190*

The calculation of lost revenue for local governments is substantially similar as the calculation for state government lost sales tax. Local governments will collect less tax revenue from their various local taxes due to the decrease in demand for utility-provided electricity. The availability of lower local government taxes is a strong financial incentive for large-scale electricity users to invest in customer-generator projects supported by the petition. Further, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petitions may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue. Missouri electric utilities provide numerous other benefits to



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local governments, all of which may be reduced or discontinued if the initiative petitions are enacted.

The population weighted combined average state and local sales tax in Missouri is estimated at 7.81%.[7] Based on this estimate, the population-weighted combined average local sales tax is 3.585%. Assuming the tax credits sunset due to reaching the 1 Gigawatt production cap, the yearly loss to local governments from lost sales tax from the tax credit is $6,541,578. Assuming a license tax/franchise rate on electric utility service of 5%, which may be more or less depending on the municipality, if any, where electricity is sold, the additional lost local revenue from the loss of sales subject to license tax is $9,123,540.

For petitions 173, 175, 177-180, and 190, the loss to local governments due to the tax credits is at least $40.4 million over the tax credit period, then $11.5 to $15.7 million annually. For initiative petitions 174 and 176, the loss to local governments due to the tax credits is at least $26.6 million over the tax credit period, then $7.5 to $15.7 million annually.

**In Conclusion**

The initiative petitions will result in substantial, reasonably determinable losses in tax revenues to Missouri state government and local governments. State government incurs tax losses through the issuance of tax credits as well as the loss of electricity sales volume through certain changes promulgated by the petitions, such as increases in net metering and community solar. The total tax burden on state government imposed by the petitions range from $313 million over the tax credit period, with $3.7 to $7.7 million in lost revenues in perpetuity, to approximately $498.6 million over the tax credit period,[8] with $9.5 million to 11.5 million in lost revenues in perpetuity thereafter.

Sincerely,

Edward D. Greim
Graves Garrett LLC

**Additional Works Cited**

**Revenue from retail sales of electricity in Missouri**

U.S. Energy Information Administration – Independent Statistics & Analysis - Table of Missouri Revenues

[7] http://taxfoundation.org/sites/taxfoundation.org/files/docs/LOST--2015.png.
[8] $475.8 million + [(1.9 million + 1.9 million)*6 years]



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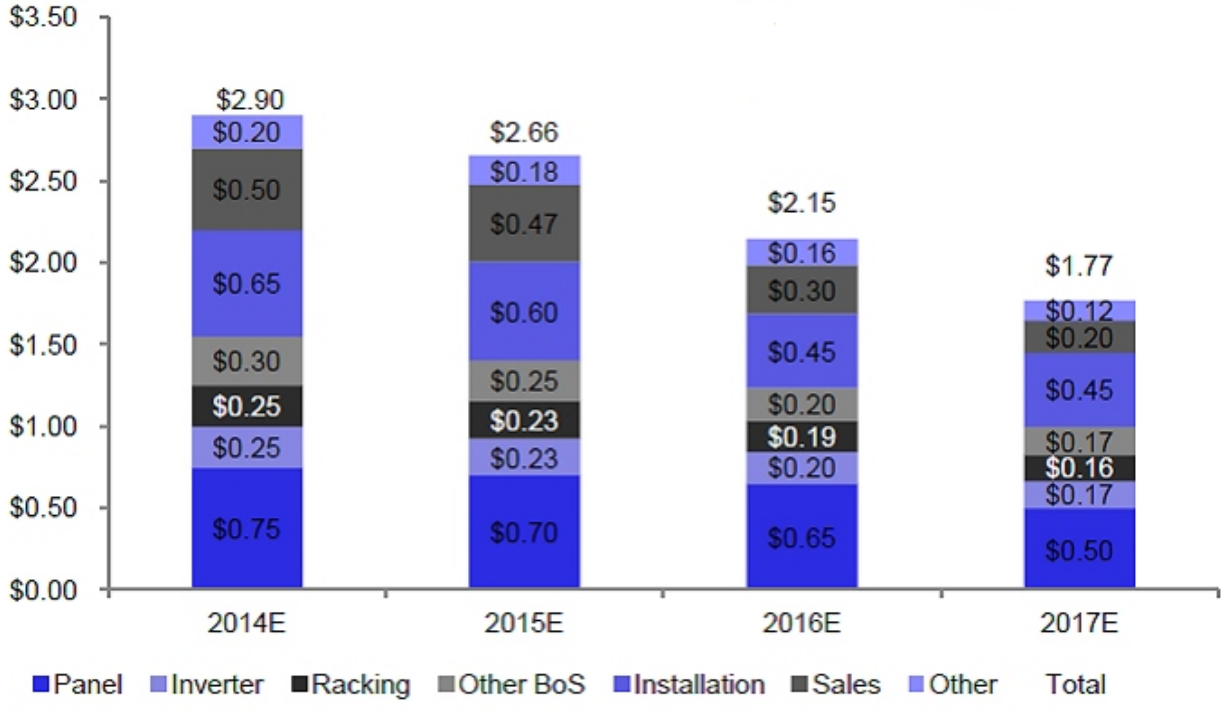
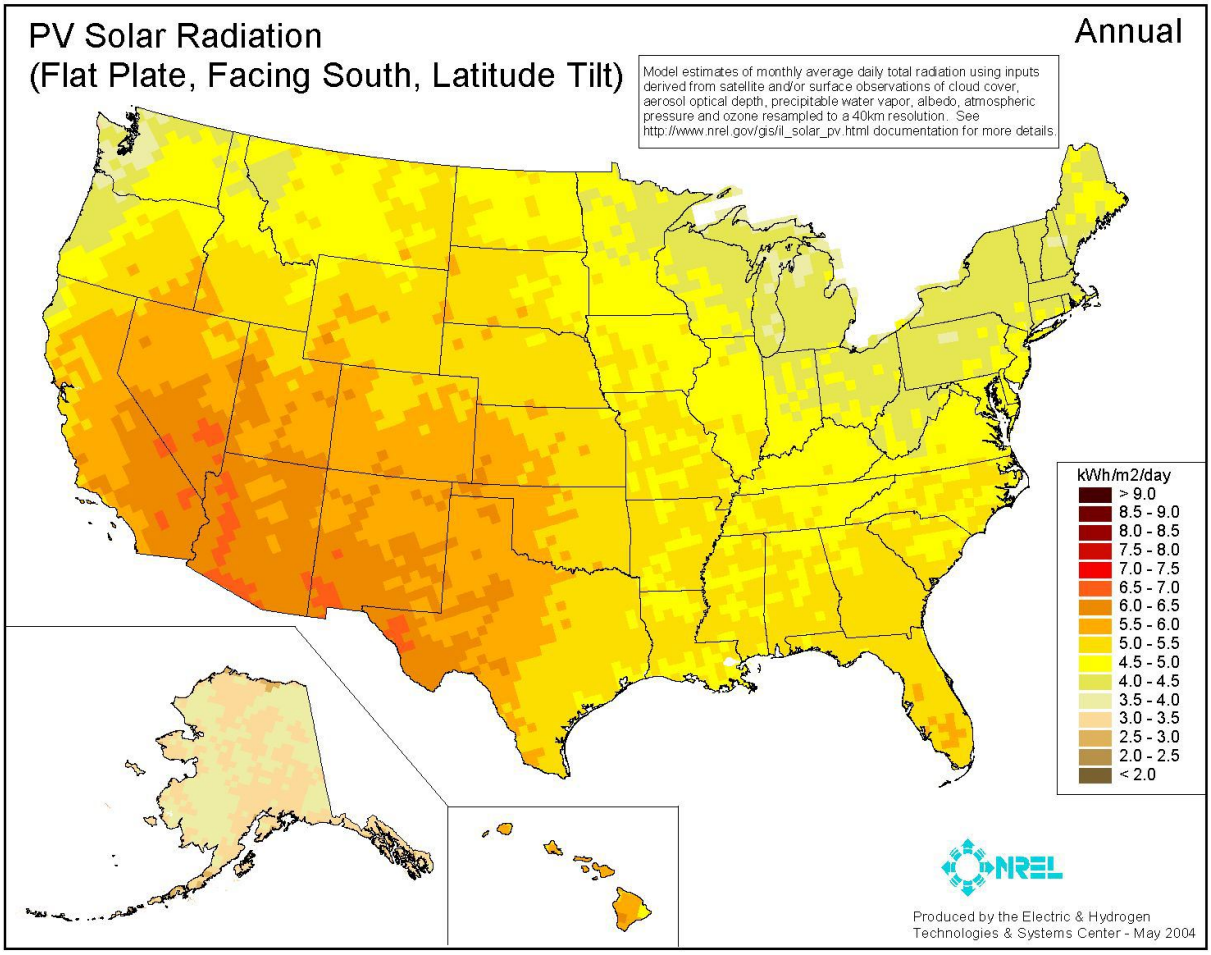
https://www.eia.gov/electricity/data/browser/#/topic/6?agg=01&geo=000002&endsec=vg&linechart=ELEC.REV.MO-ALL.A&columnchart=ELEC.REV.MO-ALL.A&map=ELEC.REV.MO-ALL.A&freq=A&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0

Table of Deutsche Bank Solar Cost estimates – Cost trajectory on pace for a ~40% reduction by the end of 2017

https://www.db.com/cr/en/concrete-deutsche-bank-report-solar-grid-parity-in-a-low-oil-price-era.htm



National Renewable Energy Laboratory data
http://www.nrel.gov/gis/solar.html



**Brightergy Renewable Tax Credit Fiscal Analysis (1% Value of Electricity Cap) - Initiative Petitions 173, 175, 177-180, and 190**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 122.68 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $76,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 223,854 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $76,000,000 | 122.68 | 122.68 | 223,854 | $100 | $22,385,441 | 4.225% | $945,785 | $76,945,785 | 3.585% | $802,518 | 5.000% | $1,119,272 | $1,921,790 |
| 2018 | $76,000,000 | 122.68 | 245.36 | 447,709 | $100 | $44,770,882 | 4.225% | $1,891,570 | $77,891,570 | 3.585% | $1,605,036 | 5.000% | $2,238,544 | $3,843,580 |
| 2019 | $76,000,000 | 122.68 | 368.04 | 671,563 | $100 | $67,156,323 | 4.225% | $2,837,355 | $78,837,355 | 3.585% | $2,407,554 | 5.000% | $3,357,816 | $5,765,370 |
| 2020 | $76,000,000 | 122.68 | 490.72 | 895,418 | $100 | $89,541,765 | 4.225% | $3,783,140 | $79,783,140 | 3.585% | $3,210,072 | 5.000% | $4,477,088 | $7,687,160 |
| 2021 | $76,000,000 | 122.68 | 613.40 | 1,119,272 | $100 | $111,927,206 | 4.225% | $4,728,924 | $80,728,924 | 3.585% | $4,012,590 | 5.000% | $5,596,360 | $9,608,951 |
| 2022 | $76,000,000 | 122.68 | 736.08 | 1,343,126 | $100 | $134,312,647 | 4.225% | $5,674,709 | $81,674,709 | 3.585% | $4,815,108 | 5.000% | $6,715,632 | $11,530,741 |
| | | | | | | | | **Total State Tax Burden** | **$475,861,483** | | **Total Local Tax Burden (Sales + Franchise)** | | **$40,357,593** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

**Brightergy Renewable Tax Credit Fiscal Analysis (50 Million Tax Credit Cap) - Initiative Petitions 174 and 176**

| | | |
|---|---|---|
| $/kW Installed Cost | $1,770 | |
| MW's Installed | 80.71 | |
| Tax Rebate Incentive % | 35% | |
| Tax Limit | $50,000,000 | |
| Solar Capacity Factor | 20.83% | 5 hours / 24 hours |
| MW's of Output | 147,273 | |
| $/MWh Retail Rate | $100 | |

| | Renewable Tax Rebate | MW's Installed | Cumulative MW's Installed | MWh's Solar | Avg Retail Rate | Lost Utility Revenue | State Sales Tax Rate | Lost State Sales Tax Revenue | Annual State Tax Burden | Local Sales Tax Rate | Lost Local Sales Tax Revenue | Franchise Tax Rate | Lost Local Franchise Tax Revenue | Annual Local Tax Burden |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2017 | $50,000,000 | 80.71 | 80.71 | 147,273 | $100 | $14,727,264 | 4.225% | $622,227 | $50,622,227 | 3.585% | $527,972 | 5.000% | $736,363 | $1,264,336 |
| 2018 | $50,000,000 | 80.71 | 161.42 | 294,545 | $100 | $29,454,528 | 4.225% | $1,244,454 | $51,244,454 | 3.585% | $1,055,945 | 5.000% | $1,472,726 | $2,528,671 |
| 2019 | $50,000,000 | 80.71 | 242.13 | 441,818 | $100 | $44,181,792 | 4.225% | $1,866,681 | $51,866,681 | 3.585% | $1,583,917 | 5.000% | $2,209,090 | $3,793,007 |
| 2020 | $50,000,000 | 80.71 | 322.84 | 589,091 | $100 | $58,909,056 | 4.225% | $2,488,908 | $52,488,908 | 3.585% | $2,111,890 | 5.000% | $2,945,453 | $5,057,342 |
| 2021 | $50,000,000 | 80.71 | 403.55 | 736,363 | $100 | $73,636,320 | 4.225% | $3,111,135 | $53,111,135 | 3.585% | $2,639,862 | 5.000% | $3,681,816 | $6,321,678 |
| 2022 | $50,000,000 | 80.71 | 484.26 | 883,636 | $100 | $88,363,584 | 4.225% | $3,733,361 | $53,733,361 | 3.585% | $3,167,834 | 5.000% | $4,418,179 | $7,586,014 |
| | | | | | | | | **Total State Tax Burden** | **$313,066,765** | | **Total Local Tax Burden (Sales + Franchise)** | | **$26,551,048** | |
| **Perpetual Impact if New Generation Reaches 1 Gigawatt Cap** | | | | | | | | | | | | | | |
| | | | 1000.00 | 1,824,708 | $100 | $182,470,800 | 4.225% | $7,709,391 | $7,709,391 | 3.585% | $6,541,578 | 5.000% | $9,123,540 | $15,665,118 |

**Brent Stewart** provided the following information as an opponent of this initiative petition.

**Association of Missouri Electric Cooperatives**

2722 East McCarty Street, P.O. Box 1645
Jefferson City, Missouri 65102
Telephone: (573) 635-6857
Fax: (573) 635-2314
www.amec.coop

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STATE AUDITORS OFFICE

December 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: Fiscal Note in Initiative Petitions 2016-173 through 2016-190

To Whom It May Concern:

The Association of Missouri Electric Cooperatives (AMEC), representing the state's forty-seven member-owned, nonprofit rural electric cooperatives that serve close to one million electric consumers, respectfully submit the following brief comments to assist in your preparation of the fiscal notes on the above-mentioned initiative petitions.

All these petitions, in one way or another, involve solar and renewable energy mandates. The practical effect of each, to one extent or another, is to encourage consumers to substitute self-generation for traditional electric service, thereby creating an unfair electric rate subsidy in favor of those who can afford to install their own generation at the expense of the majority of the other consumers who cannot.

Missouri's forty distribution (retail level) cooperatives serve a wide variety of governmental entities throughout rural Missouri, including state facilities (e.g. prisons), local government facilities, hospitals, schools, rural water districts, regional sewer districts and others. To the extent these entities cannot afford to install their own generation, which most cannot, they necessarily will be forced to pay higher rates if these initiative petitions are enacted. Unfortunately, it is impossible without more time for AMEC to identify all those government-related entities and facilities or estimate with any accuracy the adverse fiscal impact. However, it is clear that even a modest rate increase necessarily will have a significant adverse fiscal impact on governmental entities, in millions of dollars, especially those in the primarily less affluent rural areas served by Missouri's nonprofit electric cooperatives.

Respectfully submitted,

Brent Stewart

Brent Stewart
AMEC Counsel

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State government revenue may decrease up to $456 million during the tax credit period with approximately $1 million annual increased operating costs. Local governmental entities estimate $23.9 million in annual electricity sales reductions. Other resulting economic activity will have an unknown impact on state and local governments.

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STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-172

December 14, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 9 (2016-172)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 11, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16472 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

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2015 DEC 11 PM 4:14
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-172

*Be it enacted by the people of the state of Missouri:*

Section A: Section 386.890 is amended and sections 386.860, 386.900, 386.910 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.900 to 386.1000 shall be known and cited as The Clean Energy Independence and Investment Act of 2016.

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any [municipal electric utility,] rural electric cooperative as provided in chapter 394[, or electrical corporation as provided in this chapter];

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of natural resources;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical

energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any [municipal utility, electrical corporation regulated under this chapter, or] rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which [the commission for a public utility or] the governing body for the supplier[other electric utilities] may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices

for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) [For any rural electric cooperative under chapter 394, or municipal utility, u]Upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, [the commission for public utilities and] the governing body for the supplier[other utilities] shall, by rule or equivalent formal action[ by each respective governing body]:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. [Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers] Suppliers shall submit [the same report] an annual net metering report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

[9. The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.]

[10.] 9. The governing body of a supplier shall[rural electric cooperative or municipal utility shall, within nine months of January 1, 2008,] adopt policies establishing a simple contract to be

used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

[11.] 10. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

[12.] 11. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

[13.] 12. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

[14.] 13. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

[15.] 14. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

[16.] 15. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

[17.] 16. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.900. 1. This section shall be known and may be cited as the "Enhanced Net Metering and Easy Connection Act". It shall be the policy of the state to facilitate the use of customer-sited or controlled clean energy resources.

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal utility or electrical corporation as provided in this chapter;

(2) "Clean energy resource", electrical energy produced from:

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(a) Wind;

(b) Solar thermal sources;

(c) Hydroelectric sources;

(d) Photovoltaic cells and panels;

(e) Fuel cells using hydrogen produced by one of the above-named electrical energy sources; or

(f) Other sources of energy that become available after January 1, 2017, and are certified as clean by the department.

(3) "Commission", the public service commission of the state of Missouri;

(4) "Customer-generator", the owner, lessee or operator of a qualified electric energy generation unit which:

(a) Is powered by a clean energy resource or micro CHP;

(b) Has an electrical generating system with a capacity of not more than five hundred kilowatts, measured in alternating current;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(5) "Department", the department of natural resources;

(6) "Micro CHP", combined heat and power or cogeneration systems that simultaneously generate electricity and thermal energy in a single integrated system with a nameplate rated capacity equal to or lower than 130 kilowatts, measured in alternating current;

(7) "Net excess energy", the amount of energy expressed in kilowatt hours delivered by a customer-generator to a supplier that exceeds the amount of energy delivered by the supplier to the customer-generator over a single billing period;

(8) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(9) "Retail electric supplier" or "supplier", any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals seven percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for a municipal utility may increase the total rated generating capacity of net metering systems to an amount above seven percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds two percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the retail electric supplier shall pay for the costs to purchase and install the necessary additional equipment, unless the commission makes a determination that the customer-generator is the only customer benefiting from the additional distribution equipment. If the commission determines the customer-generator is the only customer benefiting, such customer-generator shall reimburse the electric supplier for reasonably incurred equipment expenses. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity

supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subdivision (2) of subsection 3 of this section and all net excess energy shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent months;

(4) Any net excess energy credits carried forward under subdivision (3) of this subsection shall expire without any compensation at the earlier of either the next proceeding March billing period or when the customer-generator disconnects service or terminates the net metering relationship with the supplier.

(5) For any municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (4) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the

generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems one hundred kilowatts or less and within sixty days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application. Retail electric suppliers shall interconnect qualified energy generation units within thirty days of being notified the generation unit is installed and meets the requirements of this section.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for notifying the retail electric supplier.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall by June 1, 2017 promulgate any rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017, shall be invalid and void.

10. The governing body of a municipal utility shall by June 1, 2017 adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

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12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs, including lost revenues and lost earnings opportunities associated reduced demand or kilowatt hours sales, incurred under this act by a retail electric supplier shall be timely recovered in that utility's rate structure in the form of a tracker or other appropriate rate recovery mechanism. At the time of any general change in a supplier's rates, any over-recovery or under-recovery balance shall be included in the supplier's revenue requirement used to set rates as amortized over a period not exceeding three years, and shall be recovered from each rate class pursuant to the supplier's approved rate design. At the time any general change in prospective rates is proposed, the commission shall permit the supplier to estimate the total generation output from all customer-owned generation for each rate class for the twelve-month period following the effective date of any change in rates, and rates shall be set using energy and demand billing units that reflect the estimated reduction of energy and demand likely to occur due to customer owned generation. When considering costs, the commission may evaluate the value of distributed generation and clean energy resources. To the extent any costs, lost revenues, or lost earnings are recovered under this section they shall not raise the retail rates charged to the customers of electrical corporations by an average of more than one percent in any year. Any limitation on cost recovery shall not limit the availability of net metering except as provided in subsection 3 of this section.

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

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386.910. 1. This section shall be known and cited as the "Community Solar Act."

2. Within thirty days of enactment of this section, the commission shall open a docket and by August 1, 2017, the commission shall adopt rules and regulations allowing customers to participate in community solar facilities and set a value–of-community-solar rate. For purposes of this section, a "community solar facility" is a photovoltaic electric generation facility with a capacity of between one hundred and one-thousand kilowatts, measured in alternating current, that allows five or more customers of an electrical corporation to offset their energy usage with solar energy located within the Missouri service territory of the electrical corporation where they have one or more electrical accounts. For the purposes of this section, an electrical corporation is as defined in 386.020.

3. The aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous calendar year, and such capacity of community solar facilities shall not count towards the system-wide net metering cap defined in subsection 3 of section 386.900. Electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. Entities or individuals that are not electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. The commission shall allow prudently incurred costs and expenses for community solar facilities owned by an electrical corporation to be included in such electrical corporation's rate base. Once a four percent aggregate cap is reached for community solar facilities, the commission shall open a docket to determine whether or not the community solar program shall be expanded, and the commission may increase the aggregate capacity cap above four percent, or adjust the percentage cap of electrical corporations owning community solar facilities. The commission shall consider all benefits and costs of such an expansion when making its decision. Community solar facilities shall not be eligible for tax credits under section 386.1000.

4. For any community solar facility that is owned or operated by an entity other than an electrical corporation, the energy generated by a community solar facility shall be provided to the electrical corporation to which it is interconnected in exchange for the allocation and facilitation of bill credits provided in subsection 5

5. Kilowatt hours generated from community solar facilities shall be allocated, on a pro rata basis, to the designated subscribers of the community solar facility at the direction of the community solar facility owner or operator. Allocated bill credits shall be set at a community solar rate per kilowatt hour determined by the commission. The commission shall determine the value of bill credits per kilowatt hour taking into consideration costs and benefits of solar energy including but not limited to energy value, generation value, environmental value, transmission and distribution system value, disaster recovery value, reactive power value and other grid

benefit value, but such bill credits shall not be less than the electrical corporation's average retail rate. The value of allocated community solar bill credits shall be used to reduce the customer's total bill. Owners and operators of community solar facilities shall not be considered a public utility as defined in section 386.020, except that this provision shall not apply to any owner or operator who is an electrical corporation. When a community solar facility is placed in service it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years.

6. The commission shall promulgate rules and regulations it deems necessary to carry out the provisions of this section. The commission's rules shall: allow electrical corporations to recover costs; provide earning opportunities for electrical corporations; provide an orderly process, including a reservation system, to allow potential community solar facility owners and operators to develop projects within the capacity limits in subsection 2; and provide options, which may include financial incentives, to encourage low-income participation.

7. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017, shall be invalid and void.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. The total amount of clean energy tax credits offered annually shall not exceed one percent of the value of electricity used in Missouri as determined in subsection 4.

2. The department of economic development shall certify when the tax credits provided in this section have resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy

resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.890 and 386.900, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on available reports, including FERC Form Number 1 as allowed by 18 CFR § 141 or an equivalent as determined by the commission, of megawatt hours sales of retail electricity and corresponding revenues for the preceding year or most current reporting period as determined by the commission. The commission shall publish the value of electricity used in Missouri to the public and department of economic development within sixty days of the enactment of this section and at least sixty days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may only apply for and receive the credit authorized by this section for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

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7. To obtain approval for tax credits allowed under this section, a taxpayer shall submit an initial application for tax credits to the department of economic development. Each application shall be prioritized for review and approval, in the order of the date on which the application was received, with the oldest received date receiving priority. Applications received on the same day shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. Such application deposit shall be refunded at completion of the project or if the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. If there is an application priority queue, the taxpayer may request a refund of the application deposit and lose its spot in the priority queue. If the taxpayer wants to maintain its position in the priority queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

9. Any disapproved application shall lose prioritization based on the filing date. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision to remove such application. The taxpayer shall have one opportunity, not to exceed ten days of notification of disapproval, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. Disapproved applications shall lose priority in the review process. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

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10. If the department of economic development deems the application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for initial approval shall be notified by the department of economic development that the maximum amount of credits authorized have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available due to the rescission of approvals or reserved for a future fiscal year.

12. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial allocation for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and

expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by letter and shall issue, to the taxpayer, tax credit certificates within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

15. If the amount of such credit exceeds the total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. The state tax credit shall not be subject to recapture provisions. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

16. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

17. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536.

RECEIVED
DEC 14 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-171

December 14, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 8 (2016-171)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 11, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-171

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2016 DEC 11 PM 4:22
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
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| 7. | | | | | |
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| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

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*Be it enacted by the people of the state of Missouri:*

Section A: Section 386.890 is amended and sections 386.860, 386.870, 386.900 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.870 to 386.1000 shall be known and cited as The Clean Energy Independence and Investment Act of 2016.

386.870. An electrical corporation shall be allowed to recover its costs and add in its rate base prudently incurred costs to install electric vehicle charging stations intended to recharge electric motor vehicles, provided the energy consumed at such stations is partially powered by a clean energy resource, as defined in 386.900, or offset with renewable energy credits, as defined in 393.1025. Investments made pursuant to this section shall not raise the retail rates charged to the customers of electrical corporations by more than one half of one percent in any year.

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any [municipal electric utility,] rural electric cooperative as provided in chapter 394[, or electrical corporation as provided in this chapter];

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

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(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of natural resources;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any [municipal utility, electrical corporation regulated under this chapter, or] rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which [the commission for a public utility or] the governing body for the supplier[other electric utilities] may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing,

maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) [For any rural electric cooperative under chapter 394, or municipal utility, u]Upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional

liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, [the commission for public utilities and] the governing body for the supplier[other utilities] shall, by rule or equivalent formal action[ by each respective governing body]:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. [Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers] Suppliers shall submit [the same report] an annual net metering report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

[9. The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is

subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.]

[10.] 9. The governing body of a supplier shall[rural electric cooperative or municipal utility shall, within nine months of January 1, 2008,] adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

[11.] 10. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

[12.] 11. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

[13.] 12. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

[14.] 13. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

[15.] 14. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

[16.] 15. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

[17.] 16. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.900. 1. This section shall be known and may be cited as the "Enhanced Net Metering and Easy Connection Act". It shall be the policy of the state to facilitate the use of customer-sited or controlled clean energy resources.

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2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal utility or electrical corporation as provided in this chapter;

(2) "Clean energy resource", electrical energy produced from:

(a) Wind;
(b) Solar thermal sources;
(c) Hydroelectric sources;
(d) Photovoltaic cells and panels;
(e) Fuel cells using hydrogen produced by one of the above-named electrical energy sources; or
(f) Other sources of energy that become available after January 1, 2017, and are certified as clean by the department.

(3) "Commission", the public service commission of the state of Missouri;

(4) "Customer-generator", the owner, lessee or operator of a qualified electric energy generation unit which:

(a) Is powered by a clean energy resource or micro CHP;

(b) Has an electrical generating system with a capacity of not more than five hundred kilowatts, measured in alternating current;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(5) "Department", the department of natural resources;

(6) "Micro CHP", combined heat and power or cogeneration systems that simultaneously generate electricity and thermal energy in a single integrated system with a nameplate rated capacity equal to or lower than 130 kilowatts, measured in alternating current;

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(7) “Net excess energy”, the amount of energy expressed in kilowatt hours delivered by a customer-generator to a supplier that exceeds the amount of energy delivered by the supplier to the customer-generator over a single billing period;

(8) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(9) "Retail electric supplier" or "supplier", any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals seven percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for a municipal utility may increase the total rated generating capacity of net metering systems to an amount above seven percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds two percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the retail electric supplier shall pay for the costs to purchase and install the necessary additional equipment, unless the commission makes a determination that the customer-generator is the only customer benefiting from the additional distribution equipment. If the commission determines the customer-generator is the only customer benefiting, such customer-generator shall reimburse the electric supplier for reasonably incurred equipment expenses. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subdivision (2) of subsection 3 of this section and all net excess energy shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent months;

(4) Any net excess energy credits carried forward under subdivision (3) of this subsection shall expire without any compensation at the earlier of either the next proceeding March billing period or when the customer-generator disconnects service or terminates the net metering relationship with the supplier.

(5) For any municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (4) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems one hundred kilowatts or less and within sixty days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application. Retail electric suppliers shall interconnect qualified energy generation units within thirty days of being notified the generation unit is installed and meets the requirements of this section.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for notifying the retail electric supplier.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall by June 1, 2017 promulgate any rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017, shall be invalid and void.

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10. The governing body of a municipal utility shall by June 1, 2017 adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs, including lost revenues and lost earnings opportunities associated reduced demand or kilowatt hours sales, incurred under this act by a retail electric supplier shall be timely recovered in that utility's rate structure in the form of a tracker or other appropriate rate recovery mechanism. At the time of any general change in a supplier's rates, any over-recovery or under-recovery balance shall be included in the supplier's revenue requirement used to set rates as amortized over a period not exceeding three years, and shall be recovered from each rate class pursuant to the supplier's approved rate design. At the time any general change in prospective rates is proposed, the commission shall permit the supplier to estimate the total generation output from all customer-owned generation for each rate class for the twelve-month period following the effective date of any change in rates, and rates shall be set using energy and demand billing units that reflect the estimated reduction of energy and demand likely to occur due to customer owned generation. When considering costs, the commission may evaluate the value of distributed generation and clean energy resources. To the extent any costs, lost revenues, or lost earnings are recovered under this section they shall not raise the retail rates charged to the customers of electrical corporations by an average of more than one percent in any year. Any limitation on cost recovery shall not limit the availability of net metering except as provided in subsection 3 of this section.

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

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16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. The total amount of clean energy tax credits offered annually shall not exceed one percent of the value of electricity used in Missouri as determined in subsection 4.

2. The department of economic development shall certify when the tax credits provided in this section have resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.890 and 386.900, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on available reports, including FERC Form Number 1 as allowed by 18 CFR § 141 or an equivalent as determined by the commission, of megawatt hours sales of retail electricity and corresponding revenues for the preceding year or most current reporting period as determined by the commission. The commission shall publish the value of

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electricity used in Missouri to the public and department of economic development within sixty days of the enactment of this section and at least sixty days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may only apply for and receive the credit authorized by this section for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

7. To obtain approval for tax credits allowed under this section, a taxpayer shall submit an initial application for tax credits to the department of economic development. Each application shall be prioritized for review and approval, in the order of the date on which the application was received, with the oldest received date receiving priority. Applications received on the same day shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. Such application deposit shall be refunded at completion of the project or if the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. If there is an application priority queue, the taxpayer may request a refund of the application deposit and lose its spot in the priority queue. If the taxpayer wants to maintain its position in the priority queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval

and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

9. Any disapproved application shall lose prioritization based on the filing date. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision to remove such application. The taxpayer shall have one opportunity, not to exceed ten days of notification of disapproval, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. Disapproved applications shall lose priority in the review process. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

10. If the department of economic development deems the application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for initial approval shall be notified by the department of economic development that the maximum amount of credits authorized have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available due to the rescission of approvals or reserved for a future fiscal year.

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12. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial allocation for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by letter and shall issue, to the taxpayer, tax credit certificates within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

15. If the amount of such credit exceeds the total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the

16-171

same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. The state tax credit shall not be subject to recapture provisions. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

16. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

17. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536.

RECEIVED
DEC 14 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-170

December 14, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 7 (2016-170)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 11, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

1670 County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 11 PM 4:21
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
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| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16470

*Be it enacted by the people of the state of Missouri:*

Section A: Sections 386.860, 386.870, 386.910 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.870, 386.910 and 386.1000 shall be known and cited as The Clean Energy Independence and Investment Act of 2016.

386.870. An electrical corporation shall be allowed to recover its costs and add in its rate base prudently incurred costs to install electric vehicle charging stations intended to recharge electric motor vehicles, provided the energy consumed at such stations is partially powered by a renewable energy resource, as defined in 386.890, or offset with renewable energy credits, as defined in 393.1025. Investments made pursuant to this section shall not raise the retail rates charged to the customers of electrical corporations by more than one half of one percent in any year.

386.910. 1. This section shall be known and cited as the "Community Solar Act."

2. Within thirty days of enactment of this section, the commission shall open a docket and by August 1, 2017, the commission shall adopt rules and regulations allowing customers to participate in community solar facilities and set a value–of-community-solar rate. For purposes of this section, a "community solar facility" is a photovoltaic electric generation facility with a capacity of between one hundred and one-thousand kilowatts, measured in alternating current, that allows five or more customers of an electrical corporation to offset their energy usage with solar energy located within the Missouri service territory of the electrical corporation where they have one or more electrical accounts. For the purposes of this section, an electrical corporation is as defined in 386.020.

3. The aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous calendar year, and such capacity of community solar facilities shall not count towards the system-wide net metering cap defined in subsection 3 of section 386.900. Electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. Entities or individuals that are not electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. The commission shall allow prudently incurred costs and expenses for community solar facilities owned by an electrical corporation to be included in such electrical corporation's rate base. Once a four percent aggregate cap is reached for community solar facilities, the commission shall open a docket to determine whether or not the community solar program shall be expanded, and the commission may increase the aggregate capacity cap above four percent, or adjust the percentage cap of electrical corporations owning community solar

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facilities. The commission shall consider all benefits and costs of such an expansion when making its decision. Community solar facilities shall not be eligible for tax credits under section 386.1000.

4. For any community solar facility that is owned or operated by an entity other than an electrical corporation, the energy generated by a community solar facility shall be provided to the electrical corporation to which it is interconnected in exchange for the allocation and facilitation of bill credits provided in subsection 5

5. Kilowatt hours generated from community solar facilities shall be allocated, on a pro rata basis, to the designated subscribers of the community solar facility at the direction of the community solar facility owner or operator. Allocated bill credits shall be set at a community solar rate per kilowatt hour determined by the commission. The commission shall determine the value of bill credits per kilowatt hour taking into consideration costs and benefits of solar energy including but not limited to energy value, generation value, environmental value, transmission and distribution system value, disaster recovery value, reactive power value and other grid benefit value, but such bill credits shall not be less than the electrical corporation's average retail rate. The value of allocated community solar bill credits shall be used to reduce the customer's total bill. Owners and operators of community solar facilities shall not be considered a public utility as defined in section 386.020, except that this provision shall not apply to any owner or operator who is an electrical corporation. When a community solar facility is placed in service it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years.

6. The commission shall promulgate rules and regulations it deems necessary to carry out the provisions of this section. The commission's rules shall: allow electrical corporations to recover costs; provide earning opportunities for electrical corporations; provide an orderly process, including a reservation system, to allow potential community solar facility owners and operators to develop projects within the capacity limits in subsection 2; and provide options, which may include financial incentives, to encourage low-income participation.

7. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017, shall be invalid and void.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the

project. The total amount of clean energy tax credits offered annually shall not exceed one percent of the value of electricity used in Missouri as determined in subsection 4.

2. The department of economic development shall certify when the tax credits provided in this section have resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.890 and 386.900, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on available reports, including FERC Form Number 1 as allowed by 18 CFR § 141 or an equivalent as determined by the commission, of megawatt hours sales of retail electricity and corresponding revenues for the preceding year or most current reporting period as determined by the commission. The commission shall publish the value of electricity used in Missouri to the public and department of economic development within sixty days of the enactment of this section and at least sixty days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may only apply for and receive the credit authorized by this section for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

7. To obtain approval for tax credits allowed under this section, a taxpayer shall submit an initial application for tax credits to the department of economic development. Each application shall be prioritized for review and approval, in the order of the date on which the application was received, with the oldest received date receiving priority. Applications received on the same day shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. Such application deposit shall be refunded at completion of the project or if the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. If there is an application priority queue, the taxpayer may request a refund of the application deposit and lose its spot in the priority queue. If the taxpayer wants to maintain its position in the priority queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

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(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

9. Any disapproved application shall lose prioritization based on the filing date. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision to remove such application. The taxpayer shall have one opportunity, not to exceed ten days of notification of disapproval, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. Disapproved applications shall lose priority in the review process. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

10. If the department of economic development deems the application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for initial approval shall be notified by the department of economic development that the maximum amount of credits authorized have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available due to the rescission of approvals or reserved for a future fiscal year.

12. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial allocation for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development to be credited to the Clean Energy Fund,

the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by letter and shall issue, to the taxpayer, tax credit certificates within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

15. If the amount of such credit exceeds the total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. The state tax credit shall not be subject to recapture provisions. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

16. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in

excess of the amount provided under such taxpayer's approval granted under this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

17. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536.

RECEIVED
DEC 14 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-169

December 14, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 6 (2016-169)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 11, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-169 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 11 PM 4:20
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
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| 1. | | | | | |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-169

*Be it enacted by the people of the state of Missouri:*

Section A: Sections 386.950 and 386.1000 are enacted to read as follows:

386.950. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, 386.1000 shall be known and cited as The Clean Energy Independence and Investment Act of 2016.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. The total amount of clean energy tax credits offered annually shall not exceed one percent of the value of electricity used in Missouri as determined in subsection 4.

2. The department of economic development shall certify when the tax credits provided in this section have resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a renewable energy resource as defined in section 386.890. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.890, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on available reports, including FERC Form Number 1 as allowed by 18 CFR § 141 or an equivalent as determined by the commission, of megawatt hours

sales of retail electricity and corresponding revenues for the preceding year or most current reporting period as determined by the commission. The commission shall publish the value of electricity used in Missouri to the public and department of economic development within sixty days of the enactment of this section and at least sixty days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may only apply for and receive the credit authorized by this section for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

7. To obtain approval for tax credits allowed under this section, a taxpayer shall submit an initial application for tax credits to the department of economic development. Each application shall be prioritized for review and approval, in the order of the date on which the application was received, with the oldest received date receiving priority. Applications received on the same day shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. Such application deposit shall be refunded at completion of the project or if the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. If there is an application priority queue, the taxpayer may request a refund of the application deposit and lose its spot in the priority queue. If the taxpayer wants to maintain its position in the priority queue, the application deposit shall be retained in the Clean Energy Fund

until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

9. Any disapproved application shall lose prioritization based on the filing date. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision to remove such application. The taxpayer shall have one opportunity, not to exceed ten days of notification of disapproval, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. Disapproved applications shall lose priority in the review process. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

10. If the department of economic development deems the application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for initial approval shall be notified by the department of economic development that the maximum amount of credits authorized have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year

and any additional approvals shall be issued in the event that additional credits become available due to the rescission of approvals or reserved for a future fiscal year.

12. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial allocation for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by letter and shall issue, to the taxpayer, tax credit certificates within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

15. If the amount of such credit exceeds the total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265

for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. The state tax credit shall not be subject to recapture provisions. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

16. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

17. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536.

RECEIVED
DEC 14 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-168

December 14, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 5 (2016-168)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 11, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-168 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

RECEIVED
2015 DEC 11 PM 4:19
SEC. OF STATE

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
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| 7. | | | | | |
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| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

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*Be it enacted by the people of the state of Missouri:*

Section A: Section 386.890 is repealed and sections 386.860, 386.870, 386.900, 386.910 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.870 to 386.1000 shall be known and cited as The Clean Energy Independence and Investment Act of 2016.

386.870. An electrical corporation shall be allowed to recover its costs and add in its rate base prudently incurred costs to install electric vehicle charging stations intended to recharge electric motor vehicles, provided the energy consumed at such stations is partially powered by a clean energy resource, as defined in 386.900, or offset with renewable energy credits, as defined in 393.1025. Investments made pursuant to this section shall not raise the retail rates charged to the customers of electrical corporations by more than one half of one percent in any year.

[386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal electric utility, rural electric cooperative as provided in chapter 394, or electrical corporation as provided in this chapter;

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of natural resources;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one

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of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any municipal utility, electrical corporation regulated under this chapter, or rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for other electric utilities may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) For any rural electric cooperative under chapter 394, or municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of

the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule or equivalent formal action by each respective governing body:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created

under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10. The governing body of a rural electric cooperative or municipal utility shall, within nine months of January 1, 2008, adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.]

386.900. 1. This section shall be known and may be cited as the "Enhanced Net Metering and Easy Connection Act". It shall be the policy of the state to facilitate the use of customer-sited or controlled clean energy resources.

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal utility, rural electric cooperative as provided in chapter 394, or electrical corporation as provided in this chapter;

(2) "Clean energy resource", electrical energy produced from:

(a) Wind;

(b) Solar thermal sources;

(c) Hydroelectric sources;

(d) Photovoltaic cells and panels;

(e) Fuel cells using hydrogen produced by one of the above-named electrical energy sources; or

(f) Other sources of energy that become available after January 1, 2017, and are certified as clean by the department.

(3) "Commission", the public service commission of the state of Missouri;

(4) "Customer-generator", the owner, lessee or operator of a qualified electric energy generation unit which:

(a) Is powered by a clean energy resource or micro CHP;

(b) Has an electrical generating system with a capacity of not more than five hundred kilowatts, measured in alternating current;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(5) "Department", the department of natural resources;

(6) "Micro CHP", combined heat and power or cogeneration systems that simultaneously generate electricity and thermal energy in a single integrated system with a nameplate rated capacity equal to or lower than 130 kilowatts, measured in alternating current;

(7) "Net excess energy", the amount of energy expressed in kilowatt hours delivered by a customer-generator to a supplier that exceeds the amount of energy delivered by the supplier to the customer-generator over a single billing period;

(8) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(9) "Retail electric supplier" or "supplier", any municipal utility, rural electric cooperative un chapter 394 or electrical corporation regulated under this chapter that provides retail electric service in this state.

3. A retail electric supplier shall:

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(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals seven percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for other electric utilities may increase the total rated generating capacity of net metering systems to an amount above seven percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds two percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the retail electric supplier shall pay for the costs to purchase and install the necessary additional equipment, unless the commission makes a determination that the customer-generator is the only customer benefiting from the additional distribution equipment. If the commission determines the customer-generator is the only customer benefiting, such customer-generator shall reimburse the electric supplier for reasonably incurred equipment expenses. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate

customer charges for that billing period in accordance with subdivision (2) of subsection 3 of this section and all net excess energy shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent months;

(4) Any net excess energy credits carried forward under subdivision (3) of this subsection shall expire without any compensation at the earlier of either the next proceeding March billing period or when the customer-generator disconnects service or terminates the net metering relationship with the supplier.

(5) For any rural electric cooperative under chapter 394, or municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule or equivalent formal action by each respective governing body:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (4) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems one hundred kilowatts or less and within sixty days of receipt

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for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application. Retail electric suppliers shall interconnect qualified energy generation units within thirty days of being notified the generation unit is installed and meets the requirements of this section.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for notifying the retail electric supplier.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall by June 1, 2017 promulgate any rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017, shall be invalid and void.

10. The governing body of a rural electric cooperative or municipal utility shall by June 1, 2017 adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

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13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs, including lost revenues and lost earnings opportunities associated reduced demand or kilowatt hours sales, incurred under this act by a retail electric supplier shall be timely recovered in that utility's rate structure in the form of a tracker or other appropriate rate recovery mechanism. At the time of any general change in a supplier's rates, any over-recovery or under-recovery balance shall be included in the supplier's revenue requirement used to set rates as amortized over a period not exceeding three years, and shall be recovered from each rate class pursuant to the supplier's approved rate design. At the time any general change in prospective rates is proposed, the commission shall permit the supplier to estimate the total generation output from all customer-owned generation for each rate class for the twelve-month period following the effective date of any change in rates, and rates shall be set using energy and demand billing units that reflect the estimated reduction of energy and demand likely to occur due to customer owned generation. When considering costs, the commission may evaluate the value of distributed generation and clean energy resources. To the extent any costs, lost revenues, or lost earnings are recovered under this section they shall not raise the retail rates charged to the customers of electrical corporations by an average of more than one percent in any year. Any limitation on cost recovery shall not limit the availability of net metering except as provided in subsection 3 of this section.

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.910. 1. This section shall be known and cited as the "Community Solar Act."

2. Within thirty days of enactment of this section, the commission shall open a docket and by August 1, 2017, the commission shall adopt rules and regulations allowing customers to

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participate in community solar facilities and set a value–of-community-solar rate. For purposes of this section, a "community solar facility" is a photovoltaic electric generation facility with a capacity of between one hundred and one-thousand kilowatts, measured in alternating current, that allows five or more customers of an electrical corporation to offset their energy usage with solar energy located within the Missouri service territory of the electrical corporation where they have one or more electrical accounts. For the purposes of this section, an electrical corporation is as defined in 386.020.

3. The aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous calendar year, and such capacity of community solar facilities shall not count towards the system-wide net metering cap defined in subsection 3 of section 386.900. Electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. Entities or individuals that are not electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. The commission shall allow prudently incurred costs and expenses for community solar facilities owned by an electrical corporation to be included in such electrical corporation's rate base. Once a four percent aggregate cap is reached for community solar facilities, the commission shall open a docket to determine whether or not the community solar program shall be expanded, and the commission may increase the aggregate capacity cap above four percent, or adjust the percentage cap of electrical corporations owning community solar facilities. The commission shall consider all benefits and costs of such an expansion when making its decision. Community solar facilities shall not be eligible for tax credits under section 386.1000.

4. For any community solar facility that is owned or operated by an entity other than an electrical corporation, the energy generated by a community solar facility shall be provided to the electrical corporation to which it is interconnected in exchange for the allocation and facilitation of bill credits provided in subsection 5

5. Kilowatt hours generated from community solar facilities shall be allocated, on a pro rata basis, to the designated subscribers of the community solar facility at the direction of the community solar facility owner or operator. Allocated bill credits shall be set at a community solar rate per kilowatt hour determined by the commission. The commission shall determine the value of bill credits per kilowatt hour taking into consideration costs and benefits of solar energy including but not limited to energy value, generation value, environmental value, transmission and distribution system value, disaster recovery value, reactive power value and other grid benefit value, but such bill credits shall not be less than the electrical corporation's average retail rate. The value of allocated community solar bill credits shall be used to reduce the customer's total bill. Owners and operators of community solar facilities shall not be considered a public utility as defined in section 386.020, except that this provision shall not apply to any owner or

operator who is an electrical corporation. When a community solar facility is placed in service it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years.

6. The commission shall promulgate rules and regulations it deems necessary to carry out the provisions of this section. The commission's rules shall: allow electrical corporations to recover costs; provide earning opportunities for electrical corporations; provide an orderly process, including a reservation system, to allow potential community solar facility owners and operators to develop projects within the capacity limits in subsection 2; and provide options, which may include financial incentives, to encourage low-income participation.

7. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017, shall be invalid and void.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. The total amount of clean energy tax credits offered annually shall not exceed one percent of the value of electricity used in Missouri as determined in subsection 4.

2. The department of economic development shall certify when the tax credits provided in this section have resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three

dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.890 and 386.900, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on available reports, including FERC Form Number 1 as allowed by 18 CFR § 141 or an equivalent as determined by the commission, of megawatt hours sales of retail electricity and corresponding revenues for the preceding year or most current reporting period as determined by the commission. The commission shall publish the value of electricity used in Missouri to the public and department of economic development within sixty days of the enactment of this section and at least sixty days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may only apply for and receive the credit authorized by this section for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

7. To obtain approval for tax credits allowed under this section, a taxpayer shall submit an initial application for tax credits to the department of economic development. Each application shall be prioritized for review and approval, in the order of the date on which the application was received, with the oldest received date receiving priority. Applications received on the same day

shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. Such application deposit shall be refunded at completion of the project or if the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. If there is an application priority queue, the taxpayer may request a refund of the application deposit and lose its spot in the priority queue. If the taxpayer wants to maintain its position in the priority queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

9. Any disapproved application shall lose prioritization based on the filing date. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision to remove such application. The taxpayer shall have one opportunity, not to exceed ten days of notification of disapproval, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. Disapproved applications shall lose priority in the review process. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

10. If the department of economic development deems the application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this

section within forty-five days of the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for initial approval shall be notified by the department of economic development that the maximum amount of credits authorized have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available due to the rescission of approvals or reserved for a future fiscal year.

12. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial allocation for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department

shall inform the taxpayer by letter and shall issue, to the taxpayer, tax credit certificates within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

15. If the amount of such credit exceeds the total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. The state tax credit shall not be subject to recapture provisions. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

16. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

17. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

RECEIVED
DEC 14 2015
STATE AUDITORS OFFICE

ELECTIONS DIVISION
(573) 751-2301

16-167

December 14, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 4 (2016-167)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 11, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16467

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 11 PM 4:18
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
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| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

My commission expires _____

_____
Address of Notary (Street, City, State & Zip Code)

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*Be it enacted by the people of the state of Missouri:*

Section A: Section 386.890 is amended and sections 386.860, 386.870, 386.900, 386.910 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.870 to 386.1000 shall be known and cited as The Clean Energy Independence and Investment Act of 2016.

386.870. An electrical corporation shall be allowed to recover its costs and add in its rate base prudently incurred costs to install electric vehicle charging stations intended to recharge electric motor vehicles, provided the energy consumed at such stations is partially powered by a clean energy resource, as defined in 386.900, or offset with renewable energy credits, as defined in 393.1025. Investments made pursuant to this section shall not raise the retail rates charged to the customers of electrical corporations by more than one half of one percent in any year.

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any [municipal electric utility,] rural electric cooperative as provided in chapter 394[, or electrical corporation as provided in this chapter];

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

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(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of natural resources;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any [municipal utility, electrical corporation regulated under this chapter, or] rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which [the commission for a public utility or] the governing body for the supplier[other electric utilities] may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing,

maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) [For any rural electric cooperative under chapter 394, or municipal utility, u]Upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional

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liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, [the commission for public utilities and] the governing body for the supplier[other utilities] shall, by rule or equivalent formal action[ by each respective governing body]:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. [Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers] Suppliers shall submit [the same report] an annual net metering report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

[9. The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is

subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.]

[10.] 9. The governing body of a supplier shall[rural electric cooperative or municipal utility shall, within nine months of January 1, 2008,] adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

[11.] 10. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

[12.] 11. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

[13.] 12. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

[14.] 13. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

[15.] 14. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

[16.] 15. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

[17.] 16. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.900. 1. This section shall be known and may be cited as the "Enhanced Net Metering and Easy Connection Act". It shall be the policy of the state to facilitate the use of customer-sited or controlled clean energy resources.

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2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal utility or electrical corporation as provided in this chapter;

(2) "Clean energy resource", electrical energy produced from:

(a) Wind;
(b) Solar thermal sources;
(c) Hydroelectric sources;
(d) Photovoltaic cells and panels;
(e) Fuel cells using hydrogen produced by one of the above-named electrical energy sources; or
(f) Other sources of energy that become available after January 1, 2017, and are certified as clean by the department.

(3) "Commission", the public service commission of the state of Missouri;

(4) "Customer-generator", the owner, lessee or operator of a qualified electric energy generation unit which:

(a) Is powered by a clean energy resource or micro CHP;

(b) Has an electrical generating system with a capacity of not more than five hundred kilowatts, measured in alternating current;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(5) "Department", the department of natural resources;

(6) "Micro CHP", combined heat and power or cogeneration systems that simultaneously generate electricity and thermal energy in a single integrated system with a nameplate rated capacity equal to or lower than 130 kilowatts, measured in alternating current;

(7) "Net excess energy", the amount of energy expressed in kilowatt hours delivered by a customer-generator to a supplier that exceeds the amount of energy delivered by the supplier to the customer-generator over a single billing period;

(8) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(9) "Retail electric supplier" or "supplier", any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals seven percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for a municipal utility may increase the total rated generating capacity of net metering systems to an amount above seven percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds two percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the retail electric supplier shall pay for the costs to purchase and install the necessary additional equipment, unless the commission makes a determination that the customer-generator is the only customer benefiting from the additional distribution equipment. If the commission determines the customer-generator is the only customer benefiting, such customer-generator shall reimburse the electric supplier for reasonably incurred equipment expenses. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

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(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subdivision (2) of subsection 3 of this section and all net excess energy shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent months;

(4) Any net excess energy credits carried forward under subdivision (3) of this subsection shall expire without any compensation at the earlier of either the next proceeding March billing period or when the customer-generator disconnects service or terminates the net metering relationship with the supplier.

(5) For any municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule:

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(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (4) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems one hundred kilowatts or less and within sixty days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application. Retail electric suppliers shall interconnect qualified energy generation units within thirty days of being notified the generation unit is installed and meets the requirements of this section.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for notifying the retail electric supplier.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall by June 1, 2017 promulgate any rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017, shall be invalid and void.

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10. The governing body of a municipal utility shall by June 1, 2017 adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs, including lost revenues and lost earnings opportunities associated reduced demand or kilowatt hours sales, incurred under this act by a retail electric supplier shall be timely recovered in that utility's rate structure in the form of a tracker or other appropriate rate recovery mechanism. At the time of any general change in a supplier's rates, any over-recovery or under-recovery balance shall be included in the supplier's revenue requirement used to set rates as amortized over a period not exceeding three years, and shall be recovered from each rate class pursuant to the supplier's approved rate design. At the time any general change in prospective rates is proposed, the commission shall permit the supplier to estimate the total generation output from all customer-owned generation for each rate class for the twelve-month period following the effective date of any change in rates, and rates shall be set using energy and demand billing units that reflect the estimated reduction of energy and demand likely to occur due to customer owned generation. When considering costs, the commission may evaluate the value of distributed generation and clean energy resources. To the extent any costs, lost revenues, or lost earnings are recovered under this section they shall not raise the retail rates charged to the customers of electrical corporations by an average of more than one percent in any year. Any limitation on cost recovery shall not limit the availability of net metering except as provided in subsection 3 of this section.

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

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16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.910. 1. This section shall be known and cited as the "Community Solar Act."

2. Within thirty days of enactment of this section, the commission shall open a docket and by August 1, 2017, the commission shall adopt rules and regulations allowing customers to participate in community solar facilities and set a value–of-community-solar rate. For purposes of this section, a "community solar facility" is a photovoltaic electric generation facility with a capacity of between one hundred and one-thousand kilowatts, measured in alternating current, that allows five or more customers of an electrical corporation to offset their energy usage with solar energy located within the Missouri service territory of the electrical corporation where they have one or more electrical accounts. For the purposes of this section, an electrical corporation is as defined in 386.020.

3. The aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous calendar year, and such capacity of community solar facilities shall not count towards the system-wide net metering cap defined in subsection 3 of section 386.900. Electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. Entities or individuals that are not electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. The commission shall allow prudently incurred costs and expenses for community solar facilities owned by an electrical corporation to be included in such electrical corporation's rate base. Once a four percent aggregate cap is reached for community solar facilities, the commission shall open a docket to determine whether or not the community solar program shall be expanded, and the commission may increase the aggregate capacity cap above four percent, or adjust the percentage cap of electrical corporations owning community solar facilities. The commission shall consider all benefits and costs of such an expansion when making its decision. Community solar facilities shall not be eligible for tax credits under section 386.1000.

4. For any community solar facility that is owned or operated by an entity other than an electrical corporation, the energy generated by a community solar facility shall be provided to the electrical corporation to which it is interconnected in exchange for the allocation and facilitation of bill credits provided in subsection 5

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5. Kilowatt hours generated from community solar facilities shall be allocated, on a pro rata basis, to the designated subscribers of the community solar facility at the direction of the community solar facility owner or operator. Allocated bill credits shall be set at a community solar rate per kilowatt hour determined by the commission. The commission shall determine the value of bill credits per kilowatt hour taking into consideration costs and benefits of solar energy including but not limited to energy value, generation value, environmental value, transmission and distribution system value, disaster recovery value, reactive power value and other grid benefit value, but such bill credits shall not be less than the electrical corporation's average retail rate. The value of allocated community solar bill credits shall be used to reduce the customer's total bill. Owners and operators of community solar facilities shall not be considered a public utility as defined in section 386.020, except that this provision shall not apply to any owner or operator who is an electrical corporation. When a community solar facility is placed in service it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years.

6. The commission shall promulgate rules and regulations it deems necessary to carry out the provisions of this section. The commission's rules shall: allow electrical corporations to recover costs; provide earning opportunities for electrical corporations; provide an orderly process, including a reservation system, to allow potential community solar facility owners and operators to develop projects within the capacity limits in subsection 2; and provide options, which may include financial incentives, to encourage low-income participation.

7. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017, shall be invalid and void.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900 . A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of

depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current.

2. The department of economic development shall certify when the tax credits provided in this section have resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. The total amount of clean energy tax credits provided in this section allocated annually shall not exceed fifty million dollars in the aggregate per fiscal year. The aggregate amount of the clean energy resources tax credits available annually as specified in this section shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. If the amount of the clean energy tax credits offered in any fiscal year, other than 2016, is less than the annual statutory cap contained in this section then the cap for the following fiscal year shall be increased by that amount. The carryover of any unused clean energy tax credit authority shall extend until it is used. The provisions of this section notwithstanding, a claimant may only apply for and receive the credit authorized by this section for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

4. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

5. To obtain approval for tax credits allowed under this section, a taxpayer shall submit an initial application for tax credits to the department of economic development. Each application shall be prioritized for review and approval, in the order of the date on which the application was received, with the oldest received date receiving priority. Applications received on the same day shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. Such application deposit shall be refunded at completion of the project or if the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. If there is an application priority queue, the taxpayer may request a refund of the application deposit and lose its spot in the priority queue. If the taxpayer wants to maintain its position in the priority queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

6. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 5 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

7. Any disapproved application shall lose prioritization based on the filing date. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision to remove such application. The taxpayer shall have one opportunity, not to exceed ten days of notification of disapproval, to correct any deficiencies in

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the initial application without losing its priority before becoming disapproved. Disapproved applications shall lose priority in the review process. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

8. If the department of economic development deems the application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 5 of this section.

9. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for initial approval shall be notified by the department of economic development that the maximum amount of credits authorized have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available due to the rescission of approvals or reserved for a future fiscal year.

10. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial allocation for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

11. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1 and 3 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

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12. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by letter and shall issue, to the taxpayer, tax credit certificates within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

13. If the amount of such credit exceeds the total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. The state tax credit shall not be subject to recapture provisions. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

14. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

15. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
DEC 14 2015
STATE AUDITORS OFFICE

16-166

December 14, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 3 (2016-166)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 11, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-1466 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 11 PM 4:17
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
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| 7. | | | | | |
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| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

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*Be it enacted by the people of the state of Missouri:*

Section A: Section 386.890 is amended and sections 386.860, 386.870, 386.900, 386.910 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.870 to 386.1000 shall be known and cited as The Clean Energy Independence and Investment Act of 2016.

386.870. An electrical corporation shall be allowed to recover its costs and add in its rate base prudently incurred costs to install electric vehicle charging stations intended to recharge electric motor vehicles, provided the energy consumed at such stations is partially powered by a clean energy resource, as defined in 386.900, or offset with renewable energy credits, as defined in 393.1025. Investments made pursuant to this section shall not raise the retail rates charged to the customers of electrical corporations by more than one half of one percent in any year.

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any [municipal electric utility,] rural electric cooperative as provided in chapter 394[, or electrical corporation as provided in this chapter];

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

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(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of natural resources;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any [municipal utility, electrical corporation regulated under this chapter, or] rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which [the commission for a public utility or] the governing body for the supplier[other electric utilities] may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing,

maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) [For any rural electric cooperative under chapter 394, or municipal utility, u]Upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional

liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, [the commission for public utilities and] the governing body for the supplier[other utilities] shall, by rule or equivalent formal action[ by each respective governing body]:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. [Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers] Suppliers shall submit [the same report] an annual net metering report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

[9. The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is

subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.]

[10.] 9. The governing body of a supplier shall[rural electric cooperative or municipal utility shall, within nine months of January 1, 2008,] adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

[11.] 10. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

[12.] 11. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

[13.] 12. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

[14.] 13. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

[15.] 14. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

[16.] 15. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

[17.] 16. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.900. 1. This section shall be known and may be cited as the "Enhanced Net Metering and Easy Connection Act". It shall be the policy of the state to facilitate the use of customer-sited or controlled clean energy resources.

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2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal utility or electrical corporation as provided in this chapter;

(2) "Clean energy resource", electrical energy produced from:

(a) Wind;
(b) Solar thermal sources;
(c) Hydroelectric sources;
(d) Photovoltaic cells and panels;
(e) Fuel cells using hydrogen produced by one of the above-named electrical energy sources; or
(f) Other sources of energy that become available after January 1, 2017, and are certified as clean by the department.

(3) "Commission", the public service commission of the state of Missouri;

(4) "Customer-generator", the owner, lessee or operator of a qualified electric energy generation unit which:

(a) Is powered by a clean energy resource or micro CHP;

(b) Has an electrical generating system with a capacity of not more than five hundred kilowatts, measured in alternating current;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(5) "Department", the department of natural resources;

(6) "Micro CHP", combined heat and power or cogeneration systems that simultaneously generate electricity and thermal energy in a single integrated system with a nameplate rated capacity equal to or lower than 130 kilowatts, measured in alternating current;

(7) "Net excess energy", the amount of energy expressed in kilowatt hours delivered by a customer-generator to a supplier that exceeds the amount of energy delivered by the supplier to the customer-generator over a single billing period;

(8) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(9) "Retail electric supplier" or "supplier", any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals seven percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for a municipal utility may increase the total rated generating capacity of net metering systems to an amount above seven percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds two percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the retail electric supplier shall pay for the costs to purchase and install the necessary additional equipment, unless the commission makes a determination that the customer-generator is the only customer benefiting from the additional distribution equipment. If the commission determines the customer-generator is the only customer benefiting, such customer-generator shall reimburse the electric supplier for reasonably incurred equipment expenses. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subdivision (2) of subsection 3 of this section and all net excess energy shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent months;

(4) Any net excess energy credits carried forward under subdivision (3) of this subsection shall expire without any compensation at the earlier of either the next proceeding March billing period or when the customer-generator disconnects service or terminates the net metering relationship with the supplier.

(5) For any municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (4) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems one hundred kilowatts or less and within sixty days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application. Retail electric suppliers shall interconnect qualified energy generation units within thirty days of being notified the generation unit is installed and meets the requirements of this section.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for notifying the retail electric supplier.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall by June 1, 2017 promulgate any rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017, shall be invalid and void.

10. The governing body of a municipal utility shall by June 1, 2017 adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs, including lost revenues and lost earnings opportunities associated reduced demand or kilowatt hours sales, incurred under this act by a retail electric supplier shall be timely recovered in that utility's rate structure in the form of a tracker or other appropriate rate recovery mechanism. At the time of any general change in a supplier's rates, any over-recovery or under-recovery balance shall be included in the supplier's revenue requirement used to set rates as amortized over a period not exceeding three years, and shall be recovered from each rate class pursuant to the supplier's approved rate design. At the time any general change in prospective rates is proposed, the commission shall permit the supplier to estimate the total generation output from all customer-owned generation for each rate class for the twelve-month period following the effective date of any change in rates, and rates shall be set using energy and demand billing units that reflect the estimated reduction of energy and demand likely to occur due to customer owned generation. When considering costs, the commission may evaluate the value of distributed generation and clean energy resources. To the extent any costs, lost revenues, or lost earnings are recovered under this section they shall not raise the retail rates charged to the customers of electrical corporations by an average of more than one percent in any year. Any limitation on cost recovery shall not limit the availability of net metering except as provided in subsection 3 of this section.

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

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16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.910. 1. This section shall be known and cited as the "Community Solar Act."

2. Within thirty days of enactment of this section, the commission shall open a docket and by August 1, 2017, the commission shall adopt rules and regulations allowing customers to participate in community solar facilities and set a value–of-community-solar rate. For purposes of this section, a "community solar facility" is a photovoltaic electric generation facility with a capacity of between one hundred and one-thousand kilowatts, measured in alternating current, that allows five or more customers of an electrical corporation to offset their energy usage with solar energy located within the Missouri service territory of the electrical corporation where they have one or more electrical accounts. For the purposes of this section, an electrical corporation is as defined in 386.020.

3. The aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous calendar year, and such capacity of community solar facilities shall not count towards the system-wide net metering cap defined in subsection 3 of section 386.900. Electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. Entities or individuals that are not electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. The commission shall allow prudently incurred costs and expenses for community solar facilities owned by an electrical corporation to be included in such electrical corporation's rate base. Once a four percent aggregate cap is reached for community solar facilities, the commission shall open a docket to determine whether or not the community solar program shall be expanded, and the commission may increase the aggregate capacity cap above four percent, or adjust the percentage cap of electrical corporations owning community solar facilities. The commission shall consider all benefits and costs of such an expansion when making its decision. Community solar facilities shall not be eligible for tax credits under section 386.1000.

4. For any community solar facility that is owned or operated by an entity other than an electrical corporation, the energy generated by a community solar facility shall be provided to the electrical corporation to which it is interconnected in exchange for the allocation and facilitation of bill credits provided in subsection 5

5. Kilowatt hours generated from community solar facilities shall be allocated, on a pro rata basis, to the designated subscribers of the community solar facility at the direction of the community solar facility owner or operator. Allocated bill credits shall be set at a community solar rate per kilowatt hour determined by the commission. The commission shall determine the value of bill credits per kilowatt hour taking into consideration costs and benefits of solar energy including but not limited to energy value, generation value, environmental value, transmission and distribution system value, disaster recovery value, reactive power value and other grid benefit value, but such bill credits shall not be less than the electrical corporation's average retail rate. The value of allocated community solar bill credits shall be used to reduce the customer's total bill. Owners and operators of community solar facilities shall not be considered a public utility as defined in section 386.020, except that this provision shall not apply to any owner or operator who is an electrical corporation. When a community solar facility is placed in service it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years.

6. The commission shall promulgate rules and regulations it deems necessary to carry out the provisions of this section. The commission's rules shall: allow electrical corporations to recover costs; provide earning opportunities for electrical corporations; provide an orderly process, including a reservation system, to allow potential community solar facility owners and operators to develop projects within the capacity limits in subsection 2; and provide options, which may include financial incentives, to encourage low-income participation.

7. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017, shall be invalid and void.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. The total amount of clean energy tax credits offered annually shall not exceed one percent of the value of electricity used in Missouri as determined in subsection 4.

2. The department of economic development shall certify when the tax credits provided in this section have resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit

has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.890 and 386.900, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on available reports, including FERC Form Number 1 as allowed by 18 CFR § 141 or an equivalent as determined by the commission, of megawatt hours sales of retail electricity and corresponding revenues for the preceding year or most current reporting period as determined by the commission. The commission shall publish the value of electricity used in Missouri to the public and department of economic development within sixty days of the enactment of this section and at least sixty days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may only apply for and receive the credit authorized by this section for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain

in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

7. To obtain approval for tax credits allowed under this section, a taxpayer shall submit an initial application for tax credits to the department of economic development. Each application shall be prioritized for review and approval, in the order of the date on which the application was received, with the oldest received date receiving priority. Applications received on the same day shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. Such application deposit shall be refunded at completion of the project or if the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. If there is an application priority queue, the taxpayer may request a refund of the application deposit and lose its spot in the priority queue. If the taxpayer wants to maintain its position in the priority queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

9. Any disapproved application shall lose prioritization based on the filing date. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision to remove such application. The taxpayer shall have one opportunity, not to exceed ten days of notification of disapproval, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. Disapproved applications shall lose priority in the review process. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

10. If the department of economic development deems the application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for initial approval shall be notified by the department of economic development that the maximum amount of credits authorized have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available due to the rescission of approvals or reserved for a future fiscal year.

12. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial allocation for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

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13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by letter and shall issue, to the taxpayer, tax credit certificates within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

15. If the amount of such credit exceeds the total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. The state tax credit shall not be subject to recapture provisions. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

16. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

17. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
DEC 14 2015
STATE AUDITORS OFFICE

16-165

December 14, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 2 (2016-165)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 11, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-165 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 11 PM 4:16
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
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| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-165

*Be it enacted by the people of the state of Missouri:*

Section A: Section 386.890 is amended and sections 386.860, 386.900 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.900 and 386.1000 shall be known and cited as The Clean Energy Independence and Investment Act of 2016.

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any [municipal electric utility,] rural electric cooperative as provided in chapter 394[, or electrical corporation as provided in this chapter];

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of natural resources;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical

energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any [municipal utility, electrical corporation regulated under this chapter, or] rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which [the commission for a public utility or] the governing body for the supplier[other electric utilities] may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices

for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) [For any rural electric cooperative under chapter 394, or municipal utility, u]Upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, [the commission for public utilities and] the governing body for the supplier[other utilities] shall, by rule or equivalent formal action[ by each respective governing body]:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. [Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers] Suppliers shall submit [the same report] an annual net metering report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

[9. The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.]

[10.] 9. The governing body of a supplier shall[rural electric cooperative or municipal utility shall, within nine months of January 1, 2008,] adopt policies establishing a simple contract to be

used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

[11.] 10. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

[12.] 11. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

[13.] 12. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

[14.] 13. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

[15.] 14. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

[16.] 15. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

[17.] 16. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.900. 1. This section shall be known and may be cited as the "Enhanced Net Metering and Easy Connection Act". It shall be the policy of the state to facilitate the use of customer-sited or controlled clean energy resources.

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal utility or electrical corporation as provided in this chapter;

(2) "Clean energy resource", electrical energy produced from:

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(a) Wind;

(b) Solar thermal sources;

(c) Hydroelectric sources;

(d) Photovoltaic cells and panels;

(e) Fuel cells using hydrogen produced by one of the above-named electrical energy sources; or

(f) Other sources of energy that become available after January 1, 2017, and are certified as clean by the department.

(3) "Commission", the public service commission of the state of Missouri;

(4) "Customer-generator", the owner, lessee or operator of a qualified electric energy generation unit which:

(a) Is powered by a clean energy resource or micro CHP;

(b) Has an electrical generating system with a capacity of not more than five hundred kilowatts, measured in alternating current;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(5) "Department", the department of natural resources;

(6) "Micro CHP", combined heat and power or cogeneration systems that simultaneously generate electricity and thermal energy in a single integrated system with a nameplate rated capacity equal to or lower than 130 kilowatts, measured in alternating current;

(7) "Net excess energy", the amount of energy expressed in kilowatt hours delivered by a customer-generator to a supplier that exceeds the amount of energy delivered by the supplier to the customer-generator over a single billing period;

(8) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

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(9) "Retail electric supplier" or "supplier", any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals seven percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for a municipal utility may increase the total rated generating capacity of net metering systems to an amount above seven percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds two percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the retail electric supplier shall pay for the costs to purchase and install the necessary additional equipment, unless the commission makes a determination that the customer-generator is the only customer benefiting from the additional distribution equipment. If the commission determines the customer-generator is the only customer benefiting, such customer-generator shall reimburse the electric supplier for reasonably incurred equipment expenses. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity

supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subdivision (2) of subsection 3 of this section and all net excess energy shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent months;

(4) Any net excess energy credits carried forward under subdivision (3) of this subsection shall expire without any compensation at the earlier of either the next proceeding March billing period or when the customer-generator disconnects service or terminates the net metering relationship with the supplier.

(5) For any municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (4) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the

generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems one hundred kilowatts or less and within sixty days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application. Retail electric suppliers shall interconnect qualified energy generation units within thirty days of being notified the generation unit is installed and meets the requirements of this section.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for notifying the retail electric supplier.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall by June 1, 2017 promulgate any rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017, shall be invalid and void.

10. The governing body of a municipal utility shall by June 1, 2017 adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

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12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900 . A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource project ts measured in alternating current.

If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

2. The department of economic development shall certify when the tax credits provided in this section have resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset. 3. The total amount of clean energy tax credits provided in this section allocated annually shall not exceed fifty million dollars in the aggregate per fiscal year. The aggregate amount of the clean energy resources tax credits available annually as specified in this section shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. If the amount of the clean energy tax credits offered in any fiscal year, other than 2016, is less than the annual statutory cap contained in this section then the cap for the following fiscal year shall be increased by that amount. The carryover of any unused clean energy tax credit authority shall extend until it is used. The provisions of this section notwithstanding, a claimant may only apply for and receive the credit authorized by this section for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

4. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

5. To obtain approval for tax credits allowed under this section, a taxpayer shall submit an initial application for tax credits to the department of economic development. Each application shall be prioritized for review and approval, in the order of the date on which the application was received, with the oldest received date receiving priority. Applications received on the same day shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. Such application deposit shall be refunded at completion of the project or if the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. If there is an application priority queue, the taxpayer may request a refund of the application deposit and lose its spot in the priority queue. If the taxpayer wants to maintain its position in the priority queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

6. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 5 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

7. Any disapproved application shall lose prioritization based on the filing date. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision to remove such application. The taxpayer shall have one opportunity, not to exceed ten days of notification of disapproval, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. Disapproved applications shall lose priority in the review process. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

8. If the department of economic development deems the application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 5 of this section.

9. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for initial approval shall be notified by the department of economic development that the maximum amount of credits authorized have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available due to the rescission of approvals or reserved for a future fiscal year.

10. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial allocation for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

11. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1 and 3 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

12. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and

expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by letter and shall issue, to the taxpayer, tax credit certificates within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

13. If the amount of such credit exceeds the total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. The state tax credit shall not be subject to recapture provisions. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

14. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

15. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536.

RECEIVED
DEC 14 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-164

December 14, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andy Zellers regarding a proposed statutory amendment to Chapter 386, version 1 (2016-164)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Andy Zellers on December 11, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-164 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 11 PM 4:15
MO SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

My commission expires _____

_____
Address of Notary (Street, City, State & Zip Code)

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*Be it enacted by the people of the state of Missouri:*

Section A: Section 386.890 is amended and sections 386.860, 386.900, 386.910 and 386.1000 are enacted to read as follows:

386.860. Clean energy resources and distributed electric generation provide benefits to the electric grid, the environment, and the economy of Missouri. It shall be the policy of the state to value clean energy, energy price stability and energy independence. In furtherance of the above policy, sections 386.900 to 386.1000 shall be known and cited as The Clean Energy Independence and Investment Act of 2016.

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any [municipal electric utility,] rural electric cooperative as provided in chapter 394[, or electrical corporation as provided in this chapter];

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of natural resources;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical

energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any [municipal utility, electrical corporation regulated under this chapter, or] rural electric cooperative under chapter 394 that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which [the commission for a public utility or] the governing body for the supplier[other electric utilities] may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices

for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) [For any rural electric cooperative under chapter 394, or municipal utility, u]Upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, [the commission for public utilities and] the governing body for the supplier[other utilities] shall, by rule or equivalent formal action[ by each respective governing body]:

(a) Set forth safety, performance, and reliability standards and requirements; and

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(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. [Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers] Suppliers shall submit [the same report] an annual net metering report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

[9. The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.]

[10.] 9. The governing body of a supplier shall[rural electric cooperative or municipal utility shall, within nine months of January 1, 2008,] adopt policies establishing a simple contract to be

used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

[11.] 10. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

[12.] 11. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

[13.] 12. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

[14.] 13. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

[15.] 14. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

[16.] 15. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

[17.] 16. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.900. 1. This section shall be known and may be cited as the "Enhanced Net Metering and Easy Connection Act". It shall be the policy of the state to facilitate the use of customer-sited or controlled clean energy resources.

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal utility or electrical corporation as provided in this chapter;

(2) "Clean energy resource", electrical energy produced from:

(a) Wind;

(b) Solar thermal sources;

(c) Hydroelectric sources;

(d) Photovoltaic cells and panels;

(e) Fuel cells using hydrogen produced by one of the above-named electrical energy sources; or

(f) Other sources of energy that become available after January 1, 2017, and are certified as clean by the department.

(3) "Commission", the public service commission of the state of Missouri;

(4) "Customer-generator", the owner, lessee or operator of a qualified electric energy generation unit which:

(a) Is powered by a clean energy resource or micro CHP;

(b) Has an electrical generating system with a capacity of not more than five hundred kilowatts, measured in alternating current;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(5) "Department", the department of natural resources;

(6) "Micro CHP", combined heat and power or cogeneration systems that simultaneously generate electricity and thermal energy in a single integrated system with a nameplate rated capacity equal to or lower than 130 kilowatts, measured in alternating current;

(7) "Net excess energy", the amount of energy expressed in kilowatt hours delivered by a customer-generator to a supplier that exceeds the amount of energy delivered by the supplier to the customer-generator over a single billing period;

(8) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(9) "Retail electric supplier" or "supplier", any municipal utility or electrical corporation regulated under this chapter that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals seven percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for a municipal utility may increase the total rated generating capacity of net metering systems to an amount above seven percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds two percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the retail electric supplier shall pay for the costs to purchase and install the necessary additional equipment, unless the commission makes a determination that the customer-generator is the only customer benefiting from the additional distribution equipment. If the commission determines the customer-generator is the only customer benefiting, such customer-generator shall reimburse the electric supplier for reasonably incurred equipment expenses. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity

supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subdivision (2) of subsection 3 of this section and all net excess energy shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption in subsequent months;

(4) Any net excess energy credits carried forward under subdivision (3) of this subsection shall expire without any compensation at the earlier of either the next proceeding March billing period or when the customer-generator disconnects service or terminates the net metering relationship with the supplier.

(5) For any municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (4) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to a wiring diagram and specifications for the

generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems one hundred kilowatts or less and within sixty days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application. Retail electric suppliers shall interconnect qualified energy generation units within thirty days of being notified the generation unit is installed and meets the requirements of this section.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for notifying the retail electric supplier.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other nonregulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall by June 1, 2017 promulgate any rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017, shall be invalid and void.

10. The governing body of a municipal utility shall by June 1, 2017 adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of one hundred kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

386.910. 1. This section shall be known and cited as the "Community Solar Act."

2. Within thirty days of enactment of this section, the commission shall open a docket and by August 1, 2017, the commission shall adopt rules and regulations allowing customers to participate in community solar facilities and set a value–of-community-solar rate. For purposes of this section, a "community solar facility" is a photovoltaic electric generation facility with a capacity of between one hundred and one-thousand kilowatts, measured in alternating current, that allows five or more customers of an electrical corporation to offset their energy usage with solar energy located within the Missouri service territory of the electrical corporation where they have one or more electrical accounts. For the purposes of this section, an electrical corporation is as defined in 386.020.

3. The aggregated capacity of community solar facilities located in the territory of each individual electrical corporation shall not be greater than four percent of the electrical corporation's single-hour peak load during the previous calendar year, and such capacity of community solar facilities shall not count towards the system-wide net metering cap defined in subsection 3 of section 386.900. Electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical

corporation's single-hour peak load during the previous year. Entities or individuals that are not electrical corporations shall be allowed to own or operate community solar facilities with an aggregate capacity up to two percent of the electrical corporation's single-hour peak load during the previous year. The commission shall allow prudently incurred costs and expenses for community solar facilities owned by an electrical corporation to be included in such electrical corporation's rate base. Once a four percent aggregate cap is reached for community solar facilities, the commission shall open a docket to determine whether or not the community solar program shall be expanded, and the commission may increase the aggregate capacity cap above four percent, or adjust the percentage cap of electrical corporations owning community solar facilities. The commission shall consider all benefits and costs of such an expansion when making its decision. Community solar facilities shall not be eligible for tax credits under section 386.1000.

4. For any community solar facility that is owned or operated by an entity other than an electrical corporation, the energy generated by a community solar facility shall be provided to the electrical corporation to which it is interconnected in exchange for the allocation and facilitation of bill credits provided in subsection 5

5. Kilowatt hours generated from community solar facilities shall be allocated, on a pro rata basis, to the designated subscribers of the community solar facility at the direction of the community solar facility owner or operator. Allocated bill credits shall be set at a community solar rate per kilowatt hour determined by the commission. The commission shall determine the value of bill credits per kilowatt hour taking into consideration costs and benefits of solar energy including but not limited to energy value, generation value, environmental value, transmission and distribution system value, disaster recovery value, reactive power value and other grid benefit value, but such bill credits shall not be less than the electrical corporation's average retail rate. The value of allocated community solar bill credits shall be used to reduce the customer's total bill. Owners and operators of community solar facilities shall not be considered a public utility as defined in section 386.020, except that this provision shall not apply to any owner or operator who is an electrical corporation. When a community solar facility is placed in service it shall have the option to lock in the current value-of-community-solar rate for a period of twenty years.

6. The commission shall promulgate rules and regulations it deems necessary to carry out the provisions of this section. The commission's rules shall: allow electrical corporations to recover costs; provide earning opportunities for electrical corporations; provide an orderly process, including a reservation system, to allow potential community solar facility owners and operators to develop projects within the capacity limits in subsection 2; and provide options, which may include financial incentives, to encourage low-income participation.

7. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section

and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017, shall be invalid and void.

386.1000. 1. For all tax years beginning on or after January 1, 2016, any taxpayer incurring costs and expenses for the installation of a clean energy resource project shall receive a tax credit, referred to as a "clean energy tax credit", against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, in an amount equal to thirty-five percent of the total cost and expenses of the project. The total amount of clean energy tax credits offered annually shall not exceed one percent of the value of electricity used in Missouri as determined in subsection 4.

2. The department of economic development shall certify when the tax credits provided in this section have resulted in the installation of one thousand megawatts, measured in alternating current, of additional clean energy generation resources installed using tax credits under this section and shall notify the governor, the general assembly, the public, and each taxpayer that submits an application for a tax credit under this section once the one thousand megawatt limit has been reached. After such certification, but no later than June 30, 2022, the authorization to issue additional clean energy tax credits shall sunset.

3. "Clean energy resource project" shall be defined as a project producing electrical energy from a clean energy resource as defined in section 386.900 or other technology eligible for net metering as defined in 386.900. A "taxpayer" shall mean any entity subject to taxation of income under chapter 143. The costs and expenses included in the cost basis eligible for the tax credit shall include, but not be limited to, expenses necessary for the production of a clean energy resource project that is tangible personal property, or other tangible property if such property is used as an integral part of the clean energy resource project installation, and shall include costs and expenses allowable with respect to depreciation or amortization in lieu of depreciation. The maximum cost basis, for the purpose of calculating the state tax credit, shall not exceed three dollars per watt measured in direct current for solar photovoltaic projects and an equivalent amount for other clean energy resource projects measured in alternating current. If the total project costs exceed three dollars per watt, the basis eligible for the state tax credit shall nonetheless be limited to three dollars per watt.

4. For the purposes of this section, "value of electricity used in Missouri" means the annual aggregate Missouri-based portion of revenue of retail electric suppliers, as defined in 386.890 and 386.900, per fiscal year. The determination of the value of electricity used in Missouri shall be determined by the commission based on available reports, including FERC Form Number 1 as allowed by 18 CFR § 141 or an equivalent as determined by the commission, of megawatt hours sales of retail electricity and corresponding revenues for the preceding year or most current reporting period as determined by the commission. The commission shall publish the value of electricity used in Missouri to the public and department of economic development within sixty

days of the enactment of this section and at least sixty days prior to the beginning of each fiscal year.

5. The provisions of this section notwithstanding, a claimant may only apply for and receive the credit authorized by this section for installations up to two hundred kilowatts, measured in alternating current, per project. No electrical corporation as defined under section 386.020 shall own or control a clean energy resource project that receives a state tax credit under this section or be permitted to claim, transfer, or assign any tax credit under this section.

6. The "Clean Energy Fund" is hereby created within the state treasury which shall consist of application deposits, appropriated moneys, gifts, contributions, grants, or bequests.

The state treasurer without legislative action shall credit to and place in the Clean Energy Fund all moneys collected as a result of the application deposits required under this section. All of the moneys collected under this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Clean Energy Fund and the accounts created within the Clean Energy Fund. Any moneys credited to and placed in the Clean Energy Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Clean Energy Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Clean Energy Fund shall be added to such account and shall not be credited to the general revenue fund.

The department of economic development shall administer the fund. Any unencumbered monies in the fund shall be appropriated and used exclusively for advancing clean energy through the efficient administration of the clean energy tax credit program created under this section.

7. To obtain approval for tax credits allowed under this section, a taxpayer shall submit an initial application for tax credits to the department of economic development. Each application shall be prioritized for review and approval, in the order of the date on which the application was received, with the oldest received date receiving priority. Applications received on the same day shall go through a lottery process to determine the order in which such applications shall be reviewed. Each application shall include a two cent per watt, measured in alternating current, application deposit, which shall be deposited in the Clean Energy Fund. Such application deposit shall be refunded at completion of the project or if the department of economic development disapproves the project. The application deposit shall be retained in the Clean Energy Fund if the application is withdrawn by the taxpayer or the project is not completed within the time specified under this section. If there is an application priority queue, the taxpayer may request a refund of the application deposit and lose its spot in the priority queue. If the taxpayer wants to maintain its position in the priority queue, the application deposit shall be retained in the Clean Energy Fund until completion of the project. At least once per quarter, the department of economic development shall publish a list identifying the amount of tax credits receiving initial approval

and final approval for each fiscal year and the amount of tax credits reserved for future years, if applicable.

8. Each application for initial approval of the tax credit under this section shall be reviewed by the department of economic development within thirty days of its submission. In order to receive consideration, an application must include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property. Such evidence may include a warranty deed, closing statement or other form approved by the department. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest;

(2) Design plans for the clean energy resource project, including one-line diagrams stamped by a professional engineer, when applicable;

(3) The estimated costs and expenses to be included in the cost basis eligible for the tax credit, the local electric utility provider, the estimated project start date, and the estimated project completion date;

(4) The application deposit required under subsection 7 of this section, to be deposited in the Clean Energy Fund; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

9. Any disapproved application shall lose prioritization based on the filing date. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision to remove such application. The taxpayer shall have one opportunity, not to exceed ten days of notification of disapproval, to correct any deficiencies in the initial application without losing its priority before becoming disapproved. Disapproved applications shall lose priority in the review process. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

10. If the department of economic development deems the application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits in accordance with this section within forty-five days of the initial application. Such approvals shall be granted to applications in the order of priority established under subsection 7 of this section.

11. In the event that the department of economic development grants approval for tax credits equal to the total amount available under this section or sufficient that when totaled with all other approvals, the amount available under this section is exhausted, all taxpayers with applications for initial approval then awaiting review or thereafter submitted for initial approval shall be notified by the department of economic development that the maximum amount of credits authorized have been allocated for the fiscal year and no additional credits are available. The department of economic development shall continue to review applications during the fiscal year and any additional approvals shall be issued in the event that additional credits become available due to the rescission of approvals or reserved for a future fiscal year.

12. All taxpayers with applications receiving initial approval shall complete the clean energy resource project within nine months of the date of issuance of the letter from the department of economic development granting the initial allocation for tax credits. Completion shall include certification from a local permitting authority that the project is complete. If no certification from a local permitting authority is available then a professional engineer shall certify the installation meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities. By depositing an additional two cent per watt application deposit with the department of economic development to be credited to the Clean Energy Fund, the taxpayer shall get one three-month extension to complete the project if it demonstrates at least thirty percent of the project costs have been incurred and the project is expected to be completed within three months. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits provided under this section from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

13. For calendar year 2016, any taxpayer verified by the department to have commenced a clean energy resource project in calendar year 2016 and otherwise complied with subsections 1 and 5 within calendar year 2016 shall be deemed eligible for the tax credit under this section.

14. To claim the tax credit authorized under this section, a taxpayer with initial approval shall complete the project and apply for final approval and issuance of tax credits from the department of economic development, which shall determine the total amount of eligible costs for the clean energy resource project. The taxpayer's final approval application shall include a cost certification report or opinion letter from a certified public accountant confirming the costs and expenses incurred for purposes of determining the eligible cost basis for the clean energy resource project. For any project to which the department gives final approval, the department shall inform the taxpayer by letter and shall issue, to the taxpayer, tax credit certificates within thirty days of receiving the final approval application. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a credit claimant is entitled pursuant to this section.

15. If the amount of such credit exceeds the total tax liability for the year in which the clean energy resource installation is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Taxpayers eligible for such tax credits may transfer, sell or assign the credits with assignee retaining the

same carryback and carryforward rights contained in this subsection. The assignor of tax credits shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. The state tax credit shall not be subject to recapture provisions. For financial institutions, credits authorized pursuant to this section shall be deemed to be economic development credits for purposes of section 148.064.

16. Except as expressly provided in this section, tax credit certificates shall be issued in the year in which the clean energy resource project is completed. In the event the amount of eligible costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under this section, such taxpayer may not apply to the department for issuance of tax credits in an amount equal to such excess and shall be limited to the amount allocated in the initial application approval letter received from the department of economic development.

17. The department shall promulgate rules necessary to administer the provisions of the section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
DEC 14 2015
STATE AUDITORS OFFICE

16-163

December 14, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article XIV, version 40 (2016-163)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on December 11, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16463

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis) respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 21 PM 4:13
SECRETARY OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

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*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article XIV of the Constitution relating to Ethics is created by adopting four new sections to be known as Article XIV Sections 1, 2, 3, and 4 to read as follows:

Article XIV

Section 1.

1. After the effective date of this section, no statewide elected officer, member of the general assembly, or such officer's or member's paid employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist. In addition, after the effective date of this section, no statewide elected officer, member of the general assembly, or such officer's or member's paid employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit clients to represent as a paid lobbyist until one year after the expiration of any term of office for which such person is elected or the termination of such employee's employment, and where such service or employment was after the effective date of this section. Any purposeful violation of this subsection shall be punishable by a term of imprisonment of up to one year or the imposition of a fine of up to one thousand dollars or both. The Missouri Ethics Commission or its successor agency is authorized to enforce this section as provided by law.

2. No statewide elected officer or member of the general assembly, or the spouse, dependent children, staff or employees of such officer or member, or any department or division director of the executive branch, or any judicial branch purchasing officer or any locally elected government official shall accept any gift, tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. This subsection shall not be construed to prevent any public official from accepting contributions to political committees under his or her control, consistent with this article and applicable law, accepting informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, accepting food or beverage provided at a widely attended event that includes at least twenty-five private persons and relates to the official's duties, or accepting items that are available or distributed free of charge to members of the general public. Nothing in this section shall prevent individuals from receiving gifts, family support or anything of value from those related to them within the fourth degree by blood or marriage. The dollar limitations of this section shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. Any purposeful violation of this section shall be punishable by a term of imprisonment of up to six months or the imposition of a fine of up to five hundred dollars or both. The Missouri Ethics Commission or its successor agency is authorized to enforce this section as provided by law. All gifts by a lobbyist or lobbyist principal to a public official their employees or staff shall be reported to the Missouri Ethics Commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient.

3. Notwithstanding any provision of law to the contrary, nothing in this section shall prohibit a paid employee of a statewide elected official from acting, serving or registering as a lobbyist for such employer before the legislative branch of state government.

4. For purposes of this section, the following terms mean:

   "Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official; and such person is registered as a lobbyist with the ethics commission or its successor agency.

   "Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the Missouri Ethics Commission or its successor agency.

Section 2.

1. Unlimited campaign contributions to candidates for public office are banned. In addition to other campaign contribution limitations or restrictions provided for by law and unless local charter or ordinance provides for a lower contribution limit for a local office, the amount of contributions made

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to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for public office shall not exceed the following:

(1) To elect an individual to the office of governor, lieutenant governor, secretary of state, state treasurer, state auditor, or attorney general, two thousand seven hundred dollars;
(2) To elect an individual to the office of state senator, one thousand dollars;
(3) To elect an individual to the office of state representative, one thousand dollars; and
(4) To elect an individual to any other office, including judicial office, one thousand dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this section, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the Missouri Ethics Commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a candidate for public office shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No contribution to a candidate for public office shall be made by or accepted from a corporation, except from a political committee that is incorporated for liability purposes only.

4. In determining if a contribution to a candidate for public office is made or accepted with the intent to circumvent the contribution limits imposed in this section, one factor that may be considered is whether the contribution is received from a committee or organization that is, at the time the contribution was made, primarily funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. For purposes of this section, a committee or organization is "primarily funded by a single person, individual, or other committee" when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

5. No contribution to a candidate for public office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

6. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the Missouri Ethics Commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

7. No public official or candidate for public office shall solicit contributions, conduct fundraising activities, or hold fundraising events, supporting or opposing any candidate, ballot measure, political party, or political committee, on any property or in any building owned or leased by the state or any political subdivision, unless the property or building is routinely used by and made available for rent or for a fee to all members of the public by the state or the political subdivision.

8. For purposes of this section, the following terms are defined as follows:

(1) "Candidate", an individual who seeks nomination or election to public office, including an elected officeholder who is the subject of a recall election, an individual who seeks nomination by the individual's political party for election to public office, an individual standing for retention in an election to an office to which the individual was previously appointed, an individual who seeks nomination or election whether or not the specific elective public office to be sought has been finally determined, and an individual who is a write-in candidate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for public office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:
a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;
b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

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c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;
d. Receipts from fundraising events;
e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;
f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;
g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;
h. Any payment or expenditure by any person other than a candidate or a candidate committee made in connection with any candidate that is authorized, requested, suggested, or fostered by or made in cooperation with a candidate, candidate committee, or agents of the candidate or candidate committee; or

i. Any payment or expenditure for any communication which republishes, disseminates, or distributes in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or agents of the candidate or candidate committee, other than a photograph obtained from a public source.

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

d. The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders.

(c) In determining whether a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to a candidate's opponent is a contribution for purposes of this section, the following non-exclusive list of factors may be considered:

a. Information not generally available to the public regarding the candidate's campaign, plans, projects, activities, or needs is material to the creation, production or distribution of the communication;
b. The person discusses or negotiates the communication with the candidate, candidate committee or an agent of the candidate or candidate committee prior to the date the communication is publicly disseminated or distributed;
c. The person and the candidate or candidate committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting or legal services, or other non-campaign services;
d. Whether a payment for a covered communication for a candidate for public office is made by a person who is a coordinated spender with respect to the candidate.

(d) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;
b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;
c. The person made contributions to the candidate;
d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;
e. The person employs or contracts with a political consultant or pollster who rendered services

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to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience that refers to a clearly identified candidate and:

(a) Either:
  a. Contains words such as "vote", "oppose", "support", "elect", "defeat", or "reject," in expressly advocating the election or defeat of the candidate; or
  b. Is made on or after January first of the year of the election in which the candidate seeks office, and is susceptible to no reasonable interpretation other than as an appeal to vote for or against a candidate; and

(b) Is:
  a. A broadcast, cable or satellite audio or video communication or an internet communication; or
  b. Printed advertisements, pamphlets, circulars, flyers, brochures, or a billboard.

(c) A communication over the internet is a "covered communication" only if it is placed for a fee on another person's web site.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

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9. Any purposeful violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.
(2) For the second and subsequent violations, a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

10. The Missouri Ethics Commission or its successor agency is authorized to enforce this section as provided by law.

Section 3.

No statewide elected officer, or any member of the general assembly, or any of such elected official's employees or staff shall engage in sexual harassment. For purpose of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. Any purposeful violation of this section shall be punishable by imprisonment for up to one year or a fine of up to one thousand dollars or both.

Section 4.

If any provision of this article or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-163)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article XIV. (Received December 14, 2015)

## Date

January 4, 2016

## Description

This proposal would create a new Article XIV of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated this amendment seeks to restrict political contributions and serving as lobbyists. Elected officials are restricted from acting or serving as paid lobbyists until one year after the expiration of any term of office. Unlimited campaign contributions to candidates for public office are banned. Violating any of the provisions can result in monetary fines or an unclassified class A misdemeanor. Subsequent violations can include increased monetary fines or an unclassified class D/E felony.

The department would not supervise the misdemeanor offense. For a new class D/E felony it is assumed that 3 offenders per year would be sentenced for the offense, one to prison and two to probation. The probation sentences will be for a five year term but because the sentences will be eligible for earned compliance credits the offenders will only serve three years. Those receiving a term sentence can expect to serve 1.5 years in prison and 2 years on parole. The full impact will occur in year four and the impact will be 1.5 offenders in prison and eight offenders on field supervision.

The fiscal year 2015 average cost of supervision is $6.04 per offender per day or an annual cost of $2,205 per offender. The department's cost of incarceration is $16.809 per day or an annual cost of $6,135 per offender.

Therefore, the total cost of this bill will be $8,788 in fiscal year 2017, $20,632 in fiscal year 2018, and $28,485 in fiscal year 2019. The cost in fiscal years 2020-2026 will be the same as in fiscal year 2019.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this petition will not have a fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional

Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from **Metropolitan Community College** indicated there is no anticipated impact for their college.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for fiscal year 2017, $61,107 for fiscal year 2018 and $61,734 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Prohibiting a statewide elected official, member of the general assembly or paid employee of the general assembly from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Sections 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act

as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.

- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a statewide elected official, member of general assembly, the spouses, dependent children, staff/employees of a statewide elected official or general assembly, a department/division director of executive branch, local elected officials to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Sections 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Sections 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

•$15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

•1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

•If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, University of Missouri,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate increased annual operating costs of $90,000. Local governmental entities report no expected fiscal impact.

RECEIVED
DEC 14 2015
STATE AUDITOR

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 14, 2015

16-162

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article XIV, version 39 (2016-162)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on December 11, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16762 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 11 PM 4:12
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____
(Name of payer) Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

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*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article XIV of the Constitution relating to Ethics is created by adopting four new sections to be known as Article XIV Sections 1, 2, 3, and 4 to read as follows:

Article XIV

Section 1.

1. After the effective date of this section, no statewide elected officer, member of the general assembly, or such officer's or member's paid employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist. In addition, after the effective date of this section, no statewide elected officer, member of the general assembly, or such officer's or member's paid employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit clients to represent as a paid lobbyist until one year after the expiration of any term of office for which such person is elected or the termination of such employee's employment, and where such service or employment was after the effective date of this section. Any purposeful violation of this subsection shall be punishable by a term of imprisonment of up to one year or the imposition of a fine of up to one thousand dollars or both. The Missouri Ethics Commission or its successor agency is authorized to enforce this section as provided by law.

2. No statewide elected officer or member of the general assembly, or the spouse, dependent children, staff or employees of such officer or member, or any department or division director of the executive branch, or any judicial branch purchasing officer or any locally elected government official shall accept any gift, tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. This subsection shall not be construed to prevent any public official from accepting contributions to political committees under his or her control, consistent with this article and applicable law, accepting informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, accepting food or beverage provided at a widely attended event that includes at least twenty-five private persons and relates to the official's duties, or accepting items that are available or distributed free of charge to members of the general public. Nothing in this section shall prevent individuals from receiving gifts, family support or anything of value from those related to them within the fourth degree by blood or marriage. The dollar limitations of this section shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. Any purposeful violation of this section shall be punishable by a term of imprisonment of up to six months or the imposition of a fine of up to five hundred dollars or both. The Missouri Ethics Commission or its successor agency is authorized to enforce this section as provided by law. All gifts by a lobbyist or lobbyist principal to a public official their employees or staff shall be reported to the Missouri Ethics Commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient.

3. Notwithstanding any provision of law to the contrary, nothing in this section shall prohibit a paid employee of a statewide elected official from acting, serving or registering as a lobbyist for such employer before the legislative branch of state government.

4. For purposes of this section, the following terms mean:

   "Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official; and such person is registered as a lobbyist with the ethics commission or its successor agency.

   "Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the Missouri Ethics Commission or its successor agency.

Section 2.

1. Unlimited campaign contributions to candidates for public office are banned. In addition to other campaign contribution limitations or restrictions provided for by law and unless local charter or ordinance provides for a lower contribution limit for a local office, the amount of contributions made

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to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for public office shall not exceed the following:

(1) To elect an individual to the office of governor, lieutenant governor, secretary of state, state treasurer, state auditor, or attorney general, two thousand seven hundred dollars;
(2) To elect an individual to the office of state senator, one thousand dollars;
(3) To elect an individual to the office of state representative, one thousand dollars; and
(4) To elect an individual to any other office, including judicial office, one thousand dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this section, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the Missouri Ethics Commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a candidate for public office shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. In determining if a contribution to a candidate for public office is made or accepted with the intent to circumvent the contribution limits imposed in this section, one factor that may be considered is whether the contribution is received from a committee or organization that is, at the time the contribution was made, primarily funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. For purposes of this section, a committee or organization is "primarily funded by a single person, individual, or other committee" when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

4. No contribution to a candidate for public office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

5. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the Missouri Ethics Commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

6. No public official or candidate for public office shall solicit contributions, conduct fundraising activities, or hold fundraising events, supporting or opposing any candidate, ballot measure, political party, or political committee, on any property or in any building owned or leased by the state or any political subdivision, unless the property or building is routinely used by and made available for rent or for a fee to all members of the public by the state or the political subdivision.

7. For purposes of this section, the following terms are defined as follows:

(1) "Candidate", an individual who seeks nomination or election to public office, including an elected officeholder who is the subject of a recall election, an individual who seeks nomination by the individual's political party for election to public office, an individual standing for retention in an election to an office to which the individual was previously appointed, an individual who seeks nomination or election whether or not the specific elective public office to be sought has been finally determined, and an individual who is a write-in candidate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for public office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:
a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;
b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;
c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;
d. Receipts from fundraising events;
e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or

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debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

h. Any payment or expenditure by any person other than a candidate or a candidate committee made in connection with any candidate that is authorized, requested, suggested, or fostered by or made in cooperation with a candidate, candidate committee, or agents of the candidate or candidate committee; or

i. Any payment or expenditure for any communication which republishes, disseminates, or distributes in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or agents of the candidate or candidate committee, other than a photograph obtained from a public source.

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

d. The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders.

(c) In determining whether a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to a candidate's opponent is a contribution for purposes of this section, the following non-exclusive list of factors may be considered:

a. Information not generally available to the public regarding the candidate's campaign, plans, projects, activities, or needs is material to the creation, production or distribution of the communication;

b. The person discusses or negotiates the communication with the candidate, candidate committee or an agent of the candidate or candidate committee prior to the date the communication is publicly disseminated or distributed;

c. The person and the candidate or candidate committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting or legal services, or other non-campaign services;

d. Whether a payment for a covered communication for a candidate for public office is made by a person who is a coordinated spender with respect to the candidate.

(d) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;

b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;

c. The person made contributions to the candidate;

d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;

e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

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(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience that refers to a clearly identified candidate and:

(a) Either:
  a. Contains words such as "vote", "oppose", "support", "elect", "defeat", or "reject," in expressly advocating the election or defeat of the candidate; or
  b. Is made on or after January first of the year of the election in which the candidate seeks office, and is susceptible to no reasonable interpretation other than as an appeal to vote for or against a candidate; and

(b) Is:
  a. A broadcast, cable or satellite audio or video communication or an internet communication; or
  b. Printed advertisements, pamphlets, circulars, flyers, brochures, or a billboard.

(c) A communication over the internet is a "covered communication" only if it is placed for a fee on another person's web site.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

8. Any purposeful violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.

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(2) For the second and subsequent violations, a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

10. The Missouri Ethics Commission or its successor agency is authorized to enforce this section as provided by law.

Section 3.

No statewide elected officer, or any member of the general assembly, or any of such elected official's employees or staff shall engage in sexual harassment. For purpose of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. Any purposeful violation of this section shall be punishable by imprisonment for up to one year or a fine of up to one thousand dollars or both.

Section 4.

If any provision of this article or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-162)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article XIV. (Received December 14, 2015)

## Date

January 4, 2016

## Description

This proposal would create a new Article XIV of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated this amendment seeks to restrict political contributions and serving as lobbyists. Elected officials are restricted from acting or serving as paid lobbyists until one year after the expiration of any term of office. Unlimited campaign contributions to candidates for public office are banned. Violating any of the provisions can result in monetary fines or an unclassified class A misdemeanor. Subsequent violations can include increased monetary fines or an unclassified class D/E felony.

The department would not supervise the misdemeanor offense. For a new class D/E felony it is assumed that 3 offenders per year would be sentenced for the offense, one to prison and two to probation. The probation sentences will be for a five year term but because the sentences will be eligible for earned compliance credits the offenders will only serve three years. Those receiving a term sentence can expect to serve 1.5 years in prison and 2 years on parole. The full impact will occur in year four and the impact will be 1.5 offenders in prison and eight offenders on field supervision.

The fiscal year 2015 average cost of supervision is $6.04 per offender per day or an annual cost of $2,205 per offender. The department's cost of incarceration is $16.809 per day or an annual cost of $6,135 per offender.

Therefore, the total cost of this bill will be $8,788 in fiscal year 2017, $20,632 in fiscal year 2018, and $28,485 in fiscal year 2019. The cost in fiscal years 2020-2026 will be the same as in fiscal year 2019.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this petition will not have a fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional

Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from **Metropolitan Community College** indicated there is no anticipated impact for their college.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for fiscal year 2017, $61,107 for fiscal year 2018 and $61,734 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Prohibiting a statewide elected official, member of the general assembly or paid employee of the general assembly from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Sections 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act

as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.

- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a statewide elected official, member of general assembly, the spouses, dependent children, staff/employees of a statewide elected official or general assembly, a department/division director of executive branch, local elected officials to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Sections 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Sections 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

•$15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

•1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

•If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, University of Missouri,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate increased annual operating costs of $90,000. Local governmental entities report no expected fiscal impact.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
DEC 14 2015
STATE AUDITORS OFFICE

16-161

December 14, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article XIV, version 38 (2016-161)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on December 11, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-161

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 11 PM 3:58
MO SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

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NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following Sections of the Missouri Revised Statutes: Sections 105.450 through 105.496, Sections 130.011 through 130.160, and Sections 213.010 through 213.137. The proposed amendment by adopting four new sections to be known as Article XIV Sections 1, 2, 3, and 4.

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article XIV of the Constitution relating to Ethics is created by adopting four new sections to be known as Article XIV Sections 1, 2, 3, and 4 to read as follows:

Article XIV

Section 1.

1. After the effective date of this section, no statewide elected officer, member of the general assembly, or such officer's or member's paid employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist. In addition, after the effective date of this section, no statewide elected officer, member of the general assembly, or such officer's or member's paid employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit clients to represent as a paid lobbyist until one year after the expiration of any term of office for which such person is elected or the termination of such employee's employment, and where such service or employment was after the effective date of this section. Any purposeful violation of this subsection shall be punishable by a term of imprisonment of up to one year or the imposition of a fine of up to one thousand dollars or both. The Missouri Ethics Commission or its successor agency is authorized to enforce this section as provided by law.

2. No statewide elected officer or member of the general assembly, or the spouse, dependent children, staff or employees of such officer or member, or any department or division director of the executive branch, or any judicial branch purchasing officer or any locally elected government official shall accept any gift, tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. This subsection shall not be construed to prevent any public official from accepting contributions to political committees under his or her control, consistent with this article and applicable law, accepting informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, accepting food or beverage provided at a widely attended event that includes at least twenty-five private persons and relates to the official's duties, or accepting items that are available or distributed free of charge to members of the general public. Nothing in this section shall prevent individuals from receiving gifts, family support or anything of value from those related to them within the fourth degree by blood or marriage. The dollar limitations of this section shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. Any purposeful violation of this section shall be punishable by a term of imprisonment of up to six months or the imposition of a fine of up to five hundred dollars or both. The Missouri Ethics Commission or its successor agency is authorized to enforce this section as provided by law. All gifts by a lobbyist or lobbyist principal to a public official their employees or staff shall be reported to the Missouri Ethics Commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient.

3. Notwithstanding any provision of law to the contrary, nothing in this section shall prohibit a paid employee of a statewide elected official from acting, serving or registering as a lobbyist for such employer before the legislative branch of state government.

4. For purposes of this section, the following terms mean:

   "Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official; and such person is registered as a lobbyist with the ethics commission or its successor agency.

   "Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the Missouri Ethics Commission or its successor agency.

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Section 2.

1. Unlimited campaign contributions to candidates for public office are banned. In addition to other campaign contribution limitations or restrictions provided for by law and unless local charter or ordinance provides for a lower contribution limit for a local office, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for public office shall not exceed the following:

   (1) To elect an individual to the office of governor, lieutenant governor, secretary of state, state treasurer, state auditor, or attorney general, two thousand seven hundred dollars;
   (2) To elect an individual to the office of state senator, one thousand dollars;
   (3) To elect an individual to the office of state representative, one thousand dollars; and
   (4) To elect an individual to any other office, including judicial office, one thousand dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this section, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the Missouri Ethics Commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a candidate for public office shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. In determining if a contribution to a candidate for public office is made or accepted with the intent to circumvent the contribution limits imposed in this section, one factor that may be considered is whether the contribution is received from a committee or organization that is, at the time the contribution was made, primarily funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. For purposes of this section, a committee or organization is "primarily funded by a single person, individual, or other committee" when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

4. No contribution to a candidate for public office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

5. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the Missouri Ethics Commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

6. No public official or candidate for public office shall solicit contributions, conduct fundraising activities, or hold fundraising events, supporting or opposing any candidate, ballot measure, political party, or political committee, on any property or in any building owned or leased by the state or any political subdivision, unless the property or building is routinely used by and made available for rent or for a fee to all members of the public by the state or the political subdivision.

7. For purposes of this section, the following terms are defined as follows:

   (1) "Candidate", an individual who seeks nomination or election to public office, including an elected officeholder who is the subject of a recall election, an individual who seeks nomination by the individual's political party for election to public office, an individual standing for retention in an election to an office to which the individual was previously appointed, an individual who seeks nomination or election whether or not the specific elective public office to be sought has been finally determined, and an individual who is a write-in candidate.

   (2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

   (3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for public office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

   (a) "Contribution" to any candidate or candidate committee includes, but is not limited to:
      a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;
      b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

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c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;
d. Receipts from fundraising events;
e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;
f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;
g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;
h. Any payment or expenditure by any person other than a candidate or a candidate committee made in connection with any candidate that is authorized, requested, suggested, or fostered by or made in cooperation with a candidate, candidate committee, or agents of the candidate or candidate committee; or

i. Any payment or expenditure for any communication which republishes, disseminates, or distributes in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or agents of the candidate or candidate committee, other than a photograph obtained from a public source.

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

d. The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders.

(c) In determining whether a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to a candidate's opponent is a contribution for purposes of this section, the following non-exclusive list of factors may be considered:

a. Information not generally available to the public regarding the candidate's campaign, plans, projects, activities, or needs is material to the creation, production or distribution of the communication;
b. The person discusses or negotiates the communication with the candidate, candidate committee or an agent of the candidate or candidate committee prior to the date the communication is publicly disseminated or distributed;
c. The person and the candidate or candidate committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting or legal services, or other non-campaign services;
d. Whether a payment for a covered communication for a candidate for public office is made by a person who is a coordinated spender with respect to the candidate.

(d) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;
b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;
c. The person made contributions to the candidate;
d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;
e. The person employs or contracts with a political consultant or pollster who rendered services

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to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience that refers to a clearly identified candidate and:

(a) Either:
   a. Contains words such as "vote", "oppose", "support", "elect", "defeat", or "reject," in expressly advocating the election or defeat of the candidate; or
   b. Is made on or after January first of the year of the election in which the candidate seeks office, and is susceptible to no reasonable interpretation other than as an appeal to vote for or against a candidate; and

(b) Is:
   a. A broadcast, cable or satellite audio or video communication or an internet communication; or
   b. Printed advertisements, pamphlets, circulars, flyers, brochures, or a billboard.

(c) A communication over the internet is a "covered communication" only if it is placed for a fee on another person's web site.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

160-161

8. Any purposeful violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.
(2) For the second and subsequent violations, a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

10. The Missouri Ethics Commission or its successor agency is authorized to enforce this section as provided by law.

Section 3.

No statewide elected officer, or any member of the general assembly, or any of such elected official's employees or staff shall engage in sexual harassment. For purpose of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. Any purposeful violation of this section shall be punishable by imprisonment for up to one year or a fine of up to one thousand dollars or both.

Section 4.

If any provision of this article or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-161)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article XIV. (Received December 14, 2015)

## Date

January 4, 2016

## Description

This proposal would create a new Article XIV of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated this amendment seeks to restrict political contributions and serving as lobbyists. Elected officials are restricted from acting or serving as paid lobbyists until one year after the expiration of any term of office. Unlimited campaign contributions to candidates for public office are banned. Violating any of the provisions can result in monetary fines or an unclassified class A misdemeanor. Subsequent violations can include increased monetary fines or an unclassified class D/E felony.

The department would not supervise the misdemeanor offense. For a new class D/E felony it is assumed that 3 offenders per year would be sentenced for the offense, one to prison and two to probation. The probation sentences will be for a five year term but because the sentences will be eligible for earned compliance credits the offenders will only serve three years. Those receiving a term sentence can expect to serve 1.5 years in prison and 2 years on parole. The full impact will occur in year four and the impact will be 1.5 offenders in prison and eight offenders on field supervision.

The fiscal year 2015 average cost of supervision is $6.04 per offender per day or an annual cost of $2,205 per offender. The department's cost of incarceration is $16.809 per day or an annual cost of $6,135 per offender.

Therefore, the total cost of this bill will be $8,788 in fiscal year 2017, $20,632 in fiscal year 2018, and $28,485 in fiscal year 2019. The cost in fiscal years 2020-2026 will be the same as in fiscal year 2019.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this petition will not have a fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional

Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from **Metropolitan Community College** indicated there is no anticipated impact for their college.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for fiscal year 2017, $61,107 for fiscal year 2018 and $61,734 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Prohibiting a statewide elected official, member of the general assembly or paid employee of the general assembly from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Sections 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act

as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.

- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a statewide elected official, member of general assembly, the spouses, dependent children, staff/employees of a statewide elected official or general assembly, a department/division director of executive branch, local elected officials to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Sections 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Sections 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

•$15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

•1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

•If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, University of Missouri,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate increased annual operating costs of $90,000. Local governmental entities report no expected fiscal impact.

RECEIVED
DEC 14 2015
STATE AUDITORS OFFICE

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

16-160

December 14, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article XIV, version 37 (2016-160)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on December 11, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-160

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC 11 PM 3:57
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this _____day of _____, A.D. 201_____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-160

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following Sections of the Missouri Revised Statutes: Sections 105.450 through 105.496, Sections 130.011 through 130.160, and Sections 213.010 through 213.137. The proposed amendment by adopting four new sections to be known as Article XIV Sections 1, 2, 3, and 4.

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article XIV of the Constitution relating to Ethics is created by adopting four new sections to be known as Article XIV Sections 1, 2, 3, and 4 to read as follows:

Article XIV

Section 1.

1. After the effective date of this section, no statewide elected officer, member of the general assembly, or such officer's or member's paid employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist. In addition, after the effective date of this section, no statewide elected officer, member of the general assembly, or such officer's or member's paid employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit clients to represent as a paid lobbyist until one year after the expiration of any term of office for which such person is elected or the termination of such employee's employment, and where such service or employment was after the effective date of this section. Any purposeful violation of this subsection shall be punishable by a term of imprisonment of up to one year or the imposition of a fine of up to one thousand dollars or both. The Missouri Ethics Commission or its successor agency is authorized to enforce this section as provided by law.

2. No statewide elected officer or member of the general assembly, or the spouse, dependent children, staff or employees of such officer or member, or any department or division director of the executive branch, or any judicial branch purchasing officer or any locally elected government official shall accept any gift, tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. This subsection shall not be construed to prevent any public official from accepting contributions to political committees under his or her control, consistent with this article and applicable law, accepting informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, accepting food or beverage provided at a widely attended event that includes at least twenty-five private persons and relates to the official's duties, or accepting items that are available or distributed free of charge to members of the general public. Nothing in this section shall prevent individuals from receiving gifts, family support or anything of value from those related to them within the fourth degree by blood or marriage. The dollar limitations of this section shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. Any purposeful violation of this section shall be punishable by a term of imprisonment of up to six months or the imposition of a fine of up to five hundred dollars or both. The Missouri Ethics Commission or its successor agency is authorized to enforce this section as provided by law. All gifts by a lobbyist or lobbyist principal to a public official their employees or staff shall be reported to the Missouri Ethics Commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient.

3. Notwithstanding any provision of law to the contrary, nothing in this section shall prohibit a paid employee of a statewide elected official from acting, serving or registering as a lobbyist for such employer before the legislative branch of state government.

4. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official; and such person is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the Missouri Ethics Commission or its successor agency.

16-160

Section 2.

1. Unlimited campaign contributions to candidates for public office are banned. In addition to other campaign contribution limitations or restrictions provided for by law and unless local charter or ordinance provides for a lower contribution limit for a local office, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for public office shall not exceed the following:

   (1) To elect an individual to the office of governor, lieutenant governor, secretary of state, state treasurer, state auditor, or attorney general, two thousand seven hundred dollars;
   (2) To elect an individual to the office of state senator, one thousand dollars;
   (3) To elect an individual to the office of state representative, one thousand dollars; and
   (4) To elect an individual to any other office, including judicial office, one thousand dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this section, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the Missouri Ethics Commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a candidate for public office shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No contribution to a candidate for public office shall be made by or accepted from a corporation, except from a political committee that is incorporated for liability purposes only.

4. In determining if a contribution to a candidate for public office is made or accepted with the intent to circumvent the contribution limits imposed in this section, one factor that may be considered is whether the contribution is received from a committee or organization that is, at the time the contribution was made, primarily funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. For purposes of this section, a committee or organization is "primarily funded by a single person, individual, or other committee" when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

5. No contribution to a candidate for public office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

6. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the Missouri Ethics Commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

7. No public official or candidate for public office shall solicit contributions, conduct fundraising activities, or hold fundraising events, supporting or opposing any candidate, ballot measure, political party, or political committee, on any property or in any building owned or leased by the state or any political subdivision, unless the property or building is routinely used by and made available for rent or for a fee to all members of the public by the state or the political subdivision.

8. For purposes of this section, the following terms are defined as follows:

   (1) "Candidate", an individual who seeks nomination or election to public office, including an elected officeholder who is the subject of a recall election, an individual who seeks nomination by the individual's political party for election to public office, an individual standing for retention in an election to an office to which the individual was previously appointed, an individual who seeks nomination or election whether or not the specific elective public office to be sought has been finally determined, and an individual who is a write-in candidate.

   (2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

   (3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for public office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

   (a) "Contribution" to any candidate or candidate committee includes, but is not limited to:
      a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;
c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;
d. Receipts from fundraising events;
e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;
f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;
g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;
h. Any payment or expenditure by any person other than a candidate or a candidate committee made in connection with any candidate that is authorized, requested, suggested, or fostered by or made in cooperation with a candidate, candidate committee, or agents of the candidate or candidate committee; or

i. Any payment or expenditure for any communication which republishes, disseminates, or distributes in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or agents of the candidate or candidate committee, other than a photograph obtained from a public source.

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

d. The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders.

(c) In determining whether a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to a candidate's opponent is a contribution for purposes of this section, the following non-exclusive list of factors may be considered:

a. Information not generally available to the public regarding the candidate's campaign, plans, projects, activities, or needs is material to the creation, production or distribution of the communication;
b. The person discusses or negotiates the communication with the candidate, candidate committee or an agent of the candidate or candidate committee prior to the date the communication is publicly disseminated or distributed;
c. The person and the candidate or candidate committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting or legal services, or other non-campaign services;
d. Whether a payment for a covered communication for a candidate for public office is made by a person who is a coordinated spender with respect to the candidate.

(d) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;
b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;
c. The person made contributions to the candidate;
d. The person unilaterally communicates to the candidate the intent to make a communication,

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but does not discuss or negotiate the communication with the candidate;

e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) “Covered communication” is a communication conveyed to five hundred or more members of a general public audience that refers to a clearly identified candidate and:

(a) Either:

a. Contains words such as “vote”, “oppose”, “support”, “elect”, “defeat”, or “reject,” in expressly advocating the election or defeat of the candidate; or

b. Is made on or after January first of the year of the election in which the candidate seeks office, and is susceptible to no reasonable interpretation other than as an appeal to vote for or against a candidate; and

(b) Is:

a. A broadcast, cable or satellite audio or video communication or an internet communication; or

b. Printed advertisements, pamphlets, circulars, flyers, brochures, or a billboard.

(c) A communication over the internet is a “covered communication” only if it is placed for a fee on another person’s web site.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

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9. Any purposeful violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.
(2) For the second and subsequent violations, a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

10. The Missouri Ethics Commission or its successor agency is authorized to enforce this section as provided by law.

Section 3.

No statewide elected officer, or any member of the general assembly, or any of such elected official's employees or staff shall engage in sexual harassment. For purpose of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. Any purposeful violation of this section shall be punishable by imprisonment for up to one year or a fine of up to one thousand dollars or both.

Section 4.

If any provision of this article or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-160)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article XIV. (Received December 14, 2015)

## Date

January 4, 2016

## Description

This proposal would create a new Article XIV of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated this amendment seeks to restrict political contributions and serving as lobbyists. Elected officials are restricted from acting or serving as paid lobbyists until one year after the expiration of any term of office. Unlimited campaign contributions to candidates for public office are banned. Violating any of the provisions can result in monetary fines or an unclassified class A misdemeanor. Subsequent violations can include increased monetary fines or an unclassified class D/E felony.

The department would not supervise the misdemeanor offense. For a new class D/E felony it is assumed that 3 offenders per year would be sentenced for the offense, one to prison and two to probation. The probation sentences will be for a five year term but because the sentences will be eligible for earned compliance credits the offenders will only serve three years. Those receiving a term sentence can expect to serve 1.5 years in prison and 2 years on parole. The full impact will occur in year four and the impact will be 1.5 offenders in prison and eight offenders on field supervision.

The fiscal year 2015 average cost of supervision is $6.04 per offender per day or an annual cost of $2,205 per offender. The department's cost of incarceration is $16.809 per day or an annual cost of $6,135 per offender.

Therefore, the total cost of this bill will be $8,788 in fiscal year 2017, $20,632 in fiscal year 2018, and $28,485 in fiscal year 2019. The cost in fiscal years 2020-2026 will be the same as in fiscal year 2019.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this petition will not have a fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional

Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from **Metropolitan Community College** indicated there is no anticipated impact for their college.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for fiscal year 2017, $61,107 for fiscal year 2018 and $61,734 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Prohibiting a statewide elected official, member of the general assembly or paid employee of the general assembly from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Sections 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act

as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.

- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a statewide elected official, member of general assembly, the spouses, dependent children, staff/employees of a statewide elected official or general assembly, a department/division director of executive branch, local elected officials to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Sections 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Sections 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

•$15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

•1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

•If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, University of Missouri,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate increased annual operating costs of $90,000. Local governmental entities report no expected fiscal impact.

RECEIVED
DEC 07 2015
STATE AUDITOR'S OFFICE

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

16-159

December 7, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Winston Apple regarding a proposed statutory amendment to Chapter 128 (2016-159)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Winston Apple on December 4, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-159

County:_____
Page number: _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021 RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail, or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

RECEIVED
2015 DEC -4 PM 4:11
MO SEC. OF STATE

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print of type names of signers)

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong Dist | NAME (Print or Typed) |
|---|---|---|---|---|---|---|
| 1. | | | | | | |
| 2. | | | | | | |
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| 15. | | | | | | |

Signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____.

_____
Signature of Affiant (Person obtaining signatures)

_____
(Printed Name of Affiant)

_____
Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A. D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)
My commission expires _____

16-159

*Be it enacted by the people of the state of Missouri:*

*Section 128.020 of the Revised Missouri Statutes is hereby repealed, and sections 128.346 and 128.348 are amended, to read as follows:*

[128.020. When any new apportionment shall be made of the members to be elected to the house of representatives of the United States, whereby the number of electors to which this state may be entitled shall be increased or diminished, it shall be the duty of the governor to lay off the state into as many districts as shall be equal to the number of electors to which this state shall then be entitled, so that the said districts contain, as near as may be, an equal number of inhabitants.]

128.346. The districts established by the provisions of sections 128.400 to 128.440 for the election of representatives to the Congress of the United States shall be effective beginning with election to the 108th Congress and through the election of the 112th Congress. The districts established by sections 128.451 to 128.458 for the election of representatives to the Congress of the United States shall be effective beginning with the election to the 113th Congress. Effective beginning with the election of representatives to the 116th Congress, representatives to the Congress of the United States shall be elected at large, in the manner prescribed by section 128.348.

128.348. 1. The state of Missouri is hereby divided into nine congressional districts. Effective with the election for the 113th Congress, the state of Missouri shall consist of eight congressional districts. The legal voters of each district shall elect one member of Congress of the United States. Effective beginning with the election for the 116th Congress, representatives to the Congress of the United States shall be elected at large.

2. A political party may nominate a total number of candidates equal to the number of electors (representatives) to which the state of Missouri is entitled.

3. Political parties are free to determine their candidates through a primary election, caucuses, a statewide party nominating convention, or a combination of caucuses and a statewide party nominating convention.

4. A primary election will be the default method for parties to select candidates. Should a political party determine that they will select candidates by caucuses, statewide party convention, or a combination of caucuses and a statewide party convention, a legally designated representative of the party will notify the secretary of state, in writing, of the method to be used, no later than the first day of April of an election year.

5. If a political party elects to use a primary election as the means of determining its candidates for the general election, all qualified candidates who file for said party's nominations will appear on the primary ballot for that party. Registered voters will be allowed to vote in one, and only one, party's primary election, and for one, and only one, candidate from that party.

6. Should a party elect to nominate candidates for the general election by means of caucuses and/or a statewide party convention, a list of that party's candidates shall be filed with the secretary of state's office no less than 90 days before the general election date in election years.

7. To qualify for a place on the ballot, an independent candidate must present petitions signed by one-quarter of one percent of the legal votes cast for the sum of all candidates for the United States House of Representatives from Missouri in the general election last preceding. Said petitions must be delivered to the secretary of state no later than one-hundred and twenty days before the general election.

8. The signatures on petitions submitted by independent candidates and political parties shall be subject to verification according to the procedures in the code of state regulations for independent candidate petitions in force at the time the petitions are submitted.

9. In each general election, each voter will cast a single vote for a candidate for Congress appearing on the ballot, or a single write-in vote for a candidate not appearing on the ballot, having properly registered with the secretary of state as a write-in candidate.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-159)**

## Subject

Initiative petition from Winston Apple regarding a proposed amendment to Chapter 128 of the Revised Statutes of Missouri. (Received December 7, 2015)

## Date

December 28, 2015

## Description

This proposal would amend Chapter 128 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated there should be no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated this proposal will require changes be made regarding elections in the State of Missouri. These changes will likely include: the re-programing of voting machines, changes to the Missouri Centralized Voter Registration system, and postage costs for absentee ballots. Each of these changes is likely to include additional costs which must be covered by both the State of Missouri and local election authorities. Under this proposal, the State and local election authorities are also likely to incur additional costs associated with petition signature verification.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from **Metropolitan Community College** indicated there is no anticipated impact for their college.

Officials from **University of Missouri** indicated they have reviewed this initiative petition and there is no anticipated financial impact.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri,** and **St. Louis Community College.**

**Fiscal Note Summary**

State and local governments are likely to incur unknown additional election related costs.

RECEIVED
DEC 0 4 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 4, 2015

16-158

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article III, version 36 (2016-158)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on December 4, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16758

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC -4 AM 8:45
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-158

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following Articles and Sections of the Constitution of Missouri: Article III, Article 1, Section 2, Article I, Section 8, Article I, Section 10, Article 1, Section 19, Article I, Section 21 and the following Sections of the Missouri Revised Statutes: Sections 105.450 through 105.496, Sections130.011 through 130.160, and Sections 213.010 through 213.137. The proposed amendment revises Article III of the Constitution by repealing Section 5, amending Sections 2, 7, 12 and 19 and adopting 5 new sections to be known as Article III Sections 16(a), 20(c), 20(d) and 20(f).

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article III of the Constitution is revised by repealing Section 5, amending Sections 2, 7, 12 and 19 and adopting 5 new sections to be known as Article III Sections 16(a), 20(c), 20(d), 20(e) and 20(f) to read as follows:

Section 2. 1. There is hereby established the post of "non-partisan state demographer." The non-partisan state demographer shall acquire appropriate information to develop procedures in preparation for drawing legislative redistricting maps on the basis of each federal census for presentation to the house apportionment commission and the senatorial apportionment commission.

2. The non-partisan state demographer shall be appointed by the Governor through a merit based process. The non-partisan state demographer shall serve a term of five years and may be reappointed. The non-partisan state demographer shall be disqualified from holding office as a member of the general assembly for four years following the date of the presentation of his or her most recent legislative redistricting map to the house apportionment commission or the senatorial apportionment commission.

3. The house of representatives shall consist of one hundred sixty-three members elected at each general election and apportioned [in the following manner:] as provided in this section.

4. Within ten days after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within ten days after notification by the governor that such a ruling has been made, the non-partisan state demographer shall begin the preparation of legislative districting plans and maps using the following methods:

(1) Districts shall be established on the basis of population. Legislative districts shall each have a population as nearly equal as practicable to the ideal population for such districts, determined by dividing the number of districts to be established into the population of the state reported in the federal decennial census.

(2) Districts shall be established in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The non-partisan state demographer shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the non-partisan state demographer shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the non-partisan state demographer shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral

performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The non-partisan state demographer shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the non-partisan state demographer shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

(3) Districts shall be composed of convenient contiguous territory. Areas which meet only at the points of adjoining corners are not contiguous.

(4) To the extent consistent with subdivisions 1, 2, and 3 of this subsection, district boundaries shall coincide with the boundaries of political subdivisions of the state. The number of counties and cities divided among more than one district shall be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous, but this preference shall not apply to a legislative district boundary drawn along a county line which passes through a city that lies in more than one county.

(5) Preference shall be that districts are compact in form, but the standards established by subdivisions 1, 2, 3, and 4 of this subsection take precedence over compactness where a conflict arises between compactness and these standards. In general, compact districts are those which are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries.

5. Within sixty days after the population of this state is reported to the President for each decennial census of the United States [and] or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this

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section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

6. Within six months after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within six months after notification by the governor that such a ruling has been made, the non-partisan state demographer shall file with the secretary of state and with the house apportionment commission a tentative plan of apportionment and map of the proposed districts.

The commissioners so selected shall, [on the fifteenth day, excluding Sundays and holidays, after all members have been selected] within ten days of receiving the tentative plan of apportionment and map of the proposed districts, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary[and]. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

The commission may make changes to the tentative plan of apportionment and map of the proposed districts received from the non-partisan state demographer provided that such changes are consistent with this section and approved by a vote of at least seven-tenths of the commissioners. If no changes are made or approved as provided for in this subsection, the tentative plan of apportionment and map of proposed districts shall become final. Not later than two months of receiving the tentative plan of apportionment and map of the proposed districts, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts.

[The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.

Each district shall be composed of contiguous territory as compact as may be.

Not later than five months after the appointment of the commission, the commission shall receive the tentative plan of apportionment and map of the proposed districts ordered in subsection 4 of this section and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.]

Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

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No reapportionment shall be subject to the referendum.

[Section 5. The senate shall consist of thirty-four members elected by the qualified voters of the respective districts for four years. For the election of senators, the state shall be divided into convenient districts of contiguous territory, as compact and nearly equal in population as may be.]

Section 7. 1. The senate shall consist of thirty-four members elected by the qualified voters of the senatorial districts for a term of four years. Senatorial districts shall be apportioned as provided for in this section.

2. Within ten days after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within ten days after notification by the governor that such a ruling has been made, the non-partisan state demographer authorized in article III section 2, shall begin the preparation of senatorial districting plans and maps using the following methods:

(1) Districts shall be established on the basis of population. Districts shall each have a population as nearly equal as practicable to the ideal population for such districts, determined by dividing the number of districts to be established into the population of the state reported in the federal decennial census. No county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

(2) Districts shall be established in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The non-partisan state demographer shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the non-partisan state demographer shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the non-partisan state demographer shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The non-partisan state demographer shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the non-partisan state demographer shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

(3) Districts shall be composed of convenient contiguous territory. Areas which meet only at the points of adjoining corners are not contiguous.

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(4) To the extent consistent with subdivisions 1, 2, and 3 of this subsection, district boundaries shall coincide with the boundaries of political subdivisions of the state. The number of counties and cities divided among more than one district shall be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous, but this preference shall not apply to a legislative district boundary drawn along a county line which passes through a city that lies in more than one county.

(5) Preference shall be that districts are compact in form, but the standards established by subdivisions 1, 2, 3, and 4 of this subsection take precedence over compactness where a conflict arises between compactness and these standards. In general, compact districts are those which are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries.

3. Within sixty days after the population of this state is reported to the President for each decennial census of the United States, [and] or within sixty days after notification by the governor that a reapportionment has been invalidated by a court of competent jurisdiction, the state committee of each of the two political parties casting the highest vote for governor at the last preceding election shall, at a committee meeting duly called, select by a vote of the individual committee members, and thereafter submit to the governor a list of ten persons, and within thirty days thereafter the governor shall appoint a commission of ten members, five from each list, to reapportion the thirty-four senatorial districts and to establish the numbers and boundaries of said districts.

If either of the party committees fails to submit a list within such time the governor shall appoint five members of his own choice from the party of the committee so failing to act.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

4. Within six months after the population of this state is reported to the President for each decennial census of the United States or in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within six months after notification by the governor that such a ruling has been made, the non-partisan state demographer shall file with the secretary of state and with the senatorial apportionment commission a tentative plan of apportionment and map of the proposed districts.

The commissioners so selected shall [on the fifteenth day, excluding Sundays and holidays, after all members have been selected] within ten days of receiving the tentative plan of apportionment and map of the proposed districts required by subsection 4 of this section, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary [and]. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the secretary of the senate within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable. The commission may make changes to the tentative plan of apportionment and map of the proposed districts received from the non-partisan state demographer provided that such changes are consistent with this section and approved by a vote of at least seven-tenths of the commissioners. If no changes are made or approved as provided for in this subsection, the tentative plan of apportionment and map of proposed districts shall become final. Not later than two months after receiving the tentative plan of apportionment and map of the proposed districts, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts.

[The commission shall reapportion the senatorial districts by dividing the population of the state by the number thirty-four and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure; no county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or

city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven members.

After the statement is filed senators shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the senate shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter senators shall be elected according to such districts until a reapportionment is made as herein provided.]

Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session, but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

No reapportionment shall be subject to the referendum.

Section 12. 1. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This subsection shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

2. After the effective date of this section, no senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist. In addition, no senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist until the expiration of one calendar year after the conclusion of the session of the general assembly in which the member or employee last served and where such service was after the effective date of this section. Any purposeful violation of this subsection shall be punishable by a term of imprisonment of up to one year or the imposition of a fine of up to one thousand dollars or both. The Missouri Ethics Commission or its successor agency is authorized to enforce this section as provided by law.

3. For purposes of this section, the term "lobbyist" means any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the

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purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official.

Section 16(a). 1. No senator or representative or their employees or staff shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. Senators or representatives and their employees and staff may accept informational material such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, accept items that are available or distributed free of charge to members of the general public, or accept food or beverage provided at a widely attended event that includes at least twenty-five private persons and relates to the official's duties. All gifts by a lobbyist or lobbyist principal to a senator or representative or their employees or staff shall be reported to the Missouri Ethics Commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient. Candidates for senator or representative, including candidates for reelection, or candidates for offices within the senate or house may accept campaign contributions consistent with this article and applicable campaign finance law. Nothing in this section shall prevent individuals from receiving gifts, family support or anything of value from those related to them within the fourth degree by blood or marriage. The dollar limitations of this section shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. Any purposeful violation of this section shall be punishable by a term of imprisonment of up to six months or the imposition of a fine of up to five hundred dollars or both. The Missouri Ethics Commission or its successor agency is authorized to enforce this section as provided by law.

2. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly, and is registered as a lobbyist with the Missouri Ethics Commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the Missouri Ethics Commission or its successor agency.

Section 19. 1. Senators and representatives shall, in all cases except treason, felony, offenses under this article, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place.

2. Legislative records shall be public records and subject to generally applicable state laws governing public access to public records, including the "Sunshine Law." Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators, their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member, their employees and staff. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate, respectively.

3. Legislative proceedings, including committee proceedings, shall be public meetings subject to generally applicable law governing public access to public meetings, including the "Sunshine Law." Open public meetings of legislative proceedings shall be subject to recording by citizens, so long as the proceedings are not materially disrupted.

Section 20(c). No senator or representative or their employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. Any purposeful violation of this section shall be punishable by a term of imprisonment of up to one year or the imposition of a fine of up to one thousand dollars or both.

Section 20(d).

1. Unlimited campaign contributions to candidates for legislative offices are banned. In addition to other campaign contribution limitations or restrictions provided for by law, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for legislative office shall not exceed the following:
   (1) To elect an individual to the office of state senator, two thousand seven hundred dollars; and
   (2) To elect an individual to the office of state representative, two thousand seven hundred dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this subsection, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the Missouri Ethics Commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after 2015.

2. No contribution to a legislative candidate shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No legislative candidate shall accept a contribution from a corporation, except from a political committee that is incorporated for liability purposes only.

4. In determining if a contribution to a candidate for legislative office is made or accepted with the intent to circumvent the contribution limits imposed in this section, one factor that may be considered is whether the contribution is received from a committee or organization that is, at the time the contribution was made, primarily funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. For purposes of this subsection, a committee or organization is "primarily funded by a single person, individual, or other committee" when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

5. No contribution to a candidate for legislative office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

6. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the Missouri Ethics Commission, its successor agency, or a court

determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

7. For purposes of this section, the following terms are defined as follows:

(1) "Candidate", an individual who seeks nomination or election to the house or senate or as an officer of the house or senate, an individual who seeks nomination by the individual's political party for election to the house or senate or as an officer of the house or senate, and an individual who is a write-in candidate for the house or senate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

h. Any payment or expenditure by any person other than a candidate or a candidate committee made in connection with any candidate that is authorized, requested, suggested, or fostered by or made in cooperation with a

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candidate, candidate committee, or agents of the candidate or candidate committee; or

i. Any payment or expenditure for any communication which republishes, disseminates, or distributes in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or agents of the candidate or candidate committee, other than a photograph obtained from a public source.

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

d. The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders.

(c) In determining whether a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to a candidate's opponent is a contribution for purposes of this section, the following non-exclusive list of factors may be considered:

a. Information not generally available to the public regarding the candidate's campaign, plans, projects, activities, or needs is material to the creation, production or distribution of the communication;

b. The person discusses or negotiates the communication with the candidate, candidate committee or an agent of the candidate or candidate committee prior to the date the communication is publicly disseminated or distributed;

c. The person and the candidate or candidate committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting or legal services, or other non-campaign services;

d. Whether a payment for a covered communication for a candidate for legislative office is made by a person who is a coordinated spender with respect to the candidate.

(d) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;

b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;

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c. The person made contributions to the candidate;
d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;
e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" a communication conveyed to five hundred or more members of a general public audience that refers to a clearly identified candidate and:

(a) Either:
a. Contains words such as "vote", "oppose", "support", "elect", "defeat", or "reject," in expressly advocating the election or defeat of the candidate; or

b. Is made on or after January first of the year of the election in which the candidate seeks office, and is susceptible to no reasonable interpretation other than as an appeal to vote for or against a candidate; and

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(b) Is:

a. A broadcast, cable or satellite audio or video communication or internet communication; or

b. Printed advertisements, pamphlets, circulars, flyers, brochures, or a billboard.

(c) A communication over the internet is a "covered communication" only if it is placed for a fee on another person's web site.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

8. Any purposeful violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.
(2) For the second and subsequent violations, a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

8. The Missouri Ethics Commission or its successor agency is authorized to enforce this section as provided by law.

Section 20(e). No political fundraising activities or political fundraising event, including the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party or political committee, shall occur in or on any premises, property or building owned, leased or controlled by the house of representatives, senate or general assembly. Any purposeful violation of this section shall be punishable by imprisonment for up to one year or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions. The Missouri Ethics Commission or its successor agency is authorized to enforce this section as provided by law.

Section 20(f). If any provision of sections 2, 7, 12, 16(a), 19, 20(c), 20(d) or 20(e) or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-158)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article III. (Received December 4, 2015)

## Date

December 23, 2015

## Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

If there is a significant increase in the number of complaints or referrals, the office may seek an additional appropriation.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

If additional persons are sentenced to the custody of the department due to the provisions of this legislation, the department will incur a corresponding increase of direct offender costs either through incarceration (fiscal year 2015 average of $16.809 per offender, per day, or an annual cost of $6,135 per inmate) or through supervision provided by the Board of Probation and Parole (fiscal year 2015 average of $6.04 per offender, per day or an annual cost of $2,205 per offender).

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this petition will not have a fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this initiative petition revises Article III of the Missouri Constitution by amending Sections 2, 7, 12 and 19 and enacting five new sections. Section 5 is repealed but reenacted with changes in Section 7.

The initiative creates the post of “non-partisan State Demographer” to oversee the redistricting process for the state House and Senate districts. The demographer is to appointed by the Governor and shall serve a term of five years. This demographer will be unable to hold elected office for four years following the filing of the new legislative districts. The redistricting process shall maximize partisan fairness and competitiveness.

Legislators and their employees are prohibited from lobbying for at least one year after the conclusion of the session during which they vacate office, and from acting as paid consultants while in office. Legislators and their staff are prohibited from accepting a gift in excess of five dollars, per occurrence. There is a built in CPI adjustment for this amount. Political fundraising activities and events may not be held in any location owned by, or under the control of, the House, Senate or General Assembly.

It mandates that legislative records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms shall be public. It allows explicitly identified legislative proceedings as open meetings and authorizes recording of such proceedings by citizens.

Legislators and staff are prohibited from engaging in sexual harassment.

Campaign contributions for state senators and representatives are limited to $2,700, with CPI adjustments made in even-numbered years. Donations from corporations, except from a political committee that is incorporated, are prohibited. There are penalty provisions included for each of the prohibitions, along with a severability clause. The Missouri Ethics Commission is authorized to enforce this section.

This proposal could have an impact on their office. There is currently a State Demographer, with statutory duties that extend beyond those of legislative reapportionment. If the existing State Demographer would be expected to assume the role of “Non-partisan State Demographer”, there would be no fiscal impact. However, if that

post is filled by another individual, the salary and benefits costs would be an estimated $125,993 in fiscal year 2021, adjusted for inflation. In either scenario, the cost for other staff hired for the purposes of redistricting would remain the same.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **Metropolitan Community College** indicated there is no anticipated fiscal impact for their college.

Officials from the **University of Missouri** indicated they have reviewed this initiative petition and there is no anticipated financial impact.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for fiscal year 2017, $61,107 for fiscal year 2018 and $61,734 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Prohibiting a member of the general assembly and their staff from acting, serving, or registering as a lobbyist during term of office and for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a member of general assembly or a staff member of the general assembly to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

•$15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

•1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

•If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for FTE, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate annual operating costs will increase at least $61,000, may increase an additional $125,000, and may result in minimal incarceration costs. Local governmental entities report no fiscal impact.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

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DEC 04 2015
STATE AUDITORS OFFICE

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December 4, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article III, version 35 (2016-157)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on December 4, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-157 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
DEC -4 AM 8:44
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

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*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article III of the Constitution is revised by repealing Section 5, amending Sections 2, 7, 12 and 19 and adopting 5 new sections to be known as Article III Sections 16(a), 20(c), 20(d), 20(e) and 20(f) to read as follows:

Section 2. 1. There is hereby established the post of "non-partisan state demographer." The non-partisan state demographer shall acquire appropriate information to develop procedures in preparation for drawing legislative redistricting maps on the basis of each federal census for presentation to the house apportionment commission and the senatorial apportionment commission.

2. The non-partisan state demographer shall be appointed by the Governor through a merit based process. The non-partisan state demographer shall serve a term of five years and may be reappointed. The non-partisan state demographer shall be disqualified from holding office as a member of the general assembly for four years following the date of the presentation of his or her most recent legislative redistricting map to the house apportionment commission or the senatorial apportionment commission.

3. The house of representatives shall consist of one hundred sixty-three members elected at each general election and apportioned [in the following manner:] as provided in this section.

4. Within ten days after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within ten days after notification by the governor that such a ruling has been made, the non-partisan state demographer shall begin the preparation of legislative districting plans and maps using the following methods:

(1) Districts shall be established on the basis of population. Legislative districts shall each have a population as nearly equal as practicable to the ideal population for such districts, determined by dividing the number of districts to be established into the population of the state reported in the federal decennial census.

(2) Districts shall be established in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The non-partisan state demographer shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the non-partisan state demographer shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the non-partisan state demographer shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The non-partisan state demographer shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the non-partisan state demographer shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional

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seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

(3) Districts shall be composed of convenient contiguous territory. Areas which meet only at the points of adjoining corners are not contiguous.

(4) To the extent consistent with subdivisions 1, 2, and 3 of this subsection, district boundaries shall coincide with the boundaries of political subdivisions of the state. The number of counties and cities divided among more than one district shall be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous, but this preference shall not apply to a legislative district boundary drawn along a county line which passes through a city that lies in more than one county.

(5) Preference shall be that districts are compact in form, but the standards established by subdivisions 1, 2, 3, and 4 of this subsection take precedence over compactness where a conflict arises between compactness and these standards. In general, compact districts are those which are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries.

5. Within sixty days after the population of this state is reported to the President for each decennial census of the United States [and] or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

6. Within six months after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within six months after notification by the governor that such a ruling has been made, the non-partisan state demographer shall file with the secretary of state and with the house apportionment commission a tentative plan of apportionment and map of the proposed districts.

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The commissioners so selected shall, [on the fifteenth day, excluding Sundays and holidays, after all members have been selected] within ten days of receiving the tentative plan of apportionment and map of the proposed districts, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary[and]. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

The commission may make changes to the tentative plan of apportionment and map of the proposed districts received from the non-partisan state demographer provided that such changes are consistent with this section and approved by a vote of at least seven-tenths of the commissioners. If no changes are made or approved as provided for in this subsection, the tentative plan of apportionment and map of proposed districts shall become final. Not later than two months of receiving the tentative plan of apportionment and map of the proposed districts, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts.

[The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.

Each district shall be composed of contiguous territory as compact as may be.

Not later than five months after the appointment of the commission, the commission shall receive the tentative plan of apportionment and map of the proposed districts ordered in subsection 4 of this section and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.]

Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

No reapportionment shall be subject to the referendum.

[Section 5. The senate shall consist of thirty-four members elected by the qualified voters of the respective districts for four years. For the election of senators, the state shall be divided into convenient districts of contiguous territory, as compact and nearly equal in population as may be.]

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Section 7. 1. The senate shall consist of thirty-four members elected by the qualified voters of the senatorial districts for a term of four years. Senatorial districts shall be apportioned as provided for in this section.

2. Within ten days after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within ten days after notification by the governor that such a ruling has been made, the non-partisan state demographer authorized in article III section 2, shall begin the preparation of senatorial districting plans and maps using the following methods:

(1) Districts shall be established on the basis of population. Districts shall each have a population as nearly equal as practicable to the ideal population for such districts, determined by dividing the number of districts to be established into the population of the state reported in the federal decennial census. No county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

(2) Districts shall be established in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The non-partisan state demographer shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the non-partisan state demographer shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the non-partisan state demographer shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The non-partisan state demographer shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the non-partisan state demographer shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

(3) Districts shall be composed of convenient contiguous territory. Areas which meet only at the points of adjoining corners are not contiguous.

(4) To the extent consistent with subdivisions 1, 2, and 3 of this subsection, district boundaries shall coincide with the boundaries of political subdivisions of the state. The number of counties and cities divided among more than one district shall be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous, but this preference shall not apply to a legislative district boundary drawn along a county line which passes through a city that lies in more than one county.

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(5) Preference shall be that districts are compact in form, but the standards established by subdivisions 1, 2, 3, and 4 of this subsection take precedence over compactness where a conflict arises between compactness and these standards. In general, compact districts are those which are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries.

3. Within sixty days after the population of this state is reported to the President for each decennial census of the United States, [and] or within sixty days after notification by the governor that a reapportionment has been invalidated by a court of competent jurisdiction, the state committee of each of the two political parties casting the highest vote for governor at the last preceding election shall, at a committee meeting duly called, select by a vote of the individual committee members, and thereafter submit to the governor a list of ten persons, and within thirty days thereafter the governor shall appoint a commission of ten members, five from each list, to reapportion the thirty-four senatorial districts and to establish the numbers and boundaries of said districts.

If either of the party committees fails to submit a list within such time the governor shall appoint five members of his own choice from the party of the committee so failing to act.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

4. Within six months after the population of this state is reported to the President for each decennial census of the United States or in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within six months after notification by the governor that such a ruling has been made, the non-partisan state demographer shall file with the secretary of state and with the senatorial apportionment commission a tentative plan of apportionment and map of the proposed districts.

The commissioners so selected shall [on the fifteenth day, excluding Sundays and holidays, after all members have been selected] within ten days of receiving the tentative plan of apportionment and map of the proposed districts required by subsection 4 of this section, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary [and]. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the secretary of the senate within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable. The commission may make changes to the tentative plan of apportionment and map of the proposed districts received from the non-partisan state demographer provided that such changes are consistent with this section and approved by a vote of at least seven-tenths of the commissioners. If no changes are made or approved as provided for in this subsection, the tentative plan of apportionment and map of proposed districts shall become final. Not later than two months after receiving the tentative plan of apportionment and map of the proposed districts, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts.

[The commission shall reapportion the senatorial districts by dividing the population of the state by the number thirty-four and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure; no county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

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Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven members.

After the statement is filed senators shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the senate shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter senators shall be elected according to such districts until a reapportionment is made as herein provided.]

Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session, but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

No reapportionment shall be subject to the referendum.

Section 12. 1. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This subsection shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

2. After the effective date of this section, no senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist. In addition, no senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist until the expiration of one calendar year after the conclusion of the session of the general assembly in which the member or employee last served and where such service was after the effective date of this section. Any purposeful violation of this subsection shall be punishable by a term of imprisonment of up to one year or the imposition of a fine of up to one thousand dollars or both. The Missouri Ethics Commission or its successor agency is authorized to enforce this section as provided by law.

3. For purposes of this section, the term "lobbyist" means any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official.

Section 16(a). 1. No senator or representative or their employees or staff shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. Senators or representatives and their employees and staff may accept informational material such

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as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, accept items that are available or distributed free of charge to members of the general public, or accept food or beverage provided at a widely attended event that includes at least twenty-five private persons and relates to the official's duties. All gifts by a lobbyist or lobbyist principal to a senator or representative or their employees or staff shall be reported to the Missouri Ethics Commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient. Candidates for senator or representative, including candidates for reelection, or candidates for offices within the senate or house may accept campaign contributions consistent with this article and applicable campaign finance law. Nothing in this section shall prevent individuals from receiving gifts, family support or anything of value from those related to them within the fourth degree by blood or marriage. The dollar limitations of this section shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. Any purposeful violation of this section shall be punishable by a term of imprisonment of up to six months or the imposition of a fine of up to five hundred dollars or both. The Missouri Ethics Commission or its successor agency is authorized to enforce this section as provided by law.

2. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly, and is registered as a lobbyist with the Missouri Ethics Commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the Missouri Ethics Commission or its successor agency.

Section 19. 1. Senators and representatives shall, in all cases except treason, felony, offenses under this article, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place.

2. Legislative records shall be public records and subject to generally applicable state laws governing public access to public records, including the "Sunshine Law." Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators, their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member, their employees and staff. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate, respectively.

3. Legislative proceedings, including committee proceedings, shall be public meetings subject to generally applicable law governing public access to public meetings, including the "Sunshine Law." Open public meetings of legislative proceedings shall be subject to recording by citizens, so long as the proceedings are not materially disrupted.

Section 20(c). No senator or representative or their employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or

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implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. Any purposeful violation of this section shall be punishable by a term of imprisonment of up to one year or the imposition of a fine of up to one thousand dollars or both.

Section 20(d).

1. Unlimited campaign contributions to candidates for legislative offices are banned. In addition to other campaign contribution limitations or restrictions provided for by law, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for legislative office shall not exceed the following:
   (1) To elect an individual to the office of state senator, two thousand seven hundred dollars; and
   (2) To elect an individual to the office of state representative, two thousand seven hundred dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this subsection, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the Missouri Ethics Commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after 2015.

2. No contribution to a legislative candidate shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No legislative candidate shall accept a contribution from a corporation, except from a political committee that is incorporated for liability purposes only.

4. In determining if a contribution to a candidate for legislative office is made or accepted with the intent to circumvent the contribution limits imposed in this section, one factor that may be considered is whether the contribution is received from a committee or organization that is, at the time the contribution was made, primarily funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. For purposes of this subsection, a committee or organization is "primarily funded by a single person, individual, or other committee" when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

5. No contribution to a candidate for legislative office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

6. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the Missouri Ethics Commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

7. For purposes of this section, the following terms are defined as follows:

   (1) "Candidate", an individual who seeks nomination or election to the house or senate or as an officer of the house or senate, an individual who seeks nomination by the individual's political party for election to the house or senate or as an

officer of the house or senate, and an individual who is a write-in candidate for the house or senate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

h. Any payment or expenditure by any person other than a candidate or a candidate committee made in connection with any candidate that is authorized, requested, suggested, or fostered by or made in cooperation with a candidate, candidate committee, or agents of the candidate or candidate committee; or

i. Any payment or expenditure for any communication which republishes, disseminates, or distributes in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or agents of the candidate or candidate committee, other than a photograph obtained from a public source.

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(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

d. The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders.

(c) In determining whether a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to a candidate's opponent is a contribution for purposes of this section, the following non-exclusive list of factors may be considered:

a. Information not generally available to the public regarding the candidate's campaign, plans, projects, activities, or needs is material to the creation, production or distribution of the communication;

b. The person discusses or negotiates the communication with the candidate, candidate committee or an agent of the candidate or candidate committee prior to the date the communication is publicly disseminated or distributed;

c. The person and the candidate or candidate committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting or legal services, or other non-campaign services;

d. Whether a payment for a covered communication for a candidate for legislative office is made by a person who is a coordinated spender with respect to the candidate.

(d) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;
b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;
c. The person made contributions to the candidate;
d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;
e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

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(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" a communication conveyed to five hundred or more members of a general public audience that refers to a clearly identified candidate and:

(a) Either:

a. Contains words such as "vote", "oppose", "support", "elect", "defeat", or "reject," in expressly advocating the election or defeat of the candidate; or

b. Is made on or after January first of the year of the election in which the candidate seeks office, and is susceptible to no reasonable interpretation other than as an appeal to vote for or against a candidate; and

(b) Is:

a. A broadcast, cable or satellite audio or video communication or internet communication; or

b. Printed advertisements, pamphlets, circulars, flyers, brochures, or a billboard.

(c) A communication over the internet is a "covered communication" only if it is placed for a fee on another person's web site.

16-157

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

8. Any purposeful violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.
(2) For the second and subsequent violations, a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

8. The Missouri Ethics Commission or its successor agency is authorized to enforce this section as provided by law.

Section 20(e). No political fundraising activities or political fundraising event, including the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party or political committee, shall occur in or on any premises, property or building owned, leased or controlled by the house of representatives, senate or general assembly. Any purposeful violation of this section shall be punishable by imprisonment for up to one year or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions. The Missouri Ethics Commission or its successor agency is authorized to enforce this section as provided by law.

Section 20(f). If any provision of sections 2, 7, 12, 16(a), 19, 20(c), 20(d) or 20(e) or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-157)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article III. (Received December 4, 2015)

## Date

December 23, 2015

## Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

If there is a significant increase in the number of complaints or referrals, the office may seek an additional appropriation.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

If additional persons are sentenced to the custody of the department due to the provisions of this legislation, the department will incur a corresponding increase of direct offender costs either through incarceration (fiscal year 2015 average of $16.809 per offender, per day, or an annual cost of $6,135 per inmate) or through supervision provided by the Board of Probation and Parole (fiscal year 2015 average of $6.04 per offender, per day or an annual cost of $2,205 per offender).

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this petition will not have a fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this initiative petition revises Article III of the Missouri Constitution by amending Sections 2, 7, 12 and 19 and enacting five new sections. Section 5 is repealed but reenacted with changes in Section 7.

The initiative creates the post of “non-partisan State Demographer” to oversee the redistricting process for the state House and Senate districts. The demographer is to appointed by the Governor and shall serve a term of five years. This demographer will be unable to hold elected office for four years following the filing of the new legislative districts. The redistricting process shall maximize partisan fairness and competitiveness.

Legislators and their employees are prohibited from lobbying for at least one year after the conclusion of the session during which they vacate office, and from acting as paid consultants while in office. Legislators and their staff are prohibited from accepting a gift in excess of five dollars, per occurrence. There is a built in CPI adjustment for this amount. Political fundraising activities and events may not be held in any location owned by, or under the control of, the House, Senate or General Assembly.

It mandates that legislative records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms shall be public. It allows explicitly identified legislative proceedings as open meetings and authorizes recording of such proceedings by citizens.

Legislators and staff are prohibited from engaging in sexual harassment.

Campaign contributions for state senators and representatives are limited to $2,700, with CPI adjustments made in even-numbered years. Donations from corporations, except from a political committee that is incorporated, are prohibited. There are penalty provisions included for each of the prohibitions, along with a severability clause. The Missouri Ethics Commission is authorized to enforce this section.

This proposal could have an impact on their office. There is currently a State Demographer, with statutory duties that extend beyond those of legislative reapportionment. If the existing State Demographer would be expected to assume the role of “Non-partisan State Demographer”, there would be no fiscal impact. However, if that

post is filled by another individual, the salary and benefits costs would be an estimated $125,993 in fiscal year 2021, adjusted for inflation. In either scenario, the cost for other staff hired for the purposes of redistricting would remain the same.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **Metropolitan Community College** indicated there is no anticipated fiscal impact for their college.

Officials from the **University of Missouri** indicated they have reviewed this initiative petition and there is no anticipated financial impact.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for fiscal year 2017, $61,107 for fiscal year 2018 and $61,734 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Prohibiting a member of the general assembly and their staff from acting, serving, or registering as a lobbyist during term of office and for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a member of general assembly or a staff member of the general assembly to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

•$15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

•1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

•If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for FTE, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate annual operating costs will increase at least $61,000, may increase an additional $125,000, and may result in minimal incarceration costs. Local governmental entities report no fiscal impact.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

RECEIVED
DEC 04 2015
STATE AUDITORS OFFICE

ELECTIONS DIVISION
(573) 751-2301

December 4, 2015

16-156

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article III, version 34 (2016-156)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on December 4, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-156

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC -4 AM 8:43
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-156

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following Articles and Sections of the Constitution of Missouri: Article III, Article 1, Section 2, Article I, Section 8, Article I, Section 10, Article 1, Section 19, Article I, Section 21 and the following Sections of the Missouri Revised Statutes: Sections 105.450 through 105.496, Sections130.011 through 130.160, and Sections 213.010 through 213.137. The proposed amendment revises Article III of the Constitution by repealing Section 5, amending Sections 2, 7, 12 and 19 and adopting 5 new sections to be known as Article III Sections 16(a), 20(c), 20(d) and 20(f).

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article III of the Constitution is revised by repealing Section 5, amending Sections 2, 7, 12 and 19 and adopting 5 new sections to be known as Article III Sections 16(a), 20(c), 20(d), 20(e) and 20(f) to read as follows:

Section 2. 1. There is hereby established the post of "non-partisan state demographer." The non-partisan state demographer shall acquire appropriate information to develop procedures in preparation for drawing legislative redistricting maps on the basis of each federal census for presentation to the house apportionment commission and the senatorial apportionment commission.

2. The non-partisan state demographer shall be appointed by the Governor through a merit based process. The non-partisan state demographer shall serve a term of five years and may be reappointed. The non-partisan state demographer shall be disqualified from holding office as a member of the general assembly for four years following the date of the presentation of his or her most recent legislative redistricting map to the house apportionment commission or the senatorial apportionment commission.

3. The house of representatives shall consist of one hundred sixty-three members elected at each general election and apportioned [in the following manner:] as provided in this section.

4. Within ten days after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within ten days after notification by the governor that such a ruling has been made, the non-partisan state demographer shall begin the preparation of legislative districting plans and maps using the following methods:

(1) Districts shall be established on the basis of population. Legislative districts shall each have a population as nearly equal as practicable to the ideal population for such districts, determined by dividing the number of districts to be established into the population of the state reported in the federal decennial census.

(2) Districts shall be established in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The non-partisan state demographer shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the non-partisan state demographer shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the non-partisan state demographer shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral

performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The non-partisan state demographer shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the non-partisan state demographer shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

(3) Districts shall be composed of convenient contiguous territory. Areas which meet only at the points of adjoining corners are not contiguous.

(4) To the extent consistent with subdivisions 1, 2, and 3 of this subsection, district boundaries shall coincide with the boundaries of political subdivisions of the state. The number of counties and cities divided among more than one district shall be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous, but this preference shall not apply to a legislative district boundary drawn along a county line which passes through a city that lies in more than one county.

(5) Preference shall be that districts are compact in form, but the standards established by subdivisions 1, 2, 3, and 4 of this subsection take precedence over compactness where a conflict arises between compactness and these standards. In general, compact districts are those which are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries.

5. Within sixty days after the population of this state is reported to the President for each decennial census of the United States [and] or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this

section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

6. Within six months after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within six months after notification by the governor that such a ruling has been made, the non-partisan state demographer shall file with the secretary of state and with the house apportionment commission a tentative plan of apportionment and map of the proposed districts.

The commissioners so selected shall, [on the fifteenth day, excluding Sundays and holidays, after all members have been selected] within ten days of receiving the tentative plan of apportionment and map of the proposed districts, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary[and]. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

The commission may make changes to the tentative plan of apportionment and map of the proposed districts received from the non-partisan state demographer provided that such changes are consistent with this section and approved by a vote of at least seven-tenths of the commissioners. If no changes are made or approved as provided for in this subsection, the tentative plan of apportionment and map of proposed districts shall become final. Not later than two months of receiving the tentative plan of apportionment and map of the proposed districts, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts.

[The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.

Each district shall be composed of contiguous territory as compact as may be.

Not later than five months after the appointment of the commission, the commission shall receive the tentative plan of apportionment and map of the proposed districts ordered in subsection 4 of this section and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.]

Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

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No reapportionment shall be subject to the referendum.

[Section 5. The senate shall consist of thirty-four members elected by the qualified voters of the respective districts for four years. For the election of senators, the state shall be divided into convenient districts of contiguous territory, as compact and nearly equal in population as may be.]

Section 7. 1. The senate shall consist of thirty-four members elected by the qualified voters of the senatorial districts for a term of four years. Senatorial districts shall be apportioned as provided for in this section.
2. Within ten days after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within ten days after notification by the governor that such a ruling has been made, the non-partisan state demographer authorized in article III section 2, shall begin the preparation of senatorial districting plans and maps using the following methods:

(1) Districts shall be established on the basis of population. Districts shall each have a population as nearly equal as practicable to the ideal population for such districts, determined by dividing the number of districts to be established into the population of the state reported in the federal decennial census. No county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

(2) Districts shall be established in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The non-partisan state demographer shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the non-partisan state demographer shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the non-partisan state demographer shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The non-partisan state demographer shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the non-partisan state demographer shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

(3) Districts shall be composed of convenient contiguous territory. Areas which meet only at the points of adjoining corners are not contiguous.

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(4) To the extent consistent with subdivisions 1, 2, and 3 of this subsection, district boundaries shall coincide with the boundaries of political subdivisions of the state. The number of counties and cities divided among more than one district shall be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous, but this preference shall not apply to a legislative district boundary drawn along a county line which passes through a city that lies in more than one county.

(5) Preference shall be that districts are compact in form, but the standards established by subdivisions 1, 2, 3, and 4 of this subsection take precedence over compactness where a conflict arises between compactness and these standards. In general, compact districts are those which are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries.

3. Within sixty days after the population of this state is reported to the President for each decennial census of the United States, [and] or within sixty days after notification by the governor that a reapportionment has been invalidated by a court of competent jurisdiction, the state committee of each of the two political parties casting the highest vote for governor at the last preceding election shall, at a committee meeting duly called, select by a vote of the individual committee members, and thereafter submit to the governor a list of ten persons, and within thirty days thereafter the governor shall appoint a commission of ten members, five from each list, to reapportion the thirty-four senatorial districts and to establish the numbers and boundaries of said districts.

If either of the party committees fails to submit a list within such time the governor shall appoint five members of his own choice from the party of the committee so failing to act.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

4. Within six months after the population of this state is reported to the President for each decennial census of the United States or in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within six months after notification by the governor that such a ruling has been made, the non-partisan state demographer shall file with the secretary of state and with the senatorial apportionment commission a tentative plan of apportionment and map of the proposed districts.

The commissioners so selected shall [on the fifteenth day, excluding Sundays and holidays, after all members have been selected] within ten days of receiving the tentative plan of apportionment and map of the proposed districts required by subsection 4 of this section, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary [and]. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the secretary of the senate within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable. The commission may make changes to the tentative plan of apportionment and map of the proposed districts received from the non-partisan state demographer provided that such changes are consistent with this section and approved by a vote of at least seven-tenths of the commissioners. If no changes are made or approved as provided for in this subsection, the tentative plan of apportionment and map of proposed districts shall become final. Not later than two months after receiving the tentative plan of apportionment and map of the proposed districts, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts.

[The commission shall reapportion the senatorial districts by dividing the population of the state by the number thirty-four and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure; no county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or

city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven members.

After the statement is filed senators shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the senate shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter senators shall be elected according to such districts until a reapportionment is made as herein provided.]

Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session, but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

No reapportionment shall be subject to the referendum.

Section 12. 1. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This subsection shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

2. After the effective date of this section, no senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist. In addition, no senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist until the expiration of one calendar year after the conclusion of the session of the general assembly in which the member or employee last served and where such service was after the effective date of this section. Any purposeful violation of this subsection shall be punishable by a term of imprisonment of up to one year or the imposition of a fine of up to one thousand dollars or both. The Missouri Ethics Commission or its successor agency is authorized to enforce this section as provided by law.

3. For purposes of this section, the term "lobbyist" means any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the

purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official.

Section 16(a). 1. No senator or representative or their employees or staff shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. Senators or representatives and their employees and staff may accept informational material such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, accept items that are available or distributed free of charge to members of the general public, or accept food or beverage provided at a widely attended event that includes at least twenty-five private persons and relates to the official's duties. All gifts by a lobbyist or lobbyist principal to a senator or representative or their employees or staff shall be reported to the Missouri Ethics Commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient. Candidates for senator or representative, including candidates for reelection, or candidates for offices within the senate or house may accept campaign contributions consistent with this article and applicable campaign finance law. Nothing in this section shall prevent individuals from receiving gifts, family support or anything of value from those related to them within the fourth degree by blood or marriage. The dollar limitations of this section shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. Any purposeful violation of this section shall be punishable by a term of imprisonment of up to six months or the imposition of a fine of up to five hundred dollars or both. The Missouri Ethics Commission or its successor agency is authorized to enforce this section as provided by law.

2. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly, and is registered as a lobbyist with the Missouri Ethics Commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the Missouri Ethics Commission or its successor agency.

Section 19. 1. Senators and representatives shall, in all cases except treason, felony, offenses under this article, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place.

2. Legislative records shall be public records and subject to generally applicable state laws governing public access to public records, including the "Sunshine Law." Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators, their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member, their employees and staff. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate, respectively.

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3. Legislative proceedings, including committee proceedings, shall be public meetings subject to generally applicable law governing public access to public meetings, including the "Sunshine Law." Open public meetings of legislative proceedings shall be subject to recording by citizens, so long as the proceedings are not materially disrupted.

Section 20(c). No senator or representative or their employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. Any purposeful violation of this section shall be punishable by a term of imprisonment of up to one year or the imposition of a fine of up to one thousand dollars or both.

Section 20(d).

1. Unlimited campaign contributions to candidates for legislative offices are banned. In addition to other campaign contribution limitations or restrictions provided for by law, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for legislative office shall not exceed the following:
   (1) To elect an individual to the office of state senator, two thousand seven hundred dollars; and
   (2) To elect an individual to the office of state representative, two thousand seven hundred dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this subsection, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the Missouri Ethics Commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after 2015.

2. No contribution to a legislative candidate shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. In determining if a contribution to a candidate for legislative office is made or accepted with the intent to circumvent the contribution limits imposed in this section, one factor that may be considered is whether the contribution is received from a committee or organization that is, at the time the contribution was made, primarily funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. For purposes of this subsection, a committee or organization is "primarily funded by a single person, individual, or other committee" when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

4. No contribution to a candidate for legislative office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

5. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the Missouri Ethics Commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

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6. For purposes of this section, the following terms are defined as follows:

(1) "Candidate", an individual who seeks nomination or election to the house or senate or as an officer of the house or senate, an individual who seeks nomination by the individual's political party for election to the house or senate or as an officer of the house or senate, and an individual who is a write-in candidate for the house or senate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

h. Any payment or expenditure by any person other than a candidate or a candidate committee made in connection with any candidate that is authorized, requested, suggested, or fostered by or made in cooperation with a candidate, candidate committee, or agents of the candidate or candidate committee; or

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i. Any payment or expenditure for any communication which republishes, disseminates, or distributes in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or agents of the candidate or candidate committee, other than a photograph obtained from a public source.

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

d. The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders.

(c) In determining whether a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to a candidate's opponent is a contribution for purposes of this section, the following non-exclusive list of factors may be considered:

a. Information not generally available to the public regarding the candidate's campaign, plans, projects, activities, or needs is material to the creation, production or distribution of the communication;

b. The person discusses or negotiates the communication with the candidate, candidate committee or an agent of the candidate or candidate committee prior to the date the communication is publicly disseminated or distributed;

c. The person and the candidate or candidate committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting or legal services, or other non-campaign services;

d. Whether a payment for a covered communication for a candidate for legislative office is made by a person who is a coordinated spender with respect to the candidate.

(d) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;
b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;
c. The person made contributions to the candidate;
d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the

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candidate;

e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" a communication conveyed to five hundred or more members of a general public audience that refers to a clearly identified candidate and:

(a) Either:

a. Contains words such as "vote", "oppose", "support", "elect", "defeat", or "reject," in expressly advocating the election or defeat of the candidate; or

b. Is made on or after January first of the year of the election in which the candidate seeks office, and is susceptible to no reasonable interpretation other than as an appeal to vote for or against a candidate; and

(b) Is:

a. A broadcast, cable or satellite audio or video communication or internet communication; or

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b. Printed advertisements, pamphlets, circulars, flyers, brochures, or a billboard.

(c) A communication over the internet is a "covered communication" only if it is placed for a fee on another person's web site.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

7. Any purposeful violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.
(2) For the second and subsequent violations, a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

8. The Missouri Ethics Commission or its successor agency is authorized to enforce this section as provided by law.

Section 20(e). No political fundraising activities or political fundraising event, including the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party or political committee, shall occur in or on any premises, property or building owned, leased or controlled by the house of representatives, senate or general assembly. Any purposeful violation of this section shall be punishable by imprisonment for up to one year or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions. The Missouri Ethics Commission or its successor agency is authorized to enforce this section as provided by law.

Section 20(f). If any provision of sections 2, 7, 12, 16(a), 19, 20(c), 20(d) or 20(e) or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-156)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article III. (Received December 4, 2015)

## Date

December 23, 2015

## Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

If there is a significant increase in the number of complaints or referrals, the office may seek an additional appropriation.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

If additional persons are sentenced to the custody of the department due to the provisions of this legislation, the department will incur a corresponding increase of direct offender costs either through incarceration (fiscal year 2015 average of $16.809 per offender, per day, or an annual cost of $6,135 per inmate) or through supervision provided by the Board of Probation and Parole (fiscal year 2015 average of $6.04 per offender, per day or an annual cost of $2,205 per offender).

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this petition will not have a fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this initiative petition revises Article III of the Missouri Constitution by amending Sections 2, 7, 12 and 19 and enacting five new sections. Section 5 is repealed but reenacted with changes in Section 7.

The initiative creates the post of "non-partisan State Demographer" to oversee the redistricting process for the state House and Senate districts. The demographer is to appointed by the Governor and shall serve a term of five years. This demographer will be unable to hold elected office for four years following the filing of the new legislative districts. The redistricting process shall maximize partisan fairness and competitiveness.

Legislators and their employees are prohibited from lobbying for at least one year after the conclusion of the session during which they vacate office, and from acting as paid consultants while in office. Legislators and their staff are prohibited from accepting a gift in excess of five dollars, per occurrence. There is a built in CPI adjustment for this amount. Political fundraising activities and events may not be held in any location owned by, or under the control of, the House, Senate or General Assembly.

It mandates that legislative records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms shall be public. It allows explicitly identified legislative proceedings as open meetings and authorizes recording of such proceedings by citizens.

Legislators and staff are prohibited from engaging in sexual harassment.

Campaign contributions for state senators and representatives are limited to $2,700, with CPI adjustments made in even-numbered years. There are penalty provisions included for each of the prohibitions, along with a severability clause. The Missouri Ethics Commission is authorized to enforce this section.

This proposal could have an impact on their office. There is currently a State Demographer, with statutory duties that extend beyond those of legislative reapportionment. If the existing State Demographer would be expected to assume the role of "Non-partisan State Demographer", there would be no fiscal impact. However, if that post is filled by another individual, the salary and benefits costs would be an estimated

$125,993 in fiscal year 2021, adjusted for inflation. In either scenario, the cost for other staff hired for the purposes of redistricting would remain the same.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **Metropolitan Community College** indicated there is no anticipated fiscal impact for their college.

Officials from the **University of Missouri** indicated they have reviewed this initiative petition and there is no anticipated financial impact.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for fiscal year 2017, $61,107 for fiscal year 2018 and $61,734 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Prohibiting a member of the general assembly and their staff from acting, serving, or registering as a lobbyist during term of office and for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a member of general assembly or a staff member of the general assembly to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

•$15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

•1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

•If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for FTE, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate annual operating costs will increase at least $61,000, may increase an additional $125,000, and may result in minimal incarceration costs. Local governmental entities report no fiscal impact.

RECEIVED
DEC 04 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 4, 2015

16-155

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article III, version 33 (2016-155)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on December 4, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-155

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 DEC -4 AM 8:42
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this _____day of _____, A.D. 201_____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-155

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article III of the Constitution is revised by repealing Section 5, amending Sections 2, 7, 12 and 19 and adopting 5 new sections to be known as Article III Sections 16(a), 20(c), 20(d), 20(e) and 20(f) to read as follows:

Section 2. 1. There is hereby established the post of "non-partisan state demographer." The non-partisan state demographer shall acquire appropriate information to develop procedures in preparation for drawing legislative redistricting maps on the basis of each federal census for presentation to the house apportionment commission and the senatorial apportionment commission.

2. The non-partisan state demographer shall be appointed by the Governor through a merit based process. The non-partisan state demographer shall serve a term of five years and may be reappointed. The non-partisan state demographer shall be disqualified from holding office as a member of the general assembly for four years following the date of the presentation of his or her most recent legislative redistricting map to the house apportionment commission or the senatorial apportionment commission.

3. The house of representatives shall consist of one hundred sixty-three members elected at each general election and apportioned [in the following manner:] as provided in this section.

4. Within ten days after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within ten days after notification by the governor that such a ruling has been made, the non-partisan state demographer shall begin the preparation of legislative districting plans and maps using the following methods:

(1) Districts shall be established on the basis of population. Legislative districts shall each have a population as nearly equal as practicable to the ideal population for such districts, determined by dividing the number of districts to be established into the population of the state reported in the federal decennial census.

(2) Districts shall be established in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The non-partisan state demographer shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the non-partisan state demographer shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the non-partisan state demographer shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The non-partisan state demographer shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the non-partisan state demographer shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional

seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

(3) Districts shall be composed of convenient contiguous territory. Areas which meet only at the points of adjoining corners are not contiguous.

(4) To the extent consistent with subdivisions 1, 2, and 3 of this subsection, district boundaries shall coincide with the boundaries of political subdivisions of the state. The number of counties and cities divided among more than one district shall be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous, but this preference shall not apply to a legislative district boundary drawn along a county line which passes through a city that lies in more than one county.

(5) Preference shall be that districts are compact in form, but the standards established by subdivisions 1, 2, 3, and 4 of this subsection take precedence over compactness where a conflict arises between compactness and these standards. In general, compact districts are those which are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries.

5. Within sixty days after the population of this state is reported to the President for each decennial census of the United States [and] or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

6. Within six months after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within six months after notification by the governor that such a ruling has been made, the non-partisan state demographer shall file with the secretary of state and with the house apportionment commission a tentative plan of apportionment and map of the proposed districts.

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The commissioners so selected shall, [on the fifteenth day, excluding Sundays and holidays, after all members have been selected] within ten days of receiving the tentative plan of apportionment and map of the proposed districts, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary[and]. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

The commission may make changes to the tentative plan of apportionment and map of the proposed districts received from the non-partisan state demographer provided that such changes are consistent with this section and approved by a vote of at least seven-tenths of the commissioners. If no changes are made or approved as provided for in this subsection, the tentative plan of apportionment and map of proposed districts shall become final. Not later than two months of receiving the tentative plan of apportionment and map of the proposed districts, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts.

[The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.

Each district shall be composed of contiguous territory as compact as may be.

Not later than five months after the appointment of the commission, the commission shall receive the tentative plan of apportionment and map of the proposed districts ordered in subsection 4 of this section and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.]

Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

No reapportionment shall be subject to the referendum.

[Section 5. The senate shall consist of thirty-four members elected by the qualified voters of the respective districts for four years. For the election of senators, the state shall be divided into convenient districts of contiguous territory, as compact and nearly equal in population as may be.]

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Section 7. 1. The senate shall consist of thirty-four members elected by the qualified voters of the senatorial districts for a term of four years. Senatorial districts shall be apportioned as provided for in this section.

2. Within ten days after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within ten days after notification by the governor that such a ruling has been made, the non-partisan state demographer authorized in article III section 2, shall begin the preparation of senatorial districting plans and maps using the following methods:

(1) Districts shall be established on the basis of population. Districts shall each have a population as nearly equal as practicable to the ideal population for such districts, determined by dividing the number of districts to be established into the population of the state reported in the federal decennial census. No county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

(2) Districts shall be established in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The non-partisan state demographer shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the non-partisan state demographer shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the non-partisan state demographer shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The non-partisan state demographer shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the non-partisan state demographer shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

(3) Districts shall be composed of convenient contiguous territory. Areas which meet only at the points of adjoining corners are not contiguous.

(4) To the extent consistent with subdivisions 1, 2, and 3 of this subsection, district boundaries shall coincide with the boundaries of political subdivisions of the state. The number of counties and cities divided among more than one district shall be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous, but this preference shall not apply to a legislative district boundary drawn along a county line which passes through a city that lies in more than one county.

16-155

(5) Preference shall be that districts are compact in form, but the standards established by subdivisions 1, 2, 3, and 4 of this subsection take precedence over compactness where a conflict arises between compactness and these standards. In general, compact districts are those which are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries.

3. Within sixty days after the population of this state is reported to the President for each decennial census of the United States, [and] or within sixty days after notification by the governor that a reapportionment has been invalidated by a court of competent jurisdiction, the state committee of each of the two political parties casting the highest vote for governor at the last preceding election shall, at a committee meeting duly called, select by a vote of the individual committee members, and thereafter submit to the governor a list of ten persons, and within thirty days thereafter the governor shall appoint a commission of ten members, five from each list, to reapportion the thirty-four senatorial districts and to establish the numbers and boundaries of said districts.

If either of the party committees fails to submit a list within such time the governor shall appoint five members of his own choice from the party of the committee so failing to act.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

4. Within six months after the population of this state is reported to the President for each decennial census of the United States or in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within six months after notification by the governor that such a ruling has been made, the non-partisan state demographer shall file with the secretary of state and with the senatorial apportionment commission a tentative plan of apportionment and map of the proposed districts.

The commissioners so selected shall [on the fifteenth day, excluding Sundays and holidays, after all members have been selected] within ten days of receiving the tentative plan of apportionment and map of the proposed districts required by subsection 4 of this section, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary [and]. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the secretary of the senate within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable. The commission may make changes to the tentative plan of apportionment and map of the proposed districts received from the non-partisan state demographer provided that such changes are consistent with this section and approved by a vote of at least seven-tenths of the commissioners. If no changes are made or approved as provided for in this subsection, the tentative plan of apportionment and map of proposed districts shall become final. Not later than two months after receiving the tentative plan of apportionment and map of the proposed districts, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts.

[The commission shall reapportion the senatorial districts by dividing the population of the state by the number thirty-four and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure; no county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven members.

After the statement is filed senators shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the senate shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter senators shall be elected according to such districts until a reapportionment is made as herein provided.]

Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session, but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

No reapportionment shall be subject to the referendum.

Section 12. 1. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This subsection shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

2. After the effective date of this section, no senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist. In addition, no senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist until the expiration of one calendar year after the conclusion of the session of the general assembly in which the member or employee last served and where such service was after the effective date of this section. Any purposeful violation of this subsection shall be punishable by a term of imprisonment of up to one year or the imposition of a fine of up to one thousand dollars or both. The Missouri Ethics Commission or its successor agency is authorized to enforce this section as provided by law.

3. For purposes of this section, the term "lobbyist" means any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official.

Section 16(a). 1. No senator or representative or their employees or staff shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. Senators or representatives and their employees and staff may accept informational material such

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as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, accept items that are available or distributed free of charge to members of the general public, or accept food or beverage provided at a widely attended event that includes at least twenty-five private persons and relates to the official's duties. All gifts by a lobbyist or lobbyist principal to a senator or representative or their employees or staff shall be reported to the Missouri Ethics Commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient. Candidates for senator or representative, including candidates for reelection, or candidates for offices within the senate or house may accept campaign contributions consistent with this article and applicable campaign finance law. Nothing in this section shall prevent individuals from receiving gifts, family support or anything of value from those related to them within the fourth degree by blood or marriage. The dollar limitations of this section shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. Any purposeful violation of this section shall be punishable by a term of imprisonment of up to six months or the imposition of a fine of up to five hundred dollars or both. The Missouri Ethics Commission or its successor agency is authorized to enforce this section as provided by law.

2. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly, and is registered as a lobbyist with the Missouri Ethics Commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the Missouri Ethics Commission or its successor agency.

Section 19. 1. Senators and representatives shall, in all cases except treason, felony, offenses under this article, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place.

2. Legislative records shall be public records and subject to generally applicable state laws governing public access to public records, including the "Sunshine Law." Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators, their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member, their employees and staff. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate, respectively.

3. Legislative proceedings, including committee proceedings, shall be public meetings subject to generally applicable law governing public access to public meetings, including the "Sunshine Law." Open public meetings of legislative proceedings shall be subject to recording by citizens, so long as the proceedings are not materially disrupted.

Section 20(c). No senator or representative or their employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or

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implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. Any purposeful violation of this section shall be punishable by a term of imprisonment of up to one year or the imposition of a fine of up to one thousand dollars or both.

Section 20(d).

1. Unlimited campaign contributions to candidates for legislative offices are banned. In addition to other campaign contribution limitations or restrictions provided for by law, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for legislative office shall not exceed the following:
   (1) To elect an individual to the office of state senator, two thousand seven hundred dollars; and
   (2) To elect an individual to the office of state representative, two thousand seven hundred dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this subsection, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the Missouri Ethics Commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after 2015.

2. No contribution to a legislative candidate shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. In determining if a contribution to a candidate for legislative office is made or accepted with the intent to circumvent the contribution limits imposed in this section, one factor that may be considered is whether the contribution is received from a committee or organization that is, at the time the contribution was made, primarily funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. For purposes of this subsection, a committee or organization is "primarily funded by a single person, individual, or other committee" when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

4. No contribution to a candidate for legislative office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

5. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the Missouri Ethics Commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

6. For purposes of this section, the following terms are defined as follows:

   (1) "Candidate", an individual who seeks nomination or election to the house or senate or as an officer of the house or senate, an individual who seeks nomination by the individual's political party for election to the house or senate or as an officer of the house or senate, and an individual who is a write-in candidate for the house or senate.

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(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

h. Any payment or expenditure by any person other than a candidate or a candidate committee made in connection with any candidate that is authorized, requested, suggested, or fostered by or made in cooperation with a candidate, candidate committee, or agents of the candidate or candidate committee; or

i. Any payment or expenditure for any communication which republishes, disseminates, or distributes in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or agents of the candidate or candidate committee, other than a photograph obtained from a public source.

(b) "Contribution" to a candidate or candidate committee does not include:

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a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

d. The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders.

(c) In determining whether a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to a candidate's opponent is a contribution for purposes of this section, the following non-exclusive list of factors may be considered:

a. Information not generally available to the public regarding the candidate's campaign, plans, projects, activities, or needs is material to the creation, production or distribution of the communication;

b. The person discusses or negotiates the communication with the candidate, candidate committee or an agent of the candidate or candidate committee prior to the date the communication is publicly disseminated or distributed;

c. The person and the candidate or candidate committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting or legal services, or other non-campaign services;

d. Whether a payment for a covered communication for a candidate for legislative office is made by a person who is a coordinated spender with respect to the candidate.

(d) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;
b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;
c. The person made contributions to the candidate;
d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;
e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or

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suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" a communication conveyed to five hundred or more members of a general public audience that refers to a clearly identified candidate and:

(a) Either:

a. Contains words such as "vote", "oppose", "support", "elect", "defeat", or "reject," in expressly advocating the election or defeat of the candidate; or

b. Is made on or after January first of the year of the election in which the candidate seeks office, and is susceptible to no reasonable interpretation other than as an appeal to vote for or against a candidate; and

(b) Is:

a. A broadcast, cable or satellite audio or video communication or internet communication; or

b. Printed advertisements, pamphlets, circulars, flyers, brochures, or a billboard.

(c) A communication over the internet is a "covered communication" only if it is placed for a fee on another person's web site.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any

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caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

7. Any purposeful violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.
(2) For the second and subsequent violations, a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

8. The Missouri Ethics Commission or its successor agency is authorized to enforce this section as provided by law.

Section 20(e). No political fundraising activities or political fundraising event, including the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party or political committee, shall occur in or on any premises, property or building owned, leased or controlled by the house of representatives, senate or general assembly. Any purposeful violation of this section shall be punishable by imprisonment for up to one year or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions. The Missouri Ethics Commission or its successor agency is authorized to enforce this section as provided by law.

Section 20(f). If any provision of sections 2, 7, 12, 16(a), 19, 20(c), 20(d) or 20(e) or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-155)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article III. (Received December 4, 2015)

## Date

December 23, 2015

## Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

If there is a significant increase in the number of complaints or referrals, the office may seek an additional appropriation.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

If additional persons are sentenced to the custody of the department due to the provisions of this legislation, the department will incur a corresponding increase of direct offender costs either through incarceration (fiscal year 2015 average of $16.809 per offender, per day, or an annual cost of $6,135 per inmate) or through supervision provided by the Board of Probation and Parole (fiscal year 2015 average of $6.04 per offender, per day or an annual cost of $2,205 per offender).

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this petition will not have a fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this initiative petition revises Article III of the Missouri Constitution by amending Sections 2, 7, 12 and 19 and enacting five new sections. Section 5 is repealed but reenacted with changes in Section 7.

The initiative creates the post of "non-partisan State Demographer" to oversee the redistricting process for the state House and Senate districts. The demographer is to appointed by the Governor and shall serve a term of five years. This demographer will be unable to hold elected office for four years following the filing of the new legislative districts. The redistricting process shall maximize partisan fairness and competitiveness.

Legislators and their employees are prohibited from lobbying for at least one year after the conclusion of the session during which they vacate office, and from acting as paid consultants while in office. Legislators and their staff are prohibited from accepting a gift in excess of five dollars, per occurrence. There is a built in CPI adjustment for this amount. Political fundraising activities and events may not be held in any location owned by, or under the control of, the House, Senate or General Assembly.

It mandates that legislative records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms shall be public. It allows explicitly identified legislative proceedings as open meetings and authorizes recording of such proceedings by citizens.

Legislators and staff are prohibited from engaging in sexual harassment.

Campaign contributions for state senators and representatives are limited to $2,700, with CPI adjustments made in even-numbered years. There are penalty provisions included for each of the prohibitions, along with a severability clause. The Missouri Ethics Commission is authorized to enforce this section.

This proposal could have an impact on their office. There is currently a State Demographer, with statutory duties that extend beyond those of legislative reapportionment. If the existing State Demographer would be expected to assume the role of "Non-partisan State Demographer", there would be no fiscal impact. However, if that post is filled by another individual, the salary and benefits costs would be an estimated

$125,993 in fiscal year 2021, adjusted for inflation. In either scenario, the cost for other staff hired for the purposes of redistricting would remain the same.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **Metropolitan Community College** indicated there is no anticipated fiscal impact for their college.

Officials from the **University of Missouri** indicated they have reviewed this initiative petition and there is no anticipated financial impact.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for fiscal year 2017, $61,107 for fiscal year 2018 and $61,734 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Prohibiting a member of the general assembly and their staff from acting, serving, or registering as a lobbyist during term of office and for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a member of general assembly or a staff member of the general assembly to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

•$15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

•1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

•If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for FTE, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Department of Transportation,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate annual operating costs will increase at least $61,000, may increase an additional $125,000, and may result in minimal incarceration costs. Local governmental entities report no fiscal impact.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
DEC 02 2015
STATE AUDITORS OFFICE

16154

December 2, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Winston Apple regarding a proposed statutory amendment to Chapter 128 (2016-154)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Winston Apple on December 2, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-154

County:_____
Page number: _____

**It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021 RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail, or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.**

## INITIATIVE PETITION

**To the Honorable Jason Kander, Secretary of State for the state of Missouri:**

**We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.**

**(Official Ballot Title)**

RECEIVED
DEC -2 AM 8:50
SEC. OF STATE

**CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____**

**I, _____, being first duly sworn, say (print of type names of signers)**

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong Dist | NAME (Print or Typed) |
|---|---|---|---|---|---|---|
| 1. | | | | | | |
| 2. | | | | | | |
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| 12. | | | | | | |
| 13. | | | | | | |
| 14. | | | | | | |
| 15. | | | | | | |

**Signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____County.**

**FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.**

**I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____.**

_____
**Signature of Affiant (Person obtaining signatures)**

_____
**(Printed Name of Affiant)**

_____
**Address of Affiant**

**Subscribed and sworn to before me this ____ day of _____, A. D. _____.**

_____
**Signature of Notary**
**Address of Notary: _____**

_____

**Notary Public (Seal)**
**My commission expires _____**

16-154

*Be it enacted by the people of the state of Missouri:*

*Section 128.020 of the Revised Missouri Statutes is hereby repealed, and sections 128.346 and 128.348 are amended, to read as follows:*

[128.020. When any new apportionment shall be made of the members to be elected to the house of representatives of the United States, whereby the number of electors to which this state may be entitled shall be increased or diminished, it shall be the duty of the governor to lay off the state into as many districts as shall be equal to the number of electors to which this state shall then be entitled, so that the said districts contain, as near as may be, an equal number of inhabitants.]

128.346. The districts established by the provisions of sections 128.400 to 128.440 for the election of representatives to the Congress of the United States shall be effective beginning with election to the 108th Congress and through the election of the 112th Congress. The districts established by sections 128.451 to 128.458 for the election of representatives to the Congress of the United States shall be effective beginning with the election to the 113th Congress. Effective beginning with the election of representatives to the 116th Congress, representatives to the Congress of the United States shall be elected at large, in the manner prescribed by section 128.348.

128.348. 1. The state of Missouri is hereby divided into nine congressional districts. Effective with the election for the 113th Congress, the state of Missouri shall consist of eight congressional districts. The legal voters of each district shall elect one member of Congress of the United States. Effective beginning with the election for the 116th Congress, representatives to the Congress of the United States shall be elected at large.

2. A political party may nominate a total number of candidates equal to the number of electors (representatives) to which the state of Missouri is entitled.

3. Political parties are free to determine their candidates through a primary election, caucuses, a statewide party nominating convention, or a combination of caucuses and a statewide party nominating convention.

4. A primary election will be the default method for parties to select candidates. Should a political party determine that they will select candidates by caucuses, statewide party convention, or a combination of caucuses and a statewide party convention, a legally designated representative of the party will notify the secretary of state, in writing, of the method to be used, no later than the first day of April of an election year.

5. If a political party elects to use a primary election as the means of determining its candidates for the general election, all qualified candidates who file for said party's nominations will appear on the primary ballot for that party. Registered voters will be allowed to vote in one, and only one, party's primary election, and for one, and only one, candidate from that party.

6. An ordered list of candidates for each party, equal to the number of seats to which the state of Missouri is entitled to in a given Congress, will be placed on the ballot in the general election, biased on the number of votes received by each candidate in the primary election for each party.

7. Should a party elect to nominate candidates for the general election by means of caucuses and/or a statewide party convention, an ordered list of that party's candidates shall be filed with the secretary of state's office no less than 90 days before the general election date in election years.

8. To qualify for a place on the ballot, an independent candidate must present petitions signed by one-quarter of one percent of the legal votes cast for the sum of all candidates for the United States House of Representatives from Missouri in the general election last preceding. Said petitions must be delivered to the secretary of state no later than one hundred and twenty days before the general election.

9. The signatures on petitions submitted by independent candidates and political parties shall be subject to verification according to the procedures in the code of state regulations for independent candidate petitions in force at the time the petitions are submitted.

10. In each general election, each voter will cast a single vote for a political party, and its ordered list of candidates, or for an independent candidate for Congress appearing on the ballot, or a single write-in vote for a candidate not appearing on the ballot, having properly registered with the secretary of state as a write-in candidate.

10. Independent candidates appearing on the ballot in the general election will be considered, as a group, to constitute an ordered party list, based on the total number of votes for each independent candidate, for purposes of determining how many independent candidates will be designated as representatives based on results in the general election.

11. The number of representatives from each party, including independent candidates, will be based on the percentage of the total votes cast in the general election received by each party, or by independent candidates as a group. For as long as the state of Missouri is entitled to elect eight representatives to Congress, one seat will be awarded for each 12.5% of the total vote, rounded appropriately. Should the number of representatives to which the state of Missouri be entitled increase or decrease, the percentage required for each seat will be adjusted accordingly.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-154)**

## Subject

Initiative petition from Winston Apple regarding a proposed amendment to Chapter 128 of the Revised Statutes of Missouri. (Received December 2, 2015)

## Date

December 22, 2015

## Description

This proposal would amend Chapter 128 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated no fiscal impact to their department.

Officials from the **Office of Administration** indicated there should be no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated this proposal will require changes be made regarding elections in the State of Missouri. These changes will likely include: the re-programing of voting machines, changes to the Missouri Centralized Voter Registration system, and postage costs for absentee ballots. Each of these changes is likely to include additional costs which must be covered by both the State of Missouri and local election authorities. Under this proposal, the State and local election authorities are also likely to incur additional costs associated with petition signature verification.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from **Metropolitan Community College** indicated there is no anticipated impact for their college.

Officials from **St. Louis Community College** indicated this initiative petition will not have fiscal impact to their college.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri,** and **University of Missouri.**

**Fiscal Note Summary**

State and local governments are likely to incur unknown additional election related costs.

16-153

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

November 25, 2015

RECEIVED
NOV 25 2015
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed statutory amendment to Chapters 196 & 210 (2016-153)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Bradley Ketcher on November 25, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-153 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

RECEIVED
2015 NOV 25 AM 8:51
SEC. OF STATE

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

My commission expires _____

_____
Address of Notary (Street, City, State & Zip Code)

16-153

Be it enacted by the people of the State of Missouri:

Section 196.1131 is enacted and Sections 196.1003 and 210.172 of the Revised Statues of Missouri are amended to read as follows:

196.1131. 1. For the sole and exclusive purpose of providing funding for treatment and prevention of childhood cancer, on and after January 1, 2017, a tax equal to ten cents before discounts and deals shall be levied and imposed upon the sale of each package of twenty cigarettes, or lesser portion thereof. The tax imposed by this section shall be in addition to other taxes imposed by law on the sale of cigarette packages and shall be collected in the same manner and at the same time as the taxes imposed by law upon the sale of packages of cigarettes.

2. The Childhood Cancer Treatment and Prevention Fund is hereby created within the state treasury which shall consist of funds from the taxes established in subsection 1 of this section, appropriated moneys, gifts, contributions, grants, or bequests.

3. Beginning January 1, 2017, the state treasurer without legislative action shall credit to and place in the Childhood Cancer Treatment and Prevention Fund all moneys collected as a result of the tax imposed by subsection 1 of this section as said moneys are received. All of the moneys from the tax imposed by this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the Childhood Cancer Treatment and Prevention Fund and the accounts created within the Childhood Cancer Treatment and Prevention Fund. Any moneys credited to and placed in the Childhood Cancer Treatment and Prevention Fund and any account created by this section shall be appropriated and used only for a purpose authorized by this section and shall not be subject to the provisions of section 33.080, RSMo. The unexpended balances of such moneys shall remain in the Childhood Cancer Treatment and Prevention Fund and in the particular account in which the moneys are placed, and such balances shall not revert to the general revenue fund. All interest which accrues upon the moneys in any account within the Childhood Cancer Treatment and Prevention Fund shall be added to such account and shall not be credited to the general revenue fund. Except as otherwise provided in this section, generally applicable laws concerning use of public funds shall apply to the Childhood Cancer Treatment and Prevention Fund.

4. The Children's Trust Fund Board shall administer the fund. The fund shall be used exclusively for the treatment and prevention of childhood cancers, including through grants and contracts with the Childrens Health Insurance Program, other state agencies, political subdivisions and health care services providers.

5. No funding from the Childhood Cancer Treatment and Prevention Fund shall be used to fund abortion or any similar procedures. No funding from the Childhood Cancer Treatment and Prevention Fund shall be used to pay for research which is banned by Missouri law or federal law.

6. (1) The actual costs of collecting the tax imposed by this section shall be paid from the moneys in the Childhood Cancer Treatment and Prevention Fund as may be provided by law, not to exceed five percent of the total moneys collected;

(2) The department of revenue shall refund moneys overpaid or erroneously paid pursuant to this section as may be provided by law; and

(3) On a monthly basis, the director of the department of revenue shall determine whether the tax imposed by this section has caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to chapter 149, RSMo. If a reduction in the amount of moneys collected and deposited into any of those funds pursuant to chapter 149, RSMo has been caused by the tax imposed by this section, an amount equal to the amount of moneys that were not collected and deposited into that fund or funds because of the tax imposed by this section shall be transferred from the Childhood Cancer Treatment and Prevention Fund to the appropriate fund or funds. The aggregate amount transferred to the fair share fund, the health initiatives fund, and the state school moneys fund from the Childhood Cancer Treatment and Prevention Fund for any month shall not exceed three percent of the total moneys collected pursuant to this section during that same month.

7. The state auditor shall perform an annual audit of the funds and initiatives undertaken pursuant to this section, which shall include an evaluation of whether pre-existing funding for programs or initiatives has been reduced because of the new funding for such purposes provided through the Childhood Cancer Treatment and Prevention Fund or any of its accounts. Such audit shall be performed on a fiscal year basis. The state auditor shall make copies of each audit available to the public. Every three years the state auditor shall prepare a comprehensive report assessing the

16-153

work and progress of initiatives undertaken pursuant to this section. Such assessment report shall analyze the impact of the programs, grants, and contracts performed, shall be provided to the governor and the general assembly, and shall be available to the public.

8. The tax imposed by this section shall be imposed on all cigarettes in the possession or under the control of any dealer or distributor on and after 12:01 a.m. on January 1, 2017, as determined by department of revenue rule. The initiatives and programs authorized under this section shall be implemented as soon as reasonably practicable, but at least by July 1, 2017.

9. The additional revenue provided by the provisions of this section shall not be part of the "total state revenue" within the meaning of article X of the constitution. The expenditure of this additional revenue shall not be an "expense of state government" under article X of the constitution.

10. The net proceeds from the tax imposed by this section shall constitute new and additional funding for the initiatives and programs described in this section and shall not be used to replace existing funding as of August 28, 2016 for the same or similar initiatives and programs.

11. All of the provisions of this section shall be self-enforcing. All of the provisions of this section are severable. If any provision of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this section shall be and remain valid.

196.1003. Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this Act shall do one of the following:

(a) become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

(b) (1) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts (as such amounts are adjusted for inflation)

| | |
|---|---|
| 1999: | $.0094241 per unit sold after the date of enactment of this Act; |
| 2000: | $.0104712 per unit sold; |
| for each of 2001 and 2002: | $.0136125 per unit sold; |
| for each of 2003 through 2006: | $.0167539 per unit sold; |
| for each of 2007 and each year thereafter: | $.0188482 per unit sold. |

(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances

(A) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (i) in the order in which they were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow on account of units sold in the state in a particular year was greater than the [State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment)] Master Settlement Agreement payments, as determined under section IX(i) of that agreement, including after final determination of all adjustments, such manufacturer would have been required to make on account of such units sold had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(C) to the extent not released from escrow under subparagraphs (A) or (B), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

16-153

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this section shall

(A) be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this subsection, may impose a civil penalty to be paid to the State's general revenue fund in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;

(B) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this subsection, may impose a civil penalty to be paid to the State's general revenue fund in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

(C) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years.

Each failure to make an annual deposit required under this section shall constitute a separate violation. Any tobacco product manufacturer that violates the provisions of this section shall pay the State's cost and attorney's fees incurred during a successful prosecution under this section.

210.172. The board shall have the following powers and duties:

(1) To meet not less than twice annually at the call of the chairperson to conduct its official business;

(2) To require that at least eight of the board members authorize the disbursement of funds from the children's trust fund;

(3) To, one year after the appointment of the original board and annually thereafter, develop a state plan for the distribution and disbursement of funds in the children's trust fund. The plan developed under this subdivision shall assure that an equal opportunity exists for the establishment of prevention programs and the receipt of moneys from the children's trust fund in all geographic areas of this state. Such plan shall be transmitted to the governor, the president pro tem of the senate, the speaker of the Missouri house of representatives, and the appropriation committees of the Missouri senate and Missouri house of representatives, and shall be made available to the general public. In carrying out a plan developed under this subdivision, the board shall establish procedures to:

(a) Enter into contracts with public or private agencies, schools, or qualified individuals to establish community-based educational and service prevention programs with or without using the procurement procedures of the office of administration. Such prevention programs shall focus on the prevention of child abuse and neglect. Community-based service prevention programs shall include programs such as crisis care, parent aides, counseling, and support groups. Participation by individuals in any community-based educational or service prevention program shall be strictly voluntary. In awarding contracts under this paragraph, consideration shall be given by the board to factors such as need, geographic location diversity, coordination with or improvement of existing services, and extensive use of volunteers;

(b) Develop and publicize criteria for the awarding of contracts for programs to be supported with money from the children's trust fund within the limits of appropriations made for that purpose;

(c) Review and monitor expenditures of moneys from the children's trust fund on a periodic basis;

(d) Consult with applicable state agencies, commissions, and boards to help determine probable effectiveness, fiscal soundness, and need for proposed community-based educational and service prevention programs;

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(e) Facilitate information exchange between groups concerned with prevention programs;

(f) Provide for statewide educational and public informational conferences and workshops for the purpose of developing appropriate public awareness regarding the problems of families and children, of encouraging professional persons and groups to recognize and deal with problems of families and children, of making information regarding the problems of families and children and their prevention available to the general public in order to encourage citizens to become involved in the prevention of such problems, and of encouraging the development of community prevention programs; and

(g) Establish a procedure for an annual internal evaluation of the functions, responsibilities, and performance of the board, which evaluation shall be coordinated with the annual state plan of the board.

(e) Administer the Childhood Cancer Treatment and Prevention Fund and related grants and contracts.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-153)**

**Subject**

Initiative petition from Bradley Ketcher regarding a proposed amendment to Chapters 196 and 210 of the Revised Statutes of Missouri. (Received November 25, 2015)

**Date**

December 15, 2015

**Description**

This proposal would amend Chapters 196 and 210 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College, Children's Trust Fund,** and the **State Auditor's office.**

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated through the collection of a tax imposed on each package of twenty cigarettes, or lesser portion thereof, this proposal has the potential to significantly impact the Childhood Cancer Treatment and Prevention fund.

Their department has no means to calculate the impact from this tax.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** (DOR) indicated this petition will increase revenues to the Childhood Cancer Treatment and Prevention Fund by $49.7 million per year.

**Section 196.1131**
Effective January 1, 2017, this section imposes an additional 10 cents on a pack of cigarettes before discounts and deals. The DOR collects the tax in the same manner and at same time as the current taxes.

Based on 496.5 million packs of cigarettes stamped in Tax Year 2014 the DOR estimates total revenues of $49.7 million.

The DOR must refund moneys overpaid or erroneously paid pursuant to this section as provided by law. Each month, the Department Director must determine whether the tax imposed by this section caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to Chapter 149, RSMo. If a reduction exists, a like amount not collected and deposited into that fund or funds shall be transferred from the Childhood Cancer Treatment and Prevention Fund to the appropriate fund or funds.

**Administrative Impact:**

**Business Tax:**
Business Tax requires a floor stock tax form and cigarette stamp order forms be updated. Additionally, the SAGE 50 accounting system and cashiering records requires change. The DOR web pages will need to be updated and licensed wholesalers will need to be notified of the tax increase and the floor stock tax.

**Overall Impact:**

The DOR cannot determine on a monthly basis whether there has been a reduction in the money deposited in the fair share fund, health initiative fund, or the state schools fund. Wholesalers buy tax stamps without reference to the months in which the cigarettes bearing the stamps will be sold. For example, a wholesale may buy enough stamps for 3,000 packs of cigarettes. Those cigarettes may be sold in one month, two months, or six months. At best, the DOR could do an estimate on a calendar year of fiscal basis, but it would still only be an estimate.

Officials from the **Department of Public Safety** indicated their department sees no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated they assume no fiscal impact.

Officials from the **Office of Administration** (OA) indicated the proposal amends Sections 196.1003 and 210.172 RSMo., and Chapter 196 by adding Section 196.113, RSMo.

Section 196.1131 – enacts an additional $0.10/pack tax increase on cigarettes. The monies collected from this new tax would be deposited in the Childhood Cancer Treatment and Prevention Fund to be administered by the Children's Trust Fund Board. These funds will be used for the treatment and prevention of childhood cancers. The proposal allows up to 5% of the collections to be used for collection costs. On a monthly basis, the Director of the Department of Revenue shall determine if the new tax has caused a reduction in the amount of moneys collected and deposited in to the Fair Share, Health Initiatives or State School Moneys Funds. If so, up to three percent of the total moneys collected from the new tax shall be transferred to these funds.

The State Auditor shall perform an annual audit of the fund, which shall include an evaluation of whether preexisting funding for programs or initiatives has been reduced because of the new funding. Every three years, the auditor shall prepare a comprehensive report assessing work and progress of initiatives undertaken pursuant to the proposed new sections.

Section 196.1003 – changes escrow requirements for the Tobacco Master Settlement Agreement, with provisions to remove references to the State's allocable share of the total payments the manufacturer would have been required to make under the Master Settlement Agreement; it could adversely impact future Nonparticipating Manufacturer (NPM) adjustment arbitrations.

Section 210.172 – authorizes the Children's Trust Fund Board to administer the Childhood Cancer Treatment and Prevention Fund.

FISCAL IMPACT:
In fiscal year 2015, there was $81.7 million in cigarette excise taxes collected. OA assumes that the average pack of cigarettes retails for $4.50, translating to roughly 480.9 million packs sold in Missouri. OA further assumes that cigarette sales have a (0.8) elasticity. Therefore, OA estimates a tax increase of $0.10 in January 2017 will increase the "Childhood Cancer Treatment and Prevention Fund" by $22.9 million in fiscal year 2017 and $45.8 million once fully implemented in fiscal year 2018.

There is no way to truly know what impact these tax increases will have on demand due to smoking cessation efforts, other state and federal regulations, and the increase in sales of e-cigarettes. However, OA estimates that the tax increase will decrease the Fair Share Fund by $0.1 million in fiscal year 2017 and $0.3 million in fiscal year 2018 and thereafter, the Health Initiatives fund by $0.2 million in fiscal year 2017 and $0.3 million in fiscal year 2018 and thereafter, and the State School Moneys Fund by $0.4 million in fiscal year 2017 and $0.8 million in fiscal year 2018 and thereafter.

Further, since cigarette sales will decrease slightly, General Revenue will be reduced by $1.1 million, the School District Trust Fund will be reduced by $0.4 million, and local sales tax will be reduced by $1.5 million once fully implemented in fiscal year 2018, from the loss of sales tax.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated the initiative petition will not have any impact on their office.

Officials from **Greene County** indicated that there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **University of Missouri** indicated there is no fiscal impact on their university for this petition.

Officials from the **St. Louis Community College** indicated they do not estimate this will have significant fiscal impact on their college.

Officials from the **Children's Trust Fund** indicated costs to the Children's Trust Fund is estimated at $198,000 - $233,000 annually to implement and manage the Childhood Cancer Treatment and Prevention Fund. Included in this estimate is:

A minimum of 2-2.5 additional full-time employees (FTE's) totaling $110,000 - $135,000 needed (includes salary and benefits package). FTE's include Program Grants Manager and assistant with fiscal/accounting background/skills, as well as a Public Information Officer (.5). FTE positions and salaries are based upon existing positions that perform like functions for child abuse and neglect prevention fund. Estimates could be higher depending upon necessary qualifications and expertise required as a result of the technical medical nature of the proposed fund.

Additional costs estimated at $38,000 annually for existing personnel – Executive Director and Executive Assistant for fund/program oversight estimated at .33 % of current salary rate.

Additional expenses/costs for grant selection and review process, program implementation, grant evaluation, ongoing monitoring, and other necessary expenses directly related to implementation of this new fund, required office space & equipment for new FTE's, and to Office of Administration for procurement, budgetary and other functions estimated at $50,000 - $60,000 annually.

Monies to implement and operate the Childhood Cancer Treatment and Prevention Fund including cost of added FTE's would need to come directly from monies deposited by the State Treasurer into the specific fund proposed or from another source other than existing funds from the Children's Trust Fund which are dedicated solely for the purpose of child abuse/neglect prevention.

Also listed below are additional concerns with implementing this proposal as presented in its current form:

- The proposed amendment to Section 210.172, RSMo, outlining the powers and duties of the Children's Trust Fund Board proposes a subsection (e) as an additional power and duty of the board, when subsection (e) already exists in statute.
- Statutes in their current form prohibit the Children's Trust Fund Board from authorizing expenditures for any additional purpose other than for the prevention and alleviation of child abuse and neglect (Sections 210.171, 210.172, RSMo). This initiative petition fails to address other areas/statutory changes needed to manage and implement additional funds outside of child abuse and neglect prevention.
- The Children's Trust Fund Board in its current structure and make-up lacks the medical expertise needed to optimally and effectively administer funds for the purpose of preventing and treating childhood cancers (Section 210.170(1)(2)(3)(4)(5), RSMo).

- The Children’s Trust Fund board was created solely to administer and monitor funds for the prevention and alleviation of child abuse and neglect as defined in Section 210.171, RSMo as follows. As used in Sections 210.170 to 210.173, RSMo, and Section 143.1000, RSMo, the following terms shall mean: (1) "Board", the children's trust fund board created in Section 210.170, RSMo; (2) "Prevention program", any community-based educational or service program designed to prevent or alleviate child abuse or neglect.

Officials from the **State Auditor's office** (SAO) indicated they believe that the audit required under the petition would require approximately 1 FTE. However, given the SAO has consistently lapsed funds in recent years, the SAO believes it could absorb these costs within its current appropriation authority.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri,** and **Metropolitan Community College**.

**Fiscal Note Summary**

Estimated additional revenue to state government is $42 million to $50 million annually. The revenue will fund only programs and services allowed by the proposal. Local government revenues could decrease approximately $1.5 million annually due to decreased cigarette sales.

RECEIVED
NOV 23 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 23, 2015

16-152

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Edward Greim regarding a proposed constitutional amendment to Article IV (2016-152)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Edward Greim on November 20, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-752

County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 NOV 20 PM 3:56
MO SEC. OF STATE

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
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| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do □ do not □ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Address of Affiant

_____
(Printed Name of Affiant)

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My commission expires _____

16-152

NOTICE: You are advised that the proposed amendment to the constitution changes, repeals, or modifies by implication, or may be construed to change, repeal or modify by implication, Article IV of the Missouri Constitution and the following provisions of the Missouri Revised Statutes — Sections 33.080, 66.340, 66.350, 149.015, 149.021, 149.065, 149.160, 196.1003, 210.102, and 210.320. The proposed amendment enacts four new sections in Article IV of the Missouri Constitution, to be known as Sections 54, 54(a), 54(b), and 54(c).

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Article IV is amended by adopting four new sections to be known as Sections 54, 54(a), 54(b), and 54(c).

Section 54. The provisions of Sections 54 through 54(c) shall be known as the Early Childhood Health and Education Amendment. It shall be the public policy of this state to improve the health and education of children, from birth through age five, and to improve accountability for early childhood health and education funding.

Section 54(a). 1. There is hereby created the Early Childhood Health and Education Trust Fund. The fund shall consist of all moneys collected as provided in Section 54(c) and shall also include the balance of the Coordinating Board for Early Childhood Fund, which shall cease to exist as a discrete fund after its proceeds are transferred into the Early Childhood Health and Education Trust Fund upon the effective date of this section. Interest and moneys earned on the fund shall be deposited in the fund. Moneys in the fund may be invested by the state treasurer, and any income therefrom shall be credited to the fund. Any moneys credited to and deposited in the fund shall be used only for purposes which are authorized by this section, shall not be diverted to any other purpose, and shall not be subject to the provisions of section 33.080, or other similar law. The net proceeds from the moneys collected as provided in Section 54(c) shall constitute new and additional funding for the activities, initiatives, and programs and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs. The funds deposited in the fund and available for distribution to public and private entities shall be distributed as follows:

a. At least seventy-five percent (75%) of funds shall be disbursed in grants for improving the quality of and increasing access to Missouri early childhood education programs, including preschool, home visitation, parent and family support and education, professional development and training for early childhood development providers, and increasing coordination of and public information about the importance of early childhood development;

b. No less than ten percent (10%) and no more than fifteen percent (15%) of funds shall be disbursed in grants to Missouri hospitals or other health care facilities to improve access to quality early childhood health and development programs, including preventative health care, obesity prevention, infant mortality prevention, health and developmental screenings for Missouri children ages birth through five; and

c. No less than five percent (5%) and no more than ten percent (10%) of funds shall be disbursed in grants to provide evidenced-based smoking cessation and prevention programs for Missouri pregnant mothers and youth to be used solely for the purpose of establishing, maintaining, and enhancing activities, programs, and initiatives to promote tobacco use quit assistance and prevention, including a comprehensive statewide tobacco control program that incorporates the use of nicotine replacement therapy products regulated as drugs or devices by the United States food and drug administration under Chapter V of the Federal Food, Drug, and Cosmetic Act , and public health for tobacco-related diseases. The comprehensive statewide tobacco control program shall be consistent with the United States Centers for Disease Control and Prevention's, or its successor agency's, best practices and guidelines for tobacco control programs, if any, and shall be designed to be effective to prevent and reduce tobacco use, reduce the public's exposure to secondhand smoke, and identify and eliminate disparities related to tobacco use and its effects among different population groups. The components of the comprehensive statewide tobacco control program shall include, but not be limited to: state and community based interventions, health communication interventions, cessation interventions, surveillance and evaluation, and administration and management.

2. Unless modified by law, eligible administrative expenses shall include only those reasonable and necessary for: (1) Salaries, fringe benefits, expenses, and equipment of staff employed by the Early Childhood Commission, as defined in Section 54(b); (2) Expenses associated with cost sharing of salaries, fringe benefits, expenses, and equipment of staff employed or contracted by the Early Childhood Commission from any other state department or agency of the state; (3) Expenses of the Early Childhood Commission associated with contracting with not-for-profit entities; and (4) Expenses of the Early Childhood Commission associated with audits and outcome evaluations of programs and activities funded under this section. Unless modified by law, no more than three percent (3%) of the moneys deposited in the Early Childhood Health and Education Trust Fund shall be used for administrative expenses. The Commission shall establish guidelines and controls concerning grantees' administrative expenses associated with meeting requirements of grants.

Section 54(b). 1. As of the effective date of this section, the Coordinating Board for Early Childhood shall be reformed and shall be renamed the Early Childhood Commission. On the effective date of this section any of the Coordinating Board's programs, duties, obligations, powers, assets, and liabilities not assumed by the Early Childhood Commission under the express terms of this Section shall, unless otherwise provided by law, be taken up by the Early Childhood Commission. Any employees of the Coordinating Board for Early Childhood shall retain the same status with the Commission on the effective date of this section, and the executive director of the board shall be the first Administrator of the Commission, unless such employees or director are lawfully terminated.

2. In addition to the duties already provided under the laws establishing and governing the Coordinating Board for Early Childhood, the Commission shall also have the duty to administer and make grants from the Early Childhood Health and Education Trust Fund as provided in section 54(a) of this article, as may be provided by law. Only Missouri residents who are also legal residents of the United States are authorized to receive services or benefits from any funds generated by this Amendment, unless otherwise prohibited by state or federal law. All services or programs that derive from funds generated by this Amendment shall be performed in the state of Missouri. Only hospitals and health care facilities operating in the state of Missouri that maintain a license in good standing pursuant to Missouri's hospital or health care facility licensing laws shall be eligible to receive grants from the Early Childhood Health and Education Trust Fund pursuant to Section 54(a)(1)(b). The Commission shall have the power to hire an Administrator and staff, promulgate rules and regulations; apply for and receive public or private gifts, grants, or appropriations; buy, sell, or lease real and personal property; make disbursements and grants; and any other powers necessary or appropriate to carry out the purposes and duties set out in this Amendment. None of the funds collected, distributed, or allocated from the Early Childhood Health and Education Trust Fund shall be expended, paid or granted to or on behalf of existing or proposed activities, programs, or initiatives that involve abortion services including performing, inducing, or assisting with abortions, as defined in law, or encouraging patients to have abortions, referring patients for abortions not necessary to save the life of the mother, or development of drugs, chemicals, or devices intended to be used to induce an abortion. None of the

16-152

funds collected, distributed, or allocated from the Early Childhood Health and Education Trust Fund shall be expended, paid or granted to or on behalf of any abortion clinic, abortion clinic operator, or outpatient health care facility that provides abortion services, unless such services are limited to medical emergencies. No funds from the Early Childhood Health and Education Trust Fund shall be used for human cloning or research, clinical trials, or therapies or cures using human embryonic stem cells, as defined in Article III, section 38(d). No funds from the Early Childhood Health and Education Trust Fund shall be used for tobacco related research of any kind. Distributions of funds under this amendment shall not be limited or prohibited by the provisions of Article IX, section 8.

3. The Commission shall establish and maintain a conflict of interest policy for its members and staff. The Commission shall ensure a fair and equitable distribution of funds distributed as grants based on the established residency population of children ages birth through five. The Commission shall establish accountability and audit requirements for all grant recipients, including requirements that success be measured by outcomes for Missouri children and families. Unless modified by law, Commission members shall include: (1) the director or the director's designee from each of the following departments: health and senior services, mental health, and social services; (2) the commissioner or the commissioner's designee from the department of elementary and secondary education; (3) two members of the Missouri general assembly. One member shall be the chairman of the joint committee on education. One member shall be a member of the joint committee on education, shall be from a different party and different legislative chamber than the chairman of the joint committee on education, and shall be appointed by the elected leader, either the speaker of the house of representatives or the president pro tempore of the senate, of the member's legislative chamber; (4) The director of the Missouri head start-state collaborative office; (5) six citizens, representing each of the following areas: early childhood education and development providers, local head start agencies, higher education, business, faith, and medicine. The Governor shall appoint, with the advice and consent of the senate, the three citizens representing the areas of medicine, business, and higher education. The state board of education shall appoint the citizens representing the areas of early childhood education and development providers, local head start agencies, and faith. Commission members shall serve a term of three years. Such citizens shall be eligible to serve two terms. Such citizens that serve a partial term of less than eighteen months shall be eligible to serve the partial term and two full terms. Such citizens that serve a partial term of more than eighteen months shall be eligible to serve the partial term and one full term. No Commissioners shall receive any compensation for their service as a Commissioner.

Section 54(c). 1. In addition to any tax levied upon the sale of cigarettes in this state, a tax shall be levied upon the sale of cigarettes in an amount equal to thirty mills per cigarette (or sixty cents per pack of twenty cigarettes), phased in, in four equal annual increments of seven and one-half mills (or fifteen cents per pack of twenty cigarettes) on January 1, 2017, January 1, 2018, January 1, 2019 and January 1, 2020. The tax shall be evidenced by stamps which shall be furnished by and purchased from the director or by an impression of the tax by the use of a metering machine when authorized by the director as provided by statute, and the stamps or impression shall be securely affixed to one end of each package in which cigarettes are contained. All cigarettes must be stamped before being sold in this state. For the purpose of allowing compensation for the costs necessarily incurred in affixing the proper tax stamps to each package of cigarettes before making a sale of the cigarettes, each wholesaler purchasing stamps from the director as required by law may purchase the stamps from the director at a reduction of three percent (3%) of the face value of each lot of stamps so purchased, provided that all statutorily required reports have been made. The discount provided in this section shall be the only discount allowed to purchasers from the director. If a purchaser refuses to comply with the laws of the state of Missouri, the director shall require the full face value for stamps purchased until such time as the person has complied with the provisions of the law. The director may permit the use of meter machines in lieu of stamps, for the impress of the tax stamp, and where used a three percent (3%) reduction on the total tax due shall be allowed. The director shall prescribe all rules and regulations governing the use of meter machines and may require a bond in a suitable amount to guarantee payment of the tax. The tax on any cigarettes contained in packages of twenty to be used solely for distribution as samples shall be computed on a per cigarette basis at the rate set forth in this section, and payment of the tax shall be remitted to the director of revenue at such time and in such manner as he may prescribe by rule. Stamped cigarettes in the possession of a wholesaler or retailer before each incremental tax increase under this section is imposed shall not be subject to incremental tax increase before retail sale.

2.a. In addition to the tax provided in section 54(c).1, effective January 1, 2017, an equity assessment fee is imposed upon the first to occur of the following: the purchase, storage, use, consumption, handling, distribution or wholesale sale of each package of twenty (20) cigarettes manufactured by a non-participating manufacturer. The equity assessment fee shall be paid by the wholesaler, and collected by the director of revenue at the same time cigarette tax stamps are purchased from the director of revenue, and the payment and collection of the equity assessment fee shall be subject to the rules and regulations promulgated in connection with the payment and collection of the cigarette tax. The term "Non-participating manufacturer" is defined as a manufacturer that is treated as such under the Master Settlement Agreement entered into by the State of Missouri and certain tobacco manufacturers on November 23, 1998.

b. The rate of the equity assessment fee shall be sixty-seven cents ($0.67) per package of twenty (20) cigarettes. Beginning with equity assessment fees due in 2018, the equity assessment fee shall be adjusted each year in accordance with the Inflation Adjustment in the Master Settlement Agreement, provided that, in determining the applicable Inflation Adjustment Percentage, inflation from 1999-2017 shall not be included.

c. The fee imposed by this section does not apply to cigarettes or cigarette tobacco products that are sold into another state for resale to consumers outside of this state, provided that the sale is reported to the state into which the cigarettes are sold under 15 U.S.C. Section 376.

d. The fee imposed by this section is in addition to any other privilege, license, fee, or tax required or imposed by state law, provided however that a manufacturer shall not be required to place funds into a qualified escrow fund under Chapter 196 of the Revised Statutes of Missouri for any cigarettes that such manufacturer demonstrates in a filing with the Attorney General that the required amount of fees have been paid under this section.

3. All moneys collected as a result of the taxes and fees imposed by this section shall deposited in the Early Childhood Health and Education Trust Fund as said moneys are received, and shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury. The additional actual costs incurred by the state in collecting and enforcing the taxes and fees imposed by this section may be paid from moneys appropriated from the Early Childhood Health and Education Trust Fund for that purpose, but shall not exceed one and one half of one percent (1.5%) of the total moneys collected in that fiscal year. Moneys from the Early Childhood Health and Education Trust Fund shall not be used to pay costs that are not additional actual costs incurred by the state in collecting and enforcing the taxes and fees imposed by this section, except that one percent (1%) of the funds deposited in the fund shall be used by the Director of Public Safety and the Director of Revenue to employ personnel for the sole purpose of criminal tobacco enforcement of existing state laws regarding tobacco products. No funds from the Early

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Childhood Health and Education Trust Fund shall be used for any lobbying, or for the promotion or support of any tax increase or any other state or local prohibition or limitation on tobacco products, coupons or promotions.

4. On an annual basis, the director of revenue, in consultation with the director of health and senior services, shall determine whether the taxes imposed by section 54(c) have resulted in a decrease in consumption of tobacco products and thereby directly caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund, revenues generated from local tobacco taxes, or revenues generated from local sales taxes. If a reduction in the amount of moneys collected and deposited into any of those funds or revenues generated from local tobacco taxes or local sales taxes, has been directly caused by the taxes imposed by section 54(c), an amount equal to the amount of moneys that were not collected and deposited into that fund or funds or were not generated by the local tobacco taxes or local sales taxes because of the taxes imposed by this section shall be transferred from the Early Childhood Health and Education Trust Fund as follows: first, to the appropriate political subdivisions, and second to the appropriate fund or funds. The aggregate amount transferred to such political subdivisions and/or funds for any year shall not exceed four percent (4%) of the total moneys collected pursuant to this section during that same year.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-152)**

## Subject

Initiative petition from Edward Greim regarding a proposed constitutional amendment to Article IV. (Received November 23, 2015)

## Date

December 14, 2015

## Description

This proposal would amend Article IV of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Edward Greim** provided information as a proponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated the proposal creates a new commission, but does not specify whether they shall represent the commission. If they represent the commission, there would be an additional, unknown cost. They assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources, but they may seek an additional appropriation if necessary.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated the proposal appears to provide for an increase in the tax levied upon the sale of cigarettes. All moneys collected shall be credited to and placed in the early childhood health and education trust fund. The proposal also appears to reform the coordinating board for early childhood and rename it, the early childhood commission. With restrictions, proceeds from the additional cigarette tax would provide for the operations of the commission. Their department has no means to calculate the potential of these proceeds. Any funds would be additional monies to early childhood education.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated the amendment would create the Early Childhood Commission of which the director of the Department of Mental Health or his/her designee would be a member.

While the director and other staff of the Department of Mental Health often participate in committees and task forces as a part of their duties, assignments to additional specialized activities can be seen to create costs not necessarily included in the department’s regular funding. The Department of Mental Health obviously has a great interest in the improved treatment and education of children so that it is anticipated that any fiscal impact from this legislation will be absorbed by the department’s regular operating budget.

This proposal creates no direct obligations or requirements to the Department of Mental Health that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** (DOR) indicated this petition will have a fiscal impact of $75,006 for fiscal year (FY) 2017 on their department, creating additional expense for IT consultants, and will increase revenues for the Early Childhood Health and Education Trust Fund by $374.5 million annually.

**Section 54(c)**
The section imposes a 30 mill tax ($0.60 per pack) on cigarettes phased in over four years beginning January 1, 2017. In addition, the petition allows wholesalers to purchase stamps discounted by three percent from face value. Wholesalers/retailers possessing cigarettes prior to the tax increase are not subject to the new incremental tax before retail sale.

Based on 496.5 million packs of cigarettes stamped in Tax Year 2014, the DOR estimates total revenues of $289 million as a result of the new tax when this petition is fully implemented.

Beginning January 1, 2017, the petition imposes an "equity assessment fee" on the purchase, storage, use, consumption, handling, distribution, or wholesale sale of each pack of cigarettes by a non-participating manufacturer, whichever event occurs first. The DOR collects this fee when wholesalers purchase cigarette tax stamps. The provision assesses a 67 cent ($0.67) fee per pack of 20 cigarettes. This fee is in addition to all other fees, licenses, or taxes except the manufacturer is not required to place funds in escrow under Chapter 196 under certain conditions. The legislation prohibits the use of moneys from the Trust Fund to pay costs that are not additional actual costs incurred by the state in the collection and enforcement of the taxes and fees imposed by this section. However, the Directors of Public Safety and Revenue may use up to one and one half percent of funds for additional actual cost of collection and enforcement and shall use one percent of the funds deposited in the fund to employ personnel for the sole purpose of criminal tobacco enforcement of existing state laws regarding tobacco products.

Based on 127.6 million packs of non-participating manufacturer cigarettes stamped in Tax Year 2014, the DOR estimates total revenues of $85.5 million per year as a result of the equity assessment fee.

The DOR, in consultation with the Director of Health & Senior Services, must determine if the taxes imposed have caused a reduction in the consumption of tobacco products and the resultant funding in certain funds or sales taxes.

**Administrative Impact:**
The Early Childhood Health and Education Trust Fund requires changes to SAGE 50 accounting system and cashiering records. The DOR has approximately 45 days to implement this legislation if passed.

Decal order forms will need to be updated and notification will need to be given to all cigarette wholesalers.

Currently, cigarette wholesalers that purchase cigarette stamps on a credit basis are required to have a bond in place, unless they have met the requirements to be released. It is unclear if increases in the bond amount can be required.

Officials from the **Department of Public Safety** indicated their department sees no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated no fiscal impact to their department.

Officials from the **Office of Administration** (OA) indicated the proposal amends Article IV of the Missouri Constitution by adding four new sections.

Section 54(a) creates the Early Childhood Health and Education Trust Fund (ECHET) to replace the Coordinating Board for Early Childhood Fund. Monies in the fund will be distributed as follows:

- At least 75% for grants for improving the quality of and increasing access to Missouri early childhood education programs.
- 10% - 15% for grants to Missouri hospitals or other health care facilities to improve access to quality early childhood health and development programs.
- 5% - 10% for grants to provide smoking cessation and prevention programs for Missouri pregnant mothers and youth.

Section 54(b) renames the Coordinating Board for Early Childhood to the Early Childhood Commission and gives them authority to administer and make grants from the

Early Childhood Health and Education Trust Fund. Services provided with the grant funds may only be provided to legal U.S. residents. None of the ECHET funds may be used for anything involving abortion services, human cloning or for tobacco related research. The Governor is responsible for appointing three citizens representing the areas of medicine, business, and higher education to the Commission.

Section 54(c) imposes a 30 mills/cigarette ($0.60 per pack) tax on cigarettes to be phased it at 7 ½ mills/cigarette ($0.15 per pack) per year, from January 1, 2017 through January 1, 2020. Wholesalers are allowed a 3% reduction on the purchase of tax stamps. In addition, a $0.67 per pack equity assessment will be imposed on the purchase, storage, use, consumption, handling, distribution or wholesale of each package of cigarettes manufactured by a non-participating manufacturer as defined in the Master Settlement Agreement. The state is allowed to use up to 1 ½% of the collections for the cost of collection. An additional 1% shall be used by the Director of Public Safety and the Director of Revenue to employ personnel for criminal tobacco enforcement of existing state laws. No ECHET funds may be used for lobbying or promotion of any tax increase or other state/local prohibition of limitation on tobacco products, coupons, or promotions.

Finally, the Departments of Revenue and Health and Senior Services must annually determine if the taxes imposed by this section have resulted in a decrease in the consumption of tobacco products. If that is proven, up to 4% of the monies collected shall be distributed from the ECHET fund to political subdivisions and then to the other funds negatively impacted by the tax (Fair Share and State School Moneys Fund).

FISCAL IMPACT:

In calendar year 2014, there was $81.2 million in cigarette excise taxes collected. OA assumes that the average pack of cigarettes retails for $4.50, translating to roughly 477.5 million packs sold in Missouri. Based on information provided by DOR of those 477.5 million packs sold, 127.6 million were sold by “non-participating manufactures” as established by the Master Settlement Agreement. OA further assumes that cigarette sales have a (0.8) elasticity. However, there is no way to truly know what impact these tax increases will have on demand due to smoking cessation efforts, other state and federal regulations, and the increase in sales of e-cigarettes and other substitute products.

Table 1 shows OA estimates for changes in revenue caused by additional taxes on cigarettes, less the 3.0 percent wholesaler reduction allowance on the purchase of tax stamps. OA assumed that in addition to the 7.5 mills tax increase in each of the calendar years 2017 through 2020, the equity assessment fee would be $0.67 in 2018, $0.69 in 2019, and $0.71 in 2020.

**Table 1: Revenue changes due to increased cigarette taxes, by fiscal year**

| | 2017 | 2018 | 2019 | 2020 | 2021 |
|---|---|---|---|---|---|
| **Revenue gain from increased excise tax*** | | | | | |
| Participating Manufacturers | $24.0 | $70.9 | $115.5 | $158.0 | $178.7 |
| Non-Participating Manufacturers | $8.8 | $58.6 | $107.0 | $121.4 | $128.4 |
| Early Childhood Health and Education Trust Fund | $32.8 | $129.5 | $222.5 | $279.4 | $307.1 |
| **Revenue loss from lower demand** | | | | | |
| Health Initiatives Fund | ($0.5) | ($2.4) | ($4.2) | ($5.0) | ($5.4) |
| State Schools Money Fund | ($1.1) | ($5.3) | ($9.4) | ($11.2) | ($12.1) |
| Fair Share Fund | ($0.5) | ($2.4) | ($4.2) | ($5.0) | ($5.4) |
| **Revenue loss from reduced sales tax** | | | | | |
| GR | ($0.8) | ($3.1) | ($5.4) | ($6.7) | ($7.4) |
| School District Trust Fund | ($0.3) | ($1.0) | ($1.8) | ($2.2) | ($2.5) |
| Local Sales Tax | ($1.1) | ($4.4) | ($7.6) | ($9.5) | ($10.4) |

*figures in $ million*
**Accounts for the 3% wholesaler reduction allowance on the purchase of tax stamps.*

This proposal will have a fiscal impact on the Departments of Public Safety, Revenue and Health and Senior services. OA defers to those departments for the specific impacts of implementing the proposal.

This proposal will have no impact on OA.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was

appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated the initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated that there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no direct fiscal impact is anticipated if this proposal is adopted, however, the City Health Department may qualify to compete for grant funds under proposed Section 54(a)1.c.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated there is no fiscal impact on their university for this petition.

Officials from the **St. Louis Community College** indicated they do not believe this will have a negative fiscal impact on their institution.

**Edward Greim** provided the following information as a proponent of this initiative petition.

Graves Garrett LLC

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November 30, 2015

Missouri State Auditor's Office
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Re: *Fiscal Note in Initiative Petitions 16-152*

To Whom It May Concern:

Based on the information contained in this letter and the attached letter from Tom Kruckemeyer, we propose the following fiscal note summary:

> Estimated additional revenue to state government is $127 million to $298 million annually with limited estimated implementation costs or savings. The revenue will fund only programs and services allowed by the proposal. The proposal is estimated to result in no net costs or savings to local governmental entities.

**Introduction**

The initiative allows 460,000 children to receive the early health screenings they need to grow and thrive and the early childhood development experiences that will prepare them for long-term educational success. These programs have important trickle-down effects that result in increased revenue and decreased costs at the state and local level. The initiative is accomplished by funding grants across the state to improve early childhood health and education. Funding for grants is provided by a tobacco tax, conservatively resulting in $298 million in direct state revenue, while yielding important public health benefits.

**Early Childhood Delivers Big Benefits**

Missouri enrolls fewer children in its state preschool program than any neighboring state, and funding for programs like Parents as Teachers has been slashed in half. All Missourians benefit

from investments in early childhood education: children start school ready to succeed; parents are able to keep good jobs and earn higher incomes; and taxpayers save money because early childhood education lowers drop-out rates, reduces crime and cuts the cost of social services. Despite clear evidence showing investing in early learning is one of the smartest investments we can make, year after year we battle with the Missouri General Assembly to fund quality early childhood education. Missouri is the 38th worst state for public pre-K funding. In 2012, the General Assembly cut $13.2 million from early childhood programs, and Parents as Teachers remains $19 million behind its 2009 funding.

Traditional thought has long emphasized the relationship between early childhood education and academic success, but researchers now are finding that preschool does not have a substantial effect on increasing IQs but rather develops a child's "soft skills" and can have a profound effect on adult earning potential especially for disadvantaged kids.

Evidence shows that non-cognitive skills matter. Through activities like finger painting, playing with blocks, and interacting with other students, children learn how to control impulses, keep anger in check, stay on task, listen and follow curiosity. These soft skills are basic, but important tools needed to learn, find and keep a job and just manage everyday life. Most children gain these skills at home from their parents, but disadvantaged kids often miss the window of opportunity, which are the critical years before Kindergarten.

A literature of empirical evidence shows strong outcome effects for kids who attend pre-school. Using cost-benefit analyses, researchers have found a link between preschool attendance and reduced crime, fewer teen pregnancies, higher rates of college attendance and less need for public assistance. Cost-benefit studies show that pre-school provides the best value and produces more net benefits to society than increased classroom time or job training programs.

*Evidence from the Perry Preschool Program*

The most widely cited early childhood intervention occurred in Ypsilanti, Michigan during the 60s. Children with low IQ scores and a low socioeconomic index were invited to participate in the Perry Preschool Program. Using a coin toss, researchers divided students into two groups, a treatment group and a control group. Starting at age three the "treatment" kids got 2.5 hours of preschool a day and weekly home visits for two years. The "control" kids did not participate in either of the services. Researchers interviewed both groups at ages 15, 19, 27 and 40 and asked them questions about life events like school, work, marriage, parenting and incarceration. The following chart shows the major findings of the study.



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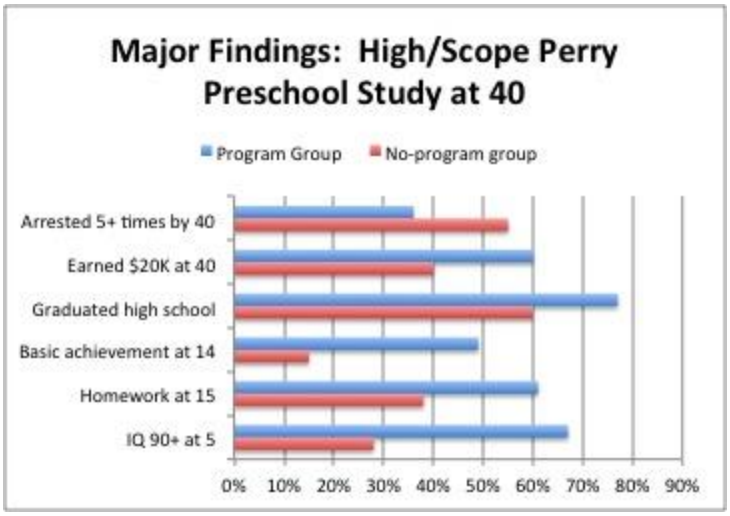


Source: Lifetime Effects: The HighScope Perry Preschool Study Through Age 40 (2005)

The pre-school girls went farther in school, earned higher GPAs, and received less special education than girls from the control group. Boys benefitted as well, but the boys who did not receive the preschool intervention were 2.3 times more likely to get arrested. The cost-savings alone from just the crime reduction demonstrated success.

With increased scrutiny over government spending, cost-benefit analysis gives policy analysts a tool to separate productive programs from ones that yield no social gains. A recent cost-benefit study that used a wider variety of assumptions and applied more rigorous accounting rules, estimated a return rate of about 7-10%. By monetizing social crime, the researchers were able to estimate that for every dollar invested in preschool, society earned back $30 to $300 dollars over the course of a lifetime (Heckman, Moon, Pinto, Savelyev, & Yavitz, 2010).

*Abecedarian and Chicago Studies*

Other studies confirmed the results of the Perry Preschool Project. The Carolina Abecedarian project in the 70s randomly assigned infants into intervention and control groups. The intervention group received full-day childcare from birth through Kindergarten. Intervention kids scored higher in reading and math, completed more education, were older when their first child was born and the mothers of intervention kids progressed farther in school and made more money than the control mothers. Intervention kids even smoked less.

A full-day five-year Pre-K program, while effective, would likely be cost-prohibitive for any state budget; however, the findings proved that early intervention does make a difference. And evidence suggests that a less expensive program could produce similar outcomes (Barnett & Masse, 2007).



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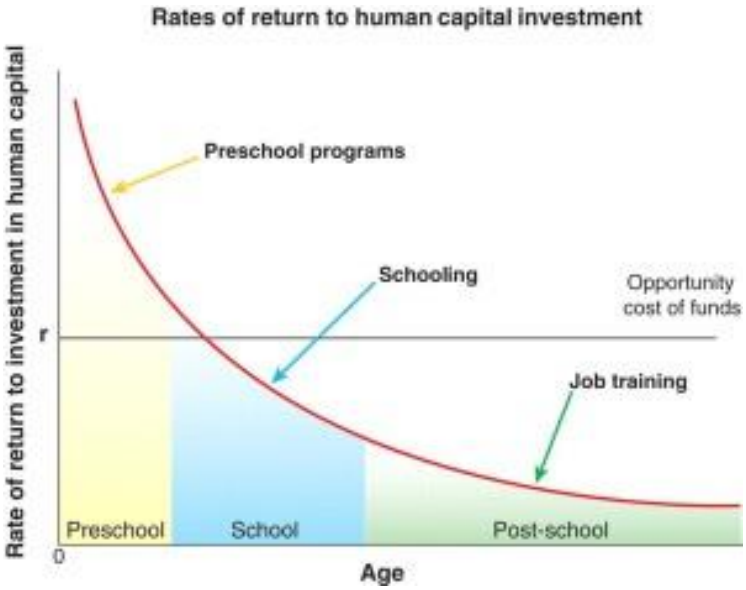
Just as Abecedarian kids earned higher wages than the control group, researchers found similar results from participants of the Chicago Child-Parent Program. The Chicago program targeted disadvantaged kids and provided a Headstart type intervention from ages three to nine. A cost-benefit analysis indicated for every dollar invested, the program produced seven in return. The largest impact was earning capacity, but Chicago kids were also less likely to need special education and less likely to commit crimes (Temple & Reynolds, 2007).

Much like with the Perry Program, the Chicago program demonstrated the relationship between early education, higher wages and crime reduction. Again it was the non-cognitive soft-skill development that made the difference. Second chance efforts like GED and job training provide fewer benefits and struggle to lift people out of poverty (Heckman & Masterov, 2007).




Source: Heckman, The Review of Agricultural Economics (2007)

What the Perry, Abecedarian and Chicago programs show is that pre-school helps kids develop soft-skills that make it easier to gain cognitive skills later and can lead to better jobs and a better quality of life. This in turn lessens the burden on government resources for remedial education, criminal justice and job-training programs.

Investing in human capital through access to finger-paints and story time may appear far-reaching, but multiple studies now point to early intervention as the cheapest, most effective way to prepare kids for the workforce and reduce crime. As labor force growth wanes and the demand for skilled workers increases, these studies suggest that a pipeline that begins at pre-school has great potential to produce big benefits to society in the long run.



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Table 1
Present value of Abecedarian benefits and costs per child (2002 dollars)

| | Discount rate (%) | | |
|---|---|---|---|
| | 3 | 5 | 7 |
| Program cost (net) | $35,864 | $34,599 | $33,421 |
| Program benefits | | | |
| Part. earnings | 37,531 | 16,460 | 6376 |
| Earnings of future generations | 5722 | 1586 | 479 |
| Maternal earnings | 68,728 | 48,496 | 35,560 |
| K-12 education | 8836 | 7375 | 6205 |
| Smoking/health | 17,781 | 4166 | 1008 |
| Higher education costs | −8128 | −5621 | −3920 |
| AFDC | 196 | 129 | 85 |
| Total benefits | $130,666 | $72,591 | $45,793 |
| Net present value | $94,802 | $37,992 | $12,372 |

**Reducing the Harmful Effects of Tobacco**

Tobacco tax increases offer a win-win-win solution for states as they work to balance budgets while preserving essential public services. Tobacco tax increases are one of the most effective ways to reduce smoking and other tobacco use, especially among kids. Every state that has significantly increased its cigarette tax has enjoyed substantial increases in revenue, even while reducing smoking. Higher tobacco taxes also save money by reducing tobacco-related health care costs, including Medicaid expenses. States can realize even greater health benefits and cost savings by allocating some of the revenue to programs that prevent children from smoking and help smokers quit.

National and state polls consistently have found overwhelming public support for tobacco tax increases. Polls also show that, when it comes to balancing budgets, voters prefer raising tobacco taxes to other tax increases or cutting crucial programs such as education and public safety.

Tobacco use causes approximately $3.03 billion in annual health care expenditures in Missouri. Smoking specifically causes over $500 million in annual costs for the Missouri Medicaid program. The initiative petition would increase the tax on cigarettes by $0.60 per pack over the course of 4 years and would also immediately increase the tax on non-participating manufacturer cigarettes by 67 cents. By conservative estimates, those tax increases would raise approximately



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$127 to $298 million in new state revenue to improve early childhood health and education programs and certain smoking cessation programs. New state revenue is the amount of additional new revenue over the first full year after the effective date and increases as the tax is phased-in. The state will collect less new revenue to the extent that the rate increase does not apply to all cigarettes and other tobacco products held in wholesaler and retailer inventories on the effective date. This fiscal projection was derived using a price elasticity of demand for cigarettes of -0.8, even though the weight of credible academic literature suggests a conservative estimate for the price elasticity of demand for cigarettes is -0.4.

Tax increases of less than roughly 25 cents per pack or 10% of the average state pack price do not produce the same public health benefits or cost savings because the cigarette companies can easily offset the beneficial impact of such small increases with temporary price cuts, coupons, and other promotional discounting.

In addition to raising new revenue, the tax increase would have an immediate public health benefit. Each 10% cigarette price increase reduces youth smoking by 6.5%. Each 10% cigarette price increase reduces adult smoking by 2%. The total expected reduction in smoking consumption as a result of a 10% price increase is 4%. It is conservatively estimated that the initiative petition would decrease youth smoking by 6% in Missouri.

There would also be a fiscal benefit to the citizens of the state from the improved public health. As of 2014, the CDC estimated 11,000 annual average smoking-attributable deaths in Missouri. 127,500 Missouri Youth aged 0-17 are projected to die from smoking. Approximately 22.1% of Missouri adults smoke. Approximately 14.9% of Missouri high school students smoke. The average Missouri resident's state and federal tax burden from smoking-caused government expenditures is $588 per household. Approximately one of every six pregnant women smokes, a rate significantly higher than the national average. Smoking during pregnancy increases the risk for preterm delivery, stillbirth, low birth weight and Sudden Infant Death Syndrome.
In recent years, almost every state and the federal government have increased tobacco taxes. Missouri is a notable exception. The average state cigarette tax is currently $1.60 per pack, but rates vary widely from 17 cents in Missouri to $4.35 in New York. On April 1, 2009, the federal cigarette tax increased by 62 cents, to $1.01 per pack.

As of July 1, 2015, Missouri's cigarette tax was less than one-third of any of its border states: IL - $ 1.98; IA - $1.36; KS - $1.29; AR - $1.15; OK - $1.03; NE - $0.64; TN - $0.62; KY - $0.60. Moreover, Missouri's 17-cent per pack tax on cigarettes is the lowest in the country. The real value of the cigarette tax is decreasing. As a percentage of the overall Missouri State Budget, Missouri's tobacco taxes have decreased from 1.036% in 2000 to 0.464% in 2015. See MO Executive Budget Books & MO Office of Administration.

Every day 3,000 kids try their first cigarette and another 700 kids become regular smokers. There are more than 250 thousand new underage smokers each year. One third will eventually die from their addiction. Smoking has declined in every state where the tobacco tax has been increased.



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Ongoing reductions in state smoking levels will, over time, gradually erode state cigarette tax revenues (in the absence of any new rate increases). But those declines are more predictable and less volatile than many other state revenue sources, such as state income tax or corporate tax revenues (which can drop sharply during recessions). In addition, the smoking declines that reduce tobacco tax revenues will simultaneously produce much larger reductions in government and private sector smoking-caused costs. See the Campaign for Tobacco-Free Kids factsheet, *Tobacco Tax Increases are a Reliable Source of Substantial New State Revenue*, http://tobaccofreekids.org/research/factsheets/pdf/0303.pdf.

For other ways states can increase revenues (and promote public health) other than just raising its cigarette tax, see the Campaign factsheet, *The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

For more on sources and calculations, see http://www.tobaccofreekids.org/research/factsheets/pdf/0281.pdf

**Additional Information on Tobacco Product Tax Increases**

*Raising State Cigarette Taxes Always Increases State Revenues and Always Reduces Smoking*, http://tobaccofreekids.org/research/factsheets/pdf/0098.pdf.

*Responses to Misleading and Inaccurate Cigarette Company Arguments Against State Tobacco Tax Increases*, http://tobaccofreekids.org/research/factsheets/pdf/0227.pdf.

*State Cigarette Excise Tax Rates & Rankings*, http://tobaccofreekids.org/research/factsheets/pdf/0097.pdf.

*Top Combined State-Local Cigarette Tax Rates (State plus County plus City)*, http://tobaccofreekids.org/research/factsheets/pdf/0267.pdf.

*State Cigarette Tax Increases Benefit Lower-Income Smokers and Families*, http://tobaccofreekids.org/research/factsheets/pdf/0147.pdf.

*The Best Way to Tax Smokeless Tobacco*, http://tobaccofreekids.org/research/factsheets/pdf/0282.pdf.

*How to Make State Cigar Tax Rates Fair and Effective*, http://tobaccofreekids.org/research/factsheets/pdf/0335.pdf.

*State Benefits from Increasing Smokeless Tobacco Tax Rates*, http://tobaccofreekids.org/research/factsheets/pdf/0180.pdf.



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Graves Garrett LLC

*The Case for High-Tech Cigarette Tax Stamps*, http://tobaccofreekids.org/research/factsheets/pdf/0310.pdf.

*State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion*, http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf.

*The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

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Temple, J. A., & Reynolds, A. J. (2007). Benefits and costs of investments in preschool education: Evidence from Child-Parent Centers and related program. *Economics of Education Review*, 126-144.

Sincerely,

Edward D. Greim
Partner, Graves Garrett, LLC



1100 Main Street, Suite 2700 Kansas City, MO 64105 ph 816.256.3181 www.gravesgarrett.com

Tom Kruckemeyer
Missouri Budget Project
3534 Washington Ave
St. Louis, Missouri 63103

November 30, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

To Whom It May Concern:

I currently work as the Director of Fiscal Policy and Chief Economist at the Missouri Budget Project, a nonprofit, objective, public policy analysis organization that provides independent research on complex state policy issues and how they impact the state budget. I hold a B.A. in Economics and History and an M.A. in Economics from the University of Missouri-St. Louis. I also hold an M.A. Political Science from the University of Missouri-Columbia. I worked in the Missouri Division of Budget from 1978 to 2004, where I served as the chief economist. In the course of both my positions at the Missouri Division of Budget as well as my current position, I have routinely projected the fiscal impact of tax changes.

In my experience, it is a conservative, generally accepted practice to project the revenue generated from a proposed cigarette tax by estimating an average price per cigarette (or price per pack), estimating a uniform price elasticity of demand, and to assume that the tax will result in a penny-for-penny increase in the cost of cigarettes.

Upon information and belief, the Office of Administration usually estimates the price elasticity of demand for cigarettes as -0.8. This estimate means that a 10% increase in the cost of cigarettes results in an 8% reduction in the quantity of cigarettes sold. A price elasticity of demand of -0.8 is a conservative but reasonable estimate for the price elasticity of demand of a product such as cigarettes. Notably, even with a 60 cent to $1.27 increase in Missouri's cigarette tax, Missouri's cigarette tax will remain lower than many of its contiguous states, in particular the states that border major metropolitan areas, Illinois and Kansas.

Additionally, the Office of Administration's method for estimating cigarette tax revenue is conservative because it assumes a penny-for-penny price increase in the cost of cigarettes as a result of the tax. In practice, whether the entire tax increase will result in a 60 cent to $1.27 increase in the prices of cigarettes is unknown because the market for cigarettes is competitive. Moreover, regardless of whether the Office of Administration estimates that the demand for cigarettes will remain flat or decrease due to societal trends, the overall fiscal impact is largely the same. An estimate of the decrease in future tax collections due to decreased smoking from societal trends is not essential to the findings in the fiscal note that this particular tax will result in a net increase to state revenue with no net cost to local governments.

If the Office of Administration decides to use the same assumptions in projecting the revenue for other non-participating manufacturer cigarettes as it does for cigarettes, generally, it is my opinion that the resulting collection estimate would be conservative but appropriate. Further, media reports indicate that the percentage of non-participating manufacturer cigarettes sold in Missouri is approximately 20%. If the Office of Administration decides to assume that 19% of the total cigarettes sold in Missouri are non-participating manufacturer cigarettes, I believe that figure would be conservative but appropriate.

Based on generally accepted methods for estimating the fiscal impact of a proposed tax, I estimate that an immediate 67 cent cigarette tax increase on nonparticipating manufacturers will result in approximately 58 million dollars of revenue in calendar year 2017; 56 million dollars of revenue in calendar year 2018; 54 million dollars of revenue in calendar year 2019; and 52 million dollars of revenue in calendar year 2020.

Based on generally accepted methods for estimating the fiscal impact of a proposed tax, I estimate that a phased-in 60 cent cigarette tax increase will result in approximately 68.7 million dollars of revenue in calendar year 2017. I estimate that the cigarette tax will result in approximately 132 million dollars of revenue in calendar year 2018. I estimate that the cigarette tax will result in approximately 191 million dollars of revenue in calendar year 2019. I estimate that the cigarette tax will result in approximately 246 million dollars of revenue in calendar year 2020. The approximate total tax revenue collected in each year is calculable by adding the figures in the previous two paragraphs.

These estimates assume a 1% yearly reduction in the state's smoking level. There may be a small decrease in revenue collection for each phase of the additional tax due to lags associated with the implementation and collection of taxes. Further, I assume that the tax on non-participating manufacturer cigarettes does not have an independent effect on cigarette sales.

These taxes are expected to result in limited implementation costs to the state. The costs associated with administering the Early Childhood Health and Education Trust Fund will primarily be borne by the Trust Fund. Nonetheless it is proper and reasonable to consider additional costs of administering the cigarette tax increase, which may include fixed costs like salaries as well as additional marginal costs, such as costs associated with stamping cigarettes. All state government costs are estimated to be offset by additional revenue increases.

Local governments will receive revenue from the tax to offset any potential decrease in local tax revenue. Based on a price elasticity of demand of -0.8, local revenue may decrease, but any such decrease in cigarette taxes will be offset by funds allocated by the proposal to local governments. By any reasonable estimate, 4% of the Early Childhood Education and Health Trust Fund will exceed the decrease in revenue associated with local tobacco taxes and local sales taxes. Accordingly, any such decrease will be offset as a result local revenue from the transfer of funds to localities with local tobacco taxes and local sales taxes. Additionally, while direct local revenue is zero, there are positive indirect effects the may result in additional revenue to local governments.

Sincerely,

/s/

Tom Kruckemeyer
Director of Fiscal Policy & Chief
Economist, Missouri Budget Project

The State Auditor's office did not receive a response from the **Department of Agriculture, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri,** and **Metropolitan Community College**.

**Fiscal Note Summary**

When cigarette tax increases are fully implemented, estimated additional revenue to state government is $263 million to $374 million annually, with limited estimated implementation costs. The revenue will fund only programs and services allowed by the proposal. The fiscal impact to local governmental entities is unknown.

RECEIVED
NOV 20 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-151

November 20, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Theodis Brown regarding a proposed statutory amendment to Chapter 178 (2016-151)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Theodis Brown on November 20, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-151

County .....

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Page No. .....

2016 NOV 20 AM 9:48

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

JASON KANDER
MO SEC. OF STATE

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and ..... County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and ..... County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot title.) BE IT ENACTED BY THE VOTER PEOPLES OF STATE: SHALL SECTION 178.[illegible] RSMo 2015 BE INVOKED TO ALLOW RECALL ONLY + PUBLIC COMMENT + QUESTIONS AT PUBLIC SESSION OF BTHE[illegible]R.C[illegible]E BOARD MEETINGS + OVERTURN THE 2015 BOARD MOTION TO BAN PUBLIC COMMENTS BY MEMBERSHIP TO WIT: YES? OR NO?

## CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF .....

I, ....., being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
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| 10. | | | | | 10. |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and .....County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do..... do not ..... (check one) expect to be paid for circulating this petition. If paid, list the payer: .....

.....
Signature of Affiant
(Person obtaining signatures)

.....
(Printed Name of Affiant)

.....
Address of Affiant

Subscribed and sworn to before me this ..... day of ....., A.D. .....

.....
Signature of Notary

Address of Notary

Notary Public (Seal)
My commission expires .....

RECEIVED
NOV 19 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-150

November 19, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Lisa Pannett regarding a proposed constitutional amendment to Article I (2016-150)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Lisa Pannett on November 19, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-150

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

RECEIVED
NOV 19 2015
MO. SECRETARY OF STATE

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong. Dist. | NAME (Printed or Typed) |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant
(Person obtaining Signatures)

_____
(Printed Name of Affiant)

16-150

Be it resolved by the people of the State of Missouri that the Constitution be amended:

Article I is amended by adding one new section, to be known as section 35, to be read as follows:

Section 35. The state of Missouri shall not accept refugees from Syria.

RECEIVED
NOV - 9 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 9, 2015

16-149

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article XIV, version 32 (2016-149)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on November 9, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-K19

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 NOV -9 PM 12:50

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this _____day of _____, A.D. 201_____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-K19

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article XIV of the Constitution relating to Ethics is created by adopting four new sections to be known as Article XIV Sections 1, 2, 3, and 4 to read as follows:

Article XIV

Section 1.

1. No statewide elected officer or member of the general assembly shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit clients to represent as a paid lobbyist until one year after the expiration of any term of office for which such official is elected. No statewide elected officer or member of the general assembly shall act or serve as a paid political consultant or solicit clients to represent as a paid political consultant during any term of office for which such official is elected. Any paid employee of such officials shall also be barred from acting or serving as a paid lobbyist, registering as a paid lobbyist, or soliciting clients to represent as a paid lobbyist until one year after termination of their employment. Any paid employee of such officials shall also be barred from acting or serving as a paid political consultant or soliciting clients to represent as a paid political consultant during their employment.

2. No statewide elected officer or member of the general assembly, or the spouse, dependent children, staff or employees of such officer or member, or any department or division director of the executive branch, or any judicial branch purchasing officer or any locally elected government official shall accept any gift, tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. Notwithstanding the foregoing, this subsection shall not be construed to prevent any public official from accepting contributions to political committees under his or her control, consistent with this article and applicable law, accepting informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, or accepting items that are available or distributed free of charge to members of the general public, or accepting food or beverage provided at a widely attended event that includes at least twenty five private persons and relates to the official's duties. However, no such public official or committee controlled by the public official shall accept an in-kind contribution of food, entertainment, lodging, or travel from a lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal.

3. No lobbyist shall deliver any gift, tangible or intangible item, service, or thing of value in excess of five dollars per occurrence to any statewide elected officer or member of the general assembly, or to the spouse, dependent children, staff or employees of such officer or member, or to any department or division director of the executive branch, or to any judicial branch purchasing officer, or to any locally elected government official. Notwithstanding the foregoing, this subsection shall not be construed to prevent a lobbyist from delivering to a public official any contribution to a political committee under the control of that public official, consistent with this article and applicable law, delivering any informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, or items that are available or distributed free of charge to members of the general public, or delivering food or beverage provided at a widely attended event that includes at least twenty five private persons and relates to the official's duties. However, no lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal shall make an in-kind contribution of food, entertainment, lodging, or travel to a public official or political committee controlled by a public official. All gifts by a lobbyist or lobbyist principal to a public official their employees or staff shall be reported to the ethics commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient.

4. Notwithstanding any provision of law to the contrary, nothing in this section shall prohibit a paid employee of a statewide elected official from acting, serving or registering as a lobbyist for such employer before the legislative branch of state government.

5. Any violation of this section shall be punishable by a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars or both.

6. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in

16-K49

either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official; and such person is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

"Paid political consultant", a person or organization controlled by the person that is paid to promote the election of a candidate, group of candidates or the interest of an organization or committee, as defined under the campaign finance laws of this state, which shall include, but not be limited to, planning campaign strategies, coordinating campaign staff, organizing meetings and public events to publicize the candidate or cause, public opinion polling, providing research on issues or opposition background, coordinating, producing or purchasing print, electronic, digital, broadcast or other media, direct mail production, phone solicitation, fundraising, and any other political activities.

Section 2.

1. Unlimited campaign contributions to candidates for public office are banned. In addition to other campaign contribution limitations or restrictions provided for by law and unless local charter or ordinance provides for a lower contribution limit for a local office, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for public office shall not exceed the following:

   (1) To elect an individual to the office of governor, lieutenant governor, secretary of state, state treasurer, state auditor, or attorney general, two thousand seven hundred dollars;
   (2) To elect an individual to the office of state senator, one thousand dollars;
   (3) To elect an individual to the office of state representative, one thousand dollars; and
   (4) To elect an individual to any other office, including judicial office, one thousand dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this section, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the ethics commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a candidate for public office shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. In determining if a contribution to a candidate for public office is made or accepted with the intent to circumvent the contribution limits imposed in this section, one factor that may be considered is whether the contribution is received from a committee or organization that is, at the time the contribution was made, funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. For purposes of this section, a committee or organization is "primarily funded by a single person, individual, or other committee" when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

4. No contribution to a candidate for public office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

5. If a payment for a covered communication for a candidate for public office is made by a person who is a coordinated spender with respect to the candidate, the payment or

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expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

6. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

7. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

8. No public official or candidate for public office shall solicit contributions, conduct fundraising activities, or hold fundraising events, supporting or opposing any candidate, ballot measure, political party, or political committee, on any property or in any building owned or leased by the state or any political subdivision, unless the property or building is routinely used by and made available for rent or for a fee to all members of the public by the state or the political subdivision.

9. For purposes of this section, the following terms are defined as follows:

(1) "Candidate", an individual who seeks nomination or election to public office, including an elected officeholder who is the subject of a recall election, an individual who seeks nomination by the individual's political party for election to public office, an individual standing for retention in an election to an office to which the individual was previously appointed, an individual who seeks nomination or election whether or not the specific elective public office to be sought has been finally determined, and an individual who is a write-in candidate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for public office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

h. Any payment or expenditure by any person other than a candidate or a candidate committee made in connection with any candidate that is authorized, requested, suggested, or fostered by or made in cooperation with a candidate, candidate committee, or agents of the candidate or candidate committee; or

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i. Any payment or expenditure for any communication which republishes, disseminates, or distributes in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or agents of the candidate or candidate committee, other than a photograph obtained from a public source.

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

d. The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders.

(c) In determining whether a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to a candidate's opponent is a contribution for purposes of this section, the following non-exclusive list of factors may be considered:

a. Information not generally available to the public regarding the candidate's campaign, plans, projects, activities, or needs is material to the creation, production or distribution of the communication;
b. The person discusses or negotiates the communication with the candidate, candidate's committee or an agent of the candidate or candidate's committee prior to the date the communication is publicly disseminated or distributed;
c. The person and the candidate or candidate's committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting or legal services, or other non-campaign services.

(d) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;
b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;
c. The person made contributions to the candidate;
d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;
e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors

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or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience that refers to a clearly identified candidate and:

(a) Either:
   a. Contains words such as "vote", "oppose", "support", "elect", "defeat", or "reject," in expressly advocating the election or defeat of the candidate; or
   b. Is made on or after January first of the year of the election in which the candidate seeks office, and is susceptible of no reasonable interpretation other than as an appeal to vote for or against a candidate; and

(b) Is:
   a. A broadcast, cable or satellite audio or video communication or an internet communication; or
   b. Printed advertisements, pamphlets, circulars, flyers, brochures, or a billboard.

(c) A communication over the internet is a "covered communication" only if it is placed for a fee on another person's web site.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

10. Any violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year and or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.

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(2) For the second and subsequent violations, a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

Section 3.

No statewide elected officer, or any member of the general assembly, or any of such elected official's employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by law or policy for the victim, any violation of this section shall be punishable by imprisonment for up to one year or a fine of up to one thousand dollars or both.

Section 4.

If any provision of this article or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-149)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article XIV. (Received November 9, 2015)

## Date

November 30, 2015

## Description

This proposal would create a new Article XIV of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

If additional persons are sentenced to the custody of the department due to the provisions of this legislation, the department will incur a corresponding increase of direct offender costs either through incarceration (fiscal year 2015 average of $16.809 per offender, per day, or an annual cost of $6,135 per inmate) or through supervision provided by the Board of Probation and Parole (fiscal year 2015 average of $6.04 per offender, per day or an annual cost of $2,205 per offender).

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this legislation.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated they assume no fiscal impact.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from **Metropolitan Community College** indicated no anticipated fiscal impact for their college.

Officials from the **University of Missouri** indicated they have reviewed this initiative petition and have determined there will be a limited fiscal impact.

Officials from **St. Louis Community College** indicated they do not believe this will have a fiscal impact on their college.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for fiscal year 2017, $61,107 for fiscal year 2018 and $61,734 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Prohibiting a statewide elected official, member of the general assembly, or paid employees of a statewide elected official or member of the general assembly from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130, RSMo:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific prohibition of receiving compensation as a political consultant from the entities outlined in Section 105.456, RSMo, including reviewing campaign finance reports as established in Section 105.955.14 (2), (3), RSMo.

- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a statewide elected official, member of the general assembly, or paid employee of the general assembly from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a statewide elected official, member of the general assembly, the spouses, dependent children, staff/employees of a statewide elected official or the general assembly, a department/division director of the executive branch, or local elected officials to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing prohibition for a lobbyist to deliver specified lobbyist/lobbyist principle gifts to a statewide elected official, member of the general assembly, the spouses, dependent children, staff/employees of a statewide elected official or general assembly, a department/division director of executive branch, and local elected officials would require the following of the MEC:

• Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
• Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:
• Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
• Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
• Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
• Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

•$15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search

capabilities, providing for a manual review by MEC staff of adherence to the established limits.

•1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

•If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District,** and **State Technical College of Missouri.**

**Fiscal Note Summary**

State governmental entities estimate increased annual operating costs of at least $61,000 and indicate there may be minimal incarceration costs if people are convicted under the provisions of this petition. Local governmental entities report no expected fiscal impact.

RECEIVED
NOV - 9 2015
STATE AUDITOR

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 9, 2015

16-148

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article VII, version 31 (2016-148)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on November 9, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-K18

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2016 NOV -9 PM 12:50
SECRETARY OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this _____day of _____, A.D. 201_____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

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*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article VII of the Constitution is revised by adopting 4 new sections to be known as Article VII Sections 15, 16, 17, and 18 to read as follows:

Article VII

Section 15.

1. No statewide elected officer or member of the general assembly shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit clients to represent as a paid lobbyist until one year after the expiration of any term of office for which such official is elected. No statewide elected officer or member of the general assembly shall act or serve as a paid political consultant or solicit clients to represent as a paid political consultant during any term of office for which such official is elected. Any paid employee of such officials shall also be barred from acting or serving as a paid lobbyist, registering as a paid lobbyist, or soliciting clients to represent as a paid lobbyist until one year after termination of their employment. Any paid employee of such officials shall also be barred from acting or serving as a paid political consultant or soliciting clients to represent as a paid political consultant during their employment.

2. No statewide elected officer or member of the general assembly, or the spouse, dependent children, staff or employees of such officer or member, or any department or division director of the executive branch, or any judicial branch purchasing officer or any locally elected government official shall accept any gift, tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. Notwithstanding the foregoing, this subsection shall not be construed to prevent any public official from accepting contributions to political committees under his or her control, consistent with this article and applicable law, accepting informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, accepting items that are available or distributed free of charge to members of the general public, or accepting food or beverage provided at a widely attended event that includes at least twenty five private persons and relates to the official's duties. However, no such public official or committee controlled by the public official shall accept an in-kind contribution of food, entertainment, lodging, or travel from a lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal.

3. No lobbyist shall deliver any gift, tangible or intangible item, service, or thing of value in excess of five dollars per occurrence to any statewide elected officer or member of the general assembly, or to the spouse, dependent children, staff or employees of such officer or member, or to any department or division director of the executive branch, or to any judicial branch purchasing officer, or to any locally elected government official. Notwithstanding the foregoing, this subsection shall not be construed to prevent a lobbyist from delivering to a public official any contribution to a political committee under the control of that public official, consistent with this article and applicable law, delivering any informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, items that are available or distributed free of charge to members of the general public, or delivering food or beverage provided at a widely attended event that includes at least twenty five private persons and relates to the official's duties. However, no lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal shall make an in-kind contribution of food, entertainment, lodging, or travel to a public official or political committee controlled by a public official. All gifts by a lobbyist or lobbyist principal to a public official their employees or staff shall be reported to the ethics commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient.

4. Notwithstanding any provision of law to the contrary, nothing in this section shall prohibit a paid employee of a statewide elected official from acting, serving or registering as a lobbyist for such employer before the legislative branch of state government.

5. Any violation of this section shall be punishable by a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars or both.

6. For purposes of this section, the following terms mean:

   "Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in

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either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official; and such person is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

"Paid political consultant", a person or organization controlled by the person that is paid to promote the election of a candidate, group of candidates or the interest of an organization or committee, as defined under the campaign finance laws of this state, which shall include, but not be limited to, planning campaign strategies, coordinating campaign staff, organizing meetings and public events to publicize the candidate or cause, public opinion polling, providing research on issues or opposition background, coordinating, producing or purchasing print, electronic, digital, broadcast or other media, direct mail production, phone solicitation, fundraising, and any other political activities.

Section 16.

1. Unlimited campaign contributions to candidates for public office are banned. In addition to other campaign contribution limitations or restrictions provided for by law and unless local charter or ordinance provides for a lower contribution limit for a local office, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for public office shall not exceed the following:

   (1) To elect an individual to the office of governor, lieutenant governor, secretary of state, state treasurer, state auditor, or attorney general, two thousand seven hundred dollars;
   (2) To elect an individual to the office of state senator, one thousand dollars;
   (3) To elect an individual to the office of state representative, one thousand dollars; and
   (4) To elect an individual to any other office, including judicial office, one thousand dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this section, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the ethics commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a candidate for public office shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. In determining if a contribution to a candidate for public office is made or accepted with the intent to circumvent the contribution limits imposed in this section, one factor that may be considered is whether the contribution is received from a committee or organization that is, at the time the contribution was made, funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. For purposes of this section, a committee or organization is "primarily funded by a single person, individual, or other committee" when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

4. No contribution to a candidate for public office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

5. If a payment for a covered communication for a candidate for public office is made by a person who is a coordinated spender with respect to the candidate, the payment or

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expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

6. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

7. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

8. No public official or candidate for public office shall solicit contributions, conduct fundraising activities, or hold fundraising events, supporting or opposing any candidate, ballot measure, political party, or political committee, on any property or in any building owned or leased by the state or any political subdivision, unless the property or building is routinely used by and made available for rent or for a fee to all members of the public by the state or the political subdivision.

9. For purposes of this section, the following terms are defined as follows:

(1) "Candidate", an individual who seeks nomination or election to public office, including an elected officeholder who is the subject of a recall election, an individual who seeks nomination by the individual's political party for election to public office, an individual standing for retention in an election to an office to which the individual was previously appointed, an individual who seeks nomination or election whether or not the specific elective public office to be sought has been finally determined, and an individual who is a write-in candidate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for public office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

h. Any payment or expenditure by any person other than a candidate or a candidate committee made in connection with any candidate that is authorized, requested, suggested, or fostered by or made in cooperation with a candidate, candidate committee, or agents of the candidate or candidate committee; or

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i. Any payment or expenditure for any communication which republishes, disseminates, or distributes in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or agents of the candidate or candidate committee, other than a photograph obtained from a public source.

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

d. The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders.

(c) In determining whether a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to a candidate's opponent is a contribution for purposes of this section, the following non-exclusive list of factors may be considered:

a. Information not generally available to the public regarding the candidate's campaign, plans, projects, activities, or needs is material to the creation, production or distribution of the communication;
b. The person discusses or negotiates the communication with the candidate, candidate's committee or an agent of the candidate or candidate's committee prior to the date the communication is publicly disseminated or distributed;
c. The person and the candidate or candidate's committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting or legal services, or other non-campaign services.

(d) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;
b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;
c. The person made contributions to the candidate;
d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;
e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors

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or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience that refers to a clearly identified candidate and:

(a) Either:
   a. Contains words such as "vote", "oppose", "support", "elect", "defeat", or "reject," in expressly advocating the election or defeat of the candidate; or
   b. Is made on or after January first of the year of the election in which the candidate seeks office, and is susceptible of no reasonable interpretation other than as an appeal to vote for or against a candidate; and

(b) Is:
   a. A broadcast, cable or satellite audio or video communication or an internet communication; or
   b. Printed advertisements, pamphlets, circulars, flyers, brochures, or a billboard.

(c) A communication over the internet is a "covered communication" only if it is placed for a fee on another person's web site.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

10. Any violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year and or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.

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(2) For the second and subsequent violations, a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

Section 17.

No statewide elected officer, or any member of the general assembly, or any of such elected official's employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by law or policy for the victim, any violation of this section shall be punishable by imprisonment for up to one year or a fine of up to one thousand dollars or both.

Section 18.

If any provision of sections 15, 16, or 17 of this article or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-148)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article VII. (Received November 9, 2015)

## Date

November 30, 2015

## Description

This proposal would amend Article VII of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

If additional persons are sentenced to the custody of the department due to the provisions of this legislation, the department will incur a corresponding increase of direct offender costs either through incarceration (fiscal year 2015 average of $16.809 per offender, per day, or an annual cost of $6,135 per inmate) or through supervision provided by the Board of Probation and Parole (fiscal year 2015 average of $6.04 per offender, per day or an annual cost of $2,205 per offender).

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this legislation.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated they assume no fiscal impact.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from **Metropolitan Community College** indicated no anticipated fiscal impact for their college.

Officials from the **University of Missouri** indicated they have reviewed this initiative petition and have determined there will be a limited fiscal impact.

Officials from **St. Louis Community College** indicated they do not believe this will have a fiscal impact on their college.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for fiscal year 2017, $61,107 for fiscal year 2018 and $61,734 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Prohibiting a statewide elected official, member of the general assembly, or paid employees of a statewide elected official or member of the general assembly from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130, RSMo:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific prohibition of receiving compensation as a political consultant from the entities outlined in Section 105.456, RSMo, including reviewing campaign finance reports as established in Section 105.955.14 (2), (3), RSMo.

- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a statewide elected official, member of the general assembly, or paid employee of the general assembly from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a statewide elected official, member of the general assembly, the spouses, dependent children, staff/employees of a statewide elected official or the general assembly, a department/division director of the executive branch, or local elected officials to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing prohibition for a lobbyist to deliver specified lobbyist/lobbyist principle gifts to a statewide elected official, member of the general assembly, the spouses, dependent children, staff/employees of a statewide elected official or general assembly, a department/division director of executive branch, and local elected officials would require the following of the MEC:

• Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
• Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:
• Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
• Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
• Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
• Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

•$15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search

capabilities, providing for a manual review by MEC staff of adherence to the established limits.

•1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

•If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District,** and **State Technical College of Missouri.**

**Fiscal Note Summary**

State governmental entities estimate increased annual operating costs of at least $61,000 and indicate there may be minimal incarceration costs if people are convicted under the provisions of this petition. Local governmental entities report no expected fiscal impact.

RECEIVED
NOV - 9 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 9, 2015

16-147

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article VII, version 30 (2016-147)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on November 9, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-K17

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2016 MAY -9 PM 12:49
SECRETARY OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this _____day of _____, A.D. 201_____.

Notary Public (Seal)

_____
Signature of Notary

My commission expires _____

_____
Address of Notary (Street, City, State & Zip Code)

16-147

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article VII of the Constitution is revised by adopting 4 new sections to be known as Article VII Sections 15, 16, 17, and 18 to read as follows:

Article VII

Section 15.

1. No statewide elected officer or member of the general assembly shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit clients to represent as a paid lobbyist until one year after the expiration of any term of office for which such official is elected. No statewide elected officer or member of the general assembly shall act or serve as a paid political consultant or solicit clients to represent as a paid political consultant during any term of office for which such official is elected. Any paid employee of such officials shall also be barred from acting or serving as a paid lobbyist, registering as a paid lobbyist, or soliciting clients to represent as a paid lobbyist until one year after termination of their employment. Any paid employee of such officials shall also be barred from acting or serving as a paid political consultant or soliciting clients to represent as a paid political consultant during their employment.

2. No statewide elected officer or member of the general assembly, or the spouse, dependent children, staff or employees of such officer or member, or any department or division director of the executive branch, or any judicial branch purchasing officer or any locally elected government official shall accept any gift, tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. This subsection shall not be construed to prevent any public official from accepting contributions to political committees under his or her control, consistent with this section and applicable law, accepting informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, or accepting items that are available or distributed free of charge to members of the general public. However, no such public official or committee controlled by the public official shall accept an in-kind contribution of food, entertainment, lodging, or travel from a lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal.

3. No lobbyist shall deliver any gift, tangible or intangible item, service, or thing of value in excess of five dollars per occurrence to any statewide elected officer or member of the general assembly, or to the spouse, dependent children, staff or employees of such officer or member, or to any department or division director of the executive branch, or to any judicial branch purchasing officer, or to any locally elected government official. This subsection shall not be construed to prevent a lobbyist from delivering to a public official any contribution to a political committee under the control of that public official, consistent with this section and applicable law, any informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, or items that are available or distributed free of charge to members of the general public. However, no lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal shall make an in-kind contribution of food, entertainment, lodging, or travel to a public official or political committee controlled by a public official. All gifts by a lobbyist or lobbyist principal to a public official their employees or staff shall be reported to the ethics commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient.

4. Notwithstanding any provision of law to the contrary, nothing in this section shall prohibit a paid employee of a statewide elected official from acting, serving or registering as a lobbyist for such employer before the legislative branch of state government.

5. Any violation of this section shall be punishable by a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars or both.

6. For purposes of this section, the following terms mean:

   "Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural

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person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official; and such person is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

"Paid political consultant", a person or organization controlled by the person that is paid to promote the election of a candidate, group of candidates or the interest of an organization or committee, as defined under the campaign finance laws of this state, which shall include, but not be limited to, planning campaign strategies, coordinating campaign staff, organizing meetings and public events to publicize the candidate or cause, public opinion polling, providing research on issues or opposition background, coordinating, producing or purchasing print, electronic, digital, broadcast or other media, direct mail production, phone solicitation, fundraising, and any other political activities.

Section 16.

1. Unlimited campaign contributions to candidates for public office are banned. In addition to other campaign contribution limitations or restrictions provided for by law and unless local charter or ordinance provides for a lower contribution limit for a local office, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for public office shall not exceed the following:

   (1) To elect an individual to the office of governor, lieutenant governor, secretary of state, state treasurer, state auditor, or attorney general, one thousand dollars;
   (2) To elect an individual to the office of state senator, two hundred fifty dollars;
   (3) To elect an individual to the office of state representative, two hundred fifty dollars; and
   (4) To elect an individual to any other office, including judicial office, two hundred fifty dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this section, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the ethics commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a candidate for public office shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No contribution to a candidate for public office shall be made by or accepted from a corporation.

4. In determining if a contribution to a candidate for public office is made or accepted with the intent to circumvent the contribution limits imposed in this section, one factor that may be considered is whether the contribution is received from a committee or organization that is, at the time the contribution was made, funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. For purposes of this section, a committee or organization is "primarily funded by a single person, individual, or other committee" when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

5. No contribution to a candidate for public office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

6. If a payment for a covered communication for a candidate for public office is made by a person who is a coordinated spender with respect to the candidate, the payment or

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expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

7. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

8. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

9. No public official or candidate for public office shall solicit contributions, conduct fundraising activities, or hold fundraising events, supporting or opposing any candidate, ballot measure, political party, or political committee, on any property or in any building owned or leased by the state or any political subdivision, unless the property or building is routinely used by and made available for rent or for a fee to all members of the public by the state or the political subdivision.

10. For purposes of this section, the following terms are defined as follows:

(1) "Candidate", an individual who seeks nomination or election to public office, including an elected officeholder who is the subject of a recall election, an individual who seeks nomination by the individual's political party for election to public office, an individual standing for retention in an election to an office to which the individual was previously appointed, an individual who seeks nomination or election whether or not the specific elective public office to be sought has been finally determined, and an individual who is a write-in candidate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for public office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

h. Any payment or expenditure by any person other than a candidate or a candidate committee made in connection with any candidate that is authorized, requested, suggested, or fostered by or made in cooperation with a candidate, candidate committee, or agents of the candidate or candidate committee; or

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i. Any payment or expenditure for any communication which republishes, disseminates, or distributes in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or agents of the candidate or candidate committee, other than a photograph obtained from a public source.

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

d. The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders.

(c) In determining whether a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to a candidate's opponent is a contribution for purposes of this section, the following non-exclusive list of factors may be considered:

a. Information not generally available to the public regarding the candidate's campaign, plans, projects, activities, or needs is material to the creation, production or distribution of the communication;
b. The person discusses or negotiates the communication with the candidate, candidate's committee or an agent of the candidate or candidate's committee prior to the date the communication is publicly disseminated or distributed;
c. The person and the candidate or candidate's committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting or legal services, or other non-campaign services.

(d) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;
b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;
c. The person made contributions to the candidate;
d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;
e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors

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or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience that refers to a clearly identified candidate and:

(a) Either:
  a. Contains words such as "vote", "oppose", "support", "elect", "defeat", or "reject," in expressly advocating the election or defeat of the candidate; or
  b. Is made on or after January first of the year of the election in which the candidate seeks office, and is susceptible of no reasonable interpretation other than as an appeal to vote for or against a candidate; and

(b) Is:
  a. A broadcast, cable or satellite audio or video communication or an internet communication; or
  b. Printed advertisements, pamphlets, circulars, flyers, brochures, or a billboard.

(c) A communication over the internet is a "covered communication" only if it is placed for a fee on another person's web site.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

11. Any violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year and or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.

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(2) For the second and subsequent violations, a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

Section 17.

No statewide elected officer, or any member of the general assembly, or any of such elected official's employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by law or policy for the victim, any violation of this section shall be punishable by imprisonment for up to one year or a fine of up to one thousand dollars or both.

Section 18.

If any provision of sections 15, 16, or 17 of this article or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-147)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article VII. (Received November 9, 2015)

## Date

November 30, 2015

## Description

This proposal would amend Article VII of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

If additional persons are sentenced to the custody of the department due to the provisions of this legislation, the department will incur a corresponding increase of direct offender costs either through incarceration (fiscal year 2015 average of $16.809 per offender, per day, or an annual cost of $6,135 per inmate) or through supervision provided by the Board of Probation and Parole (fiscal year 2015 average of $6.04 per offender, per day or an annual cost of $2,205 per offender).

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this legislation.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated they assume no fiscal impact.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from **Metropolitan Community College** indicated no anticipated fiscal impact for their college.

Officials from the **University of Missouri** indicated they have reviewed this initiative petition and have determined there will be a limited fiscal impact.

Officials from **St. Louis Community College** indicated they do not believe this will have a fiscal impact on their college.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for fiscal year 2017, $61,107 for fiscal year 2018 and $61,734 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Prohibiting a statewide elected official, member of the general assembly, or paid employees of a statewide elected official or member of the general assembly from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130, RSMo:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific prohibition of receiving compensation as a political consultant from the entities outlined in Section 105.456, RSMo, including reviewing campaign finance reports as established in Section 105.955.14 (2), (3), RSMo.

- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a statewide elected official, member of the general assembly, or paid employee of the general assembly from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a statewide elected official, member of the general assembly, the spouses, dependent children, staff/employees of a statewide elected official or the general assembly, a department/division director of the executive branch, or local elected officials to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing prohibition for a lobbyist to deliver specified lobbyist/lobbyist principle gifts to a statewide elected official, member of the general assembly, the spouses, dependent children, staff/employees of a statewide elected official or general assembly, a department/division director of executive branch, and local elected officials would require the following of the MEC:

• Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
• Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:
• Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
• Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
• Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
• Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

•$15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search

capabilities, providing for a manual review by MEC staff of adherence to the established limits.

•1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

•If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District,** and **State Technical College of Missouri.**

**Fiscal Note Summary**

State governmental entities estimate increased annual operating costs of at least $61,000 and indicate there may be minimal incarceration costs if people are convicted under the provisions of this petition. Local governmental entities report no expected fiscal impact.

RECEIVED
NOV - 9 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-K16

November 9, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article VII, version 29 (2016-146)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on November 9, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-146

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 NOV -9 PM 12:19
SECRETARY OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

My commission expires _____

_____
Address of Notary (Street, City, State & Zip Code)

16-146

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article VII of the Constitution is revised by adopting 4 new sections to be known as Article VII Sections 15, 16, 17, and 18 to read as follows:

Article VII

Section 15.

1. No statewide elected officer or member of the general assembly shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit clients to represent as a paid lobbyist until one year after the expiration of any term of office for which such official is elected. No statewide elected officer or member of the general assembly shall act or serve as a paid political consultant or solicit clients to represent as a paid political consultant during any term of office for which such official is elected. Any paid employee of such officials shall also be barred from acting or serving as a paid lobbyist, registering as a paid lobbyist, or soliciting clients to represent as a paid lobbyist until one year after termination of their employment. Any paid employee of such officials shall also be barred from acting or serving as a paid political consultant or soliciting clients to represent as a paid political consultant during their employment.

2. No statewide elected officer or member of the general assembly, or the spouse, dependent children, staff or employees of such officer or member, or any department or division director of the executive branch, or any judicial branch purchasing officer or any locally elected government official shall accept any gift, tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. This subsection shall not be construed to prevent any public official from accepting contributions to political committees under his or her control, consistent with this section and applicable law, accepting informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, or accepting items that are available or distributed free of charge to members of the general public. However, no such public official or committee controlled by the public official shall accept an in-kind contribution of food, entertainment, lodging, or travel from a lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal.

3. No lobbyist shall deliver any gift, tangible or intangible item, service, or thing of value in excess of five dollars per occurrence to any statewide elected officer or member of the general assembly, or to the spouse, dependent children, staff or employees of such officer or member, or to any department or division director of the executive branch, or to any judicial branch purchasing officer, or to any locally elected government official. This subsection shall not be construed to prevent a lobbyist from delivering to a public official any contribution to a political committee under the control of that public official, consistent with this section and applicable law, any informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, or items that are available or distributed free of charge to members of the general public. However, no lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal shall make an in-kind contribution of food, entertainment, lodging, or travel to a public official or political committee controlled by a public official. All gifts by a lobbyist or lobbyist principal to a public official their employees or staff shall be reported to the ethics commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient.

4. Notwithstanding any provision of law to the contrary, nothing in this section shall prohibit a paid employee of a statewide elected official from acting, serving or registering as a lobbyist for such employer before the legislative branch of state government.

5. Any violation of this section shall be punishable by a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars or both.

6. For purposes of this section, the following terms mean:

   "Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural

person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official; and such person is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

"Paid political consultant", a person or organization controlled by the person that is paid to promote the election of a candidate, group of candidates or the interest of an organization or committee, as defined under the campaign finance laws of this state, which shall include, but not be limited to, planning campaign strategies, coordinating campaign staff, organizing meetings and public events to publicize the candidate or cause, public opinion polling, providing research on issues or opposition background, coordinating, producing or purchasing print, electronic, digital, broadcast or other media, direct mail production, phone solicitation, fundraising, and any other political activities.

Section 16.

1. Unlimited campaign contributions to candidates for public office are banned. In addition to other campaign contribution limitations or restrictions provided for by law and unless local charter or ordinance provides for a lower contribution limit for a local office, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for public office shall not exceed the following:

   (1) To elect an individual to the office of governor, lieutenant governor, secretary of state, state treasurer, state auditor, or attorney general, two thousand seven hundred dollars;
   (2) To elect an individual to the office of state senator, one thousand dollars;
   (3) To elect an individual to the office of state representative, one thousand dollars; and
   (4) To elect an individual to any other office, including judicial office, one thousand dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this section, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the ethics commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a candidate for public office shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No contribution to a candidate for public office shall be made by or accepted from a corporation.

4. In determining if a contribution to a candidate for public office is made or accepted with the intent to circumvent the contribution limits imposed in this section, one factor that may be considered is whether the contribution is received from a committee or organization that is, at the time the contribution was made, funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. For purposes of this section, a committee or organization is "primarily funded by a single person, individual, or other committee" when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

5. No contribution to a candidate for public office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

6. If a payment for a covered communication for a candidate for public office is made by a person who is a coordinated spender with respect to the candidate, the payment or expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

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7. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

8. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

9. No public official or candidate for public office shall solicit contributions, conduct fundraising activities, or hold fundraising events, supporting or opposing any candidate, ballot measure, political party, or political committee, on any property or in any building owned or leased by the state or any political subdivision, unless the property or building is routinely used by and made available for rent or for a fee to all members of the public by the state or the political subdivision.

10. For purposes of this section, the following terms are defined as follows:

(1) "Candidate", an individual who seeks nomination or election to public office, including an elected officeholder who is the subject of a recall election, an individual who seeks nomination by the individual's political party for election to public office, an individual standing for retention in an election to an office to which the individual was previously appointed, an individual who seeks nomination or election whether or not the specific elective public office to be sought has been finally determined, and an individual who is a write-in candidate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for public office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

h. Any payment or expenditure by any person other than a candidate or a candidate committee made in connection with any candidate that is authorized, requested, suggested, or fostered by or made in cooperation with a candidate, candidate committee, or agents of the candidate or candidate committee; or

i. Any payment or expenditure for any communication which republishes, disseminates, or distributes in whole or in part, any broadcast or any written, graphic,

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or other form of campaign material prepared by the candidate or candidate committee or agents of the candidate or candidate committee, other than a photograph obtained from a public source.

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

d. The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders.

(c) In determining whether a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to a candidate's opponent is a contribution for purposes of this section, the following non-exclusive list of factors may be considered:

a. Information not generally available to the public regarding the candidate's campaign, plans, projects, activities, or needs is material to the creation, production or distribution of the communication;
b. The person discusses or negotiates the communication with the candidate, candidate's committee or an agent of the candidate or candidate's committee prior to the date the communication is publicly disseminated or distributed;
c. The person and the candidate or candidate's committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting or legal services, or other non-campaign services.

(d) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;
b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;
c. The person made contributions to the candidate;
d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;
e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

16-K16

(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience that refers to a clearly identified candidate and:

(a) Either:
  a. Contains words such as "vote", "oppose", "support", "elect", "defeat", or "reject," in expressly advocating the election or defeat of the candidate; or
  b. Is made on or after January first of the year of the election in which the candidate seeks office, and is susceptible of no reasonable interpretation other than as an appeal to vote for or against a candidate; and

(b) Is:
  a. A broadcast, cable or satellite audio or video communication or an internet communication; or
  b. Printed advertisements, pamphlets, circulars, flyers, brochures, or a billboard.

(c) A communication over the internet is a "covered communication" only if it is placed for a fee on another person's web site.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

11. Any violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year and or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.
(2) For the second and subsequent violations, a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

Section 17.

K6-K46

No statewide elected officer, or any member of the general assembly, or any of such elected official's employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by law or policy for the victim, any violation of this section shall be punishable by imprisonment for up to one year or a fine of up to one thousand dollars or both.

Section 18.

If any provision of sections 15, 16, or 17 of this article or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-146)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article VII. (Received November 9, 2015)

## Date

November 30, 2015

## Description

This proposal would amend Article VII of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

If additional persons are sentenced to the custody of the department due to the provisions of this legislation, the department will incur a corresponding increase of direct offender costs either through incarceration (fiscal year 2015 average of $16.809 per offender, per day, or an annual cost of $6,135 per inmate) or through supervision provided by the Board of Probation and Parole (fiscal year 2015 average of $6.04 per offender, per day or an annual cost of $2,205 per offender).

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this legislation.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated they assume no fiscal impact.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from **Metropolitan Community College** indicated no anticipated fiscal impact for their college.

Officials from the **University of Missouri** indicated they have reviewed this initiative petition and have determined there will be a limited fiscal impact.

Officials from **St. Louis Community College** indicated they do not believe this will have a fiscal impact on their college.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for fiscal year 2017, $61,107 for fiscal year 2018 and $61,734 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Prohibiting a statewide elected official, member of the general assembly, or paid employees of a statewide elected official or member of the general assembly from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130, RSMo:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific prohibition of receiving compensation as a political consultant from the entities outlined in Section 105.456, RSMo, including reviewing campaign finance reports as established in Section 105.955.14 (2), (3), RSMo.

- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a statewide elected official, member of the general assembly, or paid employee of the general assembly from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a statewide elected official, member of the general assembly, the spouses, dependent children, staff/employees of a statewide elected official or the general assembly, a department/division director of the executive branch, or local elected officials to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing prohibition for a lobbyist to deliver specified lobbyist/lobbyist principle gifts to a statewide elected official, member of the general assembly, the spouses, dependent children, staff/employees of a statewide elected official or general assembly, a department/division director of executive branch, and local elected officials would require the following of the MEC:

• Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
• Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:
• Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
• Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
• Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
• Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

•$15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search

capabilities, providing for a manual review by MEC staff of adherence to the established limits.

•1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

•If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District,** and **State Technical College of Missouri.**

**Fiscal Note Summary**

State governmental entities estimate increased annual operating costs of at least $61,000 and indicate there may be minimal incarceration costs if people are convicted under the provisions of this petition. Local governmental entities report no expected fiscal impact.

RECEIVED
NOV - 9 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-R15

November 9, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article VII, version 28 (2016-145)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on November 9, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-K15 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 NOV -9 PM 12:48

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-145

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article VII of the Constitution is revised by adopting 4 new sections to be known as Article VII Sections 15, 16, 17, and 18 to read as follows:

Article VII

Section 15.

1. No statewide elected officer or member of the general assembly shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit clients to represent as a paid lobbyist until one year after the expiration of any term of office for which such official is elected. No statewide elected officer or member of the general assembly shall act or serve as a paid political consultant or solicit clients to represent as a paid political consultant during any term of office for which such official is elected. Any paid employee of such officials shall also be barred from acting or serving as a paid lobbyist, registering as a paid lobbyist, or soliciting clients to represent as a paid lobbyist until one year after termination of their employment. Any paid employee of such officials shall also be barred from acting or serving as a paid political consultant or soliciting clients to represent as a paid political consultant during their employment.

2. No statewide elected officer or member of the general assembly, or the spouse, dependent children, staff or employees of such officer or member, or any department or division director of the executive branch, or any judicial branch purchasing officer or any locally elected government official shall accept any gift, tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. This subsection shall not be construed to prevent any public official from accepting contributions to political committees under his or her control, consistent with this section and applicable law, accepting informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, or accepting items that are available or distributed free of charge to members of the general public. However, no such public official or committee controlled by the public official shall accept an in-kind contribution of food, entertainment, lodging, or travel from a lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal.

3. No lobbyist shall deliver any gift, tangible or intangible item, service, or thing of value in excess of five dollars per occurrence to any statewide elected officer or member of the general assembly, or to the spouse, dependent children, staff or employees of such officer or member, or to any department or division director of the executive branch, or to any judicial branch purchasing officer, or to any locally elected government official. This subsection shall not be construed to prevent a lobbyist from delivering to a public official any contribution to a political committee under the control of that public official, consistent with this section and applicable law, any informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, or items that are available or distributed free of charge to members of the general public. However, no lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal shall make an in-kind contribution of food, entertainment, lodging, or travel to a public official or political committee controlled by a public official. All gifts by a lobbyist or lobbyist principal to a public official their employees or staff shall be reported to the ethics commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient.

4. Notwithstanding any provision of law to the contrary, nothing in this section shall prohibit a paid employee of a statewide elected official from acting, serving or registering as a lobbyist for such employer before the legislative branch of state government.

5. Any violation of this section shall be punishable by a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars or both.

6. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural

16-K15

person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official; and such person is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

"Paid political consultant", a person or organization controlled by the person that is paid to promote the election of a candidate, group of candidates or the interest of an organization or committee, as defined under the campaign finance laws of this state, which shall include, but not be limited to, planning campaign strategies, coordinating campaign staff, organizing meetings and public events to publicize the candidate or cause, public opinion polling, providing research on issues or opposition background, coordinating, producing or purchasing print, electronic, digital, broadcast or other media, direct mail production, phone solicitation, fundraising, and any other political activities.

Section 16.

1. Unlimited campaign contributions to candidates for public office are banned. In addition to other campaign contribution limitations or restrictions provided for by law and unless local charter or ordinance provides for a lower contribution limit for a local office, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for public office shall not exceed the following:

   (1) To elect an individual to the office of governor, lieutenant governor, secretary of state, state treasurer, state auditor, or attorney general, five thousand four hundred dollars;
   (2) To elect an individual to the office of state senator, two thousand seven hundred dollars;
   (3) To elect an individual to the office of state representative, two thousand seven hundred dollars; and
   (4) To elect an individual to any other office, including judicial office, two thousand seven hundred dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this section, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the ethics commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a candidate for public office shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No contribution to a candidate for public office shall be made by or accepted from a corporation.

4. In determining if a contribution to a candidate for public office is made or accepted with the intent to circumvent the contribution limits imposed in this section, one factor that may be considered is whether the contribution is received from a committee or organization that is, at the time the contribution was made, funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. For purposes of this section, a committee or organization is "primarily funded by a single person, individual, or other committee" when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

5. No contribution to a candidate for public office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

6. If a payment for a covered communication for a candidate for public office is made by a person who is a coordinated spender with respect to the candidate, the payment or

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expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

7. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

8. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

9. No public official or candidate for public office shall solicit contributions, conduct fundraising activities, or hold fundraising events, supporting or opposing any candidate, ballot measure, political party, or political committee, on any property or in any building owned or leased by the state or any political subdivision, unless the property or building is routinely used by and made available for rent or for a fee to all members of the public by the state or the political subdivision.

10. For purposes of this section, the following terms are defined as follows:

(1) "Candidate", an individual who seeks nomination or election to public office, including an elected officeholder who is the subject of a recall election, an individual who seeks nomination by the individual's political party for election to public office, an individual standing for retention in an election to an office to which the individual was previously appointed, an individual who seeks nomination or election whether or not the specific elective public office to be sought has been finally determined, and an individual who is a write-in candidate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for public office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

h. Any payment or expenditure by any person other than a candidate or a candidate committee made in connection with any candidate that is authorized, requested, suggested, or fostered by or made in cooperation with a candidate, candidate committee, or agents of the candidate or candidate committee; or

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i. Any payment or expenditure for any communication which republishes, disseminates, or distributes in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or agents of the candidate or candidate committee, other than a photograph obtained from a public source.

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

d. The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders.

(c) In determining whether a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to a candidate's opponent is a contribution for purposes of this section, the following non-exclusive list of factors may be considered:

a. Information not generally available to the public regarding the candidate's campaign, plans, projects, activities, or needs is material to the creation, production or distribution of the communication;
b. The person discusses or negotiates the communication with the candidate, candidate's committee or an agent of the candidate or candidate's committee prior to the date the communication is publicly disseminated or distributed;
c. The person and the candidate or candidate's committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting or legal services, or other non-campaign services.

(d) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;
b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;
c. The person made contributions to the candidate;
d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;
e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors

16-145

or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience that refers to a clearly identified candidate and:

(a) Either:
   a. Contains words such as "vote", "oppose", "support", "elect", "defeat", or "reject," in expressly advocating the election or defeat of the candidate; or
   b. Is made on or after January first of the year of the election in which the candidate seeks office, and is susceptible of no reasonable interpretation other than as an appeal to vote for or against a candidate; and

(b) Is:
   a. A broadcast, cable or satellite audio or video communication or an internet communication; or
   b. Printed advertisements, pamphlets, circulars, flyers, brochures, or a billboard.

(c) A communication over the internet is a "covered communication" only if it is placed for a fee on another person's web site.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

11. Any violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year and or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.

16-K15

(2) For the second and subsequent violations, a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

Section 17.

No statewide elected officer, or any member of the general assembly, or any of such elected official's employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by law or policy for the victim, any violation of this section shall be punishable by imprisonment for up to one year or a fine of up to one thousand dollars or both.

Section 18.

If any provision of sections 15, 16, or 17 of this article or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-145)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article VII. (Received November 9, 2015)

## Date

November 30, 2015

## Description

This proposal would amend Article VII of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

If additional persons are sentenced to the custody of the department due to the provisions of this legislation, the department will incur a corresponding increase of direct offender costs either through incarceration (fiscal year 2015 average of $16.809 per offender, per day, or an annual cost of $6,135 per inmate) or through supervision provided by the Board of Probation and Parole (fiscal year 2015 average of $6.04 per offender, per day or an annual cost of $2,205 per offender).

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this legislation.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated they assume no fiscal impact.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from **Metropolitan Community College** indicated no anticipated fiscal impact for their college.

Officials from the **University of Missouri** indicated they have reviewed this initiative petition and have determined there will be a limited fiscal impact.

Officials from **St. Louis Community College** indicated they do not believe this will have a fiscal impact on their college.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for fiscal year 2017, $61,107 for fiscal year 2018 and $61,734 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Prohibiting a statewide elected official, member of the general assembly, or paid employees of a statewide elected official or member of the general assembly from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130, RSMo:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific prohibition of receiving compensation as a political consultant from the entities outlined in Section 105.456, RSMo, including reviewing campaign finance reports as established in Section 105.955.14 (2), (3), RSMo.

- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a statewide elected official, member of the general assembly, or paid employee of the general assembly from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a statewide elected official, member of the general assembly, the spouses, dependent children, staff/employees of a statewide elected official or the general assembly, a department/division director of the executive branch, or local elected officials to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing prohibition for a lobbyist to deliver specified lobbyist/lobbyist principle gifts to a statewide elected official, member of the general assembly, the spouses, dependent children, staff/employees of a statewide elected official or general assembly, a department/division director of executive branch, and local elected officials would require the following of the MEC:

• Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
• Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:
• Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
• Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
• Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
• Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

•$15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search

capabilities, providing for a manual review by MEC staff of adherence to the established limits.

•1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

•If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District,** and **State Technical College of Missouri.**

**Fiscal Note Summary**

State governmental entities estimate increased annual operating costs of at least $61,000 and indicate there may be minimal incarceration costs if people are convicted under the provisions of this petition. Local governmental entities report no expected fiscal impact.

RECEIVED
NOV 0 5 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-144

November 5, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article III, version 27 (2016-144)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on November 4, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-144 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 NOV -4 PM 2:21
SECRETARY OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____
(Name of payer) Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-144

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article III of the Constitution is revised by amending Sections 2, 7, 12 and 19 and adopting 5 new sections to be known as Article III Sections 16(a), 20(c), 20(d), 20(e) and 20(f) to read as follows:

Section 2. 1. The house of representatives shall consist of one hundred sixty-three members elected at each general election and apportioned in the following manner: Within sixty days after the population of this state is reported to the President for each decennial census of the United States and, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

2. The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.

Each district shall be composed of contiguous territory as compact as may be.

The commission shall create districts in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The commission shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the commission shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then

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calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the commission shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The commission shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the commission shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned consistent with the criteria of this section by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.

3. Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

4. No reapportionment shall be subject to the referendum.

5. Any taxpayer of this state shall have standing to bring suit in a circuit court of proper venue to enforce the provisions of this section.

Section 7. 1. Within sixty days after the population of this state is reported to the President for each decennial census of the United States, and within sixty days after notification by the governor that a reapportionment has been invalidated by a court of competent jurisdiction, the state committee of each of the two political parties casting the highest vote for governor at the last preceding election shall, at a committee meeting duly called, select by a vote of the individual committee members, and thereafter submit to the governor a list of ten persons, and within thirty days thereafter the governor shall appoint a commission of ten members, five from each list, to reapportion the thirty-four senatorial districts and to establish the numbers and boundaries of said districts.

If either of the party committees fails to submit a list within such time the governor shall appoint five members of his own choice from the party of the committee so failing to act.

16-KH

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the secretary of the senate within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

2. The commission shall reapportion the senatorial districts by dividing the population of the state by the number thirty-four and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure; no county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

The commission shall create districts in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The commission shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the commission shall determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the commission shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The commission shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the commission shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven members.

After the statement is filed senators shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand

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discharged and the senate shall be apportioned consistent with the criteria of this section by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter senators shall be elected according to such districts until a reapportionment is made as herein provided.

3. Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session, but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

4. No reapportionment shall be subject to the referendum.

5. Any taxpayer of this state shall have standing to bring suit in a circuit court of proper venue to enforce the provisions of this section.

Section 12. 1. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This subsection shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

2. No senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist until the expiration of one calendar year after the conclusion of the session of the general assembly in which the member or employee last served. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

3. No senator or representative or their employees or any entity controlled by a senator or representative or their employees shall act or serve as a paid employee or paid consultant to a political committee or political candidate or solicit prospective employers or clients as a paid employee or paid consultant to a political committee or political candidate. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

4. For purposes of this section, the term "lobbyist" means any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official.

Section 16(a). 1. No senator or representative or their employees or staff shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value

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from any lobbyist or lobbyist principal in excess of five dollars per occurrence. Senators or representatives and their employees and staff may accept informational material relevant to the general assembly's official functions and items that are available or distributed free of charge to members of the general public. All gifts by a lobbyist or lobbyist principal to a senator or representative or their employees or staff shall be reported to the ethics commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient. Candidates for senator or representative, including candidates for reelection, or candidates for offices within the senate or house may accept campaign contributions consistent with this article and applicable campaign finance law. Any violation of this section shall be punishable by a term of imprisonment of up to six months and the imposition of a fine of up to five hundred dollars or both.

2. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly and is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

Section 19. 1. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place.

2. Legislative records shall be public records and subject to generally applicable state laws governing public access to public records, including the "sunshine law." Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member, their employees and staff. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate, respectively.

3. Legislative proceedings, including committee proceedings, shall be public meetings subject to generally applicable law governing public access to public meetings, including the "sunshine law." Open public meetings of legislative proceedings shall be subject to recording by citizens, so long as the proceedings are not materially disrupted.

Section 20(c). No senator or representative or their employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by policy or law for the victim, any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars.

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Section 20(d).

1. Unlimited campaign contributions to candidates for legislative offices are banned. In addition to other campaign contribution limitations or restrictions provided for by law, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for legislative office shall not exceed the following:
   (1) To elect an individual to the office of state senator, two hundred fifty dollars; and
   (2) To elect an individual to the office of state representative, two hundred fifty dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this subsection, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the ethics commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a legislative candidate shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No legislative candidate shall accept a contribution from a corporation.

4. In determining if a contribution to candidate for legislative office is made or accepted with the intent to circumvent the contribution limits imposed in this section, one factor that may be considered is whether the contribution is received from a committee or organization that is, at the time the contribution was made, funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. For purposes of this subsection, a committee or organization is "primarily funded by a single person, individual, or other committee" when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

5. No contribution to a candidate for legislative office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

6. If a payment for a covered communication for a candidate for legislative office is made by a person who is a coordinated spender with respect to the candidate, the payment or expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

7. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

8. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

9. For purposes of this section, the following terms are defined as follows:

   (1) "Candidate", an individual who seeks nomination or election to the house or senate or as an officer of the house or senate, an individual who seeks nomination by the individual's political party for election to the house or senate or as an

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officer of the house or senate, and an individual who is a write-in candidate for the house or senate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

h. Any payment or expenditure by any person other than a candidate or a candidate committee made in connection with any candidate that is authorized, requested, suggested, or fostered by or made in cooperation with a candidate, candidate committee, or agents of the candidate or candidate committee; or

i. Any payment or expenditure for any communication which republishes, disseminates, or distributes in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or agents of the candidate or candidate committee, other than a photograph obtained from a public source.

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

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b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

d. The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders.

(c) In determining whether a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to a candidate's opponent is a contribution for purposes of this section, the following non-exclusive list of factors may be considered:

a. Information not generally available to the public regarding the candidate's campaign, plans, projects, activities, or needs is material to the creation, production or distribution of the communication;

b. The person discusses or negotiates the communication with the candidate, candidate's committee or an agent of the candidate or candidate's committee prior to the date the communication is publicly disseminated or distributed;

c. The person and the candidate or candidate's committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting or legal services, or other non-campaign services.

(d) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;
b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;
c. The person made contributions to the candidate;
d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;
e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the

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two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience that refers to a clearly identified candidate and:

(a) Either:

a. Contains words such as "vote", "oppose", "support", "elect", "defeat", or "reject," in expressly advocating the election or defeat of the candidate; or

b. Is made on or after January first of the year of the election in which the candidate seeks office, and is susceptible of no reasonable interpretation other than as an appeal to vote for or against a candidate; and

(b) Is:

a. A broadcast, cable or satellite audio or video communication or internet communication; or

b. Printed advertisements, pamphlets, circulars, flyers, brochures, or a billboard.

(c) A communication over the internet is a "covered communication" only if it is placed for a fee on another person's Web site.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization

however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

10. Any violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year and or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.
(2) For the second and subsequent violations, a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

Section 20(e). No political fundraising activities or political fundraising event, including the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party or political committee, shall occur in or on any premises, property or building owned, leased or controlled by the house of representatives, senate or general assembly. Any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars plus an amount equal to three times the illegal contributions.

Section 20(f). If any provision of sections 12, 16(a), 19, 20(c), 20(d) or 20(e) or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-144)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article III. (Received November 5, 2015)

## Date

November 25, 2015

## Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

If there is a significant increase in the number of complaints or referrals, the office may seek an additional appropriation.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

If additional persons are sentenced to the custody of the department due to the provisions of this legislation, the department will incur a corresponding increase of direct offender costs either through incarceration (fiscal year 2015 average of $16.809 per offender, per day, or an annual cost of $6,135 per inmate) or through supervision provided by the Board of Probation and Parole (fiscal year 2015 average of $6.04 per offender, per day or an annual cost of $2,205 per offender).

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this legislation.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated they assume no fiscal impact.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated they have reviewed this initiative petition and determined there will be no fiscal impact.

Officials from **St. Louis Community College** indicated they do not believe this will have fiscal impact on their college.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for fiscal year 2017, $61,107 for fiscal year 2018 and $61,734 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Prohibiting a member of the general assembly, entity controlled by a member of the general assembly, or employees of a member of the general assembly from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130, RSMo:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific prohibition of receiving compensation as a political consultant from the entities outlined in Section 105.456, RSMo, including reviewing campaign finance reports as established in Section 105.955.14 (2), (3), RSMo.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a member of the general assembly from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a member of general assembly or a staff member of the general assembly to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the

reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.

- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

•$15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

•1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

•If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Missouri Senate, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the

**City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri,** and **Metropolitan Community College.**

**Fiscal Note Summary**

State governmental entities estimate increased annual operating costs of at least $61,000 and indicate there may be minimal incarceration costs if people are convicted under the provisions of this petition. Local governmental entities report no expected fiscal impact.

RECEIVED
NOV 0 5 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-143

November 5, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article III, version 26 (2016-143)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on November 4, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
NOV -4 PM 2:21

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____

(Name of payer) Signature of Affiant (Person obtaining signatures)

_____

Printed Name of Affiant

_____

Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____

Signature of Notary

_____

Address of Notary (Street, City, State & Zip Code)

My commission expires _____

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article III of the Constitution is revised by amending Sections 2, 7, 12 and 19 and adopting 5 new sections to be known as Article III Sections 16(a), 20(c), 20(d), 20(e) and 20(f) to read as follows:

Section 2. 1. The house of representatives shall consist of one hundred sixty-three members elected at each general election and apportioned in the following manner: Within sixty days after the population of this state is reported to the President for each decennial census of the United States and, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

2. The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.

Each district shall be composed of contiguous territory as compact as may be.

The commission shall create districts in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The commission shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the commission shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then

calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the commission shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The commission shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the commission shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned consistent with the criteria of this section by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.

3. Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

4. No reapportionment shall be subject to the referendum.

5. Any taxpayer of this state shall have standing to bring suit in a circuit court of proper venue to enforce the provisions of this section.

Section 7. 1. Within sixty days after the population of this state is reported to the President for each decennial census of the United States, and within sixty days after notification by the governor that a reapportionment has been invalidated by a court of competent jurisdiction, the state committee of each of the two political parties casting the highest vote for governor at the last preceding election shall, at a committee meeting duly called, select by a vote of the individual committee members, and thereafter submit to the governor a list of ten persons, and within thirty days thereafter the governor shall appoint a commission of ten members, five from each list, to reapportion the thirty-four senatorial districts and to establish the numbers and boundaries of said districts.

If either of the party committees fails to submit a list within such time the governor shall appoint five members of his own choice from the party of the committee so failing to act.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the secretary of the senate within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

2. The commission shall reapportion the senatorial districts by dividing the population of the state by the number thirty-four and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure; no county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

The commission shall create districts in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The commission shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the commission shall determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the commission shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The commission shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the commission shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven members.

After the statement is filed senators shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand

discharged and the senate shall be apportioned consistent with the criteria of this section by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter senators shall be elected according to such districts until a reapportionment is made as herein provided.

3. Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session, but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

4. No reapportionment shall be subject to the referendum.

5. Any taxpayer of this state shall have standing to bring suit in a circuit court of proper venue to enforce the provisions of this section.

Section 12. 1. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This subsection shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

2. No senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist until the expiration of one calendar year after the conclusion of the session of the general assembly in which the member or employee last served. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

3. No senator or representative or their employees or any entity controlled by a senator or representative or their employees shall act or serve as a paid employee or paid consultant to a political committee or political candidate or solicit prospective employers or clients as a paid employee or paid consultant to a political committee or political candidate. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

4. For purposes of this section, the term "lobbyist" means any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official.

Section 16(a). 1. No senator or representative or their employees or staff shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value

from any lobbyist or lobbyist principal in excess of five dollars per occurrence. Senators or representatives and their employees and staff may accept informational material relevant to the general assembly's official functions and items that are available or distributed free of charge to members of the general public. All gifts by a lobbyist or lobbyist principal to a senator or representative or their employees or staff shall be reported to the ethics commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient. Candidates for senator or representative, including candidates for reelection, or candidates for offices within the senate or house may accept campaign contributions consistent with this article and applicable campaign finance law. Any violation of this section shall be punishable by a term of imprisonment of up to six months and the imposition of a fine of up to five hundred dollars or both.

2. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly and is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

Section 19. 1. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place.

2. Legislative records shall be public records and subject to generally applicable state laws governing public access to public records, including the "sunshine law." Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member, their employees and staff. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate, respectively.

3. Legislative proceedings, including committee proceedings, shall be public meetings subject to generally applicable law governing public access to public meetings, including the "sunshine law." Open public meetings of legislative proceedings shall be subject to recording by citizens, so long as the proceedings are not materially disrupted.

Section 20(c). No senator or representative or their employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by policy or law for the victim, any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars.

Section 20(d).

1. Unlimited campaign contributions to candidates for legislative offices are banned. In addition to other campaign contribution limitations or restrictions provided for by law, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for legislative office shall not exceed the following:
   (1) To elect an individual to the office of state senator, one thousand dollars; and
   (2) To elect an individual to the office of state representative, one thousand dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this subsection, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the ethics commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a legislative candidate shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No legislative candidate shall accept a contribution from a corporation.

4. In determining if a contribution to candidate for legislative office is made or accepted with the intent to circumvent the contribution limits imposed in this section, one factor that may be considered is whether the contribution is received from a committee or organization that is, at the time the contribution was made, funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. For purposes of this subsection, a committee or organization is "primarily funded by a single person, individual, or other committee" when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

5. No contribution to a candidate for legislative office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

6. If a payment for a covered communication for a candidate for legislative office is made by a person who is a coordinated spender with respect to the candidate, the payment or expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

7. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

8. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

9. For purposes of this section, the following terms are defined as follows:

   (1) "Candidate", an individual who seeks nomination or election to the house or senate or as an officer of the house or senate, an individual who seeks nomination by the individual's political party for election to the house or senate or as an officer of the house or senate, and an individual who is a write-in candidate for the house or senate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

h. Any payment or expenditure by any person other than a candidate or a candidate committee made in connection with any candidate that is authorized, requested, suggested, or fostered by or made in cooperation with a candidate, candidate committee, or agents of the candidate or candidate committee; or

i. Any payment or expenditure for any communication which republishes, disseminates, or distributes in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or agents of the candidate or candidate committee, other than a photograph obtained from a public source.

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

d. The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders.

(c) In determining whether a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to a candidate's opponent is a contribution for purposes of this section, the following non-exclusive list of factors may be considered:

a. Information not generally available to the public regarding the candidate's campaign, plans, projects, activities, or needs is material to the creation, production or distribution of the communication;

b. The person discusses or negotiates the communication with the candidate, candidate's committee or an agent of the candidate or candidate's committee prior to the date the communication is publicly disseminated or distributed;

c. The person and the candidate or candidate's committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting or legal services, or other non-campaign services.

(d) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;
b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;
c. The person made contributions to the candidate;
d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;
e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any

other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience that refers to a clearly identified candidate and:

(a) Either:

a. Contains words such as "vote", "oppose", "support", "elect", "defeat", or "reject," in expressly advocating the election or defeat of the candidate; or

b. Is made on or after January first of the year of the election in which the candidate seeks office, and is susceptible of no reasonable interpretation other than as an appeal to vote for or against a candidate; and

(b) Is:

a. A broadcast, cable or satellite audio or video communication or internet communication; or

b. Printed advertisements, pamphlets, circulars, flyers, brochures, or a billboard.

(c) A communication over the internet is a "covered communication" only if it is placed for a fee on another person's Web site.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

10. Any violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year and or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.
(2) For the second and subsequent violations, a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

Section 20(e). No political fundraising activities or political fundraising event, including the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party or political committee, shall occur in or on any premises, property or building owned, leased or controlled by the house of representatives, senate or general assembly. Any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars plus an amount equal to three times the illegal contributions.

Section 20(f). If any provision of sections 12, 16(a), 19, 20(c), 20(d) or 20(e) or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-143)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article III. (Received November 5, 2015)

## Date

November 25, 2015

## Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

If there is a significant increase in the number of complaints or referrals, the office may seek an additional appropriation.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

If additional persons are sentenced to the custody of the department due to the provisions of this legislation, the department will incur a corresponding increase of direct offender costs either through incarceration (fiscal year 2015 average of $16.809 per offender, per day, or an annual cost of $6,135 per inmate) or through supervision provided by the Board of Probation and Parole (fiscal year 2015 average of $6.04 per offender, per day or an annual cost of $2,205 per offender).

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this legislation.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated they assume no fiscal impact.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated they have reviewed this initiative petition and determined there will be no fiscal impact.

Officials from **St. Louis Community College** indicated they do not believe this will have fiscal impact on their college.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for fiscal year 2017, $61,107 for fiscal year 2018 and $61,734 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Prohibiting a member of the general assembly, entity controlled by a member of the general assembly, or employees of a member of the general assembly from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130, RSMo:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific prohibition of receiving compensation as a political consultant from the entities outlined in Section 105.456, RSMo, including reviewing campaign finance reports as established in Section 105.955.14 (2), (3), RSMo.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a member of the general assembly from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a member of general assembly or a staff member of the general assembly to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the

reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.

- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

•$15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

•1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

•If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Missouri Senate, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the

**City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri,** and **Metropolitan Community College.**

**Fiscal Note Summary**

State governmental entities estimate increased annual operating costs of at least $61,000 and indicate there may be minimal incarceration costs if people are convicted under the provisions of this petition. Local governmental entities report no expected fiscal impact.

RECEIVED
NOV 0 5 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-142

November 5, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article III, version 25 (2016-142)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on November 4, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-142

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2016 NOV -4 PM 2:20
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16442

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article III of the Constitution is revised by amending Sections 2, 7, 12 and 19 and adopting 5 new sections to be known as Article III Sections 16(a), 20(c), 20(d), 20(e) and 20(f) to read as follows:

Section 2. 1. The house of representatives shall consist of one hundred sixty-three members elected at each general election and apportioned in the following manner: Within sixty days after the population of this state is reported to the President for each decennial census of the United States and, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

2. The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.

Each district shall be composed of contiguous territory as compact as may be.

The commission shall create districts in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The commission shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the commission shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then

16-H2

calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the commission shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The commission shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the commission shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned consistent with the criteria of this section by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.

3. Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

4. No reapportionment shall be subject to the referendum.

5. Any taxpayer of this state shall have standing to bring suit in a circuit court of proper venue to enforce the provisions of this section.

Section 7. 1. Within sixty days after the population of this state is reported to the President for each decennial census of the United States, and within sixty days after notification by the governor that a reapportionment has been invalidated by a court of competent jurisdiction, the state committee of each of the two political parties casting the highest vote for governor at the last preceding election shall, at a committee meeting duly called, select by a vote of the individual committee members, and thereafter submit to the governor a list of ten persons, and within thirty days thereafter the governor shall appoint a commission of ten members, five from each list, to reapportion the thirty-four senatorial districts and to establish the numbers and boundaries of said districts.

If either of the party committees fails to submit a list within such time the governor shall appoint five members of his own choice from the party of the committee so failing to act.

16-K12

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the secretary of the senate within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

2. The commission shall reapportion the senatorial districts by dividing the population of the state by the number thirty-four and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure; no county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

The commission shall create districts in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The commission shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the commission shall determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the commission shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The commission shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the commission shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven members.

After the statement is filed senators shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand

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discharged and the senate shall be apportioned consistent with the criteria of this section by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter senators shall be elected according to such districts until a reapportionment is made as herein provided.

3. Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session, but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

4. No reapportionment shall be subject to the referendum.

5. Any taxpayer of this state shall have standing to bring suit in a circuit court of proper venue to enforce the provisions of this section.

Section 12. 1. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This subsection shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

2. No senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist until the expiration of one calendar year after the conclusion of the session of the general assembly in which the member or employee last served. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

3. No senator or representative or their employees or any entity controlled by a senator or representative or their employees shall act or serve as a paid employee or paid consultant to a political committee or political candidate or solicit prospective employers or clients as a paid employee or paid consultant to a political committee or political candidate. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

4. For purposes of this section, the term "lobbyist" means any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official.

Section 16(a). 1. No senator or representative or their employees or staff shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value

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from any lobbyist or lobbyist principal in excess of five dollars per occurrence. Senators or representatives and their employees and staff may accept informational material relevant to the general assembly's official functions and items that are available or distributed free of charge to members of the general public. All gifts by a lobbyist or lobbyist principal to a senator or representative or their employees or staff shall be reported to the ethics commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient. Candidates for senator or representative, including candidates for reelection, or candidates for offices within the senate or house may accept campaign contributions consistent with this article and applicable campaign finance law. Any violation of this section shall be punishable by a term of imprisonment of up to six months and the imposition of a fine of up to five hundred dollars or both.

2. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly and is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

Section 19. 1. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place.

2. Legislative records shall be public records and subject to generally applicable state laws governing public access to public records, including the "sunshine law." Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member, their employees and staff. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate, respectively.

3. Legislative proceedings, including committee proceedings, shall be public meetings subject to generally applicable law governing public access to public meetings, including the "sunshine law." Open public meetings of legislative proceedings shall be subject to recording by citizens, so long as the proceedings are not materially disrupted.

Section 20(c). No senator or representative or their employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by policy or law for the victim, any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars.

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Section 20(d).

1. Unlimited campaign contributions to candidates for legislative offices are banned. In addition to other campaign contribution limitations or restrictions provided for by law, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for legislative office shall not exceed the following:
   (1) To elect an individual to the office of state senator, two thousand seven hundred dollars; and
   (2) To elect an individual to the office of state representative, two thousand seven hundred dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this subsection, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the ethics commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a legislative candidate shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No legislative candidate shall accept a contribution from a corporation.

4. In determining if a contribution to candidate for legislative office is made or accepted with the intent to circumvent the contribution limits imposed in this section, one factor that may be considered is whether the contribution is received from a committee or organization that is, at the time the contribution was made, funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. For purposes of this subsection, a committee or organization is "primarily funded by a single person, individual, or other committee" when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

5. No contribution to a candidate for legislative office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

6. If a payment for a covered communication for a candidate for legislative office is made by a person who is a coordinated spender with respect to the candidate, the payment or expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

7. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

8. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

9. For purposes of this section, the following terms are defined as follows:

   (1) "Candidate", an individual who seeks nomination or election to the house or senate or as an officer of the house or senate, an individual who seeks nomination by the individual's political party for election to the house or senate or as an

officer of the house or senate, and an individual who is a write-in candidate for the house or senate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

h. Any payment or expenditure by any person other than a candidate or a candidate committee made in connection with any candidate that is authorized, requested, suggested, or fostered by or made in cooperation with a candidate, candidate committee, or agents of the candidate or candidate committee; or

i. Any payment or expenditure for any communication which republishes, disseminates, or distributes in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or agents of the candidate or candidate committee, other than a photograph obtained from a public source.

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

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b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

d. The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders.

(c) In determining whether a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to a candidate's opponent is a contribution for purposes of this section, the following non-exclusive list of factors may be considered:

a. Information not generally available to the public regarding the candidate's campaign, plans, projects, activities, or needs is material to the creation, production or distribution of the communication;

b. The person discusses or negotiates the communication with the candidate, candidate's committee or an agent of the candidate or candidate's committee prior to the date the communication is publicly disseminated or distributed;

c. The person and the candidate or candidate's committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting or legal services, or other non-campaign services.

(d) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;
b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;
c. The person made contributions to the candidate;
d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;
e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the

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two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience that refers to a clearly identified candidate and:

(a) Either:

a. Contains words such as "vote", "oppose", "support", "elect", "defeat", or "reject," in expressly advocating the election or defeat of the candidate; or

b. Is made on or after January first of the year of the election in which the candidate seeks office, and is susceptible of no reasonable interpretation other than as an appeal to vote for or against a candidate; and

(b) Is:

a. A broadcast, cable or satellite audio or video communication or internet communication; or

b. Printed advertisements, pamphlets, circulars, flyers, brochures, or a billboard.

(c) A communication over the internet is a "covered communication" only if it is placed for a fee on another person's Web site.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization

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however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

10. Any violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year and or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.
(2) For the second and subsequent violations, a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

Section 20(e). No political fundraising activities or political fundraising event, including the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party or political committee, shall occur in or on any premises, property or building owned, leased or controlled by the house of representatives, senate or general assembly. Any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars plus an amount equal to three times the illegal contributions.

Section 20(f). If any provision of sections 12, 16(a), 19, 20(c), 20(d) or 20(e) or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-142)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article III. (Received November 5, 2015)

## Date

November 25, 2015

## Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

If there is a significant increase in the number of complaints or referrals, the office may seek an additional appropriation.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

If additional persons are sentenced to the custody of the department due to the provisions of this legislation, the department will incur a corresponding increase of direct offender costs either through incarceration (fiscal year 2015 average of $16.809 per offender, per day, or an annual cost of $6,135 per inmate) or through supervision provided by the Board of Probation and Parole (fiscal year 2015 average of $6.04 per offender, per day or an annual cost of $2,205 per offender).

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this legislation.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated they assume no fiscal impact.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated they have reviewed this initiative petition and determined there will be no fiscal impact.

Officials from **St. Louis Community College** indicated they do not believe this will have fiscal impact on their college.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for fiscal year 2017, $61,107 for fiscal year 2018 and $61,734 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Prohibiting a member of the general assembly, entity controlled by a member of the general assembly, or employees of a member of the general assembly from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130, RSMo:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific prohibition of receiving compensation as a political consultant from the entities outlined in Section 105.456, RSMo, including reviewing campaign finance reports as established in Section 105.955.14 (2), (3), RSMo.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a member of the general assembly from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a member of general assembly or a staff member of the general assembly to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the

reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.

- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

•$15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

•1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

•If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Missouri Senate, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the

**City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri,** and **Metropolitan Community College.**

**Fiscal Note Summary**

State governmental entities estimate increased annual operating costs of at least $61,000 and indicate there may be minimal incarceration costs if people are convicted under the provisions of this petition. Local governmental entities report no expected fiscal impact.

RECEIVED
NOV 0 5 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-141

November 5, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article XIV, version 24 (2016-141)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on November 4, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-141

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
NOV -4 PM 2:19

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

*Be it resolved by the people of the state of Missouri that the Constitution be amended:* 16-141

Section A. Article XIV of the Constitution relating to Ethics is created by adopting four new sections to be known as Article XIV Sections 1, 2, 3, and 4 to read as follows:

Article XIV

Section 1.

1. No statewide elected officer or member of the general assembly shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit clients to represent as a paid lobbyist until one year after the expiration of any term of office for which such official is elected. No statewide elected officer or member of the general assembly shall act or serve as a paid political consultant or solicit clients to represent as a paid political consultant during any term of office for which such official is elected. Any paid employee of such officials shall also be barred from acting or serving as a paid lobbyist, registering as a paid lobbyist, or soliciting clients to represent as a paid lobbyist until one year after termination of their employment. Any paid employee of such officials shall also be barred from acting or serving as a paid political consultant or soliciting clients to represent as a paid political consultant during their employment.

2. No statewide elected officer or member of the general assembly, or the spouse, dependent children, staff or employees of such officer or member, or any department or division director of the executive branch, or any judicial branch purchasing officer or any locally elected government official shall accept any gift, tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. This subsection shall not be construed to prevent any public official from accepting contributions to political committees under his or her control, consistent with this article and applicable law, accepting informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, or accepting items that are available or distributed free of charge to members of the general public. However, no such public official or committee controlled by the public official shall accept an in-kind contribution of food, entertainment, lodging, or travel from a lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal.

3. No lobbyist shall deliver any gift, tangible or intangible item, service, or thing of value in excess of five dollars per occurrence to any statewide elected officer or member of the general assembly, or to the spouse, dependent children, staff or employees of such officer or member, or to any department or division director of the executive branch, or to any judicial branch purchasing officer, or to any locally elected government official. This subsection shall not be construed to prevent a lobbyist from delivering to a public official any contribution to a political committee under the control of that public official, consistent with this article and applicable law, any informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, or items that are available or distributed free of charge to members of the general public. However, no lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal shall make an in-kind contribution of food, entertainment, lodging, or travel to a public official or political committee controlled by a public official. All gifts by a lobbyist or lobbyist principal to a public official their employees or staff shall be reported to the ethics commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient.

4. Notwithstanding any provision of law to the contrary, nothing in this section shall prohibit a paid employee of a statewide elected official from acting, serving or registering as a lobbyist for such employer before the legislative branch of state government.

5. Any violation of this section shall be punishable by a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars or both.

6. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural

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person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official; and such person is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

"Paid political consultant", a person or organization controlled by the person that is paid to promote the election of a candidate, group of candidates or the interest of an organization or committee, as defined under the campaign finance laws of this state, which shall include, but not be limited to, planning campaign strategies, coordinating campaign staff, organizing meetings and public events to publicize the candidate or cause, public opinion polling, providing research on issues or opposition background, coordinating, producing or purchasing print, electronic, digital, broadcast or other media, direct mail production, phone solicitation, fundraising, and any other political activities.

Section 2.

1. Unlimited campaign contributions to candidates for public office are banned. In addition to other campaign contribution limitations or restrictions provided for by law and unless local charter or ordinance provides for a lower contribution limit for a local office, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for public office shall not exceed the following:

   (1) To elect an individual to the office of governor, lieutenant governor, secretary of state, state treasurer, state auditor, or attorney general, one thousand dollars;
   (2) To elect an individual to the office of state senator, two hundred fifty dollars;
   (3) To elect an individual to the office of state representative, two hundred fifty dollars; and
   (4) To elect an individual to any other office, including judicial office, two hundred fifty dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this section, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the ethics commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a candidate for public office shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No contribution to a candidate for public office shall be made by or accepted from a corporation.

4. In determining if a contribution to a candidate for public office is made or accepted with the intent to circumvent the contribution limits imposed in this section, one factor that may be considered is whether the contribution is received from a committee or organization that is, at the time the contribution was made, funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. For purposes of this section, a committee or organization is "primarily funded by a single person, individual, or other committee" when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

5. No contribution to a candidate for public office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

6. If a payment for a covered communication for a candidate for public office is made by a person who is a coordinated spender with respect to the candidate, the payment or

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expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

7. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

8. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

9. No public official or candidate for public office shall solicit contributions, conduct fundraising activities, or hold fundraising events, supporting or opposing any candidate, ballot measure, political party, or political committee, on any property or in any building owned or leased by the state or any political subdivision, unless the property or building is routinely used by and made available for rent or for a fee to all members of the public by the state or the political subdivision.

10. For purposes of this section, the following terms are defined as follows:

(1) "Candidate", an individual who seeks nomination or election to public office, including an elected officeholder who is the subject of a recall election, an individual who seeks nomination by the individual's political party for election to public office, an individual standing for retention in an election to an office to which the individual was previously appointed, an individual who seeks nomination or election whether or not the specific elective public office to be sought has been finally determined, and an individual who is a write-in candidate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for public office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

h. Any payment or expenditure by any person other than a candidate or a candidate committee made in connection with any candidate that is authorized, requested, suggested, or fostered by or made in cooperation with a candidate, candidate committee, or agents of the candidate or candidate committee; or

16-K11

i. Any payment or expenditure for any communication which republishes, disseminates, or distributes in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or agents of the candidate or candidate committee, other than a photograph obtained from a public source.

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

d. The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders.

(c) In determining whether a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to a candidate's opponent is a contribution for purposes of this section, the following non-exclusive list of factors may be considered:

a. Information not generally available to the public regarding the candidate's campaign, plans, projects, activities, or needs is material to the creation, production or distribution of the communication;
b. The person discusses or negotiates the communication with the candidate, candidate's committee or an agent of the candidate or candidate's committee prior to the date the communication is publicly disseminated or distributed;
c. The person and the candidate or candidate's committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting or legal services, or other non-campaign services.

(d) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;
b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;
c. The person made contributions to the candidate;
d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;
e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors

16-141

or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience that refers to a clearly identified candidate and:

(a) Either:
   a. Contains words such as "vote", "oppose", "support", "elect", "defeat", or "reject," in expressly advocating the election or defeat of the candidate; or
   b. Is made on or after January first of the year of the election in which the candidate seeks office, and is susceptible of no reasonable interpretation other than as an appeal to vote for or against a candidate; and

(b) Is:
   a. A broadcast, cable or satellite audio or video communication or an internet communication; or
   b. Printed advertisements, pamphlets, circulars, flyers, brochures, or a billboard.

(c) A communication over the internet is a "covered communication" only if it is placed for a fee on another person's web site.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

11. Any violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year and or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.

16-H1

(2) For the second and subsequent violations, a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

Section 3.

No statewide elected officer, or any member of the general assembly, or any of such elected official's employees or staff shall engage in sexual harassment. For purpose of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by law or policy for the victim, any violation of this section shall be punishable by imprisonment for up to one year or a fine of up to one thousand dollars or both.

Section 4.

If any provision of this article or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-141)**

**Subject**

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article XIV. (Received November 5, 2015)

**Date**

November 25, 2015

**Description**

This proposal would create a new Article XIV of the Missouri Constitution.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this legislation.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated they assume no fiscal impact.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated they have reviewed this initiative petition and determined it will have no fiscal impact.

Officials from **St. Louis Community College** indicated they do not believe this will have fiscal impact on their college.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for fiscal year 2017, $61,107 for fiscal year 2018 and $61,734 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Prohibiting a statewide elected official, member of the general assembly, or paid employees of a statewide elected official or member of the general assembly from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130, RSMo:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific prohibition of receiving compensation as a political consultant from the entities outlined in Section 105.456, RSMo, including reviewing campaign finance reports as established in Section 105.955.14 (2), (3), RSMo.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a statewide elected official, member of the general assembly, or paid employee of the general assembly from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.

- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a statewide elected official, member of general assembly, the spouses, dependent children, staff/employees of a statewide elected official or the general assembly, a department/division director of the executive branch, or local elected officials to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing prohibition for a lobbyist to deliver specified lobbyist/lobbyist principle gifts to a statewide elected official, member of the general assembly, the spouses, dependent children, staff/employees of a statewide elected official or general assembly, a department/division director of executive branch, and local elected officials would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

•$15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

•1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

•If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Missouri Senate, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri,** and **Metropolitan Community College.**

**Fiscal Note Summary**

State governmental entities estimate increased annual operating costs of at least $61,000 and indicate there may be minimal incarceration costs if people are convicted under the provisions of this petition. Local governmental entities report no expected fiscal impact.

RECEIVED
NOV 0 5 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-140

November 5, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article XIV, version 23 (2016-140)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on November 4, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-K10

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 NOV -4 PM 2:19
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

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*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article XIV of the Constitution relating to Ethics is created by adopting four new sections to be known as Article XIV Sections 1, 2, 3, and 4 to read as follows:

Article XIV

Section 1.

1. No statewide elected officer or member of the general assembly shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit clients to represent as a paid lobbyist until one year after the expiration of any term of office for which such official is elected. No statewide elected officer or member of the general assembly shall act or serve as a paid political consultant or solicit clients to represent as a paid political consultant during any term of office for which such official is elected. Any paid employee of such officials shall also be barred from acting or serving as a paid lobbyist, registering as a paid lobbyist, or soliciting clients to represent as a paid lobbyist until one year after termination of their employment. Any paid employee of such officials shall also be barred from acting or serving as a paid political consultant or soliciting clients to represent as a paid political consultant during their employment.

2. No statewide elected officer or member of the general assembly, or the spouse, dependent children, staff or employees of such officer or member, or any department or division director of the executive branch, or any judicial branch purchasing officer or any locally elected government official shall accept any gift, tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. This subsection shall not be construed to prevent any public official from accepting contributions to political committees under his or her control, consistent with this article and applicable law, accepting informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, or accepting items that are available or distributed free of charge to members of the general public. However, no such public official or committee controlled by the public official shall accept an in-kind contribution of food, entertainment, lodging, or travel from a lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal.

3. No lobbyist shall deliver any gift, tangible or intangible item, service, or thing of value in excess of five dollars per occurrence to any statewide elected officer or member of the general assembly, or to the spouse, dependent children, staff or employees of such officer or member, or to any department or division director of the executive branch, or to any judicial branch purchasing officer, or to any locally elected government official. This subsection shall not be construed to prevent a lobbyist from delivering to a public official any contribution to a political committee under the control of that public official, consistent with this article and applicable law, any informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, or items that are available or distributed free of charge to members of the general public. However, no lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal shall make an in-kind contribution of food, entertainment, lodging, or travel to a public official or political committee controlled by a public official. All gifts by a lobbyist or lobbyist principal to a public official their employees or staff shall be reported to the ethics commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient.

4. Notwithstanding any provision of law to the contrary, nothing in this section shall prohibit a paid employee of a statewide elected official from acting, serving or registering as a lobbyist for such employer before the legislative branch of state government.

5. Any violation of this section shall be punishable by a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars or both.

6. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural

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person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official; and such person is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

"Paid political consultant", a person or organization controlled by the person that is paid to promote the election of a candidate, group of candidates or the interest of an organization or committee, as defined under the campaign finance laws of this state, which shall include, but not be limited to, planning campaign strategies, coordinating campaign staff, organizing meetings and public events to publicize the candidate or cause, public opinion polling, providing research on issues or opposition background, coordinating, producing or purchasing print, electronic, digital, broadcast or other media, direct mail production, phone solicitation, fundraising, and any other political activities.

Section 2.

1. Unlimited campaign contributions to candidates for public office are banned. In addition to other campaign contribution limitations or restrictions provided for by law and unless local charter or ordinance provides for a lower contribution limit for a local office, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for public office shall not exceed the following:

   (1) To elect an individual to the office of governor, lieutenant governor, secretary of state, state treasurer, state auditor, or attorney general, two thousand seven hundred dollars;
   (2) To elect an individual to the office of state senator, one thousand dollars;
   (3) To elect an individual to the office of state representative, one thousand dollars; and
   (4) To elect an individual to any other office, including judicial office, one thousand dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this section, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the ethics commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a candidate for public office shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No contribution to a candidate for public office shall be made by or accepted from a corporation.

4. In determining if a contribution to a candidate for public office is made or accepted with the intent to circumvent the contribution limits imposed in this section, one factor that may be considered is whether the contribution is received from a committee or organization that is, at the time the contribution was made, funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. For purposes of this section, a committee or organization is "primarily funded by a single person, individual, or other committee" when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

5. No contribution to a candidate for public office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

6. If a payment for a covered communication for a candidate for public office is made by a person who is a coordinated spender with respect to the candidate, the payment or expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

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7. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

8. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

9. No public official or candidate for public office shall solicit contributions, conduct fundraising activities, or hold fundraising events, supporting or opposing any candidate, ballot measure, political party, or political committee, on any property or in any building owned or leased by the state or any political subdivision, unless the property or building is routinely used by and made available for rent or for a fee to all members of the public by the state or the political subdivision.

10. For purposes of this section, the following terms are defined as follows:

(1) "Candidate", an individual who seeks nomination or election to public office, including an elected officeholder who is the subject of a recall election, an individual who seeks nomination by the individual's political party for election to public office, an individual standing for retention in an election to an office to which the individual was previously appointed, an individual who seeks nomination or election whether or not the specific elective public office to be sought has been finally determined, and an individual who is a write-in candidate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for public office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

h. Any payment or expenditure by any person other than a candidate or a candidate committee made in connection with any candidate that is authorized, requested, suggested, or fostered by or made in cooperation with a candidate, candidate committee, or agents of the candidate or candidate committee; or

i. Any payment or expenditure for any communication which republishes, disseminates, or distributes in whole or in part, any broadcast or any written, graphic,

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or other form of campaign material prepared by the candidate or candidate committee or agents of the candidate or candidate committee, other than a photograph obtained from a public source.

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

d. The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders.

(c) In determining whether a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to a candidate's opponent is a contribution for purposes of this section, the following non-exclusive list of factors may be considered:

a. Information not generally available to the public regarding the candidate's campaign, plans, projects, activities, or needs is material to the creation, production or distribution of the communication;
b. The person discusses or negotiates the communication with the candidate, candidate's committee or an agent of the candidate or candidate's committee prior to the date the communication is publicly disseminated or distributed;
c. The person and the candidate or candidate's committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting or legal services, or other non-campaign services.

(d) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;
b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;
c. The person made contributions to the candidate;
d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;
e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

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(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience that refers to a clearly identified candidate and:

(a) Either:
   a. Contains words such as "vote", "oppose", "support", "elect", "defeat", or "reject," in expressly advocating the election or defeat of the candidate; or
   b. Is made on or after January first of the year of the election in which the candidate seeks office, and is susceptible of no reasonable interpretation other than as an appeal to vote for or against a candidate; and

(b) Is:
   a. A broadcast, cable or satellite audio or video communication or an internet communication; or
   b. Printed advertisements, pamphlets, circulars, flyers, brochures, or a billboard.

(c) A communication over the internet is a "covered communication" only if it is placed for a fee on another person's web site.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

11. Any violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year and or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.
(2) For the second and subsequent violations, a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

Section 3.

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No statewide elected officer, or any member of the general assembly, or any of such elected official's employees or staff shall engage in sexual harassment. For purpose of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by law or policy for the victim, any violation of this section shall be punishable by imprisonment for up to one year or a fine of up to one thousand dollars or both.

Section 4.

If any provision of this article or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-140)**

**Subject**

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article XIV. (Received November 5, 2015)

**Date**

November 25, 2015

**Description**

This proposal would create a new Article XIV of the Missouri Constitution.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this legislation.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated they assume no fiscal impact.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated they have reviewed this initiative petition and determined it will have no fiscal impact.

Officials from **St. Louis Community College** indicated they do not believe this will have fiscal impact on their college.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for fiscal year 2017, $61,107 for fiscal year 2018 and $61,734 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Prohibiting a statewide elected official, member of the general assembly, or paid employees of a statewide elected official or member of the general assembly from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130, RSMo:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific prohibition of receiving compensation as a political consultant from the entities outlined in Section 105.456, RSMo, including reviewing campaign finance reports as established in Section 105.955.14 (2), (3), RSMo.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a statewide elected official, member of the general assembly, or paid employee of the general assembly from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.

- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a statewide elected official, member of general assembly, the spouses, dependent children, staff/employees of a statewide elected official or the general assembly, a department/division director of the executive branch, or local elected officials to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing prohibition for a lobbyist to deliver specified lobbyist/lobbyist principle gifts to a statewide elected official, member of the general assembly, the spouses, dependent children, staff/employees of a statewide elected official or general assembly, a department/division director of executive branch, and local elected officials would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

•$15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

•1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

•If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Missouri Senate, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri,** and **Metropolitan Community College.**

**Fiscal Note Summary**

State governmental entities estimate increased annual operating costs of at least $61,000 and indicate there may be minimal incarceration costs if people are convicted under the provisions of this petition. Local governmental entities report no expected fiscal impact.

RECEIVED
NOV 0 5 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-139

November 5, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article XIV, version 22 (2016-139)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on November 4, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-139

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2016 NOV -4 PM 2:18

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

My commission expires _____

_____
Address of Notary (Street, City, State & Zip Code)

16-139

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article XIV of the Constitution relating to Ethics is created by adopting four new sections to be known as Article XIV Sections 1, 2, 3, and 4 to read as follows:

Article XIV

Section 1.

1. No statewide elected officer or member of the general assembly shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit clients to represent as a paid lobbyist until one year after the expiration of any term of office for which such official is elected. No statewide elected officer or member of the general assembly shall act or serve as a paid political consultant or solicit clients to represent as a paid political consultant during any term of office for which such official is elected. Any paid employee of such officials shall also be barred from acting or serving as a paid lobbyist, registering as a paid lobbyist, or soliciting clients to represent as a paid lobbyist until one year after termination of their employment. Any paid employee of such officials shall also be barred from acting or serving as a paid political consultant or soliciting clients to represent as a paid political consultant during their employment.

2. No statewide elected officer or member of the general assembly, or the spouse, dependent children, staff or employees of such officer or member, or any department or division director of the executive branch, or any judicial branch purchasing officer or any locally elected government official shall accept any gift, tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. This subsection shall not be construed to prevent any public official from accepting contributions to political committees under his or her control, consistent with this article and applicable law, accepting informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, or accepting items that are available or distributed free of charge to members of the general public. However, no such public official or committee controlled by the public official shall accept an in-kind contribution of food, entertainment, lodging, or travel from a lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal.

3. No lobbyist shall deliver any gift, tangible or intangible item, service, or thing of value in excess of five dollars per occurrence to any statewide elected officer or member of the general assembly, or to the spouse, dependent children, staff or employees of such officer or member, or to any department or division director of the executive branch, or to any judicial branch purchasing officer, or to any locally elected government official. This subsection shall not be construed to prevent a lobbyist from delivering to a public official any contribution to a political committee under the control of that public official, consistent with this article and applicable law, any informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, or items that are available or distributed free of charge to members of the general public. However, no lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal shall make an in-kind contribution of food, entertainment, lodging, or travel to a public official or political committee controlled by a public official. All gifts by a lobbyist or lobbyist principal to a public official their employees or staff shall be reported to the ethics commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient.

4. Notwithstanding any provision of law to the contrary, nothing in this section shall prohibit a paid employee of a statewide elected official from acting, serving or registering as a lobbyist for such employer before the legislative branch of state government.

5. Any violation of this section shall be punishable by a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars or both.

6. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural

person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official; and such person is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

"Paid political consultant", a person or organization controlled by the person that is paid to promote the election of a candidate, group of candidates or the interest of an organization or committee, as defined under the campaign finance laws of this state, which shall include, but not be limited to, planning campaign strategies, coordinating campaign staff, organizing meetings and public events to publicize the candidate or cause, public opinion polling, providing research on issues or opposition background, coordinating, producing or purchasing print, electronic, digital, broadcast or other media, direct mail production, phone solicitation, fundraising, and any other political activities.

Section 2.

1. Unlimited campaign contributions to candidates for public office are banned. In addition to other campaign contribution limitations or restrictions provided for by law and unless local charter or ordinance provides for a lower contribution limit for a local office, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for public office shall not exceed the following:

   (1) To elect an individual to the office of governor, lieutenant governor, secretary of state, state treasurer, state auditor, or attorney general, five thousand four hundred dollars;
   (2) To elect an individual to the office of state senator, two thousand seven hundred dollars;
   (3) To elect an individual to the office of state representative, two thousand seven hundred dollars; and
   (4) To elect an individual to any other office, including judicial office, two thousand seven hundred dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this section, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the ethics commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a candidate for public office shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No contribution to a candidate for public office shall be made by or accepted from a corporation.

4. In determining if a contribution to a candidate for public office is made or accepted with the intent to circumvent the contribution limits imposed in this section, one factor that may be considered is whether the contribution is received from a committee or organization that is, at the time the contribution was made, funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. For purposes of this section, a committee or organization is "primarily funded by a single person, individual, or other committee" when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

5. No contribution to a candidate for public office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

6. If a payment for a covered communication for a candidate for public office is made by a person who is a coordinated spender with respect to the candidate, the payment or

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expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

7. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

8. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

9. No public official or candidate for public office shall solicit contributions, conduct fundraising activities, or hold fundraising events, supporting or opposing any candidate, ballot measure, political party, or political committee, on any property or in any building owned or leased by the state or any political subdivision, unless the property or building is routinely used by and made available for rent or for a fee to all members of the public by the state or the political subdivision.

10. For purposes of this section, the following terms are defined as follows:

(1) "Candidate", an individual who seeks nomination or election to public office, including an elected officeholder who is the subject of a recall election, an individual who seeks nomination by the individual's political party for election to public office, an individual standing for retention in an election to an office to which the individual was previously appointed, an individual who seeks nomination or election whether or not the specific elective public office to be sought has been finally determined, and an individual who is a write-in candidate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for public office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

h. Any payment or expenditure by any person other than a candidate or a candidate committee made in connection with any candidate that is authorized, requested, suggested, or fostered by or made in cooperation with a candidate, candidate committee, or agents of the candidate or candidate committee; or

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i. Any payment or expenditure for any communication which republishes, disseminates, or distributes in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or agents of the candidate or candidate committee, other than a photograph obtained from a public source.

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

d. The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders.

(c) In determining whether a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to a candidate's opponent is a contribution for purposes of this section, the following non-exclusive list of factors may be considered:

a. Information not generally available to the public regarding the candidate's campaign, plans, projects, activities, or needs is material to the creation, production or distribution of the communication;
b. The person discusses or negotiates the communication with the candidate, candidate's committee or an agent of the candidate or candidate's committee prior to the date the communication is publicly disseminated or distributed;
c. The person and the candidate or candidate's committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting or legal services, or other non-campaign services.

(d) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;
b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;
c. The person made contributions to the candidate;
d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;
e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors

or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience that refers to a clearly identified candidate and:

(a) Either:
   a. Contains words such as "vote", "oppose", "support", "elect", "defeat", or "reject," in expressly advocating the election or defeat of the candidate; or
   b. Is made on or after January first of the year of the election in which the candidate seeks office, and is susceptible of no reasonable interpretation other than as an appeal to vote for or against a candidate; and

(b) Is:
   a. A broadcast, cable or satellite audio or video communication or an internet communication; or
   b. Printed advertisements, pamphlets, circulars, flyers, brochures, or a billboard.

(c) A communication over the internet is a "covered communication" only if it is placed for a fee on another person's web site.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

11. Any violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year and or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.

(2) For the second and subsequent violations, a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

Section 3.

No statewide elected officer, or any member of the general assembly, or any of such elected official's employees or staff shall engage in sexual harassment. For purpose of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by law or policy for the victim, any violation of this section shall be punishable by imprisonment for up to one year or a fine of up to one thousand dollars or both.

Section 4.

If any provision of this article or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-139)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article XIV. (Received November 5, 2015)

## Date

November 25, 2015

## Description

This proposal would create a new Article XIV of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this legislation.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated they assume no fiscal impact.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated they have reviewed this initiative petition and determined it will have no fiscal impact.

Officials from **St. Louis Community College** indicated they do not believe this will have fiscal impact on their college.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for fiscal year 2017, $61,107 for fiscal year 2018 and $61,734 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Prohibiting a statewide elected official, member of the general assembly, or paid employees of a statewide elected official or member of the general assembly from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130, RSMo:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific prohibition of receiving compensation as a political consultant from the entities outlined in Section 105.456, RSMo, including reviewing campaign finance reports as established in Section 105.955.14 (2), (3), RSMo.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a statewide elected official, member of the general assembly, or paid employee of the general assembly from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.

- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a statewide elected official, member of general assembly, the spouses, dependent children, staff/employees of a statewide elected official or the general assembly, a department/division director of the executive branch, or local elected officials to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing prohibition for a lobbyist to deliver specified lobbyist/lobbyist principle gifts to a statewide elected official, member of the general assembly, the spouses, dependent children, staff/employees of a statewide elected official or general assembly, a department/division director of executive branch, and local elected officials would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

•$15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

•1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

•If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Missouri Senate, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri,** and **Metropolitan Community College.**

**Fiscal Note Summary**

State governmental entities estimate increased annual operating costs of at least $61,000 and indicate there may be minimal incarceration costs if people are convicted under the provisions of this petition. Local governmental entities report no expected fiscal impact.

RECEIVED
NOV 0 5 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-138

November 5, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article III, version 21 (2016-138)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on November 4, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-138 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 NOV -4 PM 2:17
SECRETARY OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-138

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article III of the Constitution is revised by repealing Section 5, amending Sections 2, 7, 12 and 19 and adopting 5 new sections to be known as Article III Sections 16(a), 20(c), 20(d), 20(e) and 20(f) to read as follows:

Section 2. 1. There is hereby established the post of "non-partisan state demographer." The non-partisan state demographer shall acquire appropriate information to develop procedures in preparation for drawing legislative redistricting maps on the basis of each federal census for presentation to the house apportionment commission and the senate apportionment commission.

2. The non-partisan state demographer shall be selected by the commissioner of administration pursuant to the merit personnel system. The non-partisan state demographer shall serve a term of five years and may be reappointed at the discretion of the commissioner of administration. The non-partisan state demographer shall be disqualified from holding office as a member of the general assembly for four years following the date of the presentation of the most recent legislative redistricting map to the house apportionment commission or the senatorial apportionment commission.

3. The house of representatives shall consist of one hundred sixty-three members elected at each general election and apportioned [in the following manner:] as provided in this section.

4. Within ten days after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within ten days after notification by the governor that such a ruling has been made, the non-partisan state demographer shall begin the preparation of legislative districting plans and maps using the following methods:

(1) Districts shall be established on the basis of population. Legislative districts shall each have a population as nearly equal as practicable to the ideal population for such districts, determined by dividing the number of districts to be established into the population of the state reported in the federal decennial census.

(2) Districts shall be established in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The non-partisan state demographer shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the non-partisan state demographer shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the non-partisan state demographer shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The non-partisan state demographer shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the non-partisan state demographer shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three

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percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

(3) Districts shall be composed of convenient contiguous territory. Areas which meet only at the points of adjoining corners are not contiguous.

(4) To the extent consistent with subdivisions 1, 2, and 3 of this subsection, district boundaries shall coincide with the boundaries of political subdivisions of the state. The number of counties and cities divided among more than one district shall be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous, but this preference shall not apply to a legislative district boundary drawn along a county line which passes through a city that lies in more than one county.

(5) Preference shall be that districts are compact in form, but the standards established by subdivisions 1, 2, 3, and 4 of this subsection take precedence over compactness where a conflict arises between compactness and these standards. In general, compact districts are those which are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries.

5. Within sixty days after the population of this state is reported to the President for each decennial census of the United States [and] or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

6. Within six months after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within six months after notification by the governor that such a ruling has been made, the non-partisan state demographer shall file with the secretary of state and with the house apportionment commission a tentative plan of apportionment and map of the proposed districts.

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The commissioners so selected shall, [on the fifteenth day, excluding Sundays and holidays, after all members have been selected] within ten days of receiving the tentative plan of apportionment and map of the proposed districts, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary[and]. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

The commission may make changes to the tentative plan of apportionment and map of the proposed districts received from the non-partisan state demographer provided that such changes are consistent with this section and approved by a vote of at least seven-tenths of the commissioners. If no changes are made or approved as provided for in this subsection, the tentative plan of apportionment and map of proposed districts shall become final. Not later than two months of receiving the tentative plan of apportionment and map of the proposed districts, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts.

[The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.

Each district shall be composed of contiguous territory as compact as may be.

Not later than five months after the appointment of the commission, the commission shall receive the tentative plan of apportionment and map of the proposed districts ordered in subsection 4 of this section and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.]

Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

No reapportionment shall be subject to the referendum.

[Section 5. The senate shall consist of thirty-four members elected by the qualified voters of the respective districts for four years. For the election of senators, the state shall be divided into convenient districts of contiguous territory, as compact and nearly equal in population as may be.]

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Section 7. 1. The senate shall consist of thirty-four members elected by the qualified voters of the senatorial districts for a term of four years. Senatorial districts shall be apportioned as provided for in this section.

2. Within ten days after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within ten days after notification by the governor that such a ruling has been made, the non-partisan state demographer authorized in article III section 2, shall begin the preparation of senatorial districting plans and maps using the following methods:

(1) Districts shall be established on the basis of population. Districts shall each have a population as nearly equal as practicable to the ideal population for such districts, determined by dividing the number of districts to be established into the population of the state reported in the federal decennial census. No county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

(2) Districts shall be established in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The non-partisan state demographer shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the non-partisan state demographer shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the non-partisan state demographer shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The non-partisan state demographer shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the non-partisan state demographer shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

(3) Districts shall be composed of convenient contiguous territory. Areas which meet only at the points of adjoining corners are not contiguous.

(4) To the extent consistent with subdivisions 1, 2, and 3 of this subsection, district boundaries shall coincide with the boundaries of political subdivisions of the state. The number of counties and cities divided among more than one district shall be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous, but this preference shall not apply to a legislative district boundary drawn along a county line which passes through a city that lies in more than one county.

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(5) Preference shall be that districts are compact in form, but the standards established by subdivisions 1, 2, 3, and 4 of this subsection take precedence over compactness where a conflict arises between compactness and these standards. In general, compact districts are those which are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries.

3. Within sixty days after the population of this state is reported to the President for each decennial census of the United States, [and] or within sixty days after notification by the governor that a reapportionment has been invalidated by a court of competent jurisdiction, the state committee of each of the two political parties casting the highest vote for governor at the last preceding election shall, at a committee meeting duly called, select by a vote of the individual committee members, and thereafter submit to the governor a list of ten persons, and within thirty days thereafter the governor shall appoint a commission of ten members, five from each list, to reapportion the thirty-four senatorial districts and to establish the numbers and boundaries of said districts.

If either of the party committees fails to submit a list within such time the governor shall appoint five members of his own choice from the party of the committee so failing to act.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

4. Within six months after the population of this state is reported to the President for each decennial census of the United States or in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within six months after notification by the governor that such a ruling has been made, the non-partisan state demographer shall file with the secretary of state and with the senatorial apportionment commission a tentative plan of apportionment and map of the proposed districts.

The commissioners so selected shall [on the fifteenth day, excluding Sundays and holidays, after all members have been selected] within ten days of receiving the tentative plan of apportionment and map of the proposed districts required by subsection 4 of this section, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary [and]. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the secretary of the senate within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable. The commission may make changes to the tentative plan of apportionment and map of the proposed districts received from the non-partisan state demographer provided that such changes are consistent with this section and approved by a vote of at least seven-tenths of the commissioners. If no changes are made or approved as provided for in this subsection, the tentative plan of apportionment and map of proposed districts shall become final. Not later than two months after receiving the tentative plan of apportionment and map of the proposed districts, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts.

[The commission shall reapportion the senatorial districts by dividing the population of the state by the number thirty-four and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure; no county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

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Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven members.

After the statement is filed senators shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the senate shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter senators shall be elected according to such districts until a reapportionment is made as herein provided.]

Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session, but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

No reapportionment shall be subject to the referendum.

Section 12. 1. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This subsection shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

2. No senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist until the expiration of one calendar year after the conclusion of the session of the general assembly in which the member or employee last served. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

3. No senator or representative or their employees or any entity controlled by a senator or representative or their employees shall act or serve as a paid employee or paid consultant to a political committee or political candidate or solicit prospective employers or clients as a paid employee or paid consultant to a political committee or political candidate. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

4. For purposes of this section, the term "lobbyist" means any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any

natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official.

Section 16(a). 1. No senator or representative or their employees or staff shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. Senators or representatives and their employees and staff may accept informational material relevant to the general assembly's official functions and items that are available or distributed free of charge to members of the general public. All gifts by a lobbyist or lobbyist principal to a senator or representative or their employees or staff shall be reported to the ethics commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient. Candidates for senator or representative, including candidates for reelection, or candidates for offices within the senate or house may accept campaign contributions consistent with this article and applicable campaign finance law. Any violation of this section shall be punishable by a term of imprisonment of up to six months and the imposition of a fine of up to five hundred dollars or both.

2. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly and is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

Section 19. 1. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place.

2. Legislative records shall be public records and subject to generally applicable state laws governing public access to public records, including the "sunshine law." Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member, their employees and staff. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate, respectively.

3. Legislative proceedings, including committee proceedings, shall be public meetings subject to generally applicable law governing public access to public meetings, including the "sunshine law." Open public meetings of legislative proceedings shall be subject to recording by citizens, so long as the proceedings are not materially disrupted.

Section 20(c). No senator or representative or their employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or

creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by policy or law for the victim, any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars.

Section 20(d).

1. Unlimited campaign contributions to candidates for legislative offices are banned. In addition to other campaign contribution limitations or restrictions provided for by law, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for legislative office shall not exceed the following:
   (1) To elect an individual to the office of state senator, two hundred fifty dollars; and
   (2) To elect an individual to the office of state representative, two hundred fifty dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this subsection, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the ethics commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a legislative candidate shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No legislative candidate shall accept a contribution from a corporation.

4. In determining if a contribution to candidate for legislative office is made or accepted with the intent to circumvent the contribution limits imposed in this section, one factor that may be considered is whether the contribution is received from a committee or organization that is, at the time the contribution was made, funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. For purposes of this subsection, a committee or organization is "primarily funded by a single person, individual, or other committee" when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

5. No contribution to a candidate for legislative office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

6. If a payment for a covered communication for a candidate for legislative office is made by a person who is a coordinated spender with respect to the candidate, the payment or expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

7. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

8. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

9. For purposes of this section, the following terms are defined as follows:

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(1) "Candidate", an individual who seeks nomination or election to the house or senate or as an officer of the house or senate, an individual who seeks nomination by the individual's political party for election to the house or senate or as an officer of the house or senate, and an individual who is a write-in candidate for the house or senate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

h. Any payment or expenditure by any person other than a candidate or a candidate committee made in connection with any candidate that is authorized, requested, suggested, or fostered by or made in cooperation with a candidate, candidate committee, or agents of the candidate or candidate committee; or

i. Any payment or expenditure for any communication which republishes, disseminates, or distributes in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or agents of the candidate or candidate committee, other than a photograph obtained from a public source.

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate

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or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

d. The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders.

(c) In determining whether a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to a candidate's opponent is a contribution for purposes of this section, the following non-exclusive list of factors may be considered:

a. Information not generally available to the public regarding the candidate's campaign, plans, projects, activities, or needs is material to the creation, production or distribution of the communication;

b. The person discusses or negotiates the communication with the candidate, candidate's committee or an agent of the candidate or candidate's committee prior to the date the communication is publicly disseminated or distributed;

c. The person and the candidate or candidate's committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting or legal services, or other non-campaign services.

(d) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;
b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;
c. The person made contributions to the candidate;
d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;
e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising

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activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience that refers to a clearly identified candidate and:

(a) Either:

a. Contains words such as "vote", "oppose", "support", "elect", "defeat", or "reject," in expressly advocating the election or defeat of the candidate; or

b. Is made on or after January first of the year of the election in which the candidate seeks office, and is susceptible of no reasonable interpretation other than as an appeal to vote for or against a candidate; and

(b) Is:

a. A broadcast, cable or satellite audio or video communication or internet communication; or

b. Printed advertisements, pamphlets, circulars, flyers, brochures, or a billboard.

(c) A communication over the internet is a "covered communication" only if it is placed for a fee on another person's Web site.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

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(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

10. Any violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year and or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.
(2) For the second and subsequent violations, a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

Section 20(e). No political fundraising activities or political fundraising event, including the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party or political committee, shall occur in or on any premises, property or building owned, leased or controlled by the house of representatives, senate or general assembly. Any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars plus an amount equal to three times the illegal contributions.

Section 20(f). If any provision of sections 12, 16(a), 19, 20(c), 20(d) or 20(e) or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-138)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article III. (Received November 5, 2015)

## Date

November 25, 2015

## Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

If there is a significant increase in the number of complaints or referrals, the office may seek an additional appropriation.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

If additional persons are sentenced to the custody of the department due to the provisions of this legislation, the department will incur a corresponding increase of direct offender costs either through incarceration (fiscal year 2015 average of $16.809 per offender, per day, or an annual cost of $6,135 per inmate) or through supervision provided by the Board of Probation and Parole (fiscal year 2015 average of $6.04 per offender, per day or an annual cost of $2,205 per offender).

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this legislation.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated they assume no fiscal impact.

Officials from the **Office of Administration** indicated this initiative petition revises Article III of the Missouri Constitution by amending Sections 2, 7, 12 and 19 and enacting five new sections. Section 5 is repealed but reenacted with changes in Section 7.

The initiative creates the post of “non-partisan State Demographer” to oversee the redistricting process for the state House and Senate districts. The demographer is to be selected by the Commissioner of Administration pursuant to the merit personnel system and shall serve a term of five years. This demographer will be unable to hold elected office for four years following the filing of the new legislative districts. The redistricting process shall maximize partisan fairness and competitiveness.

It mandates that legislative records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms shall be public. It allows explicitly identified legislative proceedings as open meetings and authorizes recording of such proceedings by citizens.

Legislators and their employees are prohibited from lobbying for at least one year after the conclusion of the session during which they vacate office, and from acting as paid consultants while in office. Legislators and their staff are prohibited from accepting a gift in excess of five dollars, per occurrence. Political fundraising activities and events may not be held in any location owned by, or under the control of, the legislature.

Legislators and staff are prohibited from engaging in sexual harassment.

Campaign contributions for state senators and representatives are limited to $250, with CPI adjustments made in even-numbered years. Also, corporate contributions are prohibited. There are penalty provisions included for each of the prohibitions, along with a severability clause.

This proposal could have an impact on the Office of Administration. There is currently a State Demographer, with statutory duties that extend beyond those of legislative

reapportionment. If the existing State Demographer would be expected to assume the role of “Non-partisan State Demographer”, there would be no fiscal impact. However, if that post is filled by another individual, the salary and benefits costs would be an estimated $125,993 in fiscal year 2021, adjusted for inflation. In either scenario, the cost for other staff hired for the purposes of redistricting would remain the same.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated they have evaluated this initiative petition and determined it will not have a financial impact.

Officials from **St. Louis Community College** indicated they do not believe this will have fiscal impact on their college.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for fiscal year 2017, $61,107 for fiscal year 2018 and $61,734 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Prohibiting a member of the general assembly, entity controlled by a member of the general assembly, or employees of a member of the general assembly from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130, RSMo:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific prohibition of receiving compensation as a political consultant from the entities outlined in Section 105.456, RSMo, including reviewing campaign finance reports as established in Section 105.955.14 (2), (3), RSMo.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a member of the general assembly from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act

as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.

- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a member of general assembly or a staff member of the general assembly to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

•$15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

•1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

•If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Missouri Senate, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri,** and **Metropolitan Community College.**

**Fiscal Note Summary**

State governmental entities estimate annual operating costs will increase at least $61,000, may increase an additional $125,000, and may result in minimal incarceration costs if people are convicted under the provisions of this petition. Local governmental entities report no expected fiscal impact.

RECEIVED
NOV 0 5 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-137

November 5, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article III, version 20 (2016-137)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on November 4, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16737

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 NOV -4 PM 2:17
SECRETARY OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this _____day of _____, A.D. 201_____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-137

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article III of the Constitution is revised by repealing Section 5, amending Sections 2, 7, 12 and 19 and adopting 5 new sections to be known as Article III Sections 16(a), 20(c), 20(d), 20(e) and 20(f) to read as follows:

Section 2. 1. There is hereby established the post of "non-partisan state demographer." The non-partisan state demographer shall acquire appropriate information to develop procedures in preparation for drawing legislative redistricting maps on the basis of each federal census for presentation to the house apportionment commission and the senate apportionment commission.

2. The non-partisan state demographer shall be selected by the commissioner of administration pursuant to the merit personnel system. The non-partisan state demographer shall serve a term of five years and may be reappointed at the discretion of the commissioner of administration. The non-partisan state demographer shall be disqualified from holding office as a member of the general assembly for four years following the date of the presentation of the most recent legislative redistricting map to the house apportionment commission or the senatorial apportionment commission.

3. The house of representatives shall consist of one hundred sixty-three members elected at each general election and apportioned [in the following manner:] as provided in this section.

4. Within ten days after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within ten days after notification by the governor that such a ruling has been made, the non-partisan state demographer shall begin the preparation of legislative districting plans and maps using the following methods:

(1) Districts shall be established on the basis of population. Legislative districts shall each have a population as nearly equal as practicable to the ideal population for such districts, determined by dividing the number of districts to be established into the population of the state reported in the federal decennial census.

(2) Districts shall be established in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The non-partisan state demographer shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the non-partisan state demographer shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the non-partisan state demographer shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The non-partisan state demographer shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the non-partisan state demographer shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three

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percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

(3) Districts shall be composed of convenient contiguous territory. Areas which meet only at the points of adjoining corners are not contiguous.

(4) To the extent consistent with subdivisions 1, 2, and 3 of this subsection, district boundaries shall coincide with the boundaries of political subdivisions of the state. The number of counties and cities divided among more than one district shall be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous, but this preference shall not apply to a legislative district boundary drawn along a county line which passes through a city that lies in more than one county.

(5) Preference shall be that districts are compact in form, but the standards established by subdivisions 1, 2, 3, and 4 of this subsection take precedence over compactness where a conflict arises between compactness and these standards. In general, compact districts are those which are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries.

5. Within sixty days after the population of this state is reported to the President for each decennial census of the United States [and] or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

6. Within six months after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within six months after notification by the governor that such a ruling has been made, the non-partisan state demographer shall file with the secretary of state and with the house apportionment commission a tentative plan of apportionment and map of the proposed districts.

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The commissioners so selected shall, [on the fifteenth day, excluding Sundays and holidays, after all members have been selected] within ten days of receiving the tentative plan of apportionment and map of the proposed districts, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary[and]. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

The commission may make changes to the tentative plan of apportionment and map of the proposed districts received from the non-partisan state demographer provided that such changes are consistent with this section and approved by a vote of at least seven-tenths of the commissioners. If no changes are made or approved as provided for in this subsection, the tentative plan of apportionment and map of proposed districts shall become final. Not later than two months of receiving the tentative plan of apportionment and map of the proposed districts, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts.

[The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.

Each district shall be composed of contiguous territory as compact as may be.

Not later than five months after the appointment of the commission, the commission shall receive the tentative plan of apportionment and map of the proposed districts ordered in subsection 4 of this section and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.]

Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

No reapportionment shall be subject to the referendum.

[Section 5. The senate shall consist of thirty-four members elected by the qualified voters of the respective districts for four years. For the election of senators, the state shall be divided into convenient districts of contiguous territory, as compact and nearly equal in population as may be.]

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Section 7. 1. The senate shall consist of thirty-four members elected by the qualified voters of the senatorial districts for a term of four years. Senatorial districts shall be apportioned as provided for in this section.

2. Within ten days after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within ten days after notification by the governor that such a ruling has been made, the non-partisan state demographer authorized in article III section 2, shall begin the preparation of senatorial districting plans and maps using the following methods:

(1) Districts shall be established on the basis of population. Districts shall each have a population as nearly equal as practicable to the ideal population for such districts, determined by dividing the number of districts to be established into the population of the state reported in the federal decennial census. No county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

(2) Districts shall be established in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The non-partisan state demographer shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the non-partisan state demographer shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the non-partisan state demographer shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The non-partisan state demographer shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the non-partisan state demographer shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

(3) Districts shall be composed of convenient contiguous territory. Areas which meet only at the points of adjoining corners are not contiguous.

(4) To the extent consistent with subdivisions 1, 2, and 3 of this subsection, district boundaries shall coincide with the boundaries of political subdivisions of the state. The number of counties and cities divided among more than one district shall be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous, but this preference shall not apply to a legislative district boundary drawn along a county line which passes through a city that lies in more than one county.

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(5) Preference shall be that districts are compact in form, but the standards established by subdivisions 1, 2, 3, and 4 of this subsection take precedence over compactness where a conflict arises between compactness and these standards. In general, compact districts are those which are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries.

3. Within sixty days after the population of this state is reported to the President for each decennial census of the United States, [and] or within sixty days after notification by the governor that a reapportionment has been invalidated by a court of competent jurisdiction, the state committee of each of the two political parties casting the highest vote for governor at the last preceding election shall, at a committee meeting duly called, select by a vote of the individual committee members, and thereafter submit to the governor a list of ten persons, and within thirty days thereafter the governor shall appoint a commission of ten members, five from each list, to reapportion the thirty-four senatorial districts and to establish the numbers and boundaries of said districts.

If either of the party committees fails to submit a list within such time the governor shall appoint five members of his own choice from the party of the committee so failing to act.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

4. Within six months after the population of this state is reported to the President for each decennial census of the United States or in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within six months after notification by the governor that such a ruling has been made, the non-partisan state demographer shall file with the secretary of state and with the senatorial apportionment commission a tentative plan of apportionment and map of the proposed districts.

The commissioners so selected shall [on the fifteenth day, excluding Sundays and holidays, after all members have been selected] within ten days of receiving the tentative plan of apportionment and map of the proposed districts required by subsection 4 of this section, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary [and]. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the secretary of the senate within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable. The commission may make changes to the tentative plan of apportionment and map of the proposed districts received from the non-partisan state demographer provided that such changes are consistent with this section and approved by a vote of at least seven-tenths of the commissioners. If no changes are made or approved as provided for in this subsection, the tentative plan of apportionment and map of proposed districts shall become final. Not later than two months after receiving the tentative plan of apportionment and map of the proposed districts, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts.

[The commission shall reapportion the senatorial districts by dividing the population of the state by the number thirty-four and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure; no county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

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Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven members.

After the statement is filed senators shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the senate shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter senators shall be elected according to such districts until a reapportionment is made as herein provided.]

Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session, but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

No reapportionment shall be subject to the referendum.

Section 12. 1. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This subsection shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

2. No senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist until the expiration of one calendar year after the conclusion of the session of the general assembly in which the member or employee last served. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

3. No senator or representative or their employees or any entity controlled by a senator or representative or their employees shall act or serve as a paid employee or paid consultant to a political committee or political candidate or solicit prospective employers or clients as a paid employee or paid consultant to a political committee or political candidate. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

4. For purposes of this section, the term "lobbyist" means any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any

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natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official.

Section 16(a). 1. No senator or representative or their employees or staff shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. Senators or representatives and their employees and staff may accept informational material relevant to the general assembly's official functions and items that are available or distributed free of charge to members of the general public. All gifts by a lobbyist or lobbyist principal to a senator or representative or their employees or staff shall be reported to the ethics commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient. Candidates for senator or representative, including candidates for reelection, or candidates for offices within the senate or house may accept campaign contributions consistent with this article and applicable campaign finance law. Any violation of this section shall be punishable by a term of imprisonment of up to six months and the imposition of a fine of up to five hundred dollars or both.

2. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly and is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

Section 19. 1. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place.

2. Legislative records shall be public records and subject to generally applicable state laws governing public access to public records, including the "sunshine law." Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member, their employees and staff. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate, respectively.

3. Legislative proceedings, including committee proceedings, shall be public meetings subject to generally applicable law governing public access to public meetings, including the "sunshine law." Open public meetings of legislative proceedings shall be subject to recording by citizens, so long as the proceedings are not materially disrupted.

Section 20(c). No senator or representative or their employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or

creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by policy or law for the victim, any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars.

Section 20(d).

1. Unlimited campaign contributions to candidates for legislative offices are banned. In addition to other campaign contribution limitations or restrictions provided for by law, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for legislative office shall not exceed the following:
   (1) To elect an individual to the office of state senator, one thousand dollars; and
   (2) To elect an individual to the office of state representative, one thousand dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this subsection, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the ethics commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a legislative candidate shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No legislative candidate shall accept a contribution from a corporation.

4. In determining if a contribution to candidate for legislative office is made or accepted with the intent to circumvent the contribution limits imposed in this section, one factor that may be considered is whether the contribution is received from a committee or organization that is, at the time the contribution was made, funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. For purposes of this subsection, a committee or organization is "primarily funded by a single person, individual, or other committee" when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

5. No contribution to a candidate for legislative office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

6. If a payment for a covered communication for a candidate for legislative office is made by a person who is a coordinated spender with respect to the candidate, the payment or expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

7. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

8. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

9. For purposes of this section, the following terms are defined as follows:

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(1) "Candidate", an individual who seeks nomination or election to the house or senate or as an officer of the house or senate, an individual who seeks nomination by the individual's political party for election to the house or senate or as an officer of the house or senate, and an individual who is a write-in candidate for the house or senate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

h. Any payment or expenditure by any person other than a candidate or a candidate committee made in connection with any candidate that is authorized, requested, suggested, or fostered by or made in cooperation with a candidate, candidate committee, or agents of the candidate or candidate committee; or

i. Any payment or expenditure for any communication which republishes, disseminates, or distributes in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or agents of the candidate or candidate committee, other than a photograph obtained from a public source.

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of

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such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

d. The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders.

(c) In determining whether a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to a candidate's opponent is a contribution for purposes of this section, the following non-exclusive list of factors may be considered:

a. Information not generally available to the public regarding the candidate's campaign, plans, projects, activities, or needs is material to the creation, production or distribution of the communication;

b. The person discusses or negotiates the communication with the candidate, candidate's committee or an agent of the candidate or candidate's committee prior to the date the communication is publicly disseminated or distributed;

c. The person and the candidate or candidate's committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting or legal services, or other non-campaign services.

(d) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;
b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;
c. The person made contributions to the candidate;
d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;
e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists

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provided.

(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience that refers to a clearly identified candidate and:

(a) Either:

a. Contains words such as "vote", "oppose", "support", "elect", "defeat", or "reject," in expressly advocating the election or defeat of the candidate; or

b. Is made on or after January first of the year of the election in which the candidate seeks office, and is susceptible of no reasonable interpretation other than as an appeal to vote for or against a candidate; and

(b) Is:

a. A broadcast, cable or satellite audio or video communication or internet communication; or

b. Printed advertisements, pamphlets, circulars, flyers, brochures, or a billboard.

(c) A communication over the internet is a "covered communication" only if it is placed for a fee on another person's Web site.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee,

political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

10. Any violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year and or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.
(2) For the second and subsequent violations, a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

Section 20(e). No political fundraising activities or political fundraising event, including the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party or political committee, shall occur in or on any premises, property or building owned, leased or controlled by the house of representatives, senate or general assembly. Any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars plus an amount equal to three times the illegal contributions.

Section 20(f). If any provision of sections 12, 16(a), 19, 20(c), 20(d) or 20(e) or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-137)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article III. (Received November 5, 2015)

## Date

November 25, 2015

## Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

If there is a significant increase in the number of complaints or referrals, the office may seek an additional appropriation.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

If additional persons are sentenced to the custody of the department due to the provisions of this legislation, the department will incur a corresponding increase of direct offender costs either through incarceration (fiscal year 2015 average of $16.809 per offender, per day, or an annual cost of $6,135 per inmate) or through supervision provided by the Board of Probation and Parole (fiscal year 2015 average of $6.04 per offender, per day or an annual cost of $2,205 per offender).

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this legislation.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated they assume no fiscal impact.

Officials from the **Office of Administration** indicated this initiative petition revises Article III of the Missouri Constitution by amending Sections 2, 7, 12 and 19 and enacting five new sections. Section 5 is repealed but reenacted with changes in Section 7.

The initiative creates the post of "non-partisan State Demographer" to oversee the redistricting process for the state House and Senate districts. The demographer is to be selected by the Commissioner of Administration pursuant to the merit personnel system and shall serve a term of five years. This demographer will be unable to hold elected office for four years following the filing of the new legislative districts. The redistricting process shall maximize partisan fairness and competitiveness.

It mandates that legislative records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms shall be public. It allows explicitly identified legislative proceedings as open meetings and authorizes recording of such proceedings by citizens.

Legislators and their employees are prohibited from lobbying for at least one year after the conclusion of the session during which they vacate office, and from acting as paid consultants while in office. Legislators and their staff are prohibited from accepting a gift in excess of five dollars, per occurrence. Political fundraising activities and events may not be held in any location owned by, or under the control of, the legislature.

Legislators and staff are prohibited from engaging in sexual harassment.

Campaign contributions for state senators and representatives are limited to $1,000, with CPI adjustments made in even-numbered years. Also, corporate contributions are prohibited. There are penalty provisions included for each of the prohibitions, along with a severability clause.

This proposal could have an impact on the Office of Administration. There is currently a State Demographer, with statutory duties that extend beyond those of legislative

reapportionment. If the existing State Demographer would be expected to assume the role of “Non-partisan State Demographer”, there would be no fiscal impact. However, if that post is filled by another individual, the salary and benefits costs would be an estimated $125,993 in fiscal year 2021, adjusted for inflation. In either scenario, the cost for other staff hired for the purposes of redistricting would remain the same.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated they have evaluated this initiative petition and determined it will not have a financial impact.

Officials from **St. Louis Community College** indicated they do not believe this will have fiscal impact on their college.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for fiscal year 2017, $61,107 for fiscal year 2018 and $61,734 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Prohibiting a member of the general assembly, entity controlled by a member of the general assembly, or employees of a member of the general assembly from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130, RSMo:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific prohibition of receiving compensation as a political consultant from the entities outlined in Section 105.456, RSMo, including reviewing campaign finance reports as established in Section 105.955.14 (2), (3), RSMo.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a member of the general assembly from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act

as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.

- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a member of general assembly or a staff member of the general assembly to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

•$15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

•1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

•If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Missouri Senate, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri,** and **Metropolitan Community College.**

**Fiscal Note Summary**

State governmental entities estimate annual operating costs will increase at least $61,000, may increase an additional $125,000, and may result in minimal incarceration costs if people are convicted under the provisions of this petition. Local governmental entities report no expected fiscal impact.

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NOV 0 5 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 5, 2015

16-136

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article III, version 19 (2016-136)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on November 4, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-136

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

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[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____

(Name of payer) Signature of Affiant (Person obtaining signatures)

_____

Printed Name of Affiant

_____

Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____

Signature of Notary

_____

Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-136

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article III of the Constitution is revised by repealing Section 5, amending Sections 2, 7, 12 and 19 and adopting 5 new sections to be known as Article III Sections 16(a), 20(c), 20(d), 20(e) and 20(f) to read as follows:

Section 2. 1. There is hereby established the post of "non-partisan state demographer." The non-partisan state demographer shall acquire appropriate information to develop procedures in preparation for drawing legislative redistricting maps on the basis of each federal census for presentation to the house apportionment commission and the senate apportionment commission.

2. The non-partisan state demographer shall be selected by the commissioner of administration pursuant to the merit personnel system. The non-partisan state demographer shall serve a term of five years and may be reappointed at the discretion of the commissioner of administration. The non-partisan state demographer shall be disqualified from holding office as a member of the general assembly for four years following the date of the presentation of the most recent legislative redistricting map to the house apportionment commission or the senatorial apportionment commission.

3. The house of representatives shall consist of one hundred sixty-three members elected at each general election and apportioned [in the following manner:] as provided in this section.

4. Within ten days after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within ten days after notification by the governor that such a ruling has been made, the non-partisan state demographer shall begin the preparation of legislative districting plans and maps using the following methods:

(1) Districts shall be established on the basis of population. Legislative districts shall each have a population as nearly equal as practicable to the ideal population for such districts, determined by dividing the number of districts to be established into the population of the state reported in the federal decennial census.

(2) Districts shall be established in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The non-partisan state demographer shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the non-partisan state demographer shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the non-partisan state demographer shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The non-partisan state demographer shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the non-partisan state demographer shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three

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percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

(3) Districts shall be composed of convenient contiguous territory. Areas which meet only at the points of adjoining corners are not contiguous.

(4) To the extent consistent with subdivisions 1, 2, and 3 of this subsection, district boundaries shall coincide with the boundaries of political subdivisions of the state. The number of counties and cities divided among more than one district shall be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous, but this preference shall not apply to a legislative district boundary drawn along a county line which passes through a city that lies in more than one county.

(5) Preference shall be that districts are compact in form, but the standards established by subdivisions 1, 2, 3, and 4 of this subsection take precedence over compactness where a conflict arises between compactness and these standards. In general, compact districts are those which are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries.

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5. Within sixty days after the population of this state is reported to the President for each decennial census of the United States [and] or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

6. Within six months after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within six months after notification by the governor that such a ruling has been made, the non-partisan state demographer shall file with the secretary of state and with the house apportionment commission a tentative plan of apportionment and map of the proposed districts.

The commissioners so selected shall, [on the fifteenth day, excluding Sundays and holidays, after all members have been selected] within ten days of receiving the tentative plan of apportionment and map of the proposed districts, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary[and]. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

The commission may make changes to the tentative plan of apportionment and map of the proposed districts received from the non-partisan state demographer provided that such changes are consistent with this section and approved by a vote of at least seven-tenths of the commissioners. If no changes are made or approved as provided for in this subsection, the tentative plan of apportionment and map of proposed districts shall become final. Not later than two months of receiving the tentative plan of apportionment and map of the proposed districts, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts.

[The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.

Each district shall be composed of contiguous territory as compact as may be.

Not later than five months after the appointment of the commission, the commission shall receive the tentative plan of apportionment and map of the proposed districts ordered in subsection 4 of this section and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.]

Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

No reapportionment shall be subject to the referendum.

[Section 5. The senate shall consist of thirty-four members elected by the qualified voters of the respective districts for four years. For the election of senators, the state shall be divided into convenient districts of contiguous territory, as compact and nearly equal in population as may be.]

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Section 7. 1. The senate shall consist of thirty-four members elected by the qualified voters of the senatorial districts for a term of four years. Senatorial districts shall be apportioned as provided for in this section.

2. Within ten days after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within ten days after notification by the governor that such a ruling has been made, the non-partisan state demographer authorized in article III section 2, shall begin the preparation of senatorial districting plans and maps using the following methods:

(1) Districts shall be established on the basis of population. Districts shall each have a population as nearly equal as practicable to the ideal population for such districts, determined by dividing the number of districts to be established into the population of the state reported in the federal decennial census. No county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

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(2) Districts shall be established in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The non-partisan state demographer shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the non-partisan state demographer shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the non-partisan state demographer shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The non-partisan state demographer shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the non-partisan state demographer shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

(3) Districts shall be composed of convenient contiguous territory. Areas which meet only at the points of adjoining corners are not contiguous.

(4) To the extent consistent with subdivisions 1, 2, and 3 of this subsection, district boundaries shall coincide with the boundaries of political subdivisions of the state. The number of counties and cities divided among more than one district shall be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous, but this preference shall not apply to a legislative district boundary drawn along a county line which passes through a city that lies in more than one county.

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(5) Preference shall be that districts are compact in form, but the standards established by subdivisions 1, 2, 3, and 4 of this subsection take precedence over compactness where a conflict arises between compactness and these standards. In general, compact districts are those which are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries.

3. Within sixty days after the population of this state is reported to the President for each decennial census of the United States, [and] or within sixty days after notification by the governor that a reapportionment has been invalidated by a court of competent jurisdiction, the state committee of each of the two political parties casting the highest vote for governor at the last preceding election shall, at a committee meeting duly called, select by a vote of the individual committee members, and thereafter submit to the governor a list of ten persons, and within thirty days thereafter the governor shall appoint a commission of ten members, five from each list, to reapportion the thirty-four senatorial districts and to establish the numbers and boundaries of said districts.

If either of the party committees fails to submit a list within such time the governor shall appoint five members of his own choice from the party of the committee so failing to act.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

4. Within six months after the population of this state is reported to the President for each decennial census of the United States or in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within six months after notification by the governor that such a ruling has been made, the non-partisan state demographer shall file with the secretary of state and with the senatorial apportionment commission a tentative plan of apportionment and map of the proposed districts.

The commissioners so selected shall [on the fifteenth day, excluding Sundays and holidays, after all members have been selected] within ten days of receiving the tentative plan of apportionment and map of the proposed districts required by subsection 4 of this section, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary [and]. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the secretary of the senate within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable. The commission may make changes to the tentative plan of apportionment and map of the proposed districts received from the non-partisan state demographer provided that such changes are consistent with this section and approved by a vote of at least seven-tenths of the commissioners. If no changes are made or approved as provided for in this subsection, the tentative plan of apportionment and map of proposed districts shall become final. Not later than two months after receiving the tentative plan of apportionment and map of the proposed districts, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts.

[The commission shall reapportion the senatorial districts by dividing the population of the state by the number thirty-four and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure; no county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

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Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven members.

After the statement is filed senators shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the senate shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter senators shall be elected according to such districts until a reapportionment is made as herein provided.]

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SECRETARY OF STATE

Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session, but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

No reapportionment shall be subject to the referendum.

Section 12. 1. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This subsection shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

2. No senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist until the expiration of one calendar year after the conclusion of the session of the general assembly in which the member or employee last served. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

3. No senator or representative or their employees or any entity controlled by a senator or representative or their employees shall act or serve as a paid employee or paid consultant to a political committee or political candidate or solicit prospective employers or clients as a paid employee or paid consultant to a political committee or political candidate. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

4. For purposes of this section, the term "lobbyist" means any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any

natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official.

Section 16(a). 1. No senator or representative or their employees or staff shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. Senators or representatives and their employees and staff may accept informational material relevant to the general assembly's official functions and items that are available or distributed free of charge to members of the general public. All gifts by a lobbyist or lobbyist principal to a senator or representative or their employees or staff shall be reported to the ethics commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient. Candidates for senator or representative, including candidates for reelection, or candidates for offices within the senate or house may accept campaign contributions consistent with this article and applicable campaign finance law. Any violation of this section shall be punishable by a term of imprisonment of up to six months and the imposition of a fine of up to five hundred dollars or both.

2. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly and is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

Section 19. 1. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place.

2. Legislative records shall be public records and subject to generally applicable state laws governing public access to public records, including the "sunshine law." Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member, their employees and staff. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate, respectively.

3. Legislative proceedings, including committee proceedings, shall be public meetings subject to generally applicable law governing public access to public meetings, including the "sunshine law." Open public meetings of legislative proceedings shall be subject to recording by citizens, so long as the proceedings are not materially disrupted.

Section 20(c). No senator or representative or their employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or

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creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by policy or law for the victim, any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars.

Section 20(d).

1. Unlimited campaign contributions to candidates for legislative offices are banned. In addition to other campaign contribution limitations or restrictions provided for by law, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for legislative office shall not exceed the following:
   (1) To elect an individual to the office of state senator, two thousand seven hundred dollars; and
   (2) To elect an individual to the office of state representative, two thousand seven hundred dollars.

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The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this subsection, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the ethics commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a legislative candidate shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No legislative candidate shall accept a contribution from a corporation.

4. In determining if a contribution to candidate for legislative office is made or accepted with the intent to circumvent the contribution limits imposed in this section, one factor that may be considered is whether the contribution is received from a committee or organization that is, at the time the contribution was made, funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. For purposes of this subsection, a committee or organization is "primarily funded by a single person, individual, or other committee" when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

5. No contribution to a candidate for legislative office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

6. If a payment for a covered communication for a candidate for legislative office is made by a person who is a coordinated spender with respect to the candidate, the payment or expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

7. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

8. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

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9. For purposes of this section, the following terms are defined as follows:

(1) "Candidate", an individual who seeks nomination or election to the house or senate or as an officer of the house or senate, an individual who seeks nomination by the individual's political party for election to the house or senate or as an officer of the house or senate, and an individual who is a write-in candidate for the house or senate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

h. Any payment or expenditure by any person other than a candidate or a candidate committee made in connection with any candidate that is authorized, requested, suggested, or fostered by or made in cooperation with a candidate, candidate committee, or agents of the candidate or candidate committee; or

i. Any payment or expenditure for any communication which republishes, disseminates, or distributes in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or agents of the candidate or candidate committee, other than a photograph obtained from a public source.

(b) "Contribution" to a candidate or candidate committee does not include:

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a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

d. The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders.

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(c) In determining whether a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to a candidate's opponent is a contribution for purposes of this section, the following non-exclusive list of factors may be considered:

a. Information not generally available to the public regarding the candidate's campaign, plans, projects, activities, or needs is material to the creation, production or distribution of the communication;

b. The person discusses or negotiates the communication with the candidate, candidate's committee or an agent of the candidate or candidate's committee prior to the date the communication is publicly disseminated or distributed;

c. The person and the candidate or candidate's committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting or legal services, or other non-campaign services.

(d) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;
b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;
c. The person made contributions to the candidate;
d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;
e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf

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during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience that refers to a clearly identified candidate and:

(a) Either:

a. Contains words such as "vote", "oppose", "support", "elect", "defeat", or "reject," in expressly advocating the election or defeat of the candidate; or

b. Is made on or after January first of the year of the election in which the candidate seeks office, and is susceptible of no reasonable interpretation other than as an appeal to vote for or against a candidate; and

(b) Is:

a. A broadcast, cable or satellite audio or video communication or internet communication; or

b. Printed advertisements, pamphlets, circulars, flyers, brochures, or a billboard.

(c) A communication over the internet is a "covered communication" only if it is placed for a fee on another person's Web site.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which

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that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

10. Any violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year and or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.
(2) For the second and subsequent violations, a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

Section 20(e). No political fundraising activities or political fundraising event, including the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party or political committee, shall occur in or on any premises, property or building owned, leased or controlled by the house of representatives, senate or general assembly. Any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars plus an amount equal to three times the illegal contributions.

Section 20(f). If any provision of sections 12, 16(a), 19, 20(c), 20(d) or 20(e) or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

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**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-136)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article III. (Received November 5, 2015)

## Date

November 25, 2015

## Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

If there is a significant increase in the number of complaints or referrals, the office may seek an additional appropriation.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

If additional persons are sentenced to the custody of the department due to the provisions of this legislation, the department will incur a corresponding increase of direct offender costs either through incarceration (fiscal year 2015 average of $16.809 per offender, per day, or an annual cost of $6,135 per inmate) or through supervision provided by the Board of Probation and Parole (fiscal year 2015 average of $6.04 per offender, per day or an annual cost of $2,205 per offender).

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this legislation.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated they assume no fiscal impact.

Officials from the **Office of Administration** indicated this initiative petition revises Article III of the Missouri Constitution by amending Sections 2, 7, 12 and 19 and enacting five new sections. Section 5 is repealed but reenacted with changes in Section 7.

The initiative creates the post of "non-partisan State Demographer" to oversee the redistricting process for the state House and Senate districts. The demographer is to be selected by the Commissioner of Administration pursuant to the merit personnel system and shall serve a term of five years. This demographer will be unable to hold elected office for four years following the filing of the new legislative districts. The redistricting process shall maximize partisan fairness and competitiveness.

It mandates that legislative records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms shall be public. It allows explicitly identified legislative proceedings as open meetings and authorizes recording of such proceedings by citizens.

Legislators and their employees are prohibited from lobbying for at least one year after the conclusion of the session during which they vacate office, and from acting as paid consultants while in office. Legislators and their staff are prohibited from accepting a gift in excess of five dollars, per occurrence. Political fundraising activities and events may not be held in any location owned by, or under the control of, the legislature.

Legislators and staff are prohibited from engaging in sexual harassment.

Campaign contributions for state senators and representatives are limited to $2,700, with CPI adjustments made in even-numbered years. Also, corporate contributions are prohibited. There are penalty provisions included for each of the prohibitions, along with a severability clause.

This proposal could have an impact on the Office of Administration. There is currently a State Demographer, with statutory duties that extend beyond those of legislative

reapportionment. If the existing State Demographer would be expected to assume the role of “Non-partisan State Demographer”, there would be no fiscal impact. However, if that post is filled by another individual, the salary and benefits costs would be an estimated $125,993 in fiscal year 2021, adjusted for inflation. In either scenario, the cost for other staff hired for the purposes of redistricting would remain the same.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated they have evaluated this initiative petition and determined it will not have a financial impact.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for fiscal year 2017, $61,107 for fiscal year 2018 and $61,734 for fiscal year 2019.

**Summarize how this bill would affect the agency**

Prohibiting a member of the general assembly, entity controlled by a member of the general assembly, or employees of a member of the general assembly from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130, RSMo:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific prohibition of receiving compensation as a political consultant from the entities outlined in Section 105.456, RSMo, including reviewing campaign finance reports as established in Section 105.955.14 (2), (3), RSMo.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a member of the general assembly from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.

• Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a member of general assembly or a staff member of the general assembly to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

• Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
• Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:

• Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
• Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
• Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
• Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

•$15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

•1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

•If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Missouri Senate, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate annual operating costs will increase at least $61,000, may increase an additional $125,000, and may result in minimal incarceration costs if people are convicted under the provisions of this petition. Local governmental entities report no expected fiscal impact.

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STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 5, 2015

16-135

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Sheila Dundon regarding a proposed constitutional amendment to Article XVI, version 6 (2016-135)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Sheila Dundon on November 4, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-135

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

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[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

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*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Article XVI is created by enacting one new section to be known as Section 1 of Article XVI, to read as follows:

**Section 1. Right to Access Medical Marijuana**

**1. Purposes**

This section is intended to permit state-licensed physicians to recommend marijuana for medical purposes to patients with serious illnesses and medical conditions. The section allows patients with qualifying medical conditions the right to discuss freely with their physicians the possible benefits of medical marijuana use, the right of their physicians to provide professional advice concerning the same, and the right to use medical marijuana for treatment under the supervision of a physician.

This section is intended to make only those changes to Missouri laws that are necessary to protect patients, their primary caregivers, and their physicians from civil and criminal penalties, and to allow for the limited legal production, distribution, sale and purchase of marijuana for medical use. This section is not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes. The section does not allow for the public use of marijuana and driving under the influence of marijuana.

**2. Definitions**

(1) "Administer" means the direct application of marijuana to a qualifying patient by way of any of the following methods:

(a) Ingestion of capsules, teas, oils, and other marijuana-infused products;

(b) Vaporization or smoking of dried flowers, buds, plant material, extracts, or oils;

(c) Application of ointments or balms;

(d) Transdermal patches and suppositories;

(e) Consuming marijuana-infused food products; or

(f) Any other method recommended by a qualifying patient's physician.

(2) "Department" means the Department of Health and Senior Services, or its successor agency.

(3) "Entity" means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(4) "Flowering plant" means a marijuana plant from the time it exhibits the first signs of sexual maturity through harvest.

(5) "Marijuana" means *Cannabis indica*, *Cannabis sativa*, and *Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the plant and marijuana-infused products. "Marijuana" does not include industrial hemp containing a crop-wide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis, or commodities or products manufactured from industrial hemp.

(6) "Marijuana-Infused Products" means products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including but not limited to edible products, ointments, and tinctures.

(7) "Medical Marijuana Cultivation Facility" means a facility licensed by the Department, to acquire, cultivate, process, transport, and sell marijuana to a Medical Marijuana Dispensary Facility or to a Medical Marijuana-Infused Products Manufacturing Facility.

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(8) "Medical Marijuana Dispensary Facility" means a facility licensed by the Department, to acquire, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section.

(9) "Medical Marijuana-Infused Products Manufacturing Facility" means a facility licensed by the Department, to acquire, manufacture, transport, and sell marijuana-infused products to a Medical Marijuana Dispensary Facility.

(10) "Medical use" means the production, possession, delivery, distribution, transportation, or administration of marijuana or a marijuana-infused product, or drug paraphernalia used to administer marijuana or a marijuana-infused product, for the benefit of a qualifying patient to mitigate the symptoms or effects of the patient's qualifying medical condition.

(11) "Physician" means an individual who is licensed and in good standing to practice medicine or osteopathy under Missouri law.

(12) "Physician certification" means a document, whether handwritten, electronic or in another commonly used format, signed by a physician and stating that in the physician's professional opinion, the patient suffers from a qualifying medical condition and is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's qualifying medical condition or symptoms associated with the qualifying medical condition.

(13) "Primary caregiver" means an individual twenty-one years of age or older who has significant responsibility for managing the well-being of a qualifying patient and who is designated as such on the primary caregiver's application for an identification card under this section or in other written notification to the Department.

(14) "Qualifying medical condition" means the condition of, symptoms related to, or side-effects from the treatment of:

(a) Cancer;

(b) Epilepsy;

(c) Glaucoma;

(d) Intractable migraines unresponsive to other treatment;

(e) A chronic medical condition that causes severe, persistent pain or persistent muscle spasms, including but not limited to those associated with multiple sclerosis, seizures, Parkinson's disease, and Tourette's syndrome;

(f) Debilitating psychiatric disorders, including but not limited to post-traumatic stress disorder, if diagnosed by a state licensed psychiatrist;

(g) Human immunodeficiency virus or acquired immune deficiency syndrome;

(h) A chronic medical condition that is normally treated with a prescription medication that could lead to physical or psychological dependence, when a physician determines that medical use of marijuana could be effective in treating that condition and would serve as a safer alternative to the prescription medication;

(i) Any terminal illness; or

(j) In the professional judgment of a physician, any other chronic, debilitating or otherwise equivalent condition, including, but not limited to, hepatitis C, amyotrophic lateral sclerosis, inflammatory bowel disease, agitation of Alzheimer's disease, cachexia, and wasting syndrome.

(15) "Qualifying Patient" means a Missouri resident diagnosed with at least one qualifying medical condition.

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**3. Creating Patient Access to Medical Marijuana**

(1) In carrying out the implementation of this section, the Department shall have the authority to:

(a) Grant or refuse state licenses for the cultivation, manufacture, distribution, and sale of marijuana for medical use as provided by law; suspend, fine, restrict, or revoke such licenses upon a violation of this section or a rule promulgated pursuant to this section; and impose any administrative penalty authorized by this section or any rule promulgated pursuant to this section.

(b) Promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, distribution, and sale of marijuana for medical use and for the enforcement of this section.

(c) Develop such forms, licenses, identification cards, and applications as are necessary or convenient in the discretion of the Department for the administration of this section or any of the rules promulgated under this section;

(d) Require a seed-to-sale tracking system that tracks medical marijuana from either the seed or immature plant stage until the medical marijuana or medical marijuana-infused product is sold to a qualifying patient or primary caregiver at a Medical Marijuana Dispensary Facility to ensure that no medical marijuana grown by a Medical Marijuana Cultivation Facility or manufactured by a Medical Marijuana-Infused Products Manufacturing Facility is sold or otherwise transferred except by a Medical Marijuana Dispensary Facility. If it creates a seed-to-sale tracking system, the Department shall certify, if possible, at least two commercially available systems to licensees as compliant with its tracking standards and issue standards for the creation or use of other systems by licensees.

(e) Prepare and transmit annually a publicly available report accounting to the Governor for the efficient discharge of all responsibilities assigned to the Department under this section;

(2) The Department may issue any rules or emergency rules necessary for the implementation and enforcement of this section and to ensure the right to, availability, and safe use of marijuana for medical use by qualifying patients. In developing such rules or emergency rules, the Department may consult with other public agencies. In addition to any other rules or emergency rules necessary to carry out the mandates of this section, the Department may issue rules or emergency rules relating to the following subjects:

(a) Compliance with, enforcement of, or violation of any provision of this section or any rule issued pursuant to this section, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license issued pursuant to this section;

(b) Specifications of duties of officers and employees of the Department;

(c) Instructions or guidance for local authorities and law enforcement officers;

(d) Requirements for inspections, investigations, searches, seizures, and such additional enforcement activities as may become necessary from time to time;

(e) Creation of a range of administrative penalties for use by the Department;

(f) Prohibition of misrepresentation and unfair practices;

(g) Control of informational and product displays on licensed premises;

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(h) Development of individual identification cards for owners, officers, managers, contractors, employees, and other support staff of entities licensed pursuant to this section, including a fingerprint-based federal and state criminal record check in accordance with U.S. Public Law 92-544, or its successor provisions, as may be required by the Department prior to issuing a card and procedures to ensure that cards for new applicants are issued within fourteen days;

(i) Security requirements for any premises licensed pursuant to this section, including, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the Department to properly administer and enforce the provisions of this section, including reporting requirements for changes, alterations, or modifications to the premises;

(j) Regulation of the storage of, warehouses for, and transportation of marijuana for medical use;

(k) Sanitary requirements for, including, but not limited to, the preparation of medical marijuana-infused products;

(l) The specification of acceptable forms of picture identification that a Medical Marijuana Dispensary Facility may accept when verifying a sale;

(m) Labeling and packaging standards;

(n) Records to be kept by licensees and the required availability of the records;

(o) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(p) The reporting and transmittal of tax payments;

(q) Authorization for the Department of Revenue to have access to licensing information to ensure tax payment and the effective administration of this section; and

(r) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this section.

(3) The Department shall issue rules or emergency rules for a medical marijuana and medical marijuana-infused products independent testing and certification program for medical marijuana licensees and requiring licensees to test medical marijuana using an impartial, independent laboratory to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health and to ensure correct labeling.

(4) The Department shall maintain the confidentiality of reports or other information obtained from an applicant or licensee containing any individualized data, information, or records related to the licensee or its operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans, or revealing any patient information, or any other records that are exempt from public inspection pursuant to state or federal law. Such reports or other information may be used only for a purpose authorized by this section. Any information released related to patients may be used only for a purpose authorized by federal law and this section, including verifying that a person who presented a patient identification card to a state or local law enforcement official is lawfully in possession of such card.

(5) Within ninety days of the effective date of this section, the Department shall make available to the public license application forms and application instructions for Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensary Facilities, and Medical Marijuana-Infused Products Manufacturing Facilities.

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(6) Within ninety days of the effective date of this section, the Department shall make available to the public application forms and application instructions for qualifying patient, qualifying patient cultivation, and primary caregiver identification cards. Within one hundred fifty days of the effective date of this section, the Department shall begin accepting applications for such identification cards.

(7) An entity may apply to the Department for and obtain a license to grow marijuana as a Medical Marijuana Cultivation Facility. Each facility in operation shall require a separate license. Each indoor facility utilizing artificial lighting may be limited by the Department to thirty thousand square feet of flowering plant canopy space. Each outdoor facility utilizing natural lighting may be limited by the Department to two thousand eight hundred flowering plants. Each greenhouse facility using a combination of natural and artificial lighting may be limited by the Department, at the election of the licensee, to two thousand eight hundred flowering plants or thirty thousand square feet of flowering plant canopy space. The license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The Department shall charge each applicant a non-refundable fee of three thousand dollars per license application or renewal. Once granted, the Department shall charge each licensee an annual fee of twenty thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than three Medical Marijuana Cultivation Facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(8) An entity may apply to the Department for and obtain a license to operate a Medical Marijuana Dispensary Facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The Department shall charge each applicant a non-refundable fee of three thousand dollars per license application or renewal. Once granted, the Department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than six Medical Marijuana Dispensary Facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(9) An entity may apply to the Department for and obtain one or more licenses to operate a Medical Marijuana-Infused Products Manufacturing Facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The Department shall charge each applicant a non-refundable fee of three thousand dollars per license application or renewal. Once granted, the Department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than five Medical Marijuana-Infused Products Manufacturing Facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(10) Except for good cause, a qualifying patient or his or her primary caregiver may obtain an identification card from the Department to cultivate up to six flowering marijuana plants for the exclusive use of that qualifying patient. The card shall be valid for twelve months from its date of issuance and shall be renewable with the annual submittal of a new or updated physician's certification. The Department shall charge an annual fee for the card of one hundred dollars, with such rate to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency.

(11) The Department may set a limit on the amount of marijuana that may be purchased by or on behalf of a single qualifying patient in a thirty day period, provided that limit is not less than six ounces of dried, unprocessed marijuana, or its

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equivalent. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons why the qualifying patient needs a greater amount than the limit established by the Department.

(12) The Department may set a limit on the amount of marijuana that may be possessed by or on behalf of each qualifying patient, provided that limit is not less than a sixty day supply of dried, unprocessed marijuana, or its equivalent. A primary caregiver may possess a separate legal limit for each qualifying patient under their care and a separate legal limit for themselves if they are a qualifying patient. Qualifying patients cultivating marijuana for medical use may possess up to a ninety day supply, so long as the supply remains on property under their control. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons for additional amounts. Possession of between the legal limit and up to twice the legal limit shall subject the possessor to Department sanctions, including an administrative penalty and loss of their patient identification card for up to a year. Purposefully possessing amounts in excess of twice the legal limit shall be punishable by imprisonment of up to one year and a fine of up to two thousand dollars.

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(13) The Department may restrict the aggregate number of licenses granted for Medical Marijuana Cultivation Facilities, provided, however, that the number may not be limited to fewer than one license per every eighty thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. In any year, if the number of qualifying applicants and any renewals exceed such a restriction, the Department shall, after renewing all qualifying licenses, rank new applicants using the following factors: site security; capacity or experience with agriculture, horticulture, health care, or a legal cannabis market; acceptance in the site community; potential for positive economic impact in the site community; and maintaining competitiveness in the marijuana for medical use marketplace. In ranking applicants and awarding licenses, the Department may consult or contract with other public agencies with relevant expertise regarding these factors. The Department shall lift or ease any limit on the number Medical Marijuana Cultivation Facilities to meet the demand for medical marijuana by qualifying patients.

(14) The Department may restrict the aggregate number of licenses granted for Marijuana-Infused Products Manufacturing Facilities, provided, however, that the number may not be limited to fewer than one license per every fifty thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. In any year, if the number of qualifying applicants and any renewals exceed such a restriction, the Department shall, after renewing all qualifying licenses, rank new applicants using the following factors: site security; capacity or experience with food and beverage manufacturing or a legal cannabis market; acceptance in the site community; potential for positive economic impact in the site community; and maintaining competitiveness in the marijuana for medical use marketplace. In ranking applicants and awarding licenses, the Department may consult or contract with other public agencies with relevant expertise regarding these factors.

(15) If a county has restricted the number of licenses for Medical Marijuana Dispensary Facilities, then, in any year that the number of qualifying applicants and any renewals exceed such restriction, the Department shall, after renewing all qualifying licenses, rank new applicants using the following factors: site security; experience or capacity with health care or a legal cannabis market; acceptance in the site community; potential for positive economic impact in the site community; and maintaining competitiveness in the marijuana for medical use marketplace. In ranking applicants and awarding licenses, the Department may consult or contract with other public agencies with relevant expertise regarding these factors.

(16) The Department shall begin accepting license applications for Medical Marijuana Dispensary Facilities, Medical Marijuana Cultivation Facilities, and Medical Marijuana-Infused Products Manufacturing Facilities no later than one hundred fifty days after the effective date of this section. Applications for licenses under this section shall be approved or denied by the Department no later than one hundred fifty days after their submission. If the Department fails to carry out its non-

discretionary duty to approve or deny an application within one hundred fifty days of submission, an applicant may immediately seek a court order compelling the Department to approve or deny the application.

(17) Qualifying patients under this section shall obtain and annually renew an identification card or cards from the Department. The Department shall charge a fee of twenty-five dollars per year per card with such fee to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor or its successor agency. Upon receiving an application for a qualifying patient identification card or qualifying patient cultivation identification card, the Department shall, within thirty days, either issue the card or provide a written explanation for its denial. If the Department fails to issue a card to an eligible qualifying patient within thirty days, then their physician certification shall serve as their patient identification card or qualifying patient cultivation identification card for up to one year from the date of physician certification. All initial applications for or renewals of a qualifying patient identification card or qualifying patient cultivation identification card shall be accompanied by a physician certification that is less than thirty days old.

(18) Primary caregivers under this section shall obtain and annually renew an identification card from the Department. The Department shall charge a fee of twenty-five dollars per year, with such fee to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. Upon receiving an application for a primary caregiver identification card, the Department shall, within thirty days, either issue the card or provide a written explanation for its denial.

(19) All marijuana for medical use sold in Missouri shall be cultivated in a licensed Medical Marijuana Cultivation Facility located in Missouri.

(20) All marijuana-infused products for medical use sold in the state of Missouri shall be manufactured in a Medical Marijuana-Infused Products Manufacturing Facility.

(21) The denial of a license, license renewal, or identification card by the Department shall be appealable to the Administrative Hearing Commission, or its successor entity. Following the exhaustion of administrative review, denial of a license, license renewal, or identification card by the Department shall be subject to judicial review as provided by law.

(22) No elected official shall interfere directly or indirectly with the Department's obligations and activities under this section.

**4. Taxation and Reporting**

(1) A tax is levied upon the retail sale of marijuana for medical use sold at Medical Marijuana Dispensary Facilities within the state. The tax shall be at a rate of four percent of the retail price. The tax shall be collected by each licensed Medical Marijuana Dispensary Facility and paid to the Department of Revenue. After retaining no more than five percent for its actual collection costs, amounts generated by the tax levied in this section shall be deposited by the Department of Revenue into the Missouri Veterans' Health and Care Fund. Licensed entities making retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.

(2) There is hereby created in the state treasury the "Missouri Veterans' Health and Care Fund," which shall consist of taxes and fees collected under this section. The State Treasurer shall be custodian of the fund, and he or she shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund. Notwithstanding any other provision of law, any moneys remaining in the fund at the end of a biennium shall not revert to the credit of the general revenue fund. The Commissioner of Administration is authorized to make cash operating transfers to the fund for purposes of meeting the cash requirements of the Department in advance of it

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receiving annual application, licensing, and tax revenue, with any such transfers to be repaid as provided by law. The fund shall be a dedicated fund and shall stand appropriated without further legislative action as follows:

(a) First, to the Department, an amount necessary for the Department to carry out this section, including repayment of any cash operating transfers, payments made through contract or agreement with other state and public agencies necessary to carry out this section, and a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out this section;

(b) Next, the remainder of such funds shall be transferred to the Missouri Veterans Commission for health and care services for military veterans, including the following purposes: operations, maintenance and capital improvements of the Missouri Veteran's Homes, the Missouri Service Officer's Program, and other services for veterans approved by the Commission, including but not limited to health care services, mental health services, drug rehabilitation services, housing assistance, job training, tuition assistance, and housing assistance to prevent homelessness. The Missouri Veterans Commission shall contract with other public agencies for the delivery of services beyond its expertise.

(c) All moneys from the taxes authorized under this subsection shall provide additional dedicated funding for the purposes enumerated above and shall not replace existing dedicated funding.

(3) For all retail sales of marijuana for medical use, a record shall be kept by the seller which identifies by secure and encrypted patient number issued by the seller to the qualifying patient involved in the sale, all amounts and types of marijuana involved in the sale and the total amount of money involved in the sale, including itemizations, taxes collected and grand total sale amounts. All such records shall be kept on the premises in a readily available format and be made available for review by the Department and the Department of Revenue upon request. Such records shall be retained for five years from the date of the sale.

(4) The tax levied pursuant to this subsection is separate from and in addition to any general state and local sales and use taxes that apply to retail sales, which shall continue to be collected and distributed as provided by general law.

(5) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of marijuana for medical use.

**5. Additional Patient, Physician, Caregiver and Provider Protections**

(1) Except as provided in this section, the possession of marijuana in quantities less than the limits of this section or established by the Department and transportation of marijuana from a Medical Marijuana Dispensary Facility to the qualifying patient residence shall not subject the possessor to arrest, criminal or civil liability, or sanctions under Missouri law, provided that the possessor produces on demand to the appropriate authority a valid qualifying patient identification card; a valid patient cultivation identification card; a valid physician certification while making application for an identification card; or a valid primary caregiver identification card. Production of the respective equivalent identification card or authorization issued by another state or political subdivision of another state shall also meet the requirements of this subdivision.

(2) No patient shall be denied access to or priority for an organ transplant because they hold a qualifying patient identification card or use marijuana for medical use.

(3) A physician shall not be subject to criminal or civil liability or sanctions under Missouri law or discipline by the Missouri State Board of Registration for the Healing Arts, or its successor agency, for issuing a physician certification to a patient diagnosed with a qualifying medical condition in a manner consistent with this section and legal standards of professional conduct.

(4) A health care provider shall not be subject to civil or criminal prosecution, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for providing health

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care services that involve the medical use of marijuana consistent with this section and legal standards of professional conduct.

(5) A testing laboratory shall not be subject to civil or criminal prosecution, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for providing laboratory testing services that relate to the medical use of marijuana consistent with this section and otherwise meeting legal standards of professional conduct.

(6) A health care provider shall not be subject to mandatory reporting requirements for the medical use of marijuana by non-emancipated qualifying patients under eighteen years of age in a manner consistent with this section and with consent of a parent or guardian.

(7) A primary caregiver shall not be subject to criminal or civil liability or sanctions under Missouri law for purchasing, transporting, or administering marijuana for medical use by a qualifying patient or participating in the patient cultivation of up to six flowering marijuana plants per patient in a manner consistent with this section and generally established legal standards of personal or professional conduct.

(8) An attorney shall not be subject to disciplinary action by the state bar association or other professional licensing body for providing legal assistance to prospective or licensed Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensary Facilities, Medical Marijuana-Infused Products Manufacturing Facilities, qualifying patients, primary caregivers, physicians, health care providers or others related to activity that is no longer subject to criminal penalties under state law pursuant to this section.

(9) Actions and conduct by Qualifying Patients, Primary Caregivers, Medical Marijuana Cultivation Facilities, Medical Marijuana-Infused Products Manufacturing Facilities, or Medical Marijuana Dispensary Facilities licensed or registered with the Department, or their employees or agents, as permitted by this section and in compliance with Department regulations and other standards of legal conduct, shall not be subject to criminal or civil liability or sanctions under Missouri law, except as provided for by this section.

(10) Nothing in this section shall provide immunity for negligence, either common law or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of marijuana.

(11) It is the public policy of the state of Missouri that contracts related to marijuana for medical use that are entered into by Qualifying Patients, Primary Caregivers, Medical Marijuana Cultivation Facilities, Medical Marijuana-Infused Products Manufacturing Facilities, or Medical Marijuana Dispensary Facilities and those who allow property to be used by those entities, should be enforceable. It is the public policy of the state of Missouri that no contract entered into by Qualifying Patients, Primary Caregivers, Medical Marijuana Cultivation Facilities, Medical Marijuana-Infused Products Manufacturing Facilities, or Medical Marijuana Dispensary Facilities, or by a person who allows property to be used for activities that are exempt from state criminal penalties by this section, shall be unenforceable on the basis that activities related to medical marijuana may be prohibited by federal law.

**6. Legislation**

Nothing in this section shall limit the General Assembly from enacting laws consistent with this section, or otherwise effectuating the patient rights of this section. The legislature shall not enact laws that hinder the right of qualifying patients to access marijuana for medical use as granted by this section

**7. Additional Provisions**

(1) Nothing in this section permits a person to:

(a) Consume marijuana for medical use in a jail or correctional facility;

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(b) Undertake any task under the influence of marijuana when doing so would constitute negligence or professional malpractice; or

(c) Operate, navigate, or be in actual physical control of any dangerous device or motor vehicle, aircraft or motorboat while under the influence of marijuana; or

(d) Bring a claim against any employer, former employer, or prospective employer for wrongful discharge, discrimination, or any similar cause of action or remedy, based on the employer, former employer, or prospective employer prohibiting the employee, former employee, or prospective employee from being under the influence of marijuana while at work or disciplining the employee or former employee, up to and including termination from employment, for working or attempting to work while under the influence of marijuana.

(2) No Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility shall be owned, in whole or in part, or have as an officer, director, board member, manager, or employee, any individual with a disqualifying felony offense. A "disqualifying felony offense" is a violation of, and conviction or guilty plea to, state or federal law that is, or would have been, a felony under Missouri law, regardless of the sentence imposed, unless the Department determines that:

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(a) The person's conviction was for the medical use of marijuana or assisting in the medical use of marijuana; or

(b) The person's conviction was for a non-violent crime for which he or she was not incarcerated and that is more than five years old; or

(c) More than five years have passed since the person was released from parole or probation, and he or she has not been convicted of any subsequent criminal offenses.

The Department may consult with and rely on the records, advice and recommendations of the Attorney General and the Department of Public Safety, or their successor entities, in applying this subdivision.

(3) All Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility licenses shall be held by entities that are majority owned by natural persons who have been citizens of the state of Missouri for at least one year prior to the application for such license or licenses. Notwithstanding the forgoing, entities outside the state of Missouri may own a minority stake in such entities.

(4) A county may require a site permit for a Medical Marijuana Dispensary Facility utilizing generally applicable permitting standards. In addition, by February 1, 2017, a county may limit the number of site permits to be granted for Medical Marijuana Dispensary Facilities, provided, however, that the number may not be limited to fewer than one site for every thirty thousand inhabitants, or any portion thereof, in such county, according to the most recent census of the United States. After a county's initial site permit limit notification, a county shall notify the Department of any change to its site permit limit within ten days of such decision; however, the number of site permits shall not be less than the number of licenses previously issued by the Department for that county.

(5) No Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility shall manufacture, package or label marijuana or marijuana-infused products in a false or misleading manner. No person shall sell any product in a manner designed to cause confusion between a marijuana or marijuana-infused product and any product not containing marijuana. A violation of this subdivision shall be punishable by an appropriate and proportional Department sanction, up to and including loss of license.

(6) All edible marijuana-infused products shall be sold in individual, child-resistant containers that are labeled with dosage amounts, instructions for use, and estimated length of effectiveness. All marijuana and marijuana-infused products shall be sold in containers clearly and conspicuously labeled, in a font size at least as large as the largest other font size used on the package, as containing "Marijuana," or a

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"Marijuana-Infused Product." Violation of this prohibition shall subject the violator to Department sanctions, including an administrative penalty.

(7) No individual shall serve as the primary caregiver for more than three qualifying patients.

(8) No qualifying patient shall consume marijuana for medical use in a public place. Violation of this prohibition shall subject the violator to sanctions as provided by general law.

(9) No person shall extract resins from marijuana using dangerous materials or combustible gasses without a Medical Marijuana-Infused Products Manufacturing Facility license. Violation of this prohibition shall subject the violator to Department sanctions, including an administrative penalty and loss of their identification card or license for up to one year.

(10) All patient cultivation shall take place in an enclosed, locked facility that is equipped with security devices that permit access only by the qualifying patient or by such patient's primary caregiver. Two qualifying patients, who both hold valid patient cultivation identification cards, may share one enclosed, locked facility. No more than twelve patient or primary caregiver cultivated flowering marijuana plants may be cultivated in a single, enclosed locked facility, except when a primary caregiver also holds a patient cultivation identification card, in which case no more than eighteen flowering marijuana plants may be cultivated in a single, enclosed, locked facility.

(11) No Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility shall assign, sell, give, lease, sublicense, or otherwise transfer its license to any other entity without the express consent of the Department, not to be unreasonably withheld.

(12) Unless allowed by the local government, no new Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility shall be initially sited within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church. No local government shall prohibit Medical Marijuana Cultivation Facilities, Medical Marijuana-Infused Products Manufacturing Facilities, or Medical Marijuana Dispensary Facilities, either expressly or through the enactment of ordinances or regulations that make their operation unduly burdensome in the jurisdiction. However, local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place, and manner of such facilities in the locality. A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of operation of a Medical Marijuana Cultivation Facility, Medical Marijuana Infused Products Manufacturing Facility, or Medical Marijuana Dispensary Facility that may operate in such locality.

(13) Unless superseded by federal law or an amendment to this Constitution, a physician shall not recommend the medical use of marijuana to a patient by any means other than providing a physician certification for the patient, whether handwritten, electronic or in another commonly used format. In any year, no physician shall issue more physician certifications than a number equivalent to twenty-five percent of their total number of prescriptions for other drugs. A qualifying patient must obtain a new physician certification at least annually.

(14) A physician shall not issue a certification for the medical use of marijuana for a non-emancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. The Department shall not issue a patient identification card on behalf of a non-emancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. Such card shall be issued to one of the parents or guardians and not directly to the patient. Only a parent or guardian may serve as a primary caregiver for a non-emancipated qualifying patient under the age of eighteen. Only the qualifying patient's parent or guardian shall purchase or possess

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medical marijuana for a non-emancipated patient under the age of eighteen. A parent or guardian shall supervise the administration of medical marijuana to a non-emancipated patient under the age of eighteen

(15) Nothing in this section shall be construed as mandating health insurance coverage of medical marijuana for qualifying patient use.

(16) Real and personal property used in the cultivation, manufacture, transport, testing, distribution, sale, and administration of marijuana for medical use or for activities otherwise in compliance with this section shall not be subject to asset forfeiture solely because of that use.

**8. Severability**

The provisions of this section are severable, and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, the other provisions shall continue to be in effect to the fullest extent possible.

**9. Effective Date**

The provisions of this section shall become effective on December 8, 2016, as provided by this Constitution.

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**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-135)**

**Subject**

Initiative petition from Sheila Dundon regarding a proposed constitutional amendment to Article XVI of the Constitution of Missouri. (Received November 5, 2015)

**Date**

November 25, 2015

**Description**

This proposal would create a new Article XVI of the Constitution of Missouri.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College**.

**Mark R. Reading** provided information as a proponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** (DHSS) submitted the following information regarding their estimate of what it would cost to implement the initiative petition within the timeframes specified therein. However, it should be noted that their department has serious concerns that it may not be possible to meet the specified timeframes, as follows:

Staffing/hiring – If the measure passed in early November, they would have roughly one month before it took effect on December 8, 2016—which is not enough time to have staff on board. DHSS is a Merit System agency, and it takes roughly two months for Merit System hires. That would be an enormous problem because of the requirements that they draft application forms/instructions and make them available to the public within a short time period and then act on them shortly thereafter. Even drafting emergency rules in such a short time period would be extremely difficult. DHSS does not have extra staff that could be reassigned to such tasks until such time as new staff could be hired.

Funding – Their estimates of revenue and expenditures indicate a multi-million dollar negative impact in the first fiscal year. The initiative petitions state that funding will "stand appropriated without further legislative action" and specify that the Commissioner of Administration can loan money to the newly created fund. However, that would not appear to solve the problem because their estimates project a negative impact in the first year—so they could not pay back whatever amount was borrowed. Also, it is worth noting that the fund that normally makes such cash flow loans is the Budget Reserve Fund. By law it must be repaid by May 15th of each fiscal year, so any borrowing must be repaid within the same fiscal year.

The DHSS indicated a total estimated net negative effect on state funds of $2,069,118 for fiscal year (FY) 2017 and a total estimated positive effect on state funds of $6,708,418 for FY 2018.

This proposal is not an entire duplication; however, Section 192.945, RSMo, allows the DHSS to issue a hemp extract registration card for persons suffering from intractable epilepsy. The hemp extract registration card allows for the legal possession and use of

cannabidiol (CBD) oil. This proposal allows for the legal use of marijuana for persons who are issued a registration card due to a debilitating medical condition. Under this proposal, patients with intractable epilepsy could also qualify to receive a registration card for medical marijuana use.

Rental space would be needed for 89 full-time employees (FTE) located in Jefferson City: 89 FTE x 230 sq ft/FTE x $16.75/sq. ft. = $342,872.50.

The proposed language would legalize the use of marijuana for medicinal purposes. There could be an unknown impact on small businesses that serve as cultivators, manufacturers, or dispensary facilities.

The proposed constitutional amendment requires the DHSS to issue annual registrations for patients and their designated caregivers, patient and caregiver cultivators, medical marijuana cultivation facilities, medical marijuana dispensary facilities, and medical marijuana-infused products manufacturing facilities.

The proposal allows for the following registration/license fees to be collected:

| | Initial Application and Annual Renewal | |
|---|---|---|
| Qualifying Patient ID Card | $25.00 | |
| Primary Caregiver ID Card | $25.00 | |
| Patient or Caregiver Cultivation ID Card | $100.00 | |
| | Initial Application Fee & Renewal License Application Fee (3 yr. license) | Annual Licensing Fee |
| Medical Marijuana Cultivation Facility License | $3,000 | $20,000 |
| Medical Marijuana Dispensary Facility License | $3,000 | $10,000 |
| Medical Marijuana-Infused Products Manufacturing License | $3,000 | $10,000 |

The provisions of this section shall become effective on December 8, 2016. According to the proposed provisions of this section, DHSS shall make available to the public all license application forms and the application forms for qualifying patients, caregivers, and qualifying patient cultivation identification cards within 90 days of the effective date

of the section. DHSS shall accept all applications no later than 150 days following the effective date of this section. For purposes of this fiscal note, it is assumed that the first fees for license applications and identification cards would be collected May 1, 2017 (FY 2017).

The estimations for the number of each type of registration and license issued each year are detailed later in this response. The total estimate of collected fees equals $945,050 for FY 2017 and $13,710,250 for FY 2018.

Section 1.3(2)(e) allows DHSS to issue rules creating a range of administrative penalties related to implementation and enforcement of rules that ensure the right to, availability, and safe use of marijuana for medical use. These administrative penalties could include penalty fees but the fee amounts and frequency of penalties issued is unknown at this time.

Section 1.4(1) of the proposed amendment mandates each licensed Medical Marijuana Dispensary facility to collect a four percent tax on the retail sale of all medical marijuana products sold to be collected by the Department of Revenue (DOR). The amount of tax that will be collected is unknown and is referred to the DOR for these estimations.

The DOR may retain up to five percent of the annual taxes collected. The rest of the tax collected is to be deposited by the DOR into the Missouri Veterans' Health Care Fund. This fund shall consist of all fees and taxes collected by this proposed section.

**Division of Community and Public Health (DCPH)**

Section 1.3(1) authorizes DHSS to grant or refuse licenses for the cultivation, manufacture, distribution, and sale of marijuana for medical use as provided by the provisions of Section 1. This section also authorizes DHSS to suspend, fine, restrict, or revoke such licenses upon any violation of this section or a rule promulgated by DHSS pursuant to this section. DHSS shall develop such rules, forms, licenses, identification cards, and applications as necessary to implement provisions of this section. DHSS is also required to certify at least two commercially available software products that licensees must use for seed-to-sale tracking standards. DHSS is to prepare annually a publicly available report accounting to the Governor for the efficient discharge of all responsibilities assigned to them by this section.

Section 1.3(2) permits DHSS to issue any rules necessary to ensure the right to, availability and safe use of marijuana for medical use by qualifying patients. This includes addressing: requirements for inspections, investigations, searches, seizures, and such additional enforcement activities that may become necessary; the creation of a range of administrative penalties; development of individual identification cards for owner, officers, managers, contractors, employees, and other support staff of entities licensed pursuant to this section; security requirements for any premises licensed; regulation of the storage and transportation of marijuana for medical use; sanitary requirements for the preparation of medical marijuana-infused products; labeling and packaging standards;

and records to be kept by the licensees, state licensing procedures for initial licenses, renewals and reinstatements.

Section 1.3(3) requires DHSS to issue rules regarding independent testing and certification for medical marijuana licensees to ensure products that are sold for human consumption are correctly labeled and do not contain contaminants that are injurious to health.

Section 1.3(5) requires DHSS to make available to the public license application forms (for all types of licensees) and instructions within 90 days of the effective date of this section.

Section 1.3(6) requires DHSS to make available to the public application forms and accompanying instructions for qualified patients, qualified patient or caregiver cultivation, and primary caregiver identification cards within 90 days of the effective date of this section. The DHSS is also required to accept these applications within 150 days of the effective date of this section.

Section 1.3(16) requires DHSS to begin accepting medical marijuana cultivating, dispensing, and manufacturing facility license applications no later than 150 days from the effective date and shall either approve or deny within 150 days after submission.

Section 1.3(17) requires DHSS to process a qualifying patient identification card within 30 days of receipt of the application.

Section 1.3(18) requires DHSS to process a primary caregiver identification card within 30 days of receipt of the application.

**Information Technology Services Division (ITSD)**

Support of an IT vendor to build a data system to support the administration and reporting requirements indicated in Section 1 of Article XVI (Right to Access Medical Marijuana). The system would be used by the department to process applications to include issuance of licenses and identification cards.

**Division of Administration**

Specific program impact for the DHSS is in the Division of Community and Public Health. However, application and license transactions will have associated fees, which impacts the Division of Administration.

**Office of General Counsel**

One full-time attorney would be needed to assist in drafting emergency and proposed regulations and forms; perform legal research and provide day-to-day legal counsel to the program; and represent the department in appeals of licensure and identification card denials.

The proposed amendment requires DHSS to adjust (increase or decrease) registration and license fees according to the Consumer Price Index as published by the U.S. Department of Labor. The change in fees collected (increase or decrease) due to this provision is unable to be determined at this time.

**Division of Community and Public Health (DCPH)**

**Applications for Patient and Caregiver Identification**

Section 1 requires DHSS to issue registration cards for qualified patients and their caregivers. An October 2014 study by the nonprofit entity ProCon organization published the rates of patient registration cards issued for each state with a medical marijuana program (http://medicalmarijuana.procon.org/view.resource.php?resourceID=005889). This study found that Oregon was issuing qualified patient cards at a ratio of 17.7 per 1,000 patient populations. For purposes of this fiscal note, the State of Oregon's program will be benchmarked in regards to the number of patient and primary caregiver registrants. While the Oregon program was initiated in May 1999 and therefore has an established program, the state of Missouri's chronic disease rates are generally higher and the qualifying medical conditions accepted under Missouri's proposal are broader than those of Oregon.

Calculation of applications:

- Patients: According to the 2014 U.S. Census Bureau information, Missouri's population is at 6,063,589. Applying the rate of 17.7 applications per 1,000 residents, Missouri would estimate issuing 107,326 patient registration cards annually (6,063,589/1,000 x 17.7).
- Caregivers: According to the October 1, 2015 data on Oregon's Medical Marijuana Program Website, the ratio of patient registration cards to caregiver cards is calculated at 2.09. Calculating this same ratio, Missouri would estimate issuing 51,352 caregiver cards annually (107,326/2.09).

The proposed effective date of the medical marijuana program is December 8, 2016. DHSS is required to have the applications for the qualifying patient and caregiver identification cards available within 90 days of the effective date (March 8, 2017). Section 1.3(6) requires DHSS to begin accepting applications for the qualifying patient and caregiver cards no later than 150 days from the effective date (May 8, 2017). For purposes of this fiscal note analysis, it is assumed that DHSS will begin accepting applications May 1, 2017 and will receive 15 percent of the expected annual registrations within the remaining two months of FY 2017 (107,326 x .15 = 16,099 patient cards, 51,352 x .15 = 7,703 caregiver cards). In FY 2018, DHSS will receive the remaining 85 percent of the expected annual registration applications (107,326 x .85 = 91,227 patient cards, 51,352 x .85 = 43,649 caregiver cards). DHSS will collect an application fee of $25 per card, per Section 1.3(17) and 1.3(18). It is assumed that the fees will be collected in the same fiscal year the applications are received.

| | FY 2017 | FY 2018 |
|---|---|---|
| Qualifying Patient Initial Applications | 16,099 | 91,227 |
| Qualifying Patient Renewal Applications | 0 | 16,099 |
| Caregiver Initial Applications | 7,703 | 43,649 |
| Caregiver Renewal Applications | 0 | 7,703 |
| Total Patient & Caregiver Identification Cards | 23,802 | 158,678 |
| Total Patient & Caregiver Application Fees | $595,050 | $3,966,950 |

**Applications for Patient or Caregiver Cultivation Identification Cards**

Section 1 requires DHSS to issue identification cards for a qualifying patient or his or her primary caregiver for purposes of cultivating up to six flowering marijuana plants for the exclusive use of the qualifying patient. For purposes of this fiscal note, it is estimated that 10 percent of the qualifying patients will grow marijuana for themselves or it will be grown by their designated primary caregiver. Therefore, it is estimated that 1,610 cultivation cards will be issued in FY 2017 (16,099 x .10), and 10,733 (107,326 x .10) will be issued in FY 2018. DHSS will collect an annual application fee of $100 per Section 1.3(10).

| | FY 2017 | FY 2018 |
|---|---|---|
| Cultivation Initial Applications | 1,610 | 9,123 |
| Cultivation Renewal Applications | 0 | 1,610 |
| Total Cultivation Identification Cards | 1,610 | 10,733 |
| Total Cultivation Identification Fees | $161,000 | $1,073,300 |

**Application and Licensing of Medical Marijuana Cultivation Facilities**

Section 1 authorizes the DHSS to establish the application and licensing process of medical marijuana cultivation facilities. For purposes of this fiscal note analysis, it is estimated that 76 facilities will apply and become licensed to fully operate cultivation facilities by the end of FY 2018. This estimate is based on the assumption that DHSS will limit the number of cultivation facilities licensed at the minimum required of one facility per 80,000 residents (6,063,589 Missouri residents/80,000 residents per facility = 76 facilities as allowed per Section 1.3(13). Since DHSS must accept applications within 150 days of the effective date of the proposal but has 150 days to process an application for licensure, DHSS will begin collecting application fees in FY 2017 but will not collect the first license fees until FY 2018. The proposed amendment sets the application fee at $3,000 with an additional $20,000 fee for each year of the license. The initial application is valid for a three year license period.

| | FY 2017 | FY 2018 |
|---|---|---|
| Cultivation Facility Applications | 8 | 68 |
| Cultivation Facility Application Fees ($3,000) | $24,000 | $204,000 |
| Cultivation Facility Annual Licenses | 0 | 76 |
| Cultivation Facility Annual License Fees ($20,000) | $0 | $1,520,000 |
| Total Cultivation Application & License Fee | $24,000 | $1,724,000 |

**Application and Licensing of Medical Marijuana Dispensing Facilities**

Section 1 authorizes the DHSS to establish the application and licensing process of medical marijuana dispensing facilities. For purposes of this fiscal note analysis, it is estimated that 386 facilities will apply and become licensed to fully operate dispensing facilities by the end of FY 2018. This estimate is based on the assumption that an average dispensing facility will serve 250 qualified patients (excluding those who have a cultivation identification card). This estimate is based on the current (October 2015) ratio of registered dispensing facilities to qualifying patients seen in the state of Oregon. Since DHSS must accept applications within 150 days of the effective date of the proposal but has 150 days to process an application for licensure, DHSS will begin collecting application fees in FY 2017 but will not collect the first license fees until FY 2018. The proposed amendment sets the application fee at $3,000 with an additional $10,000 fee for each year of the license. The initial application is valid for a three year license.

| | FY 2017 | FY 2018 |
|---|---|---|
| Dispensing Facility Applications | 39 | 347 |
| Dispensing Facility Application Fees | $117,000 | $1,041,000 |
| Dispensing Facility Annual Licenses | 0 | 386 |
| Dispensing Facility Annual License Fees ($10,000) | $0 | $3,860,000 |
| Total Dispensing Application & License Fee | $117,000 | $4,901,000 |

**Application and Licensing of Medical Marijuana-Infused Products Manufacturing Facilities**

Section 1 authorizes the DHSS to establish the application and licensing process of medical marijuana-infused products manufacturing facilities. For purposes of this fiscal note analysis, it is estimated that 161 facilities will apply and become licensed to fully operate medical marijuana-infused products manufacturing facilities by the end of FY 2018. This estimate is based on the assumption that an average dispensing facility will serve 600 qualified patients (excluding those who have a cultivation identification card).

This estimate is based on the current (October 2015) ratio of registered dispensing facilities to qualifying patients seen in the state of Colorado. Since DHSS must accept applications within 150 days of the effective date of the proposal but has 150 days to process an application for licensure, DHSS will begin collecting application fees in FY 2017 but will not collect the first license fees until FY 2018. The proposed amendment sets the application fee at $3,000 with an additional $10,000 fee for each year of the license. The initial application is valid for a three year license.

| | FY 2017 | FY 2018 |
|---|---|---|
| Manufacturing Facility Applications | 16 | 145 |
| Manufacturing Facility Application Fees ($3,000) | $48,000 | $435,000 |
| Manufacturing Facility Annual Licenses | 0 | 161 |
| Manufacturing Facility Annual License Fees ($10,000) | $0 | $1,610,000 |
| Total Manufacturing Application & License Fee | $48,000 | $2,045,000 |

Total Revenue in Application and Licensing Fees

| | FY 2017 | FY 2018 |
|---|---|---|
| Patient & Caregiver Application Fees | $595,050 | $3,966,950 |
| Patient or Caregiver Cultivation Fees | $161,000 | $1,073,300 |
| Cultivation Facility Fees | $24,000 | $1,724,000 |
| Dispensing Facility Fees | $117,000 | $4,901,000 |
| Infused Products Manufacturing Fees | $48,000 | $2,045,000 |
| **Total Fees** | **$945,050** | **$13,710,250** |

**Program Operations: Staffing**

Section 1 requires the establishment of a medical marijuana program through promulgation of rules and implementation of those rules for administration of patient and caregiver identification cards; patient or caregiver cultivation identification cards; and licensing of medical marijuana cultivation facilities, dispensing facilities and infused products manufacturing facilities. This also includes the development of all program applications and forms, identification cards, and a computerized database system to allow for the electronic storage of and processing of data needed to issue identification cards and licenses. As a result, DCPH anticipates the need to hire the following staff beginning on December 8, 2016 (FY 2017) to begin development of the program/system:

One Program Manager Broad Band 2 ($65,000) – will serve as Chief of the Medical Marijuana Bureau. Duties will include overall program management, including

involvement in rule promulgation, development of forms, program policies and procedures, information system development, and initial program set-up. This position will also supervise the two Unit (Program) Coordinators, two Investigator III positions, a Health Program Representative III, and a Bureau Administrative Office Support Assistant.

Two Program Coordinators (A30, $49,128, Step H) – will serve as Unit Coordinators. One Unit will be responsible for processing patient and caregiver applications, including patient or caregiver cultivation applications. The other unit will be responsible for the applications and licensing of the medical marijuana cultivation facilities, dispensing facilities, infused-products manufacturing facilities. These positions will be involved in the initial program development with the Bureau Chief, hiring of staff, and development of training for staff. Once the program is operational, the Coordinators responsibilities extend to implementation and maintenance of the program, responsibility for meeting application decision deadlines, and ongoing management responsibilities.

One Health Program Representative III (A24, $38,928. Step B) – duties will include assistance in rule promulgation, program policies and procedures, forms development, information system development/troubleshooting and maintenance, and initial program set-up. This position will serve as the liaison between the Units and IT work on system maintenance and enhancements. This position will also be responsible for establishing materials to educate the public about the program and exhibiting at conferences or other venues to education physicians and the general public.

One Administrative Office Support Assistant (A15, $28,104, Step F) – duties will include providing administrative assistance to the Bureau Chief, Program Coordinators, Investigators, Inspectors, and HPR III positions. As allowed, this position will also assist in initial processing of patient and caregiver applications for registration cards.

The following staff will be hired effective March 1, 2017, upon release of the application forms for patients and caregivers, patient or caregiver cultivators, and facility licenses:

Two Investigator III positions (A25, $40,380, Step G) – these positions will investigate all instances/complaints of possible fraud or negligence on the behalf of a recommending physician, a registered patient and/or caregiver, a cultivator, or a medical marijuana facility. With a new program of this size and the legalization of something that remains illegal for the majority of the population, it is anticipated that DHSS will receive a fair number of calls reporting instances of possible violations. While two is estimated for purposes of this fiscal note, it may be necessary to add additional staff after the program is operational for some time. The additional costs remain unknown.

Two Grain Inspector IV positions (A23, $37,548, Step G) – these positions will complete the onsite inspections of the medical marijuana cultivation facilities to monitor compliance with the specific requirements outlined in the proposed amendment and rules that need to be met for initial and continued licensure of a facility. This specialty position was chosen because the most technical piece involves the process of testing plants for

molds, mildew, and pesticides and making sure the facilities are dealing with these issues in a proper way.

One Grain Inspector Compliance Coordinator (A28, $45,456, Step G) – this position coordinates and supervises the work of the Grain Inspector positions; ensuring inspections are completed consistently and timely. This position will also provide technical assistance to the inspectors and make final action decisions/recommendations for problem inspections.

Five Environmental Public Health Specialist (EPHS) IV positions (A27, $43,488, Step G) – these positions will complete the onsite inspections of the medical marijuana dispensing and the medical-marijuana infused-products manufacturing facilities to monitor compliance with the specific requirements outlined in the proposed amendment and rules that need to be met for initial and continued licensure of a facility. This specialty position was chosen because the most technical piece involves ensuring sanitation requirements are met and the infused-products are labeled and packaged correctly.

One Environmental Public Health Specialist V position (A28, $45,156, Step G) – this position coordinates and supervises the work of the EPHS IV positions; ensuring inspections are completed consistently and timely. This position also provides technical assistance to the environmental specialists and makes final action decisions/recommendations for problem inspections.

44 Senior Office Support Assistant (SOSA) positions (A12, $25,824, Step F) – duties will include processing of paper applications to include opening and date stamping of mail, entry of application information into the electronic registry, initial verification of applicant and physician identification, initial application review to include determination of application approval or denial (including incomplete status), preparation of patient and caregiver identification cards, preparation of patient/caregiver cultivation identification cards, initial processing of medical marijuana facility applications, preparation of identification cards for all owners and employees of the medical marijuana facility licensees, processing revoked cards, and answering of phones and assisting telephone callers.

21 Health Program Representative II (HPR II) positions (A21, $34,944, Step B) – duties will include supervision of the SOSA positions and quality assurance checks of the application entry and initial verification completed by the SOSAs. This position will have responsibility for final approval of application incomplete notices, rejects, revocations, and card issuances. This position will ensure application process deadlines as mandated by proposed amendment are met. This position will also verify all registrations of owners and employees associated with the licensed medical marijuana facilities, including coordination with the Inspectors and EPHS's for final issuance of facility licenses.

For fiscal note purposes DHSS calculated 45 minutes per patient and caregiver application and 45 minutes per patient or caregiver cultivation application.

169,411 (158,678 patient & caregiver apps + 10,733 cultivation apps) X .75/hour / 2,080 hours per year per staff = 61 staff.

DHSS calculated 14 hours for the processing of a facility (cultivation, dispensing and manufacturing) application.

76 cultivation facilities + 386 dispensing facilities + 161 infused products manufacturing facilities = 623 facilities x 14 hours/facility divided by 2,080 hrs/year per staff = 4.2 staff round to 4 staff. This is a total of 65 processing staff (SOSA and HPR II positions).

**Printing Costs**

DHSS will print individual identification cards for the qualified patient, caregiver, patient or caregiver cultivation identification card, and identification cards for each owner, board member, employee of the licensed facilities. DCPH will purchase three card printers for $8,719 each and three magnetic strip encoders for $695 each. The supplies for the printers and encoders average $0.63 per card. The cards cost $96 per 500.

DHSS is estimating the number of identification cards to be printed each year per facility licensed to be 25 for a cultivation facility, 10 for a dispensing facility, and 25 for a manufacturing facility. (76 cultivation facilities x 25 = 1,900 cards, 386 dispensing facilities x 10 = 3,860 cards, 161 manufacturing facilities = 4,025 cards) License certificates will be printed for each facility on special certificate paper (heat sensitive ink background) provided by state printing at a cost of approximately $200 per 1,000 pieces of certificate paper. The license certificates and identification cards for facilities will not be produced until FY 2018 when the facility becomes licensed.

DCPH will print 100,000 brochures each year the program is operational at a cost of $0.06 per brochure. This brochure will provide the public with information about the medical cannabis program and assistance in completing a valid registration.

FY 2017

- 16,099 patient cards + 7,703 caregiver cards + 1,610 cultivation cards = 25,412 cards ($96 per 500) = 51 X $96 = $4,896
- 25,412 patient, caregiver & cultivation cards (supplies x $0.63 per card) = $16,010
- 100,000 brochures ($0.06 per brochure) = $6,000

FY 2018

- 107,326 patient cards + 51,352 caregiver cards + 10,733 cultivation cards + 1,900 identification cards for cultivation facilities, 3,860 identification cards for dispensing facilities + 4,025 for manufacturing facilities = 179,196 cards ($96 per 500) = 359 X $96 = $34,464
- 179,196 cards (supplies x $0.63 per card) = $112,894
- 623 facility licenses ($200/1,000) = $200
- 100,000 brochures ($0.06 per brochure) = $6,000

**Mailing Costs**

Each qualifying patient and primary caregiver will receive his/her card in the mail. If the patient or caregiver applied for a cultivation identification card, that card will be mailed separately. Each licensed facility will be mailed a copy of their license and identification cards. It is estimated that 10 percent of the registered participants, caregivers and patient/caregiver cultivators will submit a change request to their application requiring a change notification receipt by mailing. It is projected that five percent of all applications will be incomplete and requires mailing of an incomplete notice. It is also projected that 25 percent of the printed brochures (25,000) along with paper applications will be mailed to the public upon request. The other printed brochures will be available for distribution at conferences and other public venues.

Projected mailings are as follows:

| | FY 2017 | FY 2018 |
|---|---|---|
| Patient & Caregiver ID Cards | 23,802 | 158,678 |
| Cultivation ID Cards | 1,610 | 10,733 |
| Facility License Certificates | 0 | 623 |
| Facility Identification Cards | 0 | 9,785 |
| Change Request Notifications | 2,541 | 16,941 |
| Incomplete Notifications | 1,270 | 8,470 |
| Brochures/app mailed | 25,000 | 25,000 |
| **Total mailings** | **54,223** | **230,230** |

FY 2017

- 54,233 envelopes ($41 per 1,000) = 55 X $41 = $2,255
- Postage (54,233 x $0.39/postage rate) = $21,151

FY 2018

- 230,230 envelopes ($41 per 1,000) = 231 X $41 = $9,471
- Postage (230,230 x $0.39/postage rate) = $89,790

**Criminal Records Check**

Section 1.3.(2)(h) suggests that individual identification cards for owners, officers, managers, contractors, employees and other support staff of the licensed facilities shall include a fingerprint-based federal and state criminal record check in accordance with U.S. Public Law 92-544. Section 1.7(2) states no licensed facility shall have an owner, officer, manager, contractor, employee or other support staff with a disqualifying felony offense. DHSS assumes that as part of the facility license application, the facilities would need to submit a current finger print based criminal record report as would be promulgated in rule. Therefore, DHSS assumes no cost for obtaining the fingerprint check.

## Information Technology Services Division (ITSD)

### Application Storage Costs

In order to manage the final storage of paper applications submitted, Content Manager for electronic scanning and storage will be utilized. The costs for Content Manager are estimated at $132 per month for the state data server costs, $624 for an annual license for each user, and $686 for an annual license for each position with ability to scan/import documents. Content Manager services will not be acquired until FY 2018.

### Information Systems Development

Estimating 12 month project duration with a project team consisting of 4 IT Consultants. Applications will be received as paper submissions to the department. System will print licenses and identification cards for physical delivery to the applicant. The system will be hosted in the State Data Center (SDC) on existing virtual servers. Disk space has been estimated at 50 GB for Development and Test with 150 GB estimated for Production.

## Division of Administration

Division of Administration assumes one Account Clerk can process around 30,000 receipt transactions per year and one Accounting Generalist I/II will be needed to supervise for approximately every five Account Clerks.

Account Clerk (A12, $25,824) duties will include:

- Open and sort mail;
- Process and enter receipts in the department computer system;
- Prepare bank deposits and cash receipts documents;
- Reconciles daily receipts;
- Distributes supporting documentation program.

Accounting Generalist I/II (A25, $26,204) duties will include:

- Supervise and review the work of Account Clerks who are processing the fees.

Each application and license will have a fee transaction.

| FY 2017 | FY 2018 | Transaction |
|---|---|---|
| 23,802 | 158,678 | Patient & Caregiver Application |
| 1,610 | 10,733 | Patient & Caregiver Cultivation Application |
| 8 | 76 | Cultivation Facility Application |
| 39 | 386 | Dispensing Facility Application |
| 16 | 161 | Manufacturing Facility Application |
| 25,475 | 170,594 | Total Number of Transactions |
| 1.00 FTE | 6.00 FTE | Account Clerk |
| 0.00 FTE | 1.00 FTE | Accounting Generalist I/II |

**Office of General Counsel**

Legal Counsel ($45,000)

One full-time attorney would be needed to assist in drafting emergency and proposed regulations and forms; perform legal research and provide day-to-day legal counsel to the program; and represent the department in appeals of licensure and identification card denials.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact. However, the impact on the demand for substance use disorder treatment is unknown. Their department sees the legalization of marijuana as a broader public health issue, especially for children.

Officials from the **Department of Natural Resources** indicated their department would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated this petition seeks a constitutional amendment to Article XVI that would allow for the use, prescription, cultivation and dispensing of marijuana and marijuana-infused products to qualifying patients with at least one qualifying medical condition as defined in the petition.

Similar to Initiative Petitions 16-124 and 16-125, this petition includes:

1. A list of qualifying medical conditions
2. Allowance of patient cultivation of up to six plants for the patient's exclusive use, or up to 24 plants in locked space shared by 2 qualifying patients
3. Purchase limits for patient or caregiver of not less than 6 ounces (10 g), unprocessed or equivalent, in a 30 day period
4. Possession limits for patient or caregiver of not less than 60 day supply

In addition, this petition adds details that are the same as in Initiative Petitions 16-129 and 16-130:

1. Definitions (e.g., "primary caregiver" instead of generic "caregiver")
2. Seed-to-sale tracking and software license standards
3. Issuance of identification cards for employees or staff of medical marijuana facilities
4. Considerations for licensing, quality testing, product tracking and user/employee verification
5. Limits to square footage of growing facilities and number of plants
6. Separate legal possession limits for primary caregiver with multiple qualifying patients
7. Number of facility licenses and allowance for easing limit based on demand and other economic factors
8. Identification card procedures for qualifying patients
9. Procedures for license denial appeals
10. Dedicated fund and apportionment for any fees and tax revenue generated
11. Limits on patient cultivation

None of these modifications is likely to lead to any more infractions or secondary criminal activity than the previous initiative petitions. As such, the Initiative Petition 16-124 estimate still applies.

Penalties include imprisonment of up to one year and a fine of ten thousand dollars for either purposefully possessing amounts of marijuana in excess of twice the legal limit or adding any poisonous or deleterious substances to medical marijuana or marijuana-infused product.

Legal medical marijuana possession and use in other states have occurred only relatively recently, so there is limited information on the impacts within the criminal justice system. There are currently 23 states and the District of Columbia that now allow for comprehensive public medical marijuana and cannabis programs with an additional 11 states allowing for limited situation medical use of low THC, high cannabidiol (CBD) products (National Conference of State Legislatures). A full analysis is not possible given current time frames, but a preliminary survey has found several recent studies attempting to discern the effects of these laws.

Chu (2014) found that similar medical marijuana laws (MMLs) were related to a 15-20% increase in marijuana arrests in adult males, and Alford (2014) found that allowances for marijuana dispensaries increased property crime rates by 8% and robbery rates by 11%.

Conversely, Alford also found that home cultivation allowance may have decreased robbery by 10%. Choi (2014) found that MMLs were associated with a 12% increase in other drug use but allowing home cultivation was related to a 13% decrease in driving under the influence of drugs. Morris et al. (2014) found that MMLs did not exacerbate rates of major or violent crimes. However, Pacula et al. (2014) suggested that some details of MMLs, particularly legal protection of dispensaries and home cultivation, can lead to greater marijuana use and abuse among adults. The authors also found relationships to increased alcohol use and alcohol-related driving fatalities. The link with increased drinking was also found by Wen et al. (2014), but they found no evidence of increased use of other substances.

Results of studies at this time show conflicting results on the criminal impacts of current MMLs. However, with the increased licensing and regulation there are also increased possibilities of secondary crimes through false physician recommendations, non-compliance in registration, illegal possession, vehicular infractions or injury, and theft. While many of these violations may carry only municipal or licensing level penalties, some would ultimately fall under felony charges.

Current laws provide for class C felony penalties for possession (Section 195.202, RSMo) and class B felony for distribution and production of controlled substances (Section 195.211, RSMo). Considering additional increases in related violations, proposed changes in this petition are expected to result in one new class B felony serving two years in prison and five years parole, one class C felony serving one year in prison with four years parole, and three new probations serving three years. The total impact at year 10 is estimated to be 3 additional offenders in prison and 18 on field supervision.

**Impacts to DOC under proposed addition of section 1 to Article XVI, Missouri Constitution**

| | FY16 | FY17 | FY18 | FY19 | FY20 | FY21 | FY22 | FY23 | FY24 | FY25 |
|---|---|---|---|---|---|---|---|---|---|---|
| Admissions | 2 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 |
| Parole | | 1 | 3 | 5 | 7 | 8 | 9 | 9 | 9 | 9 |
| Probation | 3 | 6 | 9 | 9 | 9 | 9 | 9 | 9 | 9 | 9 |
| **Impact** | | | | | | | | | | |
| Prison Population | 2 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 |
| Field Population | 3 | 7 | 12 | 14 | 16 | 17 | 18 | 18 | 18 | 18 |

Their department direct offender costs for either incarceration ($6,135 per offender per year) or for supervision provided by the Board of Probation and Parole ($2,205 per offender per year) would range from $18,885 in Fiscal Year 2016 to $69,429 in Fiscal Year 2025.

Please also note that their department currently tests staff for marijuana use and disciplines accordingly. If their staff were to live in a household or visit another person who is legally using medical marijuana they would then be exposed to second-hand smoke and would likely test positive themselves. There would be no way for their

department to determine which of their staff are innocently exposed from those who are abusing this substance illegally.

Further, this bill does provide some protection in that it forbids being under the influence of medical cannabis when it would constitute "negligence or professional malpractice," and it forbids use and possession in a correctional facility. The bill does not, however, exempt being under the influence in a correctional center. Thus, it appears that an employee may work under the influence as long as they do not actively use or possess cannabis at the institution. Also, all department property is not exempt; only "correctional facilities" are. Employees in the field (i.e., probation and parole officers) would not be prohibited from carrying and using medical cannabis while at work. The exemption prohibiting being under the influence when it would constitute "negligence or professional malpractice" may act to close this gap but that is unclear because professional malpractice is not defined in the act and it does not set a threshold measurement that constitutes being "under the influence."

**Citations**

Alford, C. 2014. How Medical Marijuana Laws Affect Crime Rates. Ph.D. dissertation. Sept. 2014. Univ. of Virginia, Dept. of Economics.

Choi, A. 2014. The Impact of Medical Marijuana Laws on Marijuana Use and Other Risky Health Behaviors. Ph.D. dissertation. Dec. 2014. Cornell University, Department of Policy Analysis and Management.

Chu, Y.L. 2014. The effects of medical marijuana laws on illegal marijuana use. J. of Health Economics 38:43–61.

Morris, R.G., M. TenEyck, J.C. Barnes, T.B. Kovandzic. 2014. The Effect of Medical Marijuana Laws on Crime: Evidence from State Panel Data, 1990-2006. PLOSOne DOI: 10.1371/journal.pone.0092816.

Pacula, R.L., D. Powell, P. Heaton and E.L. Sevigny. 2015. Assessing the Effects of Medical Marijuana Laws on Marijuana Use: The Devil is in the Details. J. of Policy Analysis and Management 34(1): 7–31.

Wen, H., J. Hockenberry, J.R. Cummings. 2014. The Effect of Medical Marijuana Laws on Marijuana, Alcohol, and Hard Drug Use. NBER Working Paper No. 20085. National Bureau of Economic Research. Cambridge, MA.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this petition will have a fiscal impact on their department. The total estimated costs for salaries, fringe benefits, and expense and equipment will be $255,943 for fiscal year 2017, $84,086 for fiscal year 2018, and $84,960 for fiscal year 2019.

This petition will have an economic impact on small business to the extent the business is in the growing and distribution chain of medical marijuana through remittance of additional taxes and new job creation.

This legislation increases total state revenue by the amount of sales tax collected on the sale of medical marijuana.

**Section 4**
The legislation levies a four percent tax on the retail sale of medical marijuana. The Department may retain five percent for the cost of collection. The petition creates the Missouri Veterans' Health and Care Fund. The commissioner of Administration may make cash operating transfers to the fund to meet cash requirements in advance of receiving revenues.

**Administrative Impact:**

**Collections & Tax Assistance:**
This section will see additional registrations, registration phone calls, business tax account update requests and delinquent phone contacts from the additional business registering to collect sales tax on medical marijuana. Collections and Tax Assistance requires two (2) Revenue Processing Technicians I (Range 10, Step L) per 24,000 additional contacts to the registration section and 15,000 contacts annually on the delinquent tax line. Each technician requires CARES equipment.

**Integrated Revenue System:**
Changes would need to be made to the current design of the Integrated Revenue System resulting in a cost of $173,534.

Officials from the **Department of Public Safety** submitted the following information:

The Missouri State Highway Patrol indicated a total estimated net positive effect on state funds of $215,490 for fiscal year 2017, and unknown for fiscal year 2018 and beyond.

Section 3 (3) authorizes the Department of Health and Senior Services to issue any rules or emergency rules necessary for the implementation and enforcement of this section. Section 3 (2) (h) may require an individual licensed pursuant to this section to complete a fingerprint-based criminal record check. However, a rule or regulation issued by the Department of Health and Senior Services including a Code of State Regulations would not authorize a federal fingerprint-based criminal record check according to Public Law 92-544 criteria. As written, Section 3 (2) (h) would not authorize a state and federal fingerprint-based criminal record check.

To authorize a state and fingerprint-based criminal record check and to meet Public Law 92-544, the following wording should be included:

Applicants licensed pursuant to this section shall submit fingerprints to the Missouri state highway patrol for the purpose of conducting a state and federal fingerprint-based criminal background check. The Missouri state highway patrol, if necessary, shall forward the fingerprints to the Federal Bureau of Investigation (FBI) for the purpose of conducting a fingerprint-based criminal background check. Fingerprints shall be submitted pursuant to 43.543 and fees shall be paid pursuant to 43.530.

Public Law 92-544 criteria is as follows:

The authority for the FBI to conduct a criminal record check for a noncriminal justice licensing or employment purpose is based upon Public Law 92-544. Pursuant to Public Law 92-544, the FBI is empowered to exchange identification records with officials of state and local governments for the purposes of licensing and employment if authorized by a state statute which has been approved by the Attorney General of the United States. The Attorney General's authority to approve the statute is delegated to the FBI by Title 28, Code of Federal Regulations, Section 0.85(j). The standards employed by the FBI in approving Public Law 92-544 authorizations have been established by a series of memoranda issued by the Office of Legal Counsel, Department of Justice. The standards are:

1. The authorization must exist as the result of legislative enactment (or its functional equivalent);
2. The authorization must require fingerprinting of the applicant;
3. The authorization must, expressly or by implication, authorize use of FBI records for screening of the applicant;
4. The authorization must not be against public policy;
5. The authorization must not be overly broad in its scope; it must identify the specific category of applicants/licensees.

Fingerprint card submissions to the FBI under Public Law 92-544 must be forwarded through the SIB. The state must also designate an authorized governmental agency to be responsible for receiving and screening the results of the record check to determine an applicant's suitability for employment or licensing.

For each fingerprint-based background check processed, the state retains the $20 state fee and $2 of the federal charge for a pass-thru fee.

According to the 2014 United States Census Bureau's census estimate, Missouri's population was 6,063,589. Based on this total, as well as the preliminary calculations by the Department of Health and Senior Services, the number of Cultivation Facilities, Dispensary Facilities, and Infused Products Manufacturing Facilities is as follows:

Cultivation Facilities
Assuming a limit is set at the minimum of 1 facility per 80,000 inhabitants per the proposed amendment, 76 licenses (6,063,589/80,000) for cultivation facilities may be issued, further estimating an average of 25 employees per facility, the total number of

criminal record checks for employees, owners etc. of Cultivation Facilities equals 1,900 (76 x 25).

Dispensing Facilities
The estimated number of facilities based on Oregon's licensees/patient ratio (assuming 10% of qualifying patients in Missouri will grow their own marijuana) equals 387 facilities. Further estimating an average of 10 employees per facility, the total number of criminal record checks for employees, owners etc. of Dispensary Facilities equals 3,870 (387 x 10).

Infused Products Manufacturing Facilities
The estimated number of facilities based on Colorado's licensees/patient ratio (assuming 10% of qualifying patients in Missouri will grow their own and will not purchase these products) equals 161 facilities. Further estimating an average of 25 employees per facility, the total number of criminal record checks for employees, owners etc. of Infused Products Manufacturing Facilities equals 4,025 (161 x 25). While we are estimating 161 facilities based on Colorado's totals, the minimum number of facilities assuming a limit is set at the minimum of 1 facility per 50,000 inhabitants (per the proposed constitutional amendment) the number of facilities would equal 121 (6,063,589/50,000).

The estimated number of state and federal fingerprint-based criminal record checks estimated to be generated with the passage of this amendment is 9,795 (1,900 for Cultivation Facilities; 3,870 - Dispensing Facilities; 4,025 - Infused Products Manufacturing Facilities).

The charge for each background check processed is $43.05. Twenty dollars for the state fingerprint check, $14.75 for the federal check, and an $8.30 charge for the statewide applicant fingerprinting contractor fee ($20 + $14.75 + 8.30 = $43.05). Of this amount, the state retains the $20 fee and $2 of the federal charge of $14.75 for a pass-thru fee. The $8.30 charge is paid directly to the vendor at the time of application.

Estimated Revenue Fiscal Year 2017
9,795 x $34.75 (state/federal background check) $340,376

Estimated Expense Fiscal Year 2017
9,795 x $12.75 (federal background check charge) $124,886

Subsequent yearly background checks will be based on turnover.

Estimated Revenue FY18 and beyond
??? x $34.75 (state/federal background check)

Estimated Expense FY18 and beyond
??? x $12.75 (federal background check charge)

The Missouri Veterans Commission indicated they have no position on this initiative petition. The information was brought to their attention during its quarterly commission meeting. They provided the fiscal analysis for Right to Access Medical Marijuana prepared by Mark R. Reading which was forwarded to their office from the Missouri Association of Veterans Organizations (MAVO). The Missouri Veterans Commission is pleased to receive any finding which appropriately comes to them to support the Veterans Programs currently administrated by the Commission.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's Office** indicated there should be no fiscal impact to their office.

Officials from the **House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated they assume no fiscal impact.

Officials from the **Office of Administration** (OA) indicated this initiative petition adds Article XVI in the Missouri Constitution. The petition charges the Department of Health and Senior Services (DHSS) with implementing a program to provide access to marijuana for patients with certain medical conditions. DHSS is authorized to establish rules to license facilities for medical marijuana cultivation, medical marijuana dispensing and medical marijuana-infused products manufacturing, in addition to providing identification for qualifying patients and caregivers. The program provides oversight of cultivation, manufacturing, dispensing, prescription and use of marijuana, along with necessary enforcement provisions. The petition also provides counties limited ability to restrict the number of Medical Marijuana Dispensary Facilities. The provisions are effective December 8, 2016 and the petition includes a severability clause.

The following fees are established in the proposal, along with requirement for annual CPI adjustments:

- Medical Marijuana Cultivation Facility - $3,000 application fee and $20,000 annual license fee.
- Medical Marijuana Dispensary Facility - $3,000 application fee and $10,000 annual license fee.
- Medical Marijuana-Infused Products Manufacturing Facility - $3,000 application fee and $10,000 annual license fee.
- Qualifying patient or primary caregiver cultivation – $100 annual fee.
- Patient/Primary Caregiver identification card - $25 annual fee.

The petition also includes a 4% retail sales tax on marijuana sold for medical use at Medical Marijuana Dispensary Facilities. The tax is to be collected by the Department of Revenue, which is allowed access to the program tracking system as needed to ensure proper collection of the sales tax. Proceeds of the sales tax, less up to 5% for the Department of Revenue's administration, are to be deposited in the Missouri Veterans' Health and Care Fund. This fund is to be used first by DHSS to administer the program, then by the Missouri Veterans' Commission for health and care services for military veterans, including operations of the veterans' homes and the Missouri Service Officer's Program and other services approved by the Missouri Veterans' Commission, such as mental health services drug rehabilitation services or job training. These new monies may not be used to supplant existing funding.

Summary of Fiscal Impact

The Department of Health and Senior Services and Department of Revenue are given additional responsibilities to implement the program and collect additional taxes, which could result in a fiscal impact for those agencies.

The revenue generated from the application and license fees and from the additional sales tax would be deposited in the Missouri Veterans' Health and Care Fund. OA does not have the data available to provide an estimate of the amount of additional revenue from the application fees, license fees or sales tax.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory,

they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from **University of Missouri** indicated the University of Missouri Health Care (MUHC) has reviewed the proposed initiative petition and should not incur costs that exceed $100,000 annually. This is due primarily to the fact that MUHC would have potential conflicts with the U.S. Drug Enforcement Agency (DEA) in the implementation of these proposals and could not implement these services in the facilities.

Officials from **St. Louis Community College** indicated they do not believe this will have fiscal impact on their college.

**Mark R. Reading** provided the following information as a proponent of this initiative petition.

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STATE AUDITORS OFFICE

Submitted by:

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Jefferson City, MO 65109
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*Primary Contact Person*

**Right to Access Medical Marijuana Initiative - Versions 5 and 6**

**Proposed Statement of Fiscal Impact**
**for Right to Access Medical Marijuana Initiative - Versions 5 and 6**

**Fiscal Impact Information Submitted Pursuant to Section 23.140.2**

The amendment's estimated state revenue is $26 million when fully implemented, exceeding the state's costs. A new sales tax will provide additional funds for veterans including veterans homes, health and mental health care, education and housing assistance. Local revenue estimated at $7.8 million exceeds local costs.

| ESTIMATED NET EFFECT ON STATE FUNDS | | |
|---|---|---|
| **Fund Affected** | **FY 2017** | **FY 2018** |
| **General Revenue** | $0 | $6,010,653 |
| | | |
| **Total Estimated Net Effect on All State Funds** | $0 | $26,036,982 |
| **ESTIMATED NET EFFECT ON LOCAL FUNDS** | | |
| Local Funds | $0 | $7,773,778 |
| | | |
| **Total Estimated Net Effect on All Local Funds** | $0 | $7,773,778 |

## ANALYSIS OF FISCAL IMPACT OF MEDICAL MARIJUANA PETITION

The fiscal impact analysis contained herein focuses on estimating the fee and tax revenue resulting from the constitutional amendment proposed in the initiative petition. Table 1 summarizes the revenue estimated by source and by fiscal year. Page and Table numbers are provided to help readers find specific subjects.

**Table 1 - Summary of Fees and Sales Tax Revenue by Fund**

| Page # | Table # | Purpose | FY 2017 | FY 2018 | Total | Revenue Type |
|---|---|---|---|---|---|---|
| | | | | | | |
| 4-5 | Table 3 | Medical Marijuana Cultivation Facilities | $168,000 | $1,534,000 | $1,702,000 | Fee |
| 6-7 | Table 4 | Medical Marijuana-Infused Products Manufacturing Facilities | $180,000 | $1,367,000 | $1,547,000 | Fee |
| 8-13 | Table 8 | Medical Marijuana Dispensary Facilities | $327,000 | $2,507,000 | $2,834,000 | Fee |
| 14-18 | Table 14 | Qualifying Patient and Primary Caregiver Identification Cards | $1,338,275 | $4,014,775 | $5,353,050 | Fee |
| 19 | Table 15 | Qualifying Patient Cultivation Cards | $0 | $135,000 | $135,000 | Fee |
| 20-22 | Table 17 | 4% sales tax | $0 | $8,014,204 | $8,014,204 | Sales tax |
| | | subtotal MO Veterans Heatlh and Care Fund | $2,013,275 | $17,571,979 | $19,585,254 | |
| | | | | | | |
| 20-22 | Table 17 | General Revenue sales tax | $0 | $6,010,653 | $6,010,653 | Sales tax |
| 20-22 | Table 17 | Prop C sales tax | $0 | $2,003,551 | $2,003,551 | Sales tax |
| 20-22 | Table 17 | Conservation sales tax | $0 | $250,444 | $250,444 | Sales tax |
| 20-22 | Table 17 | Parks and Soils sales tax | $0 | $200,355 | $200,355 | Sales tax |
| | | subtotal Other State Funds | $0 | $8,465,003 | $8,465,003 | |
| | | | | | | |
| | | subtotal all state funds | $2,013,275 | $26,036,982 | $28,050,257 | |
| | | | | | | |
| 23 | Table 18 | Local Sales Tax | $0 | $7,773,778 | $7,773,778 | |
| | | | | | | |
| | | Grand Total State and Local | $2,013,275 | $33,810,760 | $35,824,035 | |

**Implementation dates required by New Approach Missouri petition**

Table 2 below identifies the implementation dates prescribed in the petition. All fiscal estimates in this analysis assume that the Department of Health and Senior Services, and all other state and local governments affected by this petition will meet the deadlines required by the petition.

**Table 2 - Implementation Schedule**

| | |
|---|---|
| 11/8/2016 | Election Day - Voter Approval |
| | |
| 12/8/2016 | 30 days after election - effective date of constitutional amendment |
| | |
| 2/1/2017 | County notification of its initial limit, if any, on the number of site permits for Medical Marijuana Dispensary Facilities - paragraph 7(4) proposed addition to language originally filed. |
| | |
| **90 days after effective date of constitutional amendment** | |
| 3/8/2017 | DHSS shall make available license application forms and application instructions for Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensary Facilities, and Medical Marijuana-Infused Manufacturing Facilities - paragraph 3(5). |
| 3/8/2017 | DHSS shall make available application forms and application instructions for qualifying patient, qualifying patient cultivation, and primary caregiver identification cards - paragraph 3(6). |
| | |
| **150 days after effective date of constitutional amendment** | |
| 5/7/2017 | DHSS shall begin accepting applications for qualifying patient, qualifying patient cultivation, and primary caregiver identification cards no later than this date - paragraph 3(6). |
| 5/7/2017 | DHSS shall begin accepting application forms for Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensary Facilities, and Medical Marijuana-Infused Manufacturing Facilities no later than this date- paragraph 3(16). |
| | |
| **180 days after effective date of constitutional amendment** | |
| 6/6/2017 | For any applications submitted on the last day allowed under the constitutional provisions for DHSS to start accepting applications, DHSS must have approved or denied applications for a qualifying patient identification card or a primary caregiver identification card - paragraph 3(17) and paragraph 3(18) respectively. All applications must be approved or denied within 30 days of DHSS receipt thereafter. |
| | |
| **300 days after effective date of constitutional amendment** | |
| 10/4/2017 | For any application submitted on the earliest day allowed under the constitutional provisions for DHSS to start accepting applications, DHSS shall have approved or denied application forms for Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensary Facilities, and Medical Marijuana-Infused Manufacturing Facilities - paragraph 3(16). All applications must be approved or denied within 150 days of submission to DHSS thereafter. |

**Medical Marijuana Cultivation Facilities**

The proposal defines and permits the operation of Medical Marijuana Cultivation Facilities. The DHSS licenses these facilities. No upper limit is established on the number of such facilities that can be licensed. However, DHSS is required to license a minimum number of facilities in paragraph 3(13) to no less than one per every 80,000 inhabitants based on the most recent U.S. Census. The Missouri population from the 2010 census was 5,988,927 inhabitants. The total number of licensees in the state allowed to operate under this calculation is at least 74 Medical Marijuana Cultivation Facilities.

The DHSS is required by paragraph 3(7) of the proposal to charge a one-time non-refundable applicant fee of $3,000 and a license fee good for three years. An annual fee of $20,000 is required for each license.

The estimate in Table 3 below assumes that the Department of Health and Senior Services (DHSS) will initially limit the number of Medical Marijuana Cultivation Facilities to the minimum number allowed under the proposal. In the initial years of operation this would enable DHSS to conservatively allow it to meet its minimum constitutional requirements as it begins its operations and provide time to assess and report on the success of the program before further expansion which may take place beyond the timeline subject to required by the Auditor's Office. Table 3 assumes that:

- Marijuana cultivation facilities are essential to the operational effects of the proposed petition. Until the cultivation facilities are licensed crop production cannot begin. In addition, even after licensing the facilities will need to be constructed . Once construction is complete a growing season needs to be completed before product is available in the Medical Marijuana Dispensary Facilities. Given the importance of the cultivation facilities it is likely that applications for the limited number of such facilities will be high early during program implementation. Thus, the estimate in Table 3 assumes that applications for 75 percent of the minimum number of licenses will be submitted in FY 2017. DHSS could wait until the last date allowed for it to accept applications which is late in the fiscal year - May 7, 2017. The remaining 25 percent of application will occur during FY 2018.
- Application fees are assumed for the minimum number of licenses that DHSS is required to issue. Since application fees are non-refundable an additional $3,000 will be collected from any applicant that is ultimately refused a license. For example, a 10% or 25% refusal rate would mean 8 to 25 applications would pay the $3,000 non-refundable fee yet be refused which would generate an additional $24,000 or $75,000 respectively not calculated into this revenue estimate.
- DHSS will first collect the non-refundable application fee. It is assumed the license fee will be collected later at the time of DHSS approval in order to limit the number of refunds that would need to be processed to rejected applicants.
- No license revenue will occur until FY 2018 since DHSS is not required to issue any licenses until October 2017.
- DHSS will issue all the cultivation licenses that it is required to issue.
- No license fees are assumed for the annual license fee required for the second year of the license which will occur in FY 2019 for licenses first issued in 2018.

The total revenue in applicant and licenses fees generated in FY 2017 and FY 2018 from the minimum number of facilities that DHSS is required to allow is $1,702,000 including:

- $222,000 in one-time non-refundable applicant fees
- $1,480,000 in license fees from the first year's annual fee for the three year license

**Table 3 - Minimum Medical Marijuana Cultivation Facilities**

| **Assumptions** | **FY 2017** | **FY 2018** | **Total** |
|---|---|---|---|
| Date of applications | Applications to be allowed no later than 5/7/17 | Applications open all year | |
| % of applications submitted assuming minimal number approved by DHSS | 75.0% | 25.0% | 100.0% |
| Total applications assuming minimal number approved by DHSS | 56 | 18 | 74 |
| Total licenses approved by DHSS | 0 | 74 | 74 |
| | | | |
| | **FY 2017** | **FY 2018** | **Total** |
| **Revenues** | **Amount** | **Amount** | **Amount** |
| One-time non-refundable fee of $3,000 | $168,000 | $54,000 | $222,000 |
| First year annual license fee of $20,000 - good for 3 years | $0 | $1,480,000 | $1,480,000 |
| Total fees and licenses at minimum # of licensees | $168,000 | $1,534,000 | $1,702,000 |

**Medical Marijuana-Infused Products Manufacturing Facilities**

The proposal defines and permits the operation of Medical Marijuana-Infused Products Manufacturing Facilities. The DHSS licenses these facilities. No upper limit is established on the number of such facilities that can be licensed. However, DHSS is required to license a minimum number of licenses in paragraph 3(14) to no less than one per every 50,000 inhabitants based on the most recent U.S. Census. The Missouri population from the 2010 census was 5,988,927 inhabitants. The total number of licensees in the state under this calculation will allow for the operation of at least 119 Medical Marijuana-Infused Products Manufacturing Facilities.

The DHSS is required by paragraph 3(9) of the proposal to charge a one-time non-refundable applicant fee of $3,000 and a license fee good for three years. An annual fee of $10,000 is required for each license.

The estimate in Table 4 below assumes that the Department of Health and Senior Services (DHSS) will initially limit the number of Medical Marijuana-Infused Products Manufacturing Facilities to the minimum number allowed under the proposal. In the initial years of operation this would enable DHSS to conservatively allow it to meet its minimum constitutional requirements as it begins its operations and provide time to assess and report on the success of the program before further expansion which may take place beyond the timeline subject to required by the Auditor's Office. Table 4 assumes that:

- Possible operators of Medical Marijuana-Infused Products Manufacturing Facilities will want to ramp up their activities along a timeline that correlates with the operation of the Medical Marijuana Cultivation Faculties. Given the time needed for cultivation facility construction and crop production Table 4 assumes a slightly slower implementation for the infused products facilities. Table 4 assumes that half of the applications will be submitted in FY 2017. The DHSS could wait until the last date allowed for it to accept applications which is late in the fiscal year - May 7, 2017.
- Application fees are assumed for the minimum number of licenses that DHSS is required to issue. Since application fees are non-refundable an additional $3,000 will be collected from any applicant that is ultimately refused a license. For example, a 10% or 25% refusal rate would mean 13 to 40 applications would pay the $3,000 non-refundable fee yet be rejected which would generate an additional $39,000 or $120,000 respectively not calculated into this revenue estimate.
- DHSS will first collect the non-refundable application fee. It is assumed the license fee will be collected later at the time of DHSS approval in order to limit the number of refunds that would need to be processed to rejected applicants.
- No license revenue will occur until FY 2018 since DHSS is not required to issue any licenses until October 2017.
- DHSS will issue all the medical marijuana-infused products manufacturing facilities licenses that it is required to issue.
- No license fees are assumed for the annual license fee required for the second year of the license which will occur in FY 2019 for licenses first issued in 2018.

The total revenue in applicant and licenses fees generated in FY 2017 and FY 2018 from the minimum number of facilities that DHSS is required to allow is $1,547,000 including:

- $357,000 in one-time non-refundable applicant fees
- $1,190,000 in license fees from the first year's annual fee for the three year license

**Table 4 - Minimum Medical Marijuana-Infused Products Manufacturing Facilities**

| **Assumptions** | **FY 2017** | **FY 2018** | **Total** |
|---|---|---|---|
| Date of applications | Applications to be allowed no later than 5/7/17 | Applications open all year | |
| % of applications submitted assuming minimal number approved by DHSS | 50.0% | 50.0% | 100.0% |
| Total applications assuming minimal number approved by DHSS | 60 | 59 | 119 |
| Total licenses approved by DHSS | 0 | 119 | 119 |
| | | | |
| | **FY 2017** | **FY 2018** | **Total** |
| **Revenues** | **Amount** | **Amount** | **Amount** |
| One-time non-refundable fee of $3,000 | $180,000 | $177,000 | $357,000 |
| First year license fee of $10,000 - good for 3 years | $0 | $1,190,000 | $1,190,000 |
| Total fees and licenses at minimum # of licensees | $180,000 | $1,367,000 | $1,547,000 |

**Medical Marijuana Dispensary Facilities**

The proposal defines and permits the operation of Medical Marijuana Dispensary Facilities. The Department of Health and Senior Services licenses these facilities. No limit is established on the number of such facilities that can be licensed. However, counties are given the ability to limit the number of licenses within the county in paragraph 7(4) to no less than one per every 30,000 inhabitants or portion thereof based on the most recent U.S. Census. The counties must notify the DHSS of any limit established by February 1, 2017.

The Department of Health and Senior Services is required by paragraph 3(8) of the proposal to charge a one-time non-refundable applicant fee of $3,000 and a license fee good for three years of $10,000. Table 5 shows the revenue generated by county if each county limited the number of Medical Marijuana Dispensary Facilities to no less than one per every 30,000 inhabitants or portion thereof using the U.S. Census population for 2010. Each calculation is rounded up since the proposal indicates that the a license is provided for every "portion thereof" of 30,000.

The total number of licensees in the state under this calculation is 262 Medical Marijuana Dispensary Facilities. Table 5 assumes that the number of dispensaries will be limited in each county.

The total revenue generated from the applicant and licenses fees for 262 dispensaries, assuming that all application and license fees came in during the same year, is $3,406,000 including:

- $786,000 in one-time non-refundable applicant fees
- $2,620,000 in license fees from the first year's annual fee for the three year license

**Table 5**
**Missouri Population - 2010 Census**
**Minimum Medical Marijuana Dispensary Facilities if limited by every county**

| County | 2010 Census Total Population | Minimum # of Medical Marijuana Dispensaries assuming each county limits to one per every 30,000 inhabitants or portion thereof | One-time non-refundable fee of $3,000 | Annual License fee of $10,000 - license good for 3 years | Total fees and licenses at minimum # of licensees |
|---|---|---|---|---|---|
| Adair | 25,607 | 1 | $3,000 | $10,000 | $13,000 |
| Andrew | 17,291 | 1 | $3,000 | $10,000 | $13,000 |
| Atchison | 5,685 | 1 | $3,000 | $10,000 | $13,000 |
| Audrain | 25,529 | 1 | $3,000 | $10,000 | $13,000 |
| Barry | 35,597 | 2 | $6,000 | $20,000 | $26,000 |
| Barton | 12,402 | 1 | $3,000 | $10,000 | $13,000 |
| Bates | 17,049 | 1 | $3,000 | $10,000 | $13,000 |
| Benton | 19,056 | 1 | $3,000 | $10,000 | $13,000 |
| Bollinger | 12,363 | 1 | $3,000 | $10,000 | $13,000 |
| Boone | 162,642 | 6 | $18,000 | $60,000 | $78,000 |
| Buchanan | 89,201 | 3 | $9,000 | $30,000 | $39,000 |
| Butler | 42,794 | 2 | $6,000 | $20,000 | $26,000 |
| Caldwell | 9,424 | 1 | $3,000 | $10,000 | $13,000 |

| | | | | | |
|---|---|---|---|---|---|
| Callaway | 44,332 | 2 | $6,000 | $20,000 | $26,000 |
| Camden | 44,002 | 2 | $6,000 | $20,000 | $26,000 |
| Cape Girardeau | 75,674 | 3 | $9,000 | $30,000 | $39,000 |
| Carroll | 9,295 | 1 | $3,000 | $10,000 | $13,000 |
| Carter | 6,265 | 1 | $3,000 | $10,000 | $13,000 |
| Cass | 99,478 | 4 | $12,000 | $40,000 | $52,000 |
| Cedar | 13,982 | 1 | $3,000 | $10,000 | $13,000 |
| Chariton | 7,831 | 1 | $3,000 | $10,000 | $13,000 |
| Christian | 77,422 | 3 | $9,000 | $30,000 | $39,000 |
| Clark | 7,139 | 1 | $3,000 | $10,000 | $13,000 |
| Clay | 221,939 | 8 | $24,000 | $80,000 | $104,000 |
| Clinton | 20,743 | 1 | $3,000 | $10,000 | $13,000 |
| Cole | 75,990 | 3 | $9,000 | $30,000 | $39,000 |
| Cooper | 17,601 | 1 | $3,000 | $10,000 | $13,000 |
| Crawford | 24,696 | 1 | $3,000 | $10,000 | $13,000 |
| Dade | 7,883 | 1 | $3,000 | $10,000 | $13,000 |
| Dallas | 16,777 | 1 | $3,000 | $10,000 | $13,000 |
| Daviess | 8,433 | 1 | $3,000 | $10,000 | $13,000 |
| DeKalb | 12,892 | 1 | $3,000 | $10,000 | $13,000 |
| Dent | 15,657 | 1 | $3,000 | $10,000 | $13,000 |
| Douglas | 13,684 | 1 | $3,000 | $10,000 | $13,000 |
| Dunklin | 31,953 | 2 | $6,000 | $20,000 | $26,000 |
| Franklin | 101,492 | 4 | $12,000 | $40,000 | $52,000 |
| Gasconade | 15,222 | 1 | $3,000 | $10,000 | $13,000 |
| Gentry | 6,738 | 1 | $3,000 | $10,000 | $13,000 |
| Greene | 275,174 | 10 | $30,000 | $100,000 | $130,000 |
| Grundy | 10,261 | 1 | $3,000 | $10,000 | $13,000 |
| Harrison | 8,957 | 1 | $3,000 | $10,000 | $13,000 |
| Henry | 22,272 | 1 | $3,000 | $10,000 | $13,000 |
| Hickory | 9,627 | 1 | $3,000 | $10,000 | $13,000 |
| Holt | 4,912 | 1 | $3,000 | $10,000 | $13,000 |
| Howard | 10,144 | 1 | $3,000 | $10,000 | $13,000 |
| Howell | 40,400 | 2 | $6,000 | $20,000 | $26,000 |
| Iron | 10,630 | 1 | $3,000 | $10,000 | $13,000 |
| Jackson | 674,158 | 23 | $69,000 | $230,000 | $299,000 |
| Jasper | 117,404 | 4 | $12,000 | $40,000 | $52,000 |
| Jefferson | 218,733 | 8 | $24,000 | $80,000 | $104,000 |
| Johnson | 52,595 | 2 | $6,000 | $20,000 | $26,000 |
| Knox | 4,131 | 1 | $3,000 | $10,000 | $13,000 |
| Laclede | 35,571 | 2 | $6,000 | $20,000 | $26,000 |
| Lafayette | 33,381 | 2 | $6,000 | $20,000 | $26,000 |
| Lawrence | 38,634 | 2 | $6,000 | $20,000 | $26,000 |
| Lewis | 10,211 | 1 | $3,000 | $10,000 | $13,000 |
| Lincoln | 52,566 | 2 | $6,000 | $20,000 | $26,000 |
| Linn | 12,761 | 1 | $3,000 | $10,000 | $13,000 |
| Livingston | 15,195 | 1 | $3,000 | $10,000 | $13,000 |

| | | | | | |
|---|---|---|---|---|---|
| McDonald | 23,083 | 1 | $3,000 | $10,000 | $13,000 |
| Macon | 15,566 | 1 | $3,000 | $10,000 | $13,000 |
| Madison | 12,226 | 1 | $3,000 | $10,000 | $13,000 |
| Maries | 9,176 | 1 | $3,000 | $10,000 | $13,000 |
| Marion | 28,781 | 1 | $3,000 | $10,000 | $13,000 |
| Mercer | 3,785 | 1 | $3,000 | $10,000 | $13,000 |
| Miller | 24,748 | 1 | $3,000 | $10,000 | $13,000 |
| Mississippi | 14,358 | 1 | $3,000 | $10,000 | $13,000 |
| Moniteau | 15,607 | 1 | $3,000 | $10,000 | $13,000 |
| Monroe | 8,840 | 1 | $3,000 | $10,000 | $13,000 |
| Montgomery | 12,236 | 1 | $3,000 | $10,000 | $13,000 |
| Morgan | 20,565 | 1 | $3,000 | $10,000 | $13,000 |
| New Madrid | 18,956 | 1 | $3,000 | $10,000 | $13,000 |
| Newton | 58,114 | 2 | $6,000 | $20,000 | $26,000 |
| Nodaway | 23,370 | 1 | $3,000 | $10,000 | $13,000 |
| Oregon | 10,881 | 1 | $3,000 | $10,000 | $13,000 |
| Osage | 13,878 | 1 | $3,000 | $10,000 | $13,000 |
| Ozark | 9,723 | 1 | $3,000 | $10,000 | $13,000 |
| Pemiscot | 18,296 | 1 | $3,000 | $10,000 | $13,000 |
| Perry | 18,971 | 1 | $3,000 | $10,000 | $13,000 |
| Pettis | 42,201 | 2 | $6,000 | $20,000 | $26,000 |
| Phelps | 45,156 | 2 | $6,000 | $20,000 | $26,000 |
| Pike | 18,516 | 1 | $3,000 | $10,000 | $13,000 |
| Platte | 89,322 | 3 | $9,000 | $30,000 | $39,000 |
| Polk | 31,137 | 2 | $6,000 | $20,000 | $26,000 |
| Pulaski | 52,274 | 2 | $6,000 | $20,000 | $26,000 |
| Putnam | 4,979 | 1 | $3,000 | $10,000 | $13,000 |
| Ralls | 10,167 | 1 | $3,000 | $10,000 | $13,000 |
| Randolph | 25,414 | 1 | $3,000 | $10,000 | $13,000 |
| Ray | 23,494 | 1 | $3,000 | $10,000 | $13,000 |
| Reynolds | 6,696 | 1 | $3,000 | $10,000 | $13,000 |
| Ripley | 14,100 | 1 | $3,000 | $10,000 | $13,000 |
| St. Charles | 360,485 | 13 | $39,000 | $130,000 | $169,000 |
| St. Clair | 9,805 | 1 | $3,000 | $10,000 | $13,000 |
| Ste. Genevieve | 18,145 | 1 | $3,000 | $10,000 | $13,000 |
| St. Francois | 65,359 | 3 | $9,000 | $30,000 | $39,000 |
| St. Louis | 998,954 | 34 | $102,000 | $340,000 | $442,000 |
| Saline | 23,370 | 1 | $3,000 | $10,000 | $13,000 |
| Schuyler | 4,431 | 1 | $3,000 | $10,000 | $13,000 |
| Scotland | 4,843 | 1 | $3,000 | $10,000 | $13,000 |
| Scott | 39,191 | 2 | $6,000 | $20,000 | $26,000 |
| Shannon | 8,441 | 1 | $3,000 | $10,000 | $13,000 |
| Shelby | 6,373 | 1 | $3,000 | $10,000 | $13,000 |
| Stoddard | 29,968 | 1 | $3,000 | $10,000 | $13,000 |
| Stone | 32,202 | 2 | $6,000 | $20,000 | $26,000 |
| Sullivan | 6,714 | 1 | $3,000 | $10,000 | $13,000 |
| Taney | 51,675 | 2 | $6,000 | $20,000 | $26,000 |

| | | | | | |
|---|---|---|---|---|---|
| Texas | 26,008 | 1 | $3,000 | $10,000 | $13,000 |
| Vernon | 21,159 | 1 | $3,000 | $10,000 | $13,000 |
| Warren | 32,513 | 2 | $6,000 | $20,000 | $26,000 |
| Washington | 25,195 | 1 | $3,000 | $10,000 | $13,000 |
| Wayne | 13,521 | 1 | $3,000 | $10,000 | $13,000 |
| Webster | 36,202 | 2 | $6,000 | $20,000 | $26,000 |
| Worth | 2,171 | 1 | $3,000 | $10,000 | $13,000 |
| Wright | 18,815 | 1 | $3,000 | $10,000 | $13,000 |
| St. Louis city | 319,294 | 11 | $33,000 | $110,000 | $143,000 |
| **Missouri** | **5,988,927** | **262** | $786,000 | $2,620,000 | $3,406,000 |

Source: Census 2000 - SF1 and 2010 P.L. 94-171
From Missouri Office of Administration-Division of Budget and Planning website

However, it is possible that every county may not limit the number of medical marijuana dispensary facilities. In addition, such a facility may not open in every county due to the small number of inhabitants and the economics of businesses being viable in a small market. Missouri has 114 counties plus the City of St. Louis. Table 6 shows the amount of revenue generated by size of county. There are 26 counties with less than 10,000 in population. There are 18 counties with a population between 10,000 and 15,000. Table 6 shows that if no dispensary opened in counties with populations less than 15,000 in population the revenue generated would still be $2.8 million. That amounts to a loss of $572,000 which is 17% of the revenue while losing 38% of the counties. Given experiences in other states it is unlikely that 44 counties will not have a medical marijuana dispensary. In addition, this assumption would mean that 26 of the 44 counties north of the Missouri River would be unserved, thus wide swaths of northern Missouri would be without a dispensary. The same would be true of a large area in southeast Missouri.

Given the grouping of small counties in northern and southern Missouri it is likely that regional dispensaries serving multiple counties will attempt to operate to serve any local demand. For example, one or several regional dispensaries might serve a combination of counties grouped in northwest Missouri (Worth, Gentry, Dekalb, Harrison, Daviess counties) or southeast Missouri (Shannon, Oregon, Reynolds, Carter, Ripley, Iron, Wayne counties). The success of the regional dispensaries will be more difficult and it will likely require several years of experience before the number of dispensaries in small counties settles into a long-term supportable number.

**Table 6 - Revenue from Medical Marijuana Dispensary Facilities by County Size**

| Missouri county populations | # of counties | % of counties | # of dispensaries | Revenue from dispensary application and license fees |
|---|---|---|---|---|
| Less than 10,000 population | 26 | 22.6% | 26 | $338,000 |
| Between 10,000 and 15,000 | 18 | 15.7% | 18 | $234,000 |
| Greater than 15,000 | 71 | 61.7% | 218 | $2,834,000 |
| Total | 115 | 100.0% | 262 | $3,406,000 |

Another way to look at the number of possible dispensaries is to look at the experience of other states. The states with laws most similar to the proposed initiative petition are Oregon and Colorado. A number of the states restrict dispensaries to a small number. Other states have local registration, have a different distribution structure, or are too early in their operations to have approved dispensaries in part or in full.

Missouri's population is larger than both Colorado and Oregon. Table 7 shows the U.S. Census Bureau's population estimate for the three states. Table 7 also provides statistics on the need and demand for dispensaries as measured by the number of dispensaries per population and per square mile. There were 515 dispensaries in Colorado in 2015 or 1 for every 10,400 people compared to Oregon's 345 dispensaries with 1 for every 11,508 people. This is not much difference in the number of people per dispensary. Colorado has one dispensary per every 201 square miles in the state compared to Oregon's one dispensary per every 278 square miles.

Based on Missouri's population it would have between 527 and 583 dispensaries if it has Oregon or Colorado levels of dispensaries per person. Based on Missouri square miles it would have between 248 and 343 dispensaries. If Missouri experience is at the mid-point of the Oregon and Colorado dispensaries per square mile it would have 287 dispensaries. This calculation produces about ten percent more dispensaries as Table 5 which calculates 262 dispensaries assuming that each county will set a limit as provided by the proposed petition.

**TABLE 7 - Estimating Missouri dispensaries from Colorado and Oregon dispensaries**

| | | | Missouri Estimates | | |
|---|---|---|---|---|---|
| | Colorado | Oregon | at Colorado level | at Oregon level | if mid-point |
| Estimated 2014 population by U.S. Census Bureau | 5,355,866 | 3,970,239 | 6,063,589 | 6,063,589 | 6,063,589 |
| Square miles in state | 103,718 | 95,997 | 68,886 | 68,886 | 68,886 |
| | | | | | |
| | | | | | |
| 1 dispensary per # population | 10,400 | 11,508 | 10,400 | 11,508 | 10,954 |
| # of dispensaries - 2015 | 515 | 345 | 583 | 527 | 554 |
| | | | | | |
| 1 dispensary per # sq. miles | 201 | 278 | 201 | 278 | 240 |
| # of dispensaries - 2015 | 515 | 345 | 343 | 248 | 287 |

The estimate in Table 8 below assumes that action by the counties limits the Department of Health and Senior Services (DHSS) to approving 262 Medical Marijuana Dispensary Facilities, the minimum number allowed under the proposal. Table 8 assumes that:

- Given the economics of operating in small counties with limited demand, it is assumed that dispensaries will only operate in counties with more than 15,000 in population. A total of 218 dispensaries will operate under this assumption. While it is likely that regional dispensaries will provide service to multiple counties, the assumption below is conservative and discounts this possibility.
- In addition, the possible operators of Medical Marijuana-Dispensary Facilities will want to ramp up their activities along a timeline that correlates with the operation of the Medical Marijuana Cultivation Faculties and Medical Marijuana-Infused Product Facilities. Given the time needed for dispensary construction and preparation Table 8 assumes a that one-half of the 218 dispensaries

will apply for licenses in FY 2017 with the remainder in FY 2018. The DHSS could wait until the last date allowed for it to accept applications which is late in the fiscal year - May 7, 2017.

- Application fees are assumed for 218 licenses. Since application fees are non-refundable an additional $3,000 will be collected from any applicant that is ultimately refused a license. For example, a 10% or 25% refusal rate would mean 23 to 73 applications would pay the $3,000 non-refundable fee yet be rejected which would generate an additional $69,000 or $219,000 respectively not calculated into this revenue estimate.
- DHSS will first collect the non-refundable application fee. It is assumed the license fee will be collected later at the time of DHSS approval in order to limit the number of refunds that would need to be processed to rejected applicants.
- No license revenue will occur until FY 2018 since DHSS is not required to issue any licenses until October 2017.
- No license fees are assumed for the annual license fee required for the second year of the license which will occur in FY 2019 for licenses first issued in 2018.

The total revenue in applicant and licenses fees generated in FY 2017 and FY 2018 shown in Table 8 from the 218 facilities is $2,834,000 including:

- $327,000 in FY 2017, and
- $2,507,000 in FY 2018.

**Table 8 - Minimum Medical Marijuana Dispensary Facilities**

| **Assumptions** | **FY 2017** | **FY 2018** | **Total** |
|---|---|---|---|
| Date of applications | Applications to be allowed no later than 5/7/17 | Applications open all year | |
| % of applications submitted assuming minimal number approved by DHSS | 50.0% | 50.0% | 100.0% |
| Total applications assuming minimal number approved by DHSS | 109 | 109 | 218 |
| Total licenses approved by DHSS | 0 | 218 | 218 |
| | | | |
| | **FY 2017** | **FY 2018** | **Total** |
| **Revenues** | **Amount** | **Amount** | **Amount** |
| One-time non-refundable fee of $3,000 | $327,000 | $327,000 | $654,000 |
| First year license fee of $10,000 - good for 3 years | $0 | $2,180,000 | $2,180,000 |
| Total fees and licenses at minimum # of licensees | $327,000 | $2,507,000 | $2,834,000 |

## Patient identification cards and caregiver cards

The proposal requires that the Department of Health and Senior Services issue identification cards for qualifying patients, primary caregivers, and qualifying patient cultivation. No limit is established on the number of such cards that can be issued. However, a qualifying medical condition must be present as certified in accordance with the procedures outlined in the proposal.

The Department of Health and Senior Services is required by paragraphs 3(17) and 3(18) of the proposal to charge a $25 fee per year per card. The $25 card fee shall be increased or decreased by the percentage of increase or decrease in the Consumer Price Index calculated from the end of the previous calendar year.

In the medical marijuana fiscal notes prepared for bills considered by the Missouri General Assembly over the past three years, the Department of Health and Senior Services has used Oregon's experience with patient identification cards and caregiver cards as a basis to estimate what might occur in Missouri. DHSS indicated that Oregon had similar language to that being considered and the data was available. The states with laws most similar to the proposed initiative petition are Oregon and Colorado.

Qualifying patient cards

Table 9 provides information on the number of qualifying patient cards as of the end of FY 2014 and FY 2015 from each state. In both years Colorado had about 113,500 cards which amounted to 2.1% of the population. In Oregon the number of cards grew from 64,838 to 72,517 with a very slightly lower percent of the population of 1.8% in FY 2015. Missouri's population is larger than both Colorado and Oregon.

Based on the U.S. Census Bureau's population estimates for the three states if the Missouri experience is:

- at Colorado's level we will have 127,335 qualifying patient cards.
- at Oregon's level we will have 103,081 qualifying patient cards
- at the mid-point of the Oregon and Colorado we would have 115,208 cards

**TABLE 9 - Missouri Estimates of Qualifying Patients from Colorado and Oregon Experience**

| | Colorado | | Oregon | | | Missouri Estimates | | |
|---|---|---|---|---|---|---|---|---|
| | 2014 | 2015 | 2014 | 2015 | | at Colorado level | at Oregon level | if mid-point |
| Estimated 2014 population by U.S. Census Bureau | 5,355,866 | 5,355,866 | 3,970,239 | 3,970,239 | | 6,063,589 | 6,063,589 | 6,063,589 |
| # of qualifying patient cards | 113,506 | 113,585 | 64,838 | 72,517 | | 127,335 | 103,081 | 115,208 |
| % of population | 2.1% | 2.1% | 1.6% | 1.8% | | 2.1% | 1.7% | 1.9% |

In the medical marijuana fiscal notes for bills considered by the General Assembly the DHSS also made an adjustment upward in its estimate on the number of qualifying patient cards. For example, in the fiscal note for HB 490 (2015 session) the DHSS assumed that the number of Missouri cards would be higher because the rates of chronic diseases are generally higher than those in Oregon. DHSS estimated 25% more applicants in Missouri as a result of that assumption.

Table 10 looks at the reasonableness of the extra 25% in applicants by reviewing the specific rates of cancer, HIV, and obesity (as an indicator of overall chronic disease) since they are among the items that would likely generate qualifying conditions under the proposed petition. Missouri's rate for each of the four conditions is higher, and sometimes substantially higher, than Colorado and Oregon. For example, Missouri's cancer rate is 6.7% higher than Oregon and 11.1% higher than Colorado. Similarly, Missouri's obesity rate is 8.2% higher than Oregon's and 41.8% higher than Colorado's rate.

**Table 10 - Chronic Disease Rates in Colorado, Oregon, and Missouri**

| | Cancer rate | Diabetes rate | Obesity rate | HIV rate |
|---|---|---|---|---|
| Colorado | 405.5 | 3.6 | 21.3 | 7.5 |
| Oregon | 422.2 | 4.7 | 27.9 | 6.9 |
| Missouri | 450.6 | 5.2 | 30.2 | 9.6 |
| | | | | |
| MO difference from other state | | | | |
| % Difference from Colorado | 11.1% | 44.4% | 41.8% | 28.0% |
| % Difference from Oregon | 6.7% | 10.6% | 8.2% | 39.1% |

The data in Table 10 appears to corroborate the DHSS assumption that Missouri will have 25% more applicants based on a higher level of chronic diseases. The following fiscal analysis will accept and use the additional 25% in its identification card calculations. Table 11 estimates that there will be 144,010 patient and caregiver cards issued as a result of the proposed petition.

**Table 11 - Estimated Qualifying Patient Cards**

| | |
|---|---|
| Qualifying Patient cards calculated at 1.9% of population (mid-point between Colorado's 2.1% and Oregon's 1.7%) | 115,208 |
| Chronic disease factor boost (25% based on DHSS assumption and data in Table 10) | 25.0% |
| Number of qualifying patient cards to be issued | 144,010 |
| | |

Caregiver cards

DHSS is also responsible for issuing Primary Caregiver identification cards under the provisions of the initiative petition. In its fiscal note on medical marijuana legislation considered by the General Assembly the DHSS used Oregon's experience as a model for its estimate due to the similar mandatory registration provisions. The DHSS used the number of caregivers and adjusted for Missouri's larger population and then adjusted upward by a factor of 25% due to Missouri's higher chronic disease levels. These are the same adjustment factors used for qualifying patients by DHSS.

Tables 12 and 13 use information from Oregon to estimate the number of Missouri caregiver identification cards. Table 12 shows that the number of Oregon caregiver cards in 2014 and 2015 amounted to about 0.9% of its population. Adjusting for Missouri's larger population would produce an estimated 54,572 Missouri caregiver cards. Further adjusting for Missouri's higher chronic disease levels, as done previously by DHSS, would result in 68,215 caregiver cards.

**Table 12**
**Missouri Caregiver Cards using Oregon Rate plus Chronic Disease adjustment**

| | Oregon 2014 | Oregon 2015 | Missouri estimate if at Oregon rate | Missouri estimate with 25% adjustment for chronic disease levels |
|---|---|---|---|---|
| Estimated 2014 population by U.S. Census Bureau | 3,970,239 | 3,970,239 | 6,063,589 | 6,063,589 |
| # of caregiver cards | 32,796 | 35,864 | 54,572 | 68,215 |
| % of population | 0.8% | 0.9% | 0.9% | 1.1% |

Another way to look at the issue is to look at the rate of caregiver cards compared to the number of qualifying patient cards. Table 13 shows that Oregon caregiver cards were about 50% of the total of qualifying patient cards. Using the estimated number of Missouri qualifying patient cards calculated in Table 11, the number of caregiver cards would total 72,005 if it were 50% of the number of qualifying patient cards.

**Table 13 - Missouri Caregiver cards based on Oregon Qualifying Patient Cards**

| | | | |
|---|---|---|---|
| | Oregon 2014 | Oregon 2015 | Missouri estimate at Oregon average for care givers |
| Qualifying patient cards | 64,838 | 72,517 | 144,010 |
| Caregiver cards | 32,796 | 35,864 | 72,005 |
| Total Qualifying patient and Caregiver cards | 97,634 | 108,381 | 216,015 |
| % of caregiver cards to qualifying patients | 50.6% | 49.5% | 50.0% |

Both Table 12 and Table 13 produce caregiver card numbers in approximately the same number. For purposes of this fiscal note the number of caregiver cards is 70,110, the average of the Table 12 and Table 13 estimates.

Summary of Fee Revenue from Qualifying Patient and Primary Caregiver identification cards

Table 14 estimates the number of patient and caregiver cards and the revenue generated in the first two years. DHSS must allow applications for identification cards by May 7, 2017. The proposal requires that DHSS approve or deny applications within 30 days. Thus, the latest that the first identification card can be issued is June 6, 2017. Given the construction timeline for cultivation faculties and dispensaries and crop growing time, qualifying patients and caregivers are likely to apply for identification cards closer to the time those facilities will be completed. There are individuals that will want to be early in line for medical and legal reasons. It is assumed that one-fourth of the new applicants will come in during the first year. Half of the qualifying patients and primary caregivers will apply during FY 2018 and the remainder in FY 2019. The annual fee and renewal fee is $25. Those receiving identification cards in FY 2017 will have to renew them in FY 2018. In its medical marijuana legislative fiscal note the DHSS estimated that there would be a two percent increase in applications per year. This analysis does not assume identification card growth in the first two years. The petition requires increases or decreases in the annual fee based on CPI changes. However, no inflation/deflation calculation is included in this analysis.

Table 14 estimates that there will be 214,122 qualifying patient and caregiver cards issued in FY 2017 and FY 2018, including first time participants and renewals. Table 14 estimates that $5.4 million will be collected in the first two years of the program including:

- $1.3 million in FY 2017
- $4.0 million in FY 2018

**Table 14 - Fee Revenue from Qualifying Patient and Primary Caregiver Cards**

| **Assumptions** | **FY 2017** | **FY 2018** | **Total** |
|---|---|---|---|
| Application deadlines | Applications to be allowed no later than 5/7/17 | Applications open all year | |
| % of new applications submitted | 25.0% | 50.0% | 75.0% |
| | | | |
| Qualifying patient identification cards | | | |
| Total new applications | 36,003 | 72,005 | 108,008 |
| Total renewal applications | | 36,003 | 36,003 |
| | | | |
| Primary caregiver identification cards | | | |
| Total new applications | 17,528 | 35,055 | 52,583 |
| Total renewal applications | | 17,528 | 17,528 |
| | | | |
| Total of all applications for qualifying patients and caregivers | 53,531 | 160,591 | 214,122 |
| | | | |
| | **FY 2017** | **FY 2018** | **Total** |
| **Revenues** | **Amount** | **Amount** | **Amount** |
| Qualifying patient cards | - | - | - |
| Annual fee of $25 | $900,075 | $1,800,125 | $2,700,200 |
| First renewal fee for those approved in FY 2017 | $0 | $900,075 | $900,075 |
| subtotal qualifying patient cards | $900,075 | $2,700,200 | $3,600,275 |
| | | | |
| Primary caregiver cards | - | - | - |
| Annual fee of $25 | $438,200 | $876,375 | $1,314,575 |
| First renewal fee for those approved in FY 2017 | $0 | $438,200 | $438,200 |
| subtotal primary caregiver cards | $438,200 | $1,314,575 | $1,752,775 |
| | | | |
| Total qualifying patient and primary caregiver card revenue | - | - | - |
| Annual fee of $25 | $1,338,275 | $2,676,500 | $4,014,775 |
| First renewal fee for those approved in FY 2017 | $0 | $1,338,275 | $1,338,275 |
| Total application fee revenue | $1,338,275 | $4,014,775 | $5,353,050 |

**Qualifying Patient Cultivation Cards**

The proposal requires that the Department of Health and Senior Services issue identification cards for qualifying patient cultivation. No limit is established on the number of such cards that can be issued. DHSS must allow applications for qualifying patient cultivation identification cards by May 7, 2017. The proposal requires that DHSS approve or deny applications within 30 days. Thus, the latest that the first identification card can be issued is June 6, 2017, assuming that it receives any such applications.

The Department of Health and Senior Services is required by paragraphs 3(17) and 3(18) of the proposal to charge a $25 fee per year per card. The $25 card fee shall be increased or decreased by the percentage of increase or decrease in the Consumer Price Index calculated from the end of the previous calendar year.

The states allowing the use of medical marijuana have varying provisions for cultivation by patients, if it is allowed at all. Thus, estimating the total number of patient cultivation cards using other state data is more difficult. In addition, paragraph 7(10) of the proposal requires that "all patient cultivation shall take place in an enclosed, locked facility that is equipped with security devices that permit access only by the qualifying patient or by such patient's primary caregiver."

This analysis assumes that given the construction timeline for cultivation faculties and dispensaries and crop growing time, the earliest sales of medical marijuana will take place in October 2017. The cost to qualifying patients or their caregivers of the security upgrades or construction of the enclosed, locked facility required by paragraph 7(10) will substantially diminish the number of patient cultivators initially. Qualifying patients are more likely to first use product purchased from dispensaries to determine the efficacy of medical marijuana in treating their qualifying medical condition. Only after determining the treatment's efficacy will patients consider paying for the security and facility required by paragraph 7(10). Paragraph 3(d) requires the DHSS to establish a seed-to-sale tracking system that in effect requires the qualifying patients or their caregivers to obtain their cultivation plants from the Medical Marijuana Dispensary Facilities.

Table 15 assumes that 15% of the qualifying patients will apply for patient cultivation identification cards. It is assumed that those qualifying patients will use medical marijuana from medical marijuana dispensary facilities for six months before moving to patient cultivation and incurring the required security and facility costs required in the proposal. The first patient cultivation card is assumed to be issued in March 2018, six months after the first dispensary sale. Table 15 assumes that the patient cultivation cards will be issued and phased-in over a 16 month period from March 2018 to June 2019. A total of 1,350 patient cultivation cards per month results in 5,400 patient cultivation cards issued in FY 2018 producing revenue of $135,000.

**Table 15 - Qualifying Patient Cultivation Cards**

| | |
|---|---|
| # patient cultivation cards issued per month | 1,350 |
| # months issued (March to June 2018) | 4 |
| # cultivation cards issued in FY 2018 | 5,400 |
| Missouri fee | $25 |
| Total FY 2018 revenue | $135,000 |

**Tax Revenues**

Colorado and Oregon have been used throughout this analysis as the benchmark states for comparison to Missouri's possible experience. Oregon does not tax medical marijuana sales so it has no data that can be used to help estimate Missouri sales. Table 16 shows that Colorado state tax collections for medical marijuana was $10.6 million in FY 2014 and $10.4 million in FY 2015. Colorado taxes medical marijuana at 2.9% and has explicit accounting of those revenues on its website. To generate $10.4 million in FY 2015 with a 2.9% sales tax the economic value that was taxed would need to be $358.9 million. This computes to $3,160 per cardholder per year or $263 per month per cardholder. Multiplying the estimated 144,010 Missouri qualifying patient cardholders times $3,160 per month would produce a market of $455.1 million in Missouri economic value.

**Table 16 - Colorado Taxes and Economic Activity for Medical Marijuana**

| | Colorado 2014 | Colorado 2015 |
|---|---|---|
| State tax revenue collected from medical marijuana | $10,562,577 | $10,409,340 |
| Colorado Sales Tax Rate | 2.9% | 2.9% |
| Implied economic value taxed in Colorado sales | $364,226,793 | $358,942,759 |
| | | |
| Colorado Patient and care giver cards | 113,506 | 113,585 |
| $ per Colorado identification cardholder for year | $3,209 | $3,160 |
| $ per Colorado identification cardholder for month | $267 | $263 |
| | | |
| Estimated Missouri qualifying patient cardholders (Table 11) | 144,010 | 144,010 |
| Implied economic value tax in Missouri sales at same $ per Colorado identification cardholder | $462,128,090 | $455,071,600 |

Table 17 builds from the estimate of likely Missouri qualifying patients and caregivers to calculate the likely tax revenue. The assumptions in Table 17 include:

- 144,010 qualifying patients as calculated in Table 11.
- A phase-in of applicants and identification cards issued as calculated in Table 14. The FY 2018 applicants are phased-in at a standard monthly rate of 6,000 per month.
- October 2017 is the earliest that medical marijuana will be purchased. Nine months of purchasing in FY 2018 will be possible for 60,003 qualifying patients (36,003 with FY 2017 issued identification cards and 24,000 for the July through October 2017 cards issued in FY 2018). The remaining FY 2018 patients will only be able to purchase for the number of months left in the fiscal year based on the month their card is issued. The remaining 25% of qualifying patients will not start purchasing until they get their identification cards in FY 2019.
- A $265 per month, $3,180 per year, purchase of medical marijuana based on Colorado's experience. The State of Arizona in its FY 2014 Annual Report on Medical Marijuana used an estimate of $350 price per ounce. Arizona estimated that its 1.4 million transactions were worth $112 million in revenue.
- A 4% sales tax going to the Missouri Veterans' Health and Care Fund.
- Paragraph 4(4) of the proposal states that the 4% sales tax for Veterans is in addition to any other state general or local sales tax. The State's other sales taxes amount to 4.225% including 3% GR, 1% Prop C for K-12, 0.125% for Conservation, 0.1% for Parks/Soils.

Based on these assumptions Table 17 shows sales tax revenues of $16.5 million in total. The following amounts would go to state funds in FY 2017 and FY 2018.

- Missouri Veterans' Health and Care Fund - $8.0 million

- General Revenue - $6.0 million
- Prop C - $2.0 million
- Conservation - $0.25 million
- Parks/Soils - $0.2 million

**Table 17 - Missouri Tax Revenue Estimate**

| **Assumptions** | **FY 2017** | **FY 2018** | **Total** |
|---|---|---|---|
| Date of applications | Applications to be allowed no later than 5/7/17 | Applications open all year | |
| Total new applications for identification cards | 36,003 | 72,005 | 108,008 |
| Total renewal applications for identification cards | | 36,003 | 36,003 |
| | | | |
| $ per cardholder for month | $265 | $265 | |
| Number of months of purchases for FY 2017 applicants | 0 | 9 | |
| Number of months of purchases for FY 2018 applicants (net effective for monthly phase-in) | 0 | 6 | |
| | | | |
| | **FY 2017** | **FY 2018** | **Total** |
| **Value of sales taxed** | **Amount** | **Amount** | **Amount** |
| Value of sales made to FY 2017 applicants | $0 | $85,867,155 | $85,867,155 |
| Value of sales made to FY 2018 applicants | $0 | $114,487,950 | $114,487,950 |
| Total value of sales made to applicants | $0 | $200,355,105 | $200,355,105 |
| | | | |
| **SALES TAX COLLECTIONS** | | | |
| | | | |
| **Missouri Veterans' Health and Care Fund** | **Amount** | **Amount** | **Amount** |
| Proposed Missouri sales tax rate on Medical Marijuana | 4.0% | 4.0% | 4.0% |
| Sales tax revenue from FY 2017 applicants | $0 | $3,434,686 | $3,434,686 |
| Sales tax revenue from FY 2018 applicants | $0 | $4,579,518 | $4,579,518 |
| subtotal tax revenue | $0 | $8,014,204 | $8,014,204 |
| | | | |
| | | | |
| **General Revenue** | **Amount** | **Amount** | **Amount** |
| GR statutory sales tax rate on Medical Marijuana | 3.0% | 3.0% | 3.0% |
| Sales tax revenue from FY 2017 applicants | $0 | $2,576,015 | $2,576,015 |
| Sales tax revenue from FY 2018 applicants | $0 | $3,434,639 | $3,434,639 |
| subtotal tax revenue | $0 | $6,010,653 | $6,010,653 |
| | | | |
| **Prop C** | **Amount** | **Amount** | **Amount** |
| Prop C sales tax rate on Medical Marijuana | 1.0% | 1.0% | 1.0% |
| Sales tax revenue from FY 2017 applicants | $0 | $858,672 | $858,672 |
| Sales tax revenue from FY 2018 applicants | $0 | $1,144,880 | $1,144,880 |
| subtotal tax revenue | $0 | $2,003,551 | $2,003,551 |
| | | | |

| **Conservation** | **Amount** | **Amount** | **Amount** |
|---|---|---|---|
| Conservation sales tax rate on Medical Marijuana | 0.125% | 0.125% | 0.125% |
| Sales tax revenue from FY 2017 applicants | $0 | $107,334 | $107,334 |
| Sales tax revenue from FY 2018 applicants | $0 | $143,110 | $143,110 |
| subtotal tax revenue | $0 | $250,444 | $250,444 |
| | | | |
| **Parks and Soils** | **Amount** | **Amount** | **Amount** |
| Parks and Soils sales tax rate on Medical Marijuana | 0.10% | 0.10% | 0.10% |
| Sales tax revenue from FY 2017 applicants | $0 | $85,867 | $85,867 |
| Sales tax revenue from FY 2018 applicants | $0 | $114,488 | $114,488 |
| subtotal tax revenue | $0 | $200,355 | $200,355 |
| | | | |
| **Total State Funds** | **Amount** | **Amount** | **Amount** |
| All state funds sales tax rate on Medical Marijuana | 8.225% | 8.225% | 8.225% |
| Sales tax revenue from FY 2017 applicants | $0 | $7,062,573 | $7,062,573 |
| Sales tax revenue from FY 2018 applicants | $0 | $9,416,634 | $9,416,634 |
| Total State Tax Revenue | $0 | $16,479,207 | $16,479,207 |

**Local Revenue and Costs for Medical Marijuana bills filed in past three legislative sessions**

Six of the seven medical marijuana bills have completed fiscal notes for some version of the bill. Local costs identified in the various fiscal notes prepared by the Oversight Division are very low.

Table 18 estimates the local tax revenue generated as a result of the proposed petition. The table uses the same methodology as used in Table 17 in estimating state tax revenue. The Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of $10 million in local sales tax revenue in FY 2018.

**Table 18 - Missouri Local Tax Revenue Estimate**

| **Assumptions** | **FY 2017** | **FY 2018** | **Total** |
|---|---|---|---|
| Date of applications | Applications to be allowed no later than 5/7/17 | Applications open all year | |
| Total new applications for identification cards | 36,003 | 72,005 | 108,008 |
| Total renewal applications for identification cards | | 36,003 | 36,003 |
| | | | |
| $ per cardholder for month | $265 | $265 | |
| Number of months of purchases for FY 2017 applicants | 0 | 9 | |
| Number of months of purchases for FY 2018 applicants (net effective for monthly phase-in) | 0 | 6 | |
| | | | |
| | **FY 2017** | **FY 2018** | **Total** |
| **Value of sales taxed** | **Amount** | **Amount** | **Amount** |
| Value of sales made to FY 2017 applicants | $0 | $85,867,155 | $85,867,155 |
| Value of sales made to FY 2018 applicants | $0 | $114,487,950 | $114,487,950 |
| Total value of sales made to applicants | $0 | $200,355,105 | $200,355,105 |
| | | | |
| **SALES TAX COLLECTIONS** | | | |
| | | | |
| **Local Sales Taxes** | **Amount** | **Amount** | **Amount** |
| Average sales tax rate used by Legislature's Oversight Division for Local Sales Taxes | 3.88% | 3.88% | 3.88% |
| Sales tax revenue from FY 2017 applicants | $0 | $3,331,646 | $3,331,646 |
| Sales tax revenue from FY 2018 applicants | $0 | $4,442,132 | $4,442,132 |
| subtotal local tax revenue | $0 | $7,773,778 | $7,773,778 |

In several instances the fiscal note indicates that anticipated income exceeds anticipated costs. A summary of the Oversight Division's fiscal notes is shown in Table 19: More detailed information about those fiscal notes is outlined below. However, the local sales tax revenues that are estimated in Table 18 far outweigh the minor costs identified.

**Table 19**
**MISSOURI MEDICAL MARIJUANA LEGISLATION**
**SUMMARY OF LOCAL COSTS**
**OVERSIGHT DIVISION FISCAL NOTES**
**2013, 2014, AND 2015 LEGISLATIVE SESSIONS**

| Session | Bill | Local Revenues | Local Costs | Local Net Effect |
|---|---|---|---|---|
| 2015 | SB 395 | Could exceed $787,160 | Unknown | Could exceed $787,160 |
| 2015 | HB 490 | $0 | Could exceed ($310,320) | Could exceed ($310,320) |
| 2015 | HB 800 | Could exceed $787,160 | Unknown to greater than ($310,320) | Could exceed $787,160 to Unknown to greater than ($204,600) |
| 2015 | HB 930 | Unknown | Greater than ($310,320) | Unknown to greater than ($310,320) |
| 2014 | SB 951 | $0 or unknown | None identified | $0 or unknown |
| 2014 | HB 1324 | $0 | $0 | $0 |
| 2013 | HB 688 | N/A | N/A | N/A |

- The Oversight Division reported that a number of local entities said one or more of the various proposals would have no cost to them, would have a limited impact if any, or the minor costs could be absorbed within current budget.
  - Law enforcement - Springfield Police Department , Columbia Police Department, and the Jefferson City Police Department, Cole County Sheriff Department
  - Counties - St. Louis County, Mississippi County, and Callaway County
  - Cities - City of Kansas City, City of Columbia, City of Jefferson City, City of Springfield
  - K-12 Schools - Carondelet Leadership Academy, Kansas City Public Schools, Malta Bend School District, and the Francis Howell School District
  - Higher Education - Linn State Technical College, Metropolitan Community College, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, University of Central Missouri, and the University of Missouri
  - Local Public Health Agencies - Columbia/Boone County Department of Public Health and Human Services, Harrison County Public Health Department and Hospice, and the City of Independence Health Department
  - Fire districts - Central County Fire and Rescue

- A large number of local entities did not respond to the Oversight Division. The most likely reason for lack of response is that they do not anticipate any cost.

- Law enforcement - Boone County Sheriff's Department, Buchanan County Sheriff's Department, Clark County Sheriff's Department, Cole County Sheriff, Columbia Police Department, Independence Police Department, Jackson County Sheriff's Department, Jefferson City Police Department, Jefferson County 911 Dispatch, Platte County Sheriff's Department, St. Charles Police Department, St. Joseph Police Department, St. Louis County Police Department and the St. Louis Metropolitan Police Department

- Counties - Andrew, Atchison, Audrain, Barry, Bates, Bollinger, Boone, Buchanan, Callaway, Camden, Cape Girardeau, Carroll, Cass, Clay, Cole, Cooper, DeKalb, Dent, Franklin, Greene, Holt, Jackson, Jefferson, Johnson, Knox, Laclede, Lawrence, Lincoln, Marion, McDonald, Miller, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Ozark, Perry, Pettis, Platte, Pulaski, Scott, Shelby, St. Charles, St. Louis, St. Francois, Taney, Warren, Wayne, and Worth

- Cities - Ashland, Belton, Bernie, Bonne Terre, Boonville, California, Cape Girardeau, Clayton, Columbia, Dardenne Prairie, Excelsior Springs, Florissant, Frontenac, Fulton, Gladstone, Grandview, Harrisonville, Independence, Jefferson City, Joplin, Kearney, Knob Noster, Ladue, Lake Ozark, Lebanon, Lee Summit, Liberty, Louisiana, Maryland Heights, Maryville, Mexico, Monett, Neosho, O'Fallon, Pacific, Peculiar, Pineville, Popular Bluff, Raytown, Republic, Richmond, Rolla, Sedalia, Springfield, St. Charles, St. Joseph, St. Louis, St. Robert, Sugar Creek, Sullivan, Warrensburg, Warrenton, Webb City, Weldon Spring and West Plains

- K-12 Schools - Blue Springs Public Schools, Branson Public Schools, Carondelet Leadership Academy, Charleston R-I Schools, Cole R-I Schools, Columbia Public Schools, Fair Grove Schools, Fulton Public School, Independence Public Schools, Jefferson City Public Schools, Kirksville Public Schools, Kirbyville R-VI Schools, Lee Summit Public Schools, Malden R-I Schools, Malta Bend Schools, Mexico Public Schools, Monroe City R-I Schools, Nixa Public Schools, Parkway Public Schools, Pattonville Schools, Raymore-Peculiar R-III Schools, Raytown School District, Sedalia School District, Sikeston Public Schools, Silex Public Schools, Special School District of St. Louis County, Spickard School District, St Joseph School District, St Louis Public Schools, St. Charles Public Schools, Sullivan Public Schools and Warren County R-III School District

- Higher Education - Crowder College, East Central Community College, Harris-Stowe, Jefferson College, Lincoln University, Moberly Area Community College, Southeast Missouri State University, State Fair Community College, St. Charles Community College, St. Louis Community College, Three Rivers Community College, Truman State University, and the University of Missouri

- Local Public Health Agencies - Audrain County Health Unit, Cass County Health Department, Clay County Public Health Center, Henry County Health Center, Hickory County Health Department, Howell County Health Department, Jefferson County Health Department, Linn County Health Department, McDonald County Health Department, Madison County Health Department, Marion County Health Department, Miller County Health Center, Morgan County Health Center, Nodaway County Health Center, Platte County Health Department, Polk County Health Center, Pulaski County Health Center and Home Health Agency, Randolph County Health Department, Reynolds County Health Center, Ripley County Health Center, Shelby County Health Department, the St. Francois County Health Center, the St. Joseph Health Department and the Taney County Health Department

- Fire districts - Battlefield Fire Protection District, Centralia Fire Department, Creve Couer Fire District, DeSoto Rural Fire Protection District, Eureka Fire Protection, Hawk Point Fire Protection District, Hillsboro Fire Protection District, Jefferson County 911 Dispatch, Lake

St. Louis Fire District, Mehlville Fire District, Nixa Fire Protection District, Saline Valley Fire Protection District and the Southern Iron County Fire Protection District

- Ambulance districts - Jefferson County 911 Dispatch, St. Charles County Ambulance District, Taney County Ambulance District and Valle Ambulance District

- Hospitals - Barton County Memorial Hospital, Bates County Memorial Hospital, Cedar County Memorial Hospital, Cooper County Hospital, Excelsior Springs Medical Center, Putnam County Memorial Hospital, Washington County Memorial Hospital,

- Only one local entity responded with a specific cost estimate in multiple fiscal notes. The St. Louis County Police Department indicated that four additional officers would be needed to investigate possible diversion of medical marijuana to illegal or recreational use.

- No entity responded with an estimate of any inspection costs for marijuana facilities. Any inspection costs of the various medical marijuana facilities would be covered by local fees already in effect to support those costs at the local level. Thus, there would be no additional uncovered costs that need to be reflected in the fiscal note for this proposal.

**Marijuana bills filed in past three legislative sessions**

The Missouri General Assembly has considered 26 bills during the past three legislative session - 2015, 2014, and 2013. A list of those bills is provided in Table 21 of this document along with links to the bill summaries and the fiscal notes. Fiscal notes were prepared for most but not all of the bills. Only seven of the bills dealt specifically with medical marijuana which are shown in Table 20 below. The other 19 bills dealt with other or more expansive issues such as full legalization, decriminalization, expungement of records, medical hemp, and industrial hemp. This analysis will only discuss the seven medical marijuana bills.

**Table 20**
**MISSOURI MEDICAL MARIJUANA LEGISLATION**
**2013, 2014, AND 2015 LEGISLATIVE SESSIONS**

| Session | Bill | Sponsor | Subject | Bill Summary Link | Fiscal Note Summary Link |
|---|---|---|---|---|---|
| 2015 | SB 395 | Holsman-D | Medical Marijuana | http://www.senate.mo.gov/15info/BTS_Web/Bill.aspx?SessionType=R&BillID=2584380 | http://www.moga.mo.gov/OverSight/Over20151//fispdf/1979-01N.ORG.pdf |
| 2015 | HB 490 | English-I | Medical Marijuana | http://www.house.mo.gov/billsummary.aspx?bill=HB490&year=2015&code=R | http://www.moga.mo.gov/OverSight/Over20151//fispdf/1268-01N.ORG.pdf |
| 2015 | HB 800 | Hinson-R | Medical Marijuana | http://www.house.mo.gov/billsummary.aspx?bill=HB800&year=2015&code=R | http://www.moga.mo.gov/OverSight/Over20151//fispdf/1749-02N.ORG.pdf |
| 2015 | HB 930 | English-I | Medical Marijuana | http://www.house.mo.gov/billsummary.aspx?bill=HB930&year=2015&code=R | http://www.moga.mo.gov/OverSight/Over20151//fispdf/2109-01N.ORG.pdf |
| 2014 | SB 951 | Holsman-D | Medical Marijuana | http://www.senate.mo.gov/14info/BTS_Web/Bill.aspx?SessionType=R&BillID=31394939 | http://www.moga.mo.gov/Oversight/OVER14/fishtm/4158-01N.ORG.htm |
| 2014 | HB 1324 | Ellinger-D | Medical Marijuana | http://www.house.mo.gov/billsummary.aspx?bill=HB1324&year=2014&code=R | http://www.moga.mo.gov/Oversight/OVER14/fishtm/4036-01N.ORG.htm |
| 2013 | HB 688 | Colona-D | Medical Marijuana | http://www.house.mo.gov/billsummary.aspx?bill=HB688&year=2013&code=R | N/A |

**Table 21**
**MISSOURI MARIJUANA AND RELATED LEGISLATION**
**2013, 2014, AND 2015 LEGISLATIVE SESSIONS**

| Session | Bill | Sponsor | Subject | Bill Summary Link | Fiscal Note Summary Link |
|---|---|---|---|---|---|
| 2015 | SB 395 | Holsman-D | Medical Marijuana | http://www.senate.mo.gov/15info/BTS_Web/Bill.aspx?SessionType=R&BillID=2584380 | http://www.moga.mo.gov/OverSight/Over20151//fispdf/1979-01N.ORG.pdf |
| 2015 | HB 490 | English-I | Medical Marijuana | http://www.house.mo.gov/billsummary.aspx?bill=HB490&year=2015&code=R | http://www.moga.mo.gov/OverSight/Over20151//fispdf/1268-01N.ORG.pdf |
| 2015 | HB 800 | Hinson-R | Medical Marijuana | http://www.house.mo.gov/billsummary.aspx?bill=HB800&year=2015&code=R | http://www.moga.mo.gov/OverSight/Over20151//fispdf/1749-02N.ORG.pdf |
| 2015 | HB 930 | English-I | Medical Marijuana | http://www.house.mo.gov/billsummary.aspx?bill=HB930&year=2015&code=R | http://www.moga.mo.gov/OverSight/Over20151//fispdf/2109-01N.ORG.pdf |
| 2014 | SB 951 | Holsman-D | Medical Marijuana | http://www.senate.mo.gov/14info/BTS_Web/Bill.aspx?SessionType=R&BillID=31394939 | http://www.moga.mo.gov/oversight/OVER14/fishtm/4158-01N.ORG.htm |
| 2014 | HB 1324 | Ellinger-D | Medical Marijuana | http://www.house.mo.gov/billsummary.aspx?bill=HB1324&year=2014&code=R | http://www.moga.mo.gov/oversight/OVER14/fishtm/4036-01N.ORG.htm |
| 2013 | HB 688 | Colona-D | Medical Marijuana | http://www.house.mo.gov/billsummary.aspx?bill=HB688&year=2013&code=R | N/A |
| 2015 | SB 386 | Keaveny-D | medical hemp | http://www.senate.mo.gov/15info/BTS_Web/Bill.aspx?SessionType=R&BillID=2501418 | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0274-10P.ORG.pdf |
| 2015 | HB 1183 | Jones, Caleb-R | medical hemp | http://www.house.mo.gov/billsummary.aspx?bill=HB1183&year=2015&code=R | http://www.moga.mo.gov/OverSight/Over20151//fispdf/2156-03N.ORG.pdf |
| 2014 | HB 2238 | Jones, Caleb-R | medical hemp | http://www.house.mo.gov/billsummary.aspx?bill=HB2238&year=2014&code=R | http://www.moga.mo.gov/oversight/OVER14/fishtm/6436-07T.ORG.htm |
| 2015 | SB 255 | Schaaf-R | industrial hemp | http://www.senate.mo.gov/15info/BTS_Web/Bill.aspx?SessionType=R&BillID=1226491 | http://www.moga.mo.gov/OverSight/Over20151//fispdf/1398-01N.ORG.pdf |
| 2015 | HB 701 | Hinson-R | industrial hemp | http://www.house.mo.gov/billsummary.aspx?bill=HB701&year=2015&cod | N/A |

| | | | | | |
|---|---|---|---|---|---|
| | | | | e=R | |
| 2015 | HB 830 | Curtman-R | industrial hemp | http://www.house.mo.gov/billsummary.aspx?bill=HB830&year=2015&code=R | http://www.moga.mo.gov/OverSight/Over20151//fispdf/1840-03N.ORG.pdf |
| 2014 | HB 2054 | Colona-D | industrial hemp | http://www.house.mo.gov/billsummary.aspx?bill=HB2054&year=2014&code=R | http://www.moga.mo.gov/Oversight/OVER14/fishtm/6165-05N.ORG.htm |
| 2013 | SB 358 | Holsman-D | industrial hemp | http://www.senate.mo.gov/13info/BTS_Web/Bill.aspx?SessionType=R&BillID=18713094 | http://www.moga.mo.gov/Oversight/OVER13/fishtm/1748-01N.ORG.htm |
| 2015 | HJR 15 | Ellington-D | legalization | http://www.house.mo.gov/billsummary.aspx?bill=HJR15&year=2015&code=R | N/A |
| 2014 | HJR 86 | Ellington-D | legalization | http://www.house.mo.gov/billsummary.aspx?bill=HJR86&year=2014&code=R | N/A |
| 2015 | SB 560 | Chappelle-Nadal-D | decriminalizes | http://www.senate.mo.gov/15info/BTS_Web/Bill.aspx?SessionType=R&BillID=4721672 | N/A |
| 2015 | HB 978 | Dogan-R | decriminalizes | http://www.house.mo.gov/billsummary.aspx?bill=HB978&year=2015&code=R | http://www.moga.mo.gov/OverSight/Over20151//fispdf/1738-03N.ORG.pdf |
| 2014 | HB 1325 | Ellinger-D | decriminalizes | http://www.house.mo.gov/billsummary.aspx?bill=HB1325&year=2014&code=R | N/A |
| 2014 | HB 1659 | Kelly-D | decriminalizes | http://www.house.mo.gov/billsummary.aspx?bill=HB1659&year=2014&code=R | http://www.moga.mo.gov/Oversight/OVER14/fishtm/5345-01N.ORG.htm |
| 2013 | HB 512 | Ellinger-D | decriminalizes | http://www.house.mo.gov/billsummary.aspx?bill=HB512&year=2013&code=R | http://www.moga.mo.gov/Oversight/OVER13/fishtm/0382-01N.ORG.htm |
| 2015 | HB 1138 | Rhoads-R | excise tax | http://www.house.mo.gov/billsummary.aspx?bill=HB1138&year=2015&code=R | http://www.moga.mo.gov/OverSight/Over20151//fispdf/2072-03N.ORG.pdf |
| 2013 | HB 40 | Roorda-D | excise tax | http://www.house.mo.gov/billsummary.aspx?bill=HB40&year=2013&code=R | N/A |
| 2015 | HB 166 | English-I | expungement | http://www.house.mo.gov/billsummary.aspx?bill=HB166&year=2015&code=R | N/A |

| | | | | | |
|---|---|---|---|---|---|
| 2014 | HB 2234 | Ellington-D | expungement | http://www.house.mo.gov/billsummary.aspx?bill=HB2234&year=2014&code=R | N/A |

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Missouri Senate, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri,** and **Metropolitan Community College**.

**Fiscal Note Summary**

This proposal is estimated to generate additional annual taxes and fees of $17 million to $21 million for state operating costs and veterans programs, $8 million for other state programs, and $7 million for local governments. State operating costs will be significant. Additional local government costs are likely.

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STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-134

November 5, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Sheila Dundon regarding a proposed constitutional amendment to Article I, version 5 (2016-134)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Sheila Dundon on November 4, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-134

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

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SECRETARY OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
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| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

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*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Article I is amended by creating one new section to be known as Section 37 of Article I, to read as follows:

**Section 37. Right to Access Medical Marijuana**

**1. Purposes**

This section is intended to permit state-licensed physicians to recommend marijuana for medical purposes to patients with serious illnesses and medical conditions. The section allows patients with qualifying medical conditions the right to discuss freely with their physicians the possible benefits of medical marijuana use, the right of their physicians to provide professional advice concerning the same, and the right to use medical marijuana for treatment under the supervision of a physician.

This section is intended to make only those changes to Missouri laws that are necessary to protect patients, their primary caregivers, and their physicians from civil and criminal penalties, and to allow for the limited legal production, distribution, sale and purchase of marijuana for medical use. This section is not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes. The section does not allow for the public use of marijuana and driving under the influence of marijuana.

**2. Definitions**

(1) "Administer" means the direct application of marijuana to a qualifying patient by way of any of the following methods:

(a) Ingestion of capsules, teas, oils, and other marijuana-infused products;

(b) Vaporization or smoking of dried flowers, buds, plant material, extracts, or oils;

(c) Application of ointments or balms;

(d) Transdermal patches and suppositories;

(e) Consuming marijuana-infused food products; or

(f) Any other method recommended by a qualifying patient's physician.

(2) "Department" means the Department of Health and Senior Services, or its successor agency.

(3) "Entity" means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(4) "Flowering plant" means a marijuana plant from the time it exhibits the first signs of sexual maturity through harvest.

(5) "Marijuana" means *Cannabis indica*, *Cannabis sativa*, and *Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the plant and marijuana-infused products. "Marijuana" does not include industrial hemp containing a crop-wide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis, or commodities or products manufactured from industrial hemp.

(6) "Marijuana-Infused Products" means products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including but not limited to edible products, ointments, and tinctures.

(7) "Medical Marijuana Cultivation Facility" means a facility licensed by the Department, to acquire, cultivate, process, transport, and sell marijuana to a Medical Marijuana Dispensary Facility or to a Medical Marijuana-Infused Products Manufacturing Facility.

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(8) "Medical Marijuana Dispensary Facility" means a facility licensed by the Department, to acquire, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section.

(9) "Medical Marijuana-Infused Products Manufacturing Facility" means a facility licensed by the Department, to acquire, manufacture, transport, and sell marijuana-infused products to a Medical Marijuana Dispensary Facility.

(10) "Medical use" means the production, possession, delivery, distribution, transportation, or administration of marijuana or a marijuana-infused product, or drug paraphernalia used to administer marijuana or a marijuana-infused product, for the benefit of a qualifying patient to mitigate the symptoms or effects of the patient's qualifying medical condition.

(11) "Physician" means an individual who is licensed and in good standing to practice medicine or osteopathy under Missouri law.

(12) "Physician certification" means a document, whether handwritten, electronic or in another commonly used format, signed by a physician and stating that in the physician's professional opinion, the patient suffers from a qualifying medical condition and is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's qualifying medical condition or symptoms associated with the qualifying medical condition.

(13) "Primary caregiver" means an individual twenty-one years of age or older who has significant responsibility for managing the well-being of a qualifying patient and who is designated as such on the primary caregiver's application for an identification card under this section or in other written notification to the Department.

(14) "Qualifying medical condition" means the condition of, symptoms related to, or side-effects from the treatment of:

(a) Cancer;

(b) Epilepsy;

(c) Glaucoma;

(d) Intractable migraines unresponsive to other treatment;

(e) A chronic medical condition that causes severe, persistent pain or persistent muscle spasms, including but not limited to those associated with multiple sclerosis, seizures, Parkinson's disease, and Tourette's syndrome;

(f) Debilitating psychiatric disorders, including but not limited to post-traumatic stress disorder, if diagnosed by a state licensed psychiatrist;

(g) Human immunodeficiency virus or acquired immune deficiency syndrome;

(h) A chronic medical condition that is normally treated with a prescription medication that could lead to physical or psychological dependence, when a physician determines that medical use of marijuana could be effective in treating that condition and would serve as a safer alternative to the prescription medication;

(i) Any terminal illness; or

(j) In the professional judgment of a physician, any other chronic, debilitating or otherwise equivalent condition, including, but not limited to, hepatitis C, amyotrophic lateral sclerosis, inflammatory bowel disease, agitation of Alzheimer's disease, cachexia, and wasting syndrome.

(15) "Qualifying Patient" means a Missouri resident diagnosed with at least one qualifying medical condition.

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**3. Creating Patient Access to Medical Marijuana**

(1) In carrying out the implementation of this section, the Department shall have the authority to:

(a) Grant or refuse state licenses for the cultivation, manufacture, distribution, and sale of marijuana for medical use as provided by law; suspend, fine, restrict, or revoke such licenses upon a violation of this section or a rule promulgated pursuant to this section; and impose any administrative penalty authorized by this section or any rule promulgated pursuant to this section.

(b) Promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, distribution, and sale of marijuana for medical use and for the enforcement of this section.

(c) Develop such forms, licenses, identification cards, and applications as are necessary or convenient in the discretion of the Department for the administration of this section or any of the rules promulgated under this section;

(d) Require a seed-to-sale tracking system that tracks medical marijuana from either the seed or immature plant stage until the medical marijuana or medical marijuana-infused product is sold to a qualifying patient or primary caregiver at a Medical Marijuana Dispensary Facility to ensure that no medical marijuana grown by a Medical Marijuana Cultivation Facility or manufactured by a Medical Marijuana-Infused Products Manufacturing Facility is sold or otherwise transferred except by a Medical Marijuana Dispensary Facility. If it creates a seed-to-sale tracking system, the Department shall certify, if possible, at least two commercially available systems to licensees as compliant with its tracking standards and issue standards for the creation or use of other systems by licensees.

(e) Prepare and transmit annually a publicly available report accounting to the Governor for the efficient discharge of all responsibilities assigned to the Department under this section;

(2) The Department may issue any rules or emergency rules necessary for the implementation and enforcement of this section and to ensure the right to, availability, and safe use of marijuana for medical use by qualifying patients. In developing such rules or emergency rules, the Department may consult with other public agencies. In addition to any other rules or emergency rules necessary to carry out the mandates of this section, the Department may issue rules or emergency rules relating to the following subjects:

(a) Compliance with, enforcement of, or violation of any provision of this section or any rule issued pursuant to this section, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license issued pursuant to this section;

(b) Specifications of duties of officers and employees of the Department;

(c) Instructions or guidance for local authorities and law enforcement officers;

(d) Requirements for inspections, investigations, searches, seizures, and such additional enforcement activities as may become necessary from time to time;

(e) Creation of a range of administrative penalties for use by the Department;

(f) Prohibition of misrepresentation and unfair practices;

(g) Control of informational and product displays on licensed premises;

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(h) Development of individual identification cards for owners, officers, managers, contractors, employees, and other support staff of entities licensed pursuant to this section, including a fingerprint-based federal and state criminal record check in accordance with U.S. Public Law 92-544, or its successor provisions, as may be required by the Department prior to issuing a card and procedures to ensure that cards for new applicants are issued within fourteen days;

(i) Security requirements for any premises licensed pursuant to this section, including, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the Department to properly administer and enforce the provisions of this section, including reporting requirements for changes, alterations, or modifications to the premises;

(j) Regulation of the storage of, warehouses for, and transportation of marijuana for medical use;

(k) Sanitary requirements for, including, but not limited to, the preparation of medical marijuana-infused products;

(l) The specification of acceptable forms of picture identification that a Medical Marijuana Dispensary Facility may accept when verifying a sale;

(m) Labeling and packaging standards;

(n) Records to be kept by licensees and the required availability of the records;

(o) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(p) The reporting and transmittal of tax payments;

(q) Authorization for the Department of Revenue to have access to licensing information to ensure tax payment and the effective administration of this section; and

(r) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this section.

(3) The Department shall issue rules or emergency rules for a medical marijuana and medical marijuana-infused products independent testing and certification program for medical marijuana licensees and requiring licensees to test medical marijuana using an impartial, independent laboratory to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health and to ensure correct labeling.

(4) The Department shall maintain the confidentiality of reports or other information obtained from an applicant or licensee containing any individualized data, information, or records related to the licensee or its operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans, or revealing any patient information, or any other records that are exempt from public inspection pursuant to state or federal law. Such reports or other information may be used only for a purpose authorized by this section. Any information released related to patients may be used only for a purpose authorized by federal law and this section, including verifying that a person who presented a patient identification card to a state or local law enforcement official is lawfully in possession of such card.

(5) Within ninety days of the effective date of this section, the Department shall make available to the public license application forms and application instructions for Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensary Facilities, and Medical Marijuana-Infused Products Manufacturing Facilities.

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(6) Within ninety days of the effective date of this section, the Department shall make available to the public application forms and application instructions for qualifying patient, qualifying patient cultivation, and primary caregiver identification cards. Within one hundred fifty days of the effective date of this section, the Department shall begin accepting applications for such identification cards.

(7) An entity may apply to the Department for and obtain a license to grow marijuana as a Medical Marijuana Cultivation Facility. Each facility in operation shall require a separate license. Each indoor facility utilizing artificial lighting may be limited by the Department to thirty thousand square feet of flowering plant canopy space. Each outdoor facility utilizing natural lighting may be limited by the Department to two thousand eight hundred flowering plants. Each greenhouse facility using a combination of natural and artificial lighting may be limited by the Department, at the election of the licensee, to two thousand eight hundred flowering plants or thirty thousand square feet of flowering plant canopy space. The license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The Department shall charge each applicant a non-refundable fee of three thousand dollars per license application or renewal. Once granted, the Department shall charge each licensee an annual fee of twenty thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than three Medical Marijuana Cultivation Facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(8) An entity may apply to the Department for and obtain a license to operate a Medical Marijuana Dispensary Facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The Department shall charge each applicant a non-refundable fee of three thousand dollars per license application or renewal. Once granted, the Department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than six Medical Marijuana Dispensary Facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(9) An entity may apply to the Department for and obtain one or more licenses to operate a Medical Marijuana-Infused Products Manufacturing Facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The Department shall charge each applicant a non-refundable fee of three thousand dollars per license application or renewal. Once granted, the Department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than five Medical Marijuana-Infused Products Manufacturing Facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(10) Except for good cause, a qualifying patient or his or her primary caregiver may obtain an identification card from the Department to cultivate up to six flowering marijuana plants for the exclusive use of that qualifying patient. The card shall be valid for twelve months from its date of issuance and shall be renewable with the annual submittal of a new or updated physician's certification. The Department shall charge an annual fee for the card of one hundred dollars, with such rate to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency.

(11) The Department may set a limit on the amount of marijuana that may be purchased by or on behalf of a single qualifying patient in a thirty day period, provided that limit is not less than six ounces of dried, unprocessed marijuana, or its

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equivalent. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons why the qualifying patient needs a greater amount than the limit established by the Department.

(12) The Department may set a limit on the amount of marijuana that may be possessed by or on behalf of each qualifying patient, provided that limit is not less than a sixty day supply of dried, unprocessed marijuana, or its equivalent. A primary caregiver may possess a separate legal limit for each qualifying patient under their care and a separate legal limit for themselves if they are a qualifying patient. Qualifying patients cultivating marijuana for medical use may possess up to a ninety day supply, so long as the supply remains on property under their control. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons for additional amounts. Possession of between the legal limit and up to twice the legal limit shall subject the possessor to Department sanctions, including an administrative penalty and loss of their patient identification card for up to a year. Purposefully possessing amounts in excess of twice the legal limit shall be punishable by imprisonment of up to one year and a fine of up to two thousand dollars.

(13) The Department may restrict the aggregate number of licenses granted for Medical Marijuana Cultivation Facilities, provided, however, that the number may not be limited to fewer than one license per every eighty thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. In any year, if the number of qualifying applicants and any renewals exceed such a restriction, the Department shall, after renewing all qualifying licenses, rank new applicants using the following factors: site security; capacity or experience with agriculture, horticulture, health care, or a legal cannabis market; acceptance in the site community; potential for positive economic impact in the site community; and maintaining competitiveness in the marijuana for medical use marketplace. In ranking applicants and awarding licenses, the Department may consult or contract with other public agencies with relevant expertise regarding these factors. The Department shall lift or ease any limit on the number Medical Marijuana Cultivation Facilities to meet the demand for medical marijuana by qualifying patients.

(14) The Department may restrict the aggregate number of licenses granted for Marijuana-Infused Products Manufacturing Facilities, provided, however, that the number may not be limited to fewer than one license per every fifty thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. In any year, if the number of qualifying applicants and any renewals exceed such a restriction, the Department shall, after renewing all qualifying licenses, rank new applicants using the following factors: site security; capacity or experience with food and beverage manufacturing or a legal cannabis market; acceptance in the site community; potential for positive economic impact in the site community; and maintaining competitiveness in the marijuana for medical use marketplace. In ranking applicants and awarding licenses, the Department may consult or contract with other public agencies with relevant expertise regarding these factors.

(15) If a county has restricted the number of licenses for Medical Marijuana Dispensary Facilities, then, in any year that the number of qualifying applicants and any renewals exceed such restriction, the Department shall, after renewing all qualifying licenses, rank new applicants using the following factors: site security; experience or capacity with health care or a legal cannabis market; acceptance in the site community; potential for positive economic impact in the site community; and maintaining competitiveness in the marijuana for medical use marketplace. In ranking applicants and awarding licenses, the Department may consult or contract with other public agencies with relevant expertise regarding these factors.

(16) The Department shall begin accepting license applications for Medical Marijuana Dispensary Facilities, Medical Marijuana Cultivation Facilities, and Medical Marijuana-Infused Products Manufacturing Facilities no later than one hundred fifty days after the effective date of this section. Applications for licenses under this section shall be approved or denied by the Department no later than one hundred fifty days after their submission. If the Department fails to carry out its non-

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discretionary duty to approve or deny an application within one hundred fifty days of submission, an applicant may immediately seek a court order compelling the Department to approve or deny the application.

(17) Qualifying patients under this section shall obtain and annually renew an identification card or cards from the Department. The Department shall charge a fee of twenty-five dollars per year per card with such fee to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor or its successor agency. Upon receiving an application for a qualifying patient identification card or qualifying patient cultivation identification card, the Department shall, within thirty days, either issue the card or provide a written explanation for its denial. If the Department fails to issue a card to an eligible qualifying patient within thirty days, then their physician certification shall serve as their patient identification card or qualifying patient cultivation identification card for up to one year from the date of physician certification. All initial applications for or renewals of a qualifying patient identification card or qualifying patient cultivation identification card shall be accompanied by a physician certification that is less than thirty days old.

(18) Primary caregivers under this section shall obtain and annually renew an identification card from the Department. The Department shall charge a fee of twenty-five dollars per year, with such fee to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. Upon receiving an application for a primary caregiver identification card, the Department shall, within thirty days, either issue the card or provide a written explanation for its denial.

(19) All marijuana for medical use sold in Missouri shall be cultivated in a licensed Medical Marijuana Cultivation Facility located in Missouri.

(20) All marijuana-infused products for medical use sold in the state of Missouri shall be manufactured in a Medical Marijuana-Infused Products Manufacturing Facility.

(21) The denial of a license, license renewal, or identification card by the Department shall be appealable to the Administrative Hearing Commission, or its successor entity. Following the exhaustion of administrative review, denial of a license, license renewal, or identification card by the Department shall be subject to judicial review as provided by law.

(22) No elected official shall interfere directly or indirectly with the Department's obligations and activities under this section.

**4. Taxation and Reporting**

(1) A tax is levied upon the retail sale of marijuana for medical use sold at Medical Marijuana Dispensary Facilities within the state. The tax shall be at a rate of four percent of the retail price. The tax shall be collected by each licensed Medical Marijuana Dispensary Facility and paid to the Department of Revenue. After retaining no more than five percent for its actual collection costs, amounts generated by the tax levied in this section shall be deposited by the Department of Revenue into the Missouri Veterans' Health and Care Fund. Licensed entities making retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.

(2) There is hereby created in the state treasury the "Missouri Veterans' Health and Care Fund," which shall consist of taxes and fees collected under this section. The State Treasurer shall be custodian of the fund, and he or she shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund. Notwithstanding any other provision of law, any moneys remaining in the fund at the end of a biennium shall not revert to the credit of the general revenue fund. The Commissioner of Administration is authorized to make cash operating transfers to the fund for purposes of meeting the cash requirements of the Department in advance of it

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receiving annual application, licensing, and tax revenue, with any such transfers to be repaid as provided by law. The fund shall be a dedicated fund and shall stand appropriated without further legislative action as follows:

(a) First, to the Department, an amount necessary for the Department to carry out this section, including repayment of any cash operating transfers, payments made through contract or agreement with other state and public agencies necessary to carry out this section, and a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out this section;

(b) Next, the remainder of such funds shall be transferred to the Missouri Veterans Commission for health and care services for military veterans, including the following purposes: operations, maintenance and capital improvements of the Missouri Veteran's Homes, the Missouri Service Officer's Program, and other services for veterans approved by the Commission, including but not limited to: health care services, mental health services, drug rehabilitation services, housing assistance, job training, tuition assistance, and housing assistance to prevent homelessness. The Missouri Veterans Commission shall contract with other public agencies for the delivery of services beyond its expertise.

(c) All moneys from the taxes authorized under this subsection shall provide additional dedicated funding for the purposes enumerated above and shall not replace existing dedicated funding.

(3) For all retail sales of marijuana for medical use, a record shall be kept by the seller which identifies by secure and encrypted patient number issued by the seller to the qualifying patient involved in the sale, all amounts and types of marijuana involved in the sale and the total amount of money involved in the sale, including itemizations, taxes collected and grand total sale amounts. All such records shall be kept on the premises in a readily available format and be made available for review by the Department and the Department of Revenue upon request. Such records shall be retained for five years from the date of the sale.

(4) The tax levied pursuant to this subsection is separate from and in addition to any general state and local sales and use taxes that apply to retail sales, which shall continue to be collected and distributed as provided by general law.

(5) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of marijuana for medical use.

**5. Additional Patient, Physician, Caregiver and Provider Protections**

(1) Except as provided in this section, the possession of marijuana in quantities less than the limits of this section or established by the Department and transportation of marijuana from a Medical Marijuana Dispensary Facility to the qualifying patient residence shall not subject the possessor to arrest, criminal or civil liability, or sanctions under Missouri law, provided that the possessor produces on demand to the appropriate authority a valid qualifying patient identification card; a valid patient cultivation identification card; a valid physician certification while making application for an identification card; or a valid primary caregiver identification card. Production of the respective equivalent identification card or authorization issued by another state or political subdivision of another state shall also meet the requirements of this subdivision.

(2) No patient shall be denied access to or priority for an organ transplant because they hold a qualifying patient identification card or use marijuana for medical use.

(3) A physician shall not be subject to criminal or civil liability or sanctions under Missouri law or discipline by the Missouri State Board of Registration for the Healing Arts, or its successor agency, for issuing a physician certification to a patient diagnosed with a qualifying medical condition in a manner consistent with this section and legal standards of professional conduct.

(4) A health care provider shall not be subject to civil or criminal prosecution, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for providing health

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care services that involve the medical use of marijuana consistent with this section and legal standards of professional conduct.

(5) A testing laboratory shall not be subject to civil or criminal prosecution, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for providing laboratory testing services that relate to the medical use of marijuana consistent with this section and otherwise meeting legal standards of professional conduct.

(6) A health care provider shall not be subject to mandatory reporting requirements for the medical use of marijuana by non-emancipated qualifying patients under eighteen years of age in a manner consistent with this section and with consent of a parent or guardian.

(7) A primary caregiver shall not be subject to criminal or civil liability or sanctions under Missouri law for purchasing, transporting, or administering marijuana for medical use by a qualifying patient or participating in the patient cultivation of up to six flowering marijuana plants per patient in a manner consistent with this section and generally established legal standards of personal or professional conduct.

(8) An attorney shall not be subject to disciplinary action by the state bar association or other professional licensing body for providing legal assistance to prospective or licensed Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensary Facilities, Medical Marijuana-Infused Products Manufacturing Facilities, qualifying patients, primary caregivers, physicians, health care providers or others related to activity that is no longer subject to criminal penalties under state law pursuant to this section.

(9) Actions and conduct by Qualifying Patients, Primary Caregivers, Medical Marijuana Cultivation Facilities, Medical Marijuana-Infused Products Manufacturing Facilities, or Medical Marijuana Dispensary Facilities licensed or registered with the Department, or their employees or agents, as permitted by this section and in compliance with Department regulations and other standards of legal conduct, shall not be subject to criminal or civil liability or sanctions under Missouri law, except as provided for by this section.

(10) Nothing in this section shall provide immunity for negligence, either common law or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of marijuana.

(11) It is the public policy of the state of Missouri that contracts related to marijuana for medical use that are entered into by Qualifying Patients, Primary Caregivers, Medical Marijuana Cultivation Facilities, Medical Marijuana-Infused Products Manufacturing Facilities, or Medical Marijuana Dispensary Facilities and those who allow property to be used by those entities, should be enforceable. It is the public policy of the state of Missouri that no contract entered into by Qualifying Patients, Primary Caregivers, Medical Marijuana Cultivation Facilities, Medical Marijuana-Infused Products Manufacturing Facilities, or Medical Marijuana Dispensary Facilities, or by a person who allows property to be used for activities that are exempt from state criminal penalties by this section, shall be unenforceable on the basis that activities related to medical marijuana may be prohibited by federal law.

**6. Legislation**

Nothing in this section shall limit the General Assembly from enacting laws consistent with this section, or otherwise effectuating the patient rights of this section. The legislature shall not enact laws that hinder the right of qualifying patients to access marijuana for medical use as granted by this section

**7. Additional Provisions**

(1) Nothing in this section permits a person to:

(a) Consume marijuana for medical use in a jail or correctional facility;

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(b) Undertake any task under the influence of marijuana when doing so would constitute negligence or professional malpractice; or

(c) Operate, navigate, or be in actual physical control of any dangerous device or motor vehicle, aircraft or motorboat while under the influence of marijuana; or

(d) Bring a claim against any employer, former employer, or prospective employer for wrongful discharge, discrimination, or any similar cause of action or remedy, based on the employer, former employer, or prospective employer prohibiting the employee, former employee, or prospective employee from being under the influence of marijuana while at work or disciplining the employee or former employee, up to and including termination from employment, for working or attempting to work while under the influence of marijuana.

(2) No Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility shall be owned, in whole or in part, or have as an officer, director, board member, manager, or employee, any individual with a disqualifying felony offense. A "disqualifying felony offense" is a violation of, and conviction or guilty plea to, state or federal law that is, or would have been, a felony under Missouri law, regardless of the sentence imposed, unless the Department determines that:

(a) The person's conviction was for the medical use of marijuana or assisting in the medical use of marijuana; or

(b) The person's conviction was for a non-violent crime for which he or she was not incarcerated and that is more than five years old; or

(c) More than five years have passed since the person was released from parole or probation, and he or she has not been convicted of any subsequent criminal offenses.

The Department may consult with and rely on the records, advice and recommendations of the Attorney General and the Department of Public Safety, or their successor entities, in applying this subdivision.

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(3) All Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility licenses shall be held by entities that are majority owned by natural persons who have been citizens of the state of Missouri for at least one year prior to the application for such license or licenses. Notwithstanding the forgoing, entities outside the state of Missouri may own a minority stake in such entities.

(4) A county may require a site permit for a Medical Marijuana Dispensary Facility utilizing generally applicable permitting standards. In addition, by February 1, 2017, a county may limit the number of site permits to be granted for Medical Marijuana Dispensary Facilities, provided, however, that the number may not be limited to fewer than one site for every thirty thousand inhabitants, or any portion thereof, in such county, according to the most recent census of the United States. After a county's initial site permit limit notification, a county shall notify the Department of any change to its site permit limit within ten days of such decision; however, the number of site permits shall not be less than the number of licenses previously issued by the Department for that county.

(5) No Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility shall manufacture, package or label marijuana or marijuana-infused products in a false or misleading manner. No person shall sell any product in a manner designed to cause confusion between a marijuana or marijuana-infused product and any product not containing marijuana. A violation of this subdivision shall be punishable by an appropriate and proportional Department sanction, up to and including loss of license.

(6) All edible marijuana-infused products shall be sold in individual, child-resistant containers that are labeled with dosage amounts, instructions for use, and estimated length of effectiveness. All marijuana and marijuana-infused products shall be sold in containers clearly and conspicuously labeled, in a font size at least as large as the largest other font size used on the package, as containing "Marijuana," or a

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"Marijuana-Infused Product." Violation of this prohibition shall subject the violator to Department sanctions, including an administrative penalty.

(7) No individual shall serve as the primary caregiver for more than three qualifying patients.

(8) No qualifying patient shall consume marijuana for medical use in a public place. Violation of this prohibition shall subject the violator to sanctions as provided by general law.

(9) No person shall extract resins from marijuana using dangerous materials or combustible gasses without a Medical Marijuana-Infused Products Manufacturing Facility license. Violation of this prohibition shall subject the violator to Department sanctions, including an administrative penalty and loss of their identification card or license for up to one year.

(10) All patient cultivation shall take place in an enclosed, locked facility that is equipped with security devices that permit access only by the qualifying patient or by such patient's primary caregiver. Two qualifying patients, who both hold valid patient cultivation identification cards, may share one enclosed, locked facility. No more than twelve patient or primary caregiver cultivated flowering marijuana plants may be cultivated in a single, enclosed locked facility, except when a primary caregiver also holds a patient cultivation identification card, in which case no more than eighteen flowering marijuana plants may be cultivated in a single, enclosed, locked facility.

(11) No Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility shall assign, sell, give, lease, sublicense, or otherwise transfer its license to any other entity without the express consent of the Department, not to be unreasonably withheld.

(12) Unless allowed by the local government, no new Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility shall be initially sited within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church. No local government shall prohibit Medical Marijuana Cultivation Facilities, Medical Marijuana-Infused Products Manufacturing Facilities, or Medical Marijuana Dispensary Facilities, either expressly or through the enactment of ordinances or regulations that make their operation unduly burdensome in the jurisdiction. However, local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place, and manner of such facilities in the locality. A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of operation of a Medical Marijuana Cultivation Facility, Medical Marijuana Infused Products Manufacturing Facility, or Medical Marijuana Dispensary Facility that may operate in such locality.

(13) Unless superseded by federal law or an amendment to this Constitution, a physician shall not recommend the medical use of marijuana to a patient by any means other than providing a physician certification for the patient, whether handwritten, electronic or in another commonly used format. In any year, no physician shall issue more physician certifications than a number equivalent to twenty-five percent of their total number of prescriptions for other drugs. A qualifying patient must obtain a new physician certification at least annually.

(14) A physician shall not issue a certification for the medical use of marijuana for a non-emancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. The Department shall not issue a patient identification card on behalf of a non-emancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. Such card shall be issued to one of the parents or guardians and not directly to the patient. Only a parent or guardian may serve as a primary caregiver for a non-emancipated qualifying patient under the age of eighteen. Only the qualifying patient's parent or guardian shall purchase or possess

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medical marijuana for a non-emancipated patient under the age of eighteen. A parent or guardian shall supervise the administration of medical marijuana to a non-emancipated patient under the age of eighteen

(15) Nothing in this section shall be construed as mandating health insurance coverage of medical marijuana for qualifying patient use.

(16) Real and personal property used in the cultivation, manufacture, transport, testing, distribution, sale, and administration of marijuana for medical use or for activities otherwise in compliance with this section shall not be subject to asset forfeiture solely because of that use.

**8. Severability**

The provisions of this section are severable, and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, the other provisions shall continue to be in effect to the fullest extent possible.

**9. Effective Date**

The provisions of this section shall become effective on December 8, 2016, as provided by this Constitution.

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**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-134)**

**Subject**

Initiative petition from Sheila Dundon regarding a proposed constitutional amendment to Article I of the Constitution of Missouri. (Received November 5, 2015)

**Date**

November 25, 2015

**Description**

This proposal would amend Article I of the Constitution of Missouri.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College**.

**Mark R. Reading** provided information as a proponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** (DHSS) submitted the following information regarding their estimate of what it would cost to implement the initiative petition within the timeframes specified therein. However, it should be noted that their department has serious concerns that it may not be possible to meet the specified timeframes, as follows:

Staffing/hiring – If the measure passed in early November, they would have roughly one month before it took effect on December 8, 2016—which is not enough time to have staff on board. DHSS is a Merit System agency, and it takes roughly two months for Merit System hires. That would be an enormous problem because of the requirements that they draft application forms/instructions and make them available to the public within a short time period and then act on them shortly thereafter. Even drafting emergency rules in such a short time period would be extremely difficult. DHSS does not have extra staff that could be reassigned to such tasks until such time as new staff could be hired.

Funding – Their estimates of revenue and expenditures indicate a multi-million dollar negative impact in the first fiscal year. The initiative petitions state that funding will "stand appropriated without further legislative action" and specify that the Commissioner of Administration can loan money to the newly created fund. However, that would not appear to solve the problem because their estimates project a negative impact in the first year—so they could not pay back whatever amount was borrowed. Also, it is worth noting that the fund that normally makes such cash flow loans is the Budget Reserve Fund. By law it must be repaid by May 15th of each fiscal year, so any borrowing must be repaid within the same fiscal year.

The DHSS indicated a total estimated net negative effect on state funds of $2,069,118 for fiscal year (FY) 2017 and a total estimated positive effect on state funds of $6,708,418 for FY 2018.

This proposal is not an entire duplication; however, Section 192.945, RSMo, allows the DHSS to issue a hemp extract registration card for persons suffering from intractable epilepsy. The hemp extract registration card allows for the legal possession and use of

cannabidiol (CBD) oil. This proposal allows for the legal use of marijuana for persons who are issued a registration card due to a debilitating medical condition. Under this proposal, patients with intractable epilepsy could also qualify to receive a registration card for medical marijuana use.

Rental space would be needed for 89 full-time employees (FTE) located in Jefferson City: 89 FTE x 230 sq ft/FTE x $16.75/sq. ft. = $342,872.50.

The proposed language would legalize the use of marijuana for medicinal purposes. There could be an unknown impact on small businesses that serve as cultivators, manufacturers, or dispensary facilities.

The proposed constitutional amendment requires the DHSS to issue annual registrations for patients and their designated caregivers, patient and caregiver cultivators, medical marijuana cultivation facilities, medical marijuana dispensary facilities, and medical marijuana-infused products manufacturing facilities.

The proposal allows for the following registration/license fees to be collected:

| | Initial Application and Annual Renewal | |
|---|---|---|
| Qualifying Patient ID Card | $25.00 | |
| Primary Caregiver ID Card | $25.00 | |
| Patient or Caregiver Cultivation ID Card | $100.00 | |
| | Initial Application Fee & Renewal License Application Fee (3 yr. license) | Annual Licensing Fee |
| Medical Marijuana Cultivation Facility License | $3,000 | $20,000 |
| Medical Marijuana Dispensary Facility License | $3,000 | $10,000 |
| Medical Marijuana-Infused Products Manufacturing License | $3,000 | $10,000 |

The provisions of this section shall become effective on December 8, 2016. According to the proposed provisions of this section, DHSS shall make available to the public all license application forms and the application forms for qualifying patients, caregivers, and qualifying patient cultivation identification cards within 90 days of the effective date

of the section. DHSS shall accept all applications no later than 150 days following the effective date of this section. For purposes of this fiscal note, it is assumed that the first fees for license applications and identification cards would be collected May 1, 2017 (FY 2017).

The estimations for the number of each type of registration and license issued each year are detailed later in this response. The total estimate of collected fees equals $945,050 for FY 2017 and $13,710,250 for FY 2018.

Section 37.3(2)(e) allows DHSS to issue rules creating a range of administrative penalties related to implementation and enforcement of rules that ensure the right to, availability, and safe use of marijuana for medical use. These administrative penalties could include penalty fees but the fee amounts and frequency of penalties issued is unknown at this time.

Section 37.4(1) of the proposed amendment mandates each licensed Medical Marijuana Dispensary facility to collect a four percent tax on the retail sale of all medical marijuana products sold to be collected by the Department of Revenue (DOR). The amount of tax that will be collected is unknown and is referred to the DOR for these estimations.

The DOR may retain up to five percent of the annual taxes collected. The rest of the tax collected is to be deposited by the DOR into the Missouri Veterans' Health Care Fund. This fund shall consist of all fees and taxes collected by this proposed section.

**Division of Community and Public Health (DCPH)**

Section 37.3(1) authorizes DHSS to grant or refuse licenses for the cultivation, manufacture, distribution, and sale of marijuana for medical use as provided by the provisions of Section 37. This section also authorizes DHSS to suspend, fine, restrict, or revoke such licenses upon any violation of this section or a rule promulgated by DHSS pursuant to this section. DHSS shall develop such rules, forms, licenses, identification cards, and applications as necessary to implement provisions of this section. DHSS is also required to certify at least two commercially available software products that licensees must use for seed-to-sale tracking standards. DHSS is to prepare annually a publicly available report accounting to the Governor for the efficient discharge of all responsibilities assigned to them by this section.

Section 37.3(2) permits DHSS to issue any rules necessary to ensure the right to, availability and safe use of marijuana for medical use by qualifying patients. This includes addressing: requirements for inspections, investigations, searches, seizures, and such additional enforcement activities that may become necessary; the creation of a range of administrative penalties; development of individual identification cards for owner, officers, managers, contractors, employees, and other support staff of entities licensed pursuant to this section; security requirements for any premises licensed; regulation of the storage and transportation of marijuana for medical use; sanitary requirements for the preparation of medical marijuana-infused products; labeling and packaging standards;

and records to be kept by the licensees, state licensing procedures for initial licenses, renewals and reinstatements.

Section 37.3(3) requires DHSS to issue rules regarding independent testing and certification for medical marijuana licensees to ensure products that are sold for human consumption are correctly labeled and do not contain contaminants that are injurious to health.

Section 37.3(5) requires DHSS to make available to the public license application forms (for all types of licensees) and instructions within 90 days of the effective date of this section.

Section 37.3(6) requires DHSS to make available to the public application forms and accompanying instructions for qualified patients, qualified patient or caregiver cultivation, and primary caregiver identification cards within 90 days of the effective date of this section. The DHSS is also required to accept these applications within 150 days of the effective date of this section.

Section 37.3(16) requires DHSS to begin accepting medical marijuana cultivating, dispensing, and manufacturing facility license applications no later than 150 days from the effective date and shall either approve or deny within 150 days after submission.

Section 37.3(17) requires DHSS to process a qualifying patient identification card within 30 days of receipt of the application.

Section 37.3(18) requires DHSS to process a primary caregiver identification card within 30 days of receipt of the application.

**Information Technology Services Division (ITSD)**

Support of an IT vendor to build a data system to support the administration and reporting requirements indicated in Section 37 of Article I (Right to Access Medical Marijuana). The system would be used by the department to process applications to include issuance of licenses and identification cards.

**Division of Administration**

Specific program impact for the DHSS is in the Division of Community and Public Health. However, application and license transactions will have associated fees, which impacts the Division of Administration.

**Office of General Counsel**

One full-time attorney would be needed to assist in drafting emergency and proposed regulations and forms; perform legal research and provide day-to-day legal counsel to the program; and represent the department in appeals of licensure and identification card denials.

The proposed amendment requires DHSS to adjust (increase or decrease) registration and license fees according to the Consumer Price Index as published by the U.S. Department of Labor. The change in fees collected (increase or decrease) due to this provision is unable to be determined at this time.

**Division of Community and Public Health (DCPH)**

**Applications for Patient and Caregiver Identification**

Section 37 requires DHSS to issue registration cards for qualified patients and their caregivers. An October 2014 study by the nonprofit entity ProCon organization published the rates of patient registration cards issued for each state with a medical marijuana program (http://medicalmarijuana.procon.org/view.resource.php?resourceID=005889). This study found that Oregon was issuing qualified patient cards at a ratio of 17.7 per 1,000 patient populations. For purposes of this fiscal note, the State of Oregon's program will be benchmarked in regards to the number of patient and primary caregiver registrants. While the Oregon program was initiated in May 1999 and therefore has an established program, the state of Missouri's chronic disease rates are generally higher and the qualifying medical conditions accepted under Missouri's proposal are broader than those of Oregon.

Calculation of applications:

- Patients: According to the 2014 U.S. Census Bureau information, Missouri's population is at 6,063,589. Applying the rate of 17.7 applications per 1,000 residents, Missouri would estimate issuing 107,326 patient registration cards annually (6,063,589/1,000 x 17.7).
- Caregivers: According to the October 1, 2015 data on Oregon's Medical Marijuana Program Website, the ratio of patient registration cards to caregiver cards is calculated at 2.09. Calculating this same ratio, Missouri would estimate issuing 51,352 caregiver cards annually (107,326/2.09).

The proposed effective date of the medical marijuana program is December 8, 2016. DHSS is required to have the applications for the qualifying patient and caregiver identification cards available within 90 days of the effective date (March 8, 2017). Section 37.3(6) requires DHSS to begin accepting applications for the qualifying patient and caregiver cards no later than 150 days from the effective date (May 8, 2017). For purposes of this fiscal note analysis, it is assumed that DHSS will begin accepting applications May 1, 2017 and will receive 15 percent of the expected annual registrations within the remaining two months of FY 2017 (107,326 x .15 = 16,099 patient cards, 51,352 x .15 = 7,703 caregiver cards). In FY 2018, DHSS will receive the remaining 85 percent of the expected annual registration applications (107,326 x .85 = 91,227 patient cards, 51,352 x .85 = 43,649 caregiver cards). DHSS will collect an application fee of $25 per card, per Section 37.3(17) and 37.3(18). It is assumed that the fees will be collected in the same fiscal year the applications are received.

| | FY 2017 | FY 2018 |
|---|---|---|
| Qualifying Patient Initial Applications | 16,099 | 91,227 |
| Qualifying Patient Renewal Applications | 0 | 16,099 |
| Caregiver Initial Applications | 7,703 | 43,649 |
| Caregiver Renewal Applications | 0 | 7,703 |
| Total Patient & Caregiver Identification Cards | 23,802 | 158,678 |
| Total Patient & Caregiver Application Fees | $595,050 | $3,966,950 |

**Applications for Patient or Caregiver Cultivation Identification Cards**

Section 37 requires DHSS to issue identification cards for a qualifying patient or his or her primary caregiver for purposes of cultivating up to six flowering marijuana plants for the exclusive use of the qualifying patient. For purposes of this fiscal note, it is estimated that 10 percent of the qualifying patients will grow marijuana for themselves or it will be grown by their designated primary caregiver. Therefore, it is estimated that 1,610 cultivation cards will be issued in FY 2017 (16,099 x .10), and 10,733 (107,326 x .10) will be issued in FY 2018. DHSS will collect an annual application fee of $100 per Section 37.3(10).

| | FY 2017 | FY 2018 |
|---|---|---|
| Cultivation Initial Applications | 1,610 | 9,123 |
| Cultivation Renewal Applications | 0 | 1,610 |
| Total Cultivation Identification Cards | 1,610 | 10,733 |
| Total Cultivation Identification Fees | $161,000 | $1,073,300 |

**Application and Licensing of Medical Marijuana Cultivation Facilities**

Section 37 authorizes the DHSS to establish the application and licensing process of medical marijuana cultivation facilities. For purposes of this fiscal note analysis, it is estimated that 76 facilities will apply and become licensed to fully operate cultivation facilities by the end of FY 2018. This estimate is based on the assumption that DHSS will limit the number of cultivation facilities licensed at the minimum required of one facility per 80,000 residents (6,063,589 Missouri residents/80,000 residents per facility = 76 facilities as allowed per Section 37.3(13). Since DHSS must accept applications within 150 days of the effective date of the proposal but has 150 days to process an application for licensure, DHSS will begin collecting application fees in FY 2017 but will not collect the first license fees until FY 2018. The proposed amendment sets the application fee at $3,000 with an additional $20,000 fee for each year of the license. The initial application is valid for a three year license period.

| | FY 2017 | FY 2018 |
|---|---|---|
| Cultivation Facility Applications | 8 | 68 |
| Cultivation Facility Application Fees ($3,000) | $24,000 | $204,000 |
| Cultivation Facility Annual Licenses | 0 | 76 |
| Cultivation Facility Annual License Fees ($20,000) | $0 | $1,520,000 |
| Total Cultivation Application & License Fee | $24,000 | $1,724,000 |

**Application and Licensing of Medical Marijuana Dispensing Facilities**

Section 37 authorizes the DHSS to establish the application and licensing process of medical marijuana dispensing facilities. For purposes of this fiscal note analysis, it is estimated that 386 facilities will apply and become licensed to fully operate dispensing facilities by the end of FY 2018. This estimate is based on the assumption that an average dispensing facility will serve 250 qualified patients (excluding those who have a cultivation identification card). This estimate is based on the current (October 2015) ratio of registered dispensing facilities to qualifying patients seen in the state of Oregon. Since DHSS must accept applications within 150 days of the effective date of the proposal but has 150 days to process an application for licensure, DHSS will begin collecting application fees in FY 2017 but will not collect the first license fees until FY 2018. The proposed amendment sets the application fee at $3,000 with an additional $10,000 fee for each year of the license. The initial application is valid for a three year license.

| | FY 2017 | FY 2018 |
|---|---|---|
| Dispensing Facility Applications | 39 | 347 |
| Dispensing Facility Application Fees | $117,000 | $1,041,000 |
| Dispensing Facility Annual Licenses | 0 | 386 |
| Dispensing Facility Annual License Fees ($10,000) | $0 | $3,860,000 |
| Total Dispensing Application & License Fee | $117,000 | $4,901,000 |

**Application and Licensing of Medical Marijuana-Infused Products Manufacturing Facilities**

Section 37 authorizes the DHSS to establish the application and licensing process of medical marijuana-infused products manufacturing facilities. For purposes of this fiscal note analysis, it is estimated that 161 facilities will apply and become licensed to fully operate medical marijuana-infused products manufacturing facilities by the end of FY 2018. This estimate is based on the assumption that an average dispensing facility will serve 600 qualified patients (excluding those who have a cultivation identification card).

This estimate is based on the current (October 2015) ratio of registered dispensing facilities to qualifying patients seen in the state of Colorado. Since DHSS must accept applications within 150 days of the effective date of the proposal but has 150 days to process an application for licensure, DHSS will begin collecting application fees in FY 2017 but will not collect the first license fees until FY 2018. The proposed amendment sets the application fee at $3,000 with an additional $10,000 fee for each year of the license. The initial application is valid for a three year license.

| | FY 2017 | FY 2018 |
|---|---|---|
| Manufacturing Facility Applications | 16 | 145 |
| Manufacturing Facility Application Fees ($3,000) | $48,000 | $435,000 |
| Manufacturing Facility Annual Licenses | 0 | 161 |
| Manufacturing Facility Annual License Fees ($10,000) | $0 | $1,610,000 |
| Total Manufacturing Application & License Fee | $48,000 | $2,045,000 |

Total Revenue in Application and Licensing Fees

| | FY 2017 | FY 2018 |
|---|---|---|
| Patient & Caregiver Application Fees | $595,050 | $3,966,950 |
| Patient or Caregiver Cultivation Fees | $161,000 | $1,073,300 |
| Cultivation Facility Fees | $24,000 | $1,724,000 |
| Dispensing Facility Fees | $117,000 | $4,901,000 |
| Infused Products Manufacturing Fees | $48,000 | $2,045,000 |
| **Total Fees** | **$945,050** | **$13,710,250** |

**Program Operations: Staffing**

Section 37 requires the establishment of a medical marijuana program through promulgation of rules and implementation of those rules for administration of patient and caregiver identification cards; patient or caregiver cultivation identification cards; and licensing of medical marijuana cultivation facilities, dispensing facilities and infused products manufacturing facilities. This also includes the development of all program applications and forms, identification cards, and a computerized database system to allow for the electronic storage of and processing of data needed to issue identification cards and licenses. As a result, DCPH anticipates the need to hire the following staff beginning on December 8, 2016 (FY 2017) to begin development of the program/system:

One Program Manager Broad Band 2 ($65,000) – will serve as Chief of the Medical Marijuana Bureau. Duties will include overall program management, including

involvement in rule promulgation, development of forms, program policies and procedures, information system development, and initial program set-up. This position will also supervise the two Unit (Program) Coordinators, two Investigator III positions, a Health Program Representative III, and a Bureau Administrative Office Support Assistant.

Two Program Coordinators (A30, $49,128, Step H) – will serve as Unit Coordinators. One Unit will be responsible for processing patient and caregiver applications, including patient or caregiver cultivation applications. The other unit will be responsible for the applications and licensing of the medical marijuana cultivation facilities, dispensing facilities, infused-products manufacturing facilities. These positions will be involved in the initial program development with the Bureau Chief, hiring of staff, and development of training for staff. Once the program is operational, the Coordinators responsibilities extend to implementation and maintenance of the program, responsibility for meeting application decision deadlines, and ongoing management responsibilities.

One Health Program Representative III (A24, $38,928. Step B) – duties will include assistance in rule promulgation, program policies and procedures, forms development, information system development/troubleshooting and maintenance, and initial program set-up. This position will serve as the liaison between the Units and IT work on system maintenance and enhancements. This position will also be responsible for establishing materials to educate the public about the program and exhibiting at conferences or other venues to education physicians and the general public.

One Administrative Office Support Assistant (A15, $28,104, Step F) – duties will include providing administrative assistance to the Bureau Chief, Program Coordinators, Investigators, Inspectors, and HPR III positions. As allowed, this position will also assist in initial processing of patient and caregiver applications for registration cards.

The following staff will be hired effective March 1, 2017, upon release of the application forms for patients and caregivers, patient or caregiver cultivators, and facility licenses:

Two Investigator III positions (A25, $40,380, Step G) – these positions will investigate all instances/complaints of possible fraud or negligence on the behalf of a recommending physician, a registered patient and/or caregiver, a cultivator, or a medical marijuana facility. With a new program of this size and the legalization of something that remains illegal for the majority of the population, it is anticipated that DHSS will receive a fair number of calls reporting instances of possible violations. While two is estimated for purposes of this fiscal note, it may be necessary to add additional staff after the program is operational for some time. The additional costs remain unknown.

Two Grain Inspector IV positions (A23, $37,548, Step G) – these positions will complete the onsite inspections of the medical marijuana cultivation facilities to monitor compliance with the specific requirements outlined in the proposed amendment and rules that need to be met for initial and continued licensure of a facility. This specialty position was chosen because the most technical piece involves the process of testing plants for

molds, mildew, and pesticides and making sure the facilities are dealing with these issues in a proper way.

One Grain Inspector Compliance Coordinator (A28, $45,456, Step G) – this position coordinates and supervises the work of the Grain Inspector positions; ensuring inspections are completed consistently and timely. This position will also provide technical assistance to the inspectors and make final action decisions/recommendations for problem inspections.

Five Environmental Public Health Specialist (EPHS) IV positions (A27, $43,488, Step G) – these positions will complete the onsite inspections of the medical marijuana dispensing and the medical-marijuana infused-products manufacturing facilities to monitor compliance with the specific requirements outlined in the proposed amendment and rules that need to be met for initial and continued licensure of a facility. This specialty position was chosen because the most technical piece involves ensuring sanitation requirements are met and the infused-products are labeled and packaged correctly.

One Environmental Public Health Specialist V position (A28, $45,156, Step G) – this position coordinates and supervises the work of the EPHS IV positions; ensuring inspections are completed consistently and timely. This position also provides technical assistance to the environmental specialists and makes final action decisions/recommendations for problem inspections.

44 Senior Office Support Assistant (SOSA) positions (A12, $25,824, Step F) – duties will include processing of paper applications to include opening and date stamping of mail, entry of application information into the electronic registry, initial verification of applicant and physician identification, initial application review to include determination of application approval or denial (including incomplete status), preparation of patient and caregiver identification cards, preparation of patient/caregiver cultivation identification cards, initial processing of medical marijuana facility applications, preparation of identification cards for all owners and employees of the medical marijuana facility licensees, processing revoked cards, and answering of phones and assisting telephone callers.

21 Health Program Representative II (HPR II) positions (A21, $34,944, Step B) – duties will include supervision of the SOSA positions and quality assurance checks of the application entry and initial verification completed by the SOSAs. This position will have responsibility for final approval of application incomplete notices, rejects, revocations, and card issuances. This position will ensure application process deadlines as mandated by proposed amendment are met. This position will also verify all registrations of owners and employees associated with the licensed medical marijuana facilities, including coordination with the Inspectors and EPHS's for final issuance of facility licenses.

For fiscal note purposes DHSS calculated 45 minutes per patient and caregiver application and 45 minutes per patient or caregiver cultivation application.

169,411 (158,678 patient & caregiver apps + 10,733 cultivation apps) X .75/hour / 2,080 hours per year per staff = 61 staff.

DHSS calculated 14 hours for the processing of a facility (cultivation, dispensing and manufacturing) application.

76 cultivation facilities + 386 dispensing facilities + 161 infused products manufacturing facilities = 623 facilities x 14 hours/facility divided by 2,080 hrs/year per staff = 4.2 staff round to 4 staff. This is a total of 65 processing staff (SOSA and HPR II positions).

**Printing Costs**

DHSS will print individual identification cards for the qualified patient, caregiver, patient or caregiver cultivation identification card, and identification cards for each owner, board member, employee of the licensed facilities. DCPH will purchase three card printers for $8,719 each and three magnetic strip encoders for $695 each. The supplies for the printers and encoders average $0.63 per card. The cards cost $96 per 500.

DHSS is estimating the number of identification cards to be printed each year per facility licensed to be 25 for a cultivation facility, 10 for a dispensing facility, and 25 for a manufacturing facility. (76 cultivation facilities x 25 = 1,900 cards, 386 dispensing facilities x 10 = 3,860 cards, 161 manufacturing facilities = 4,025 cards) License certificates will be printed for each facility on special certificate paper (heat sensitive ink background) provided by state printing at a cost of approximately $200 per 1,000 pieces of certificate paper. The license certificates and identification cards for facilities will not be produced until FY 2018 when the facility becomes licensed.

DCPH will print 100,000 brochures each year the program is operational at a cost of $0.06 per brochure. This brochure will provide the public with information about the medical cannabis program and assistance in completing a valid registration.

FY 2017

- 16,099 patient cards + 7,703 caregiver cards + 1,610 cultivation cards = 25,412 cards ($96 per 500) = 51 X $96 = $4,896
- 25,412 patient, caregiver & cultivation cards (supplies x $0.63 per card) = $16,010
- 100,000 brochures ($0.06 per brochure) = $6,000

FY 2018

- 107,326 patient cards + 51,352 caregiver cards + 10,733 cultivation cards + 1,900 identification cards for cultivation facilities, 3,860 identification cards for dispensing facilities + 4,025 for manufacturing facilities = 179,196 cards ($96 per 500) = 359 X $96 = $34,464
- 179,196 cards (supplies x $0.63 per card) = $112,894
- 623 facility licenses ($200/1,000) = $200
- 100,000 brochures ($0.06 per brochure) = $6,000

**Mailing Costs**

Each qualifying patient and primary caregiver will receive his/her card in the mail. If the patient or caregiver applied for a cultivation identification card, that card will be mailed separately. Each licensed facility will be mailed a copy of their license and identification cards. It is estimated that 10 percent of the registered participants, caregivers and patient/caregiver cultivators will submit a change request to their application requiring a change notification receipt by mailing. It is projected that five percent of all applications will be incomplete and requires mailing of an incomplete notice. It is also projected that 25 percent of the printed brochures (25,000) along with paper applications will be mailed to the public upon request. The other printed brochures will be available for distribution at conferences and other public venues.

Projected mailings are as follows:

| | FY 2017 | FY 2018 |
|---|---|---|
| Patient & Caregiver ID Cards | 23,802 | 158,678 |
| Cultivation ID Cards | 1,610 | 10,733 |
| Facility License Certificates | 0 | 623 |
| Facility Identification Cards | 0 | 9,785 |
| Change Request Notifications | 2,541 | 16,941 |
| Incomplete Notifications | 1,270 | 8,470 |
| Brochures/app mailed | 25,000 | 25,000 |
| **Total mailings** | **54,223** | **230,230** |

FY 2017

- 54,233 envelopes ($41 per 1,000) = 55 X $41 = $2,255
- Postage (54,233 x $0.39/postage rate) = $21,151

FY 2018

- 230,230 envelopes ($41 per 1,000) = 231 X $41 = $9,471
- Postage (230,230 x $0.39/postage rate) = $89,790

**Criminal Records Check**

Section 37.3.(2)(h) suggests that individual identification cards for owners, officers, managers, contractors, employees and other support staff of the licensed facilities shall include a fingerprint-based federal and state criminal record check in accordance with U.S. Public Law 92-544. Section 37.7(2) states no licensed facility shall have an owner, officer, manager, contractor, employee or other support staff with a disqualifying felony offense. DHSS assumes that as part of the facility license application, the facilities would need to submit a current finger print based criminal record report as would be promulgated in rule. Therefore, DHSS assumes no cost for obtaining the fingerprint check.

## Information Technology Services Division (ITSD)

### Application Storage Costs

In order to manage the final storage of paper applications submitted, Content Manager for electronic scanning and storage will be utilized. The costs for Content Manager are estimated at $132 per month for the state data server costs, $624 for an annual license for each user, and $686 for an annual license for each position with ability to scan/import documents. Content Manager services will not be acquired until FY 2018.

### Information Systems Development

Estimating 12 month project duration with a project team consisting of 4 IT Consultants. Applications will be received as paper submissions to the department. System will print licenses and identification cards for physical delivery to the applicant. The system will be hosted in the State Data Center (SDC) on existing virtual servers. Disk space has been estimated at 50 GB for Development and Test with 150 GB estimated for Production.

## Division of Administration

Division of Administration assumes one Account Clerk can process around 30,000 receipt transactions per year and one Accounting Generalist I/II will be needed to supervise for approximately every five Account Clerks.

Account Clerk (A12, $25,824) duties will include:

- Open and sort mail;
- Process and enter receipts in the department computer system;
- Prepare bank deposits and cash receipts documents;
- Reconciles daily receipts;
- Distributes supporting documentation program.

Accounting Generalist I/II (A25, $26,204) duties will include:

- Supervise and review the work of Account Clerks who are processing the fees.

Each application and license will have a fee transaction.

| FY 2017 | FY 2018 | Transaction |
|---|---|---|
| 23,802 | 158,678 | Patient & Caregiver Application |
| 1,610 | 10,733 | Patient & Caregiver Cultivation Application |
| 8 | 76 | Cultivation Facility Application |
| 39 | 386 | Dispensing Facility Application |
| 16 | 161 | Manufacturing Facility Application |
| 25,475 | 170,594 | Total Number of Transactions |
| 1.00 FTE | 6.00 FTE | Account Clerk |
| 0.00 FTE | 1.00 FTE | Accounting Generalist I/II |

**Office of General Counsel**

Legal Counsel ($45,000)

One full-time attorney would be needed to assist in drafting emergency and proposed regulations and forms; perform legal research and provide day-to-day legal counsel to the program; and represent the department in appeals of licensure and identification card denials.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact. However, the impact on the demand for substance use disorder treatment is unknown. Their department sees the legalization of marijuana as a broader public health issue, especially for children.

Officials from the **Department of Natural Resources** indicated their department would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated this petition seeks a constitutional amendment to Article I by adding new section 37 that would allow for the use, prescription, cultivation and dispensing of marijuana and marijuana-infused products to qualifying patients with at least one qualifying medical condition as defined in the petition.

Similar to Initiative Petitions 16-124 and 16-125, this petition includes:

1. A list of qualifying medical conditions
2. Allowance of patient cultivation of up to six plants for the patient's exclusive use, or up to 24 plants in locked space shared by 2 qualifying patients
3. Purchase limits for patient or caregiver of not less than 6 ounces (10 g), unprocessed or equivalent, in a 30 day period
4. Possession limits for patient or caregiver of not less than 60 day supply

In addition, this petition adds details that are the same as in Initiative Petitions 16-129 and 16-130:

1. Definitions (e.g., "primary caregiver" instead of generic "caregiver")
2. Seed-to-sale tracking and software license standards
3. Issuance of identification cards for employees or staff of medical marijuana facilities
4. Considerations for licensing, quality testing, product tracking and user/employee verification
5. Limits to square footage of growing facilities and number of plants
6. Separate legal possession limits for primary caregiver with multiple qualifying patients
7. Number of facility licenses and allowance for easing limit based on demand and other economic factors
8. Identification card procedures for qualifying patients
9. Procedures for license denial appeals
10. Dedicated fund and apportionment for any fees and tax revenue generated
11. Limits on patient cultivation

None of these modifications is likely to lead to any more infractions or secondary criminal activity than the previous initiative petitions. As such, the Initiative Petition 16-124 estimate still applies.

Penalties include imprisonment of up to one year and a fine of ten thousand dollars for either purposefully possessing amounts of marijuana in excess of twice the legal limit or adding any poisonous or deleterious substances to medical marijuana or marijuana-infused product.

Legal medical marijuana possession and use in other states have occurred only relatively recently, so there is limited information on the impacts within the criminal justice system. There are currently 23 states and the District of Columbia that now allow for comprehensive public medical marijuana and cannabis programs with an additional 11 states allowing for limited situation medical use of low THC, high cannabidiol (CBD) products (National Conference of State Legislatures). A full analysis is not possible given current time frames, but a preliminary survey has found several recent studies attempting to discern the effects of these laws.

Chu (2014) found that similar medical marijuana laws (MMLs) were related to a 15-20% increase in marijuana arrests in adult males, and Alford (2014) found that allowances for marijuana dispensaries increased property crime rates by 8% and robbery rates by 11%.

Conversely, Alford also found that home cultivation allowance may have decreased robbery by 10%. Choi (2014) found that MMLs were associated with a 12% increase in other drug use but allowing home cultivation was related to a 13% decrease in driving under the influence of drugs. Morris et al. (2014) found that MMLs did not exacerbate rates of major or violent crimes. However, Pacula et al. (2014) suggested that some details of MMLs, particularly legal protection of dispensaries and home cultivation, can lead to greater marijuana use and abuse among adults. The authors also found relationships to increased alcohol use and alcohol-related driving fatalities. The link with increased drinking was also found by Wen et al. (2014), but they found no evidence of increased use of other substances.

Results of studies at this time show conflicting results on the criminal impacts of current MMLs. However, with the increased licensing and regulation there are also increased possibilities of secondary crimes through false physician recommendations, non-compliance in registration, illegal possession, vehicular infractions or injury, and theft. While many of these violations may carry only municipal or licensing level penalties, some would ultimately fall under felony charges.

Current laws provide for class C felony penalties for possession (Section 195.202, RSMo) and class B felony for distribution and production of controlled substances (Section 195.211, RSMo). Considering additional increases in related violations, proposed changes in this petition are expected to result in one new class B felony serving two years in prison and five years parole, one class C felony serving one year in prison with four years parole, and three new probations serving three years. The total impact at year 10 is estimated to be 3 additional offenders in prison and 18 on field supervision.

**Impacts to DOC under proposed addition of section 37 to Article I, Missouri Constitution**

| | FY16 | FY17 | FY18 | FY19 | FY20 | FY21 | FY22 | FY23 | FY24 | FY25 |
|---|---|---|---|---|---|---|---|---|---|---|
| Admissions | 2 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 |
| Parole | | 1 | 3 | 5 | 7 | 8 | 9 | 9 | 9 | 9 |
| Probation | 3 | 6 | 9 | 9 | 9 | 9 | 9 | 9 | 9 | 9 |
| **Impact** | | | | | | | | | | |
| Prison Population | 2 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 |
| Field Population | 3 | 7 | 12 | 14 | 16 | 17 | 18 | 18 | 18 | 18 |

Their department direct offender costs for either incarceration ($6,135 per offender per year) or for supervision provided by the Board of Probation and Parole ($2,205 per offender per year) would range from $18,885 in Fiscal Year 2016 to $69,429 in Fiscal Year 2025.

Please also note that their department currently tests staff for marijuana use and disciplines accordingly. If their staff were to live in a household or visit another person who is legally using medical marijuana they would then be exposed to second-hand smoke and would likely test positive themselves. There would be no way for their

department to determine which of their staff are innocently exposed from those who are abusing this substance illegally.

Further, this bill does provide some protection in that it forbids being under the influence of medical cannabis when it would constitute "negligence or professional malpractice," and it forbids use and possession in a correctional facility. The bill does not, however, exempt being under the influence in a correctional center. Thus, it appears that an employee may work under the influence as long as they do not actively use or possess cannabis at the institution. Also, all department property is not exempt; only "correctional facilities" are. Employees in the field (i.e., probation and parole officers) would not be prohibited from carrying and using medical cannabis while at work. The exemption prohibiting being under the influence when it would constitute "negligence or professional malpractice" may act to close this gap but that is unclear because professional malpractice is not defined in the act and it does not set a threshold measurement that constitutes being "under the influence."

**Citations**

Alford, C. 2014. How Medical Marijuana Laws Affect Crime Rates. Ph.D. dissertation. Sept. 2014. Univ. of Virginia, Dept. of Economics.

Choi, A. 2014. The Impact of Medical Marijuana Laws on Marijuana Use and Other Risky Health Behaviors. Ph.D. dissertation. Dec. 2014. Cornell University, Department of Policy Analysis and Management.

Chu, Y.L. 2014. The effects of medical marijuana laws on illegal marijuana use. J. of Health Economics 38:43–61.

Morris, R.G., M. TenEyck, J.C. Barnes, T.B. Kovandzic. 2014. The Effect of Medical Marijuana Laws on Crime: Evidence from State Panel Data, 1990-2006. PLOSOne DOI: 10.1371/journal.pone.0092816.

Pacula, R.L., D. Powell, P. Heaton and E.L. Sevigny. 2015. Assessing the Effects of Medical Marijuana Laws on Marijuana Use: The Devil is in the Details. J. of Policy Analysis and Management 34(1): 7–31.

Wen, H., J. Hockenberry, J.R. Cummings. 2014. The Effect of Medical Marijuana Laws on Marijuana, Alcohol, and Hard Drug Use. NBER Working Paper No. 20085. National Bureau of Economic Research. Cambridge, MA.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this petition will have a fiscal impact on their department. The total estimated costs for salaries, fringe benefits, and expense and equipment will be $255,943 for fiscal year 2017, $84,086 for fiscal year 2018, and $84,960 for fiscal year 2019.

This petition will have an economic impact on small business to the extent the business is in the growing and distribution chain of medical marijuana through remittance of additional taxes and new job creation.

This legislation increases total state revenue by the amount of sales tax collected on the sale of medical marijuana.

**Section 4**
The legislation levies a four percent tax on the retail sale of medical marijuana. The Department may retain five percent for the cost of collection. The petition creates the Missouri Veterans' Health and Care Fund. The commissioner of Administration may make cash operating transfers to the fund to meet cash requirements in advance of receiving revenues.

**Administrative Impact:**

**Collections & Tax Assistance:**
This section will see additional registrations, registration phone calls, business tax account update requests and delinquent phone contacts from the additional business registering to collect sales tax on medical marijuana. Collections and Tax Assistance requires two (2) Revenue Processing Technicians I (Range 10, Step L) per 24,000 additional contacts to the registration section and 15,000 contacts annually on the delinquent tax line. Each technician requires CARES equipment.

**Integrated Revenue System:**
Changes would need to be made to the current design of the Integrated Revenue System resulting in a cost of $173,534.

Officials from the **Department of Public Safety** submitted the following information:

The Missouri State Highway Patrol indicated a total estimated net positive effect on state funds of $215,490 for fiscal year 2017, and unknown for fiscal year 2018 and beyond.

Section 3 (3) authorizes the Department of Health and Senior Services to issue any rules or emergency rules necessary for the implementation and enforcement of this section. Section 3 (2) (h) may require an individual licensed pursuant to this section to complete a fingerprint-based criminal record check. However, a rule or regulation issued by the Department of Health and Senior Services including a Code of State Regulations would not authorize a federal fingerprint-based criminal record check according to Public Law 92-544 criteria. As written, Section 3 (2) (h) would not authorize a state and federal fingerprint-based criminal record check.

To authorize a state and fingerprint-based criminal record check and to meet Public Law 92-544, the following wording should be included:

Applicants licensed pursuant to this section shall submit fingerprints to the Missouri state highway patrol for the purpose of conducting a state and federal fingerprint-based criminal background check. The Missouri state highway patrol, if necessary, shall forward the fingerprints to the Federal Bureau of Investigation (FBI) for the purpose of conducting a fingerprint-based criminal background check. Fingerprints shall be submitted pursuant to 43.543 and fees shall be paid pursuant to 43.530.

Public Law 92-544 criteria is as follows:

The authority for the FBI to conduct a criminal record check for a noncriminal justice licensing or employment purpose is based upon Public Law 92-544. Pursuant to Public Law 92-544, the FBI is empowered to exchange identification records with officials of state and local governments for the purposes of licensing and employment if authorized by a state statute which has been approved by the Attorney General of the United States. The Attorney General's authority to approve the statute is delegated to the FBI by Title 28, Code of Federal Regulations, Section 0.85(j). The standards employed by the FBI in approving Public Law 92-544 authorizations have been established by a series of memoranda issued by the Office of Legal Counsel, Department of Justice. The standards are:

1. The authorization must exist as the result of legislative enactment (or its functional equivalent);
2. The authorization must require fingerprinting of the applicant;
3. The authorization must, expressly or by implication, authorize use of FBI records for screening of the applicant;
4. The authorization must not be against public policy;
5. The authorization must not be overly broad in its scope; it must identify the specific category of applicants/licensees.

Fingerprint card submissions to the FBI under Public Law 92-544 must be forwarded through the SIB. The state must also designate an authorized governmental agency to be responsible for receiving and screening the results of the record check to determine an applicant's suitability for employment or licensing.

For each fingerprint-based background check processed, the state retains the $20 state fee and $2 of the federal charge for a pass-thru fee.

According to the 2014 United States Census Bureau's census estimate, Missouri's population was 6,063,589. Based on this total, as well as the preliminary calculations by the Department of Health and Senior Services, the number of Cultivation Facilities, Dispensary Facilities, and Infused Products Manufacturing Facilities is as follows:

Cultivation Facilities
Assuming a limit is set at the minimum of 1 facility per 80,000 inhabitants per the proposed amendment, 76 licenses (6,063,589/80,000) for cultivation facilities may be issued, further estimating an average of 25 employees per facility, the total number of

criminal record checks for employees, owners etc. of Cultivation Facilities equals 1,900 (76 x 25).

Dispensing Facilities
The estimated number of facilities based on Oregon's licensees/patient ratio (assuming 10% of qualifying patients in Missouri will grow their own marijuana) equals 387 facilities. Further estimating an average of 10 employees per facility, the total number of criminal record checks for employees, owners etc. of Dispensary Facilities equals 3,870 (387 x 10).

Infused Products Manufacturing Facilities
The estimated number of facilities based on Colorado's licensees/patient ratio (assuming 10% of qualifying patients in Missouri will grow their own and will not purchase these products) equals 161 facilities. Further estimating an average of 25 employees per facility, the total number of criminal record checks for employees, owners etc. of Infused Products Manufacturing Facilities equals 4,025 (161 x 25). While we are estimating 161 facilities based on Colorado's totals, the minimum number of facilities assuming a limit is set at the minimum of 1 facility per 50,000 inhabitants (per the proposed constitutional amendment) the number of facilities would equal 121 (6,063,589/50,000).

The estimated number of state and federal fingerprint-based criminal record checks estimated to be generated with the passage of this amendment is 9,795 (1,900 for Cultivation Facilities; 3,870 - Dispensing Facilities; 4,025 - Infused Products Manufacturing Facilities).

The charge for each background check processed is $43.05. Twenty dollars for the state fingerprint check, $14.75 for the federal check, and an $8.30 charge for the statewide applicant fingerprinting contractor fee ($20 + $14.75 + 8.30 = $43.05). Of this amount, the state retains the $20 fee and $2 of the federal charge of $14.75 for a pass-thru fee. The $8.30 charge is paid directly to the vendor at the time of application.

Estimated Revenue Fiscal Year 2017
9,795 x $34.75 (state/federal background check) $340,376

Estimated Expense Fiscal Year 2017
9,795 x $12.75 (federal background check charge) $124,886

Subsequent yearly background checks will be based on turnover.

Estimated Revenue FY18 and beyond
??? x $34.75 (state/federal background check)

Estimated Expense FY18 and beyond
??? x $12.75 (federal background check charge)

The Missouri Veterans Commission indicated they have no position on this initiative petition. The information was brought to their attention during its quarterly commission meeting. They provided the fiscal analysis for Right to Access Medical Marijuana prepared by Mark R. Reading which was forwarded to their office from the Missouri Association of Veterans Organizations (MAVO). The Missouri Veterans Commission is pleased to receive any finding which appropriately comes to them to support the Veterans Programs currently administrated by the Commission.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's Office** indicated there should be no fiscal impact to their office.

Officials from the **House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated they assume no fiscal impact.

Officials from the **Office of Administration** (OA) indicated this initiative petition adds Section 37 to Article I in the Missouri Constitution. The petition charges the Department of Health and Senior Services (DHSS) with implementing a program to provide access to marijuana for patients with certain medical conditions. DHSS is authorized to establish rules to license facilities for medical marijuana cultivation, medical marijuana dispensing and medical marijuana-infused products manufacturing, in addition to providing identification for qualifying patients and caregivers. The program provides oversight of cultivation, manufacturing, dispensing, prescription and use of marijuana, along with necessary enforcement provisions. The petition also provides counties limited ability to restrict the number of Medical Marijuana Dispensary Facilities. The provisions are effective December 8, 2016 and the petition includes a severability clause.

The following fees are established in the proposal, along with requirement for annual CPI adjustments:

- Medical Marijuana Cultivation Facility - $3,000 application fee and $20,000 annual license fee.
- Medical Marijuana Dispensary Facility - $3,000 application fee and $10,000 annual license fee.
- Medical Marijuana-Infused Products Manufacturing Facility - $3,000 application fee and $10,000 annual license fee.
- Qualifying patient or primary caregiver cultivation – $100 annual fee.
- Patient/Primary Caregiver identification card - $25 annual fee.

The petition also includes a 4% retail sales tax on marijuana sold for medical use at Medical Marijuana Dispensary Facilities. The tax is to be collected by the Department of Revenue, which is allowed access to the program tracking system as needed to ensure proper collection of the sales tax. Proceeds of the sales tax, less up to 5% for the Department of Revenue's administration, are to be deposited in the Missouri Veterans' Health and Care Fund. This fund is to be used first by DHSS to administer the program, then by the Missouri Veterans' Commission for health and care services for military veterans, including operations of the veterans' homes and the Missouri Service Officer's Program and other services approved by the Missouri Veterans' Commission, such as mental health services drug rehabilitation services or job training. These new monies may not be used to supplant existing funding.

Summary of Fiscal Impact

The Department of Health and Senior Services and Department of Revenue are given additional responsibilities to implement the program and collect additional taxes, which could result in a fiscal impact for those agencies.

The revenue generated from the application and license fees and from the additional sales tax would be deposited in the Missouri Veterans' Health and Care Fund. OA does not have the data available to provide an estimate of the amount of additional revenue from the application fees, license fees or sales tax.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory,

they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from **University of Missouri** indicated the University of Missouri Health Care (MUHC) has reviewed the proposed initiative petition and should not incur costs that exceed $100,000 annually. This is due primarily to the fact that MUHC would have potential conflicts with the U.S. Drug Enforcement Agency (DEA) in the implementation of these proposals and could not implement these services in the facilities.

Officials from **St. Louis Community College** indicated they do not believe this will have fiscal impact on their college.

**Mark R. Reading** provided the following information as a proponent of this initiative petition.

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NOV - 9 2015
STATE AUDITORS OFFICE

Submitted by:

Mark R. Reading
2604 Lakeland Drive
Jefferson City, MO 65109
(573) 694-6828
*Primary Contact Person*

**Right to Access Medical Marijuana Initiative - Versions 5 and 6**

**Proposed Statement of Fiscal Impact**
**for Right to Access Medical Marijuana Initiative - Versions 5 and 6**

**Fiscal Impact Information Submitted Pursuant to Section 23.140.2**

The amendment's estimated state revenue is $26 million when fully implemented, exceeding the state's costs. A new sales tax will provide additional funds for veterans including veterans homes, health and mental health care, education and housing assistance. Local revenue estimated at $7.8 million exceeds local costs.

| ESTIMATED NET EFFECT ON STATE FUNDS | | |
|---|---|---|
| **Fund Affected** | **FY 2017** | **FY 2018** |
| **General Revenue** | $0 | $6,010,653 |
| | | |
| **Total Estimated Net Effect on All State Funds** | $0 | $26,036,982 |
| **ESTIMATED NET EFFECT ON LOCAL FUNDS** | | |
| Local Funds | $0 | $7,773,778 |
| | | |
| **Total Estimated Net Effect on All Local Funds** | $0 | $7,773,778 |

## ANALYSIS OF FISCAL IMPACT OF MEDICAL MARIJUANA PETITION

The fiscal impact analysis contained herein focuses on estimating the fee and tax revenue resulting from the constitutional amendment proposed in the initiative petition. Table 1 summarizes the revenue estimated by source and by fiscal year. Page and Table numbers are provided to help readers find specific subjects.

**Table 1 - Summary of Fees and Sales Tax Revenue by Fund**

| Page # | Table # | Purpose | FY 2017 | FY 2018 | Total | Revenue Type |
|---|---|---|---|---|---|---|
| | | | | | | |
| 4-5 | Table 3 | Medical Marijuana Cultivation Facilities | $168,000 | $1,534,000 | $1,702,000 | Fee |
| 6-7 | Table 4 | Medical Marijuana-Infused Products Manufacturing Facilities | $180,000 | $1,367,000 | $1,547,000 | Fee |
| 8-13 | Table 8 | Medical Marijuana Dispensary Facilities | $327,000 | $2,507,000 | $2,834,000 | Fee |
| 14-18 | Table 14 | Qualifying Patient and Primary Caregiver Identification Cards | $1,338,275 | $4,014,775 | $5,353,050 | Fee |
| 19 | Table 15 | Qualifying Patient Cultivation Cards | $0 | $135,000 | $135,000 | Fee |
| 20-22 | Table 17 | 4% sales tax | $0 | $8,014,204 | $8,014,204 | Sales tax |
| | | subtotal MO Veterans Heatlh and Care Fund | $2,013,275 | $17,571,979 | $19,585,254 | |
| | | | | | | |
| 20-22 | Table 17 | General Revenue sales tax | $0 | $6,010,653 | $6,010,653 | Sales tax |
| 20-22 | Table 17 | Prop C sales tax | $0 | $2,003,551 | $2,003,551 | Sales tax |
| 20-22 | Table 17 | Conservation sales tax | $0 | $250,444 | $250,444 | Sales tax |
| 20-22 | Table 17 | Parks and Soils sales tax | $0 | $200,355 | $200,355 | Sales tax |
| | | subtotal Other State Funds | $0 | $8,465,003 | $8,465,003 | |
| | | | | | | |
| | | subtotal all state funds | $2,013,275 | $26,036,982 | $28,050,257 | |
| | | | | | | |
| 23 | Table 18 | Local Sales Tax | $0 | $7,773,778 | $7,773,778 | |
| | | | | | | |
| | | Grand Total State and Local | $2,013,275 | $33,810,760 | $35,824,035 | |

**Implementation dates required by New Approach Missouri petition**

Table 2 below identifies the implementation dates prescribed in the petition. All fiscal estimates in this analysis assume that the Department of Health and Senior Services, and all other state and local governments affected by this petition will meet the deadlines required by the petition.

**Table 2 - Implementation Schedule**

| | |
|---|---|
| 11/8/2016 | Election Day - Voter Approval |
| | |
| 12/8/2016 | 30 days after election - effective date of constitutional amendment |
| | |
| 2/1/2017 | County notification of its initial limit, if any, on the number of site permits for Medical Marijuana Dispensary Facilities - paragraph 7(4) proposed addition to language originally filed. |
| | |
| **90 days after effective date of constitutional amendment** | |
| 3/8/2017 | DHSS shall make available license application forms and application instructions for Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensary Facilities, and Medical Marijuana-Infused Manufacturing Facilities - paragraph 3(5). |
| 3/8/2017 | DHSS shall make available application forms and application instructions for qualifying patient, qualifying patient cultivation, and primary caregiver identification cards - paragraph 3(6). |
| | |
| **150 days after effective date of constitutional amendment** | |
| 5/7/2017 | DHSS shall begin accepting applications for qualifying patient, qualifying patient cultivation, and primary caregiver identification cards no later than this date - paragraph 3(6). |
| 5/7/2017 | DHSS shall begin accepting application forms for Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensary Facilities, and Medical Marijuana-Infused Manufacturing Facilities no later than this date- paragraph 3(16). |
| | |
| **180 days after effective date of constitutional amendment** | |
| 6/6/2017 | For any applications submitted on the last day allowed under the constitutional provisions for DHSS to start accepting applications, DHSS must have approved or denied applications for a qualifying patient identification card or a primary caregiver identification card - paragraph 3(17) and paragraph 3(18) respectively. All applications must be approved or denied within 30 days of DHSS receipt thereafter. |
| | |
| **300 days after effective date of constitutional amendment** | |
| 10/4/2017 | For any application submitted on the earliest day allowed under the constitutional provisions for DHSS to start accepting applications, DHSS shall have approved or denied application forms for Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensary Facilities, and Medical Marijuana-Infused Manufacturing Facilities - paragraph 3(16). All applications must be approved or denied within 150 days of submission to DHSS thereafter. |

**Medical Marijuana Cultivation Facilities**

The proposal defines and permits the operation of Medical Marijuana Cultivation Facilities. The DHSS licenses these facilities. No upper limit is established on the number of such facilities that can be licensed. However, DHSS is required to license a minimum number of facilities in paragraph 3(13) to no less than one per every 80,000 inhabitants based on the most recent U.S. Census. The Missouri population from the 2010 census was 5,988,927 inhabitants. The total number of licensees in the state allowed to operate under this calculation is at least 74 Medical Marijuana Cultivation Facilities.

The DHSS is required by paragraph 3(7) of the proposal to charge a one-time non-refundable applicant fee of $3,000 and a license fee good for three years. An annual fee of $20,000 is required for each license.

The estimate in Table 3 below assumes that the Department of Health and Senior Services (DHSS) will initially limit the number of Medical Marijuana Cultivation Facilities to the minimum number allowed under the proposal. In the initial years of operation this would enable DHSS to conservatively allow it to meet its minimum constitutional requirements as it begins its operations and provide time to assess and report on the success of the program before further expansion which may take place beyond the timeline subject to required by the Auditor's Office. Table 3 assumes that:

- Marijuana cultivation facilities are essential to the operational effects of the proposed petition. Until the cultivation facilities are licensed crop production cannot begin. In addition, even after licensing the facilities will need to be constructed . Once construction is complete a growing season needs to be completed before product is available in the Medical Marijuana Dispensary Facilities. Given the importance of the cultivation facilities it is likely that applications for the limited number of such facilities will be high early during program implementation. Thus, the estimate in Table 3 assumes that applications for 75 percent of the minimum number of licenses will be submitted in FY 2017. DHSS could wait until the last date allowed for it to accept applications which is late in the fiscal year - May 7, 2017. The remaining 25 percent of application will occur during FY 2018.
- Application fees are assumed for the minimum number of licenses that DHSS is required to issue. Since application fees are non-refundable an additional $3,000 will be collected from any applicant that is ultimately refused a license. For example, a 10% or 25% refusal rate would mean 8 to 25 applications would pay the $3,000 non-refundable fee yet be refused which would generate an additional $24,000 or $75,000 respectively not calculated into this revenue estimate.
- DHSS will first collect the non-refundable application fee. It is assumed the license fee will be collected later at the time of DHSS approval in order to limit the number of refunds that would need to be processed to rejected applicants.
- No license revenue will occur until FY 2018 since DHSS is not required to issue any licenses until October 2017.
- DHSS will issue all the cultivation licenses that it is required to issue.
- No license fees are assumed for the annual license fee required for the second year of the license which will occur in FY 2019 for licenses first issued in 2018.

The total revenue in applicant and licenses fees generated in FY 2017 and FY 2018 from the minimum number of facilities that DHSS is required to allow is $1,702,000 including:

- $222,000 in one-time non-refundable applicant fees
- $1,480,000 in license fees from the first year's annual fee for the three year license

**Table 3 - Minimum Medical Marijuana Cultivation Facilities**

| **Assumptions** | **FY 2017** | **FY 2018** | **Total** |
|---|---|---|---|
| Date of applications | Applications to be allowed no later than 5/7/17 | Applications open all year | |
| % of applications submitted assuming minimal number approved by DHSS | 75.0% | 25.0% | 100.0% |
| Total applications assuming minimal number approved by DHSS | 56 | 18 | 74 |
| Total licenses approved by DHSS | 0 | 74 | 74 |
| | | | |
| | **FY 2017** | **FY 2018** | **Total** |
| **Revenues** | **Amount** | **Amount** | **Amount** |
| One-time non-refundable fee of $3,000 | $168,000 | $54,000 | $222,000 |
| First year annual license fee of $20,000 - good for 3 years | $0 | $1,480,000 | $1,480,000 |
| Total fees and licenses at minimum # of licensees | $168,000 | $1,534,000 | $1,702,000 |

**Medical Marijuana-Infused Products Manufacturing Facilities**

The proposal defines and permits the operation of Medical Marijuana-Infused Products Manufacturing Facilities. The DHSS licenses these facilities. No upper limit is established on the number of such facilities that can be licensed. However, DHSS is required to license a minimum number of licenses in paragraph 3(14) to no less than one per every 50,000 inhabitants based on the most recent U.S. Census. The Missouri population from the 2010 census was 5,988,927 inhabitants. The total number of licensees in the state under this calculation will allow for the operation of at least 119 Medical Marijuana-Infused Products Manufacturing Facilities.

The DHSS is required by paragraph 3(9) of the proposal to charge a one-time non-refundable applicant fee of $3,000 and a license fee good for three years. An annual fee of $10,000 is required for each license.

The estimate in Table 4 below assumes that the Department of Health and Senior Services (DHSS) will initially limit the number of Medical Marijuana-Infused Products Manufacturing Facilities to the minimum number allowed under the proposal. In the initial years of operation this would enable DHSS to conservatively allow it to meet its minimum constitutional requirements as it begins its operations and provide time to assess and report on the success of the program before further expansion which may take place beyond the timeline subject to required by the Auditor's Office. Table 4 assumes that:

- Possible operators of Medical Marijuana-Infused Products Manufacturing Facilities will want to ramp up their activities along a timeline that correlates with the operation of the Medical Marijuana Cultivation Faculties. Given the time needed for cultivation facility construction and crop production Table 4 assumes a slightly slower implementation for the infused products facilities. Table 4 assumes that half of the applications will be submitted in FY 2017. The DHSS could wait until the last date allowed for it to accept applications which is late in the fiscal year - May 7, 2017.
- Application fees are assumed for the minimum number of licenses that DHSS is required to issue. Since application fees are non-refundable an additional $3,000 will be collected from any applicant that is ultimately refused a license. For example, a 10% or 25% refusal rate would mean 13 to 40 applications would pay the $3,000 non-refundable fee yet be rejected which would generate an additional $39,000 or $120,000 respectively not calculated into this revenue estimate.
- DHSS will first collect the non-refundable application fee. It is assumed the license fee will be collected later at the time of DHSS approval in order to limit the number of refunds that would need to be processed to rejected applicants.
- No license revenue will occur until FY 2018 since DHSS is not required to issue any licenses until October 2017.
- DHSS will issue all the medical marijuana-infused products manufacturing facilities licenses that it is required to issue.
- No license fees are assumed for the annual license fee required for the second year of the license which will occur in FY 2019 for licenses first issued in 2018.

The total revenue in applicant and licenses fees generated in FY 2017 and FY 2018 from the minimum number of facilities that DHSS is required to allow is $1,547,000 including:

- $357,000 in one-time non-refundable applicant fees
- $1,190,000 in license fees from the first year's annual fee for the three year license

**Table 4 - Minimum Medical Marijuana-Infused Products Manufacturing Facilities**

| **Assumptions** | **FY 2017** | **FY 2018** | **Total** |
|---|---|---|---|
| Date of applications | Applications to be allowed no later than 5/7/17 | Applications open all year | |
| % of applications submitted assuming minimal number approved by DHSS | 50.0% | 50.0% | 100.0% |
| Total applications assuming minimal number approved by DHSS | 60 | 59 | 119 |
| Total licenses approved by DHSS | 0 | 119 | 119 |
| | | | |
| | **FY 2017** | **FY 2018** | **Total** |
| **Revenues** | **Amount** | **Amount** | **Amount** |
| One-time non-refundable fee of $3,000 | $180,000 | $177,000 | $357,000 |
| First year license fee of $10,000 - good for 3 years | $0 | $1,190,000 | $1,190,000 |
| Total fees and licenses at minimum # of licensees | $180,000 | $1,367,000 | $1,547,000 |

**Medical Marijuana Dispensary Facilities**

The proposal defines and permits the operation of Medical Marijuana Dispensary Facilities. The Department of Health and Senior Services licenses these facilities. No limit is established on the number of such facilities that can be licensed. However, counties are given the ability to limit the number of licenses within the county in paragraph 7(4) to no less than one per every 30,000 inhabitants or portion thereof based on the most recent U.S. Census. The counties must notify the DHSS of any limit established by February 1, 2017.

The Department of Health and Senior Services is required by paragraph 3(8) of the proposal to charge a one-time non-refundable applicant fee of $3,000 and a license fee good for three years of $10,000. Table 5 shows the revenue generated by county if each county limited the number of Medical Marijuana Dispensary Facilities to no less than one per every 30,000 inhabitants or portion thereof using the U.S. Census population for 2010. Each calculation is rounded up since the proposal indicates that the a license is provided for every "portion thereof" of 30,000.

The total number of licensees in the state under this calculation is 262 Medical Marijuana Dispensary Facilities. Table 5 assumes that the number of dispensaries will be limited in each county.

The total revenue generated from the applicant and licenses fees for 262 dispensaries, assuming that all application and license fees came in during the same year, is $3,406,000 including:

- $786,000 in one-time non-refundable applicant fees
- $2,620,000 in license fees from the first year's annual fee for the three year license

**Table 5**
**Missouri Population - 2010 Census**
**Minimum Medical Marijuana Dispensary Facilities if limited by every county**

| County | 2010 Census Total Population | Minimum # of Medical Marijuana Dispensaries assuming each county limits to one per every 30,000 inhabitants or portion thereof | One-time non-refundable fee of $3,000 | Annual License fee of $10,000 - license good for 3 years | Total fees and licenses at minimum # of licensees |
|---|---|---|---|---|---|
| Adair | 25,607 | 1 | $3,000 | $10,000 | $13,000 |
| Andrew | 17,291 | 1 | $3,000 | $10,000 | $13,000 |
| Atchison | 5,685 | 1 | $3,000 | $10,000 | $13,000 |
| Audrain | 25,529 | 1 | $3,000 | $10,000 | $13,000 |
| Barry | 35,597 | 2 | $6,000 | $20,000 | $26,000 |
| Barton | 12,402 | 1 | $3,000 | $10,000 | $13,000 |
| Bates | 17,049 | 1 | $3,000 | $10,000 | $13,000 |
| Benton | 19,056 | 1 | $3,000 | $10,000 | $13,000 |
| Bollinger | 12,363 | 1 | $3,000 | $10,000 | $13,000 |
| Boone | 162,642 | 6 | $18,000 | $60,000 | $78,000 |
| Buchanan | 89,201 | 3 | $9,000 | $30,000 | $39,000 |
| Butler | 42,794 | 2 | $6,000 | $20,000 | $26,000 |
| Caldwell | 9,424 | 1 | $3,000 | $10,000 | $13,000 |

| | | | | | |
|---|---|---|---|---|---|
| Callaway | 44,332 | 2 | $6,000 | $20,000 | $26,000 |
| Camden | 44,002 | 2 | $6,000 | $20,000 | $26,000 |
| Cape Girardeau | 75,674 | 3 | $9,000 | $30,000 | $39,000 |
| Carroll | 9,295 | 1 | $3,000 | $10,000 | $13,000 |
| Carter | 6,265 | 1 | $3,000 | $10,000 | $13,000 |
| Cass | 99,478 | 4 | $12,000 | $40,000 | $52,000 |
| Cedar | 13,982 | 1 | $3,000 | $10,000 | $13,000 |
| Chariton | 7,831 | 1 | $3,000 | $10,000 | $13,000 |
| Christian | 77,422 | 3 | $9,000 | $30,000 | $39,000 |
| Clark | 7,139 | 1 | $3,000 | $10,000 | $13,000 |
| Clay | 221,939 | 8 | $24,000 | $80,000 | $104,000 |
| Clinton | 20,743 | 1 | $3,000 | $10,000 | $13,000 |
| Cole | 75,990 | 3 | $9,000 | $30,000 | $39,000 |
| Cooper | 17,601 | 1 | $3,000 | $10,000 | $13,000 |
| Crawford | 24,696 | 1 | $3,000 | $10,000 | $13,000 |
| Dade | 7,883 | 1 | $3,000 | $10,000 | $13,000 |
| Dallas | 16,777 | 1 | $3,000 | $10,000 | $13,000 |
| Daviess | 8,433 | 1 | $3,000 | $10,000 | $13,000 |
| DeKalb | 12,892 | 1 | $3,000 | $10,000 | $13,000 |
| Dent | 15,657 | 1 | $3,000 | $10,000 | $13,000 |
| Douglas | 13,684 | 1 | $3,000 | $10,000 | $13,000 |
| Dunklin | 31,953 | 2 | $6,000 | $20,000 | $26,000 |
| Franklin | 101,492 | 4 | $12,000 | $40,000 | $52,000 |
| Gasconade | 15,222 | 1 | $3,000 | $10,000 | $13,000 |
| Gentry | 6,738 | 1 | $3,000 | $10,000 | $13,000 |
| Greene | 275,174 | 10 | $30,000 | $100,000 | $130,000 |
| Grundy | 10,261 | 1 | $3,000 | $10,000 | $13,000 |
| Harrison | 8,957 | 1 | $3,000 | $10,000 | $13,000 |
| Henry | 22,272 | 1 | $3,000 | $10,000 | $13,000 |
| Hickory | 9,627 | 1 | $3,000 | $10,000 | $13,000 |
| Holt | 4,912 | 1 | $3,000 | $10,000 | $13,000 |
| Howard | 10,144 | 1 | $3,000 | $10,000 | $13,000 |
| Howell | 40,400 | 2 | $6,000 | $20,000 | $26,000 |
| Iron | 10,630 | 1 | $3,000 | $10,000 | $13,000 |
| Jackson | 674,158 | 23 | $69,000 | $230,000 | $299,000 |
| Jasper | 117,404 | 4 | $12,000 | $40,000 | $52,000 |
| Jefferson | 218,733 | 8 | $24,000 | $80,000 | $104,000 |
| Johnson | 52,595 | 2 | $6,000 | $20,000 | $26,000 |
| Knox | 4,131 | 1 | $3,000 | $10,000 | $13,000 |
| Laclede | 35,571 | 2 | $6,000 | $20,000 | $26,000 |
| Lafayette | 33,381 | 2 | $6,000 | $20,000 | $26,000 |
| Lawrence | 38,634 | 2 | $6,000 | $20,000 | $26,000 |
| Lewis | 10,211 | 1 | $3,000 | $10,000 | $13,000 |
| Lincoln | 52,566 | 2 | $6,000 | $20,000 | $26,000 |
| Linn | 12,761 | 1 | $3,000 | $10,000 | $13,000 |
| Livingston | 15,195 | 1 | $3,000 | $10,000 | $13,000 |

| | | | | | |
|---|---|---|---|---|---|
| McDonald | 23,083 | 1 | $3,000 | $10,000 | $13,000 |
| Macon | 15,566 | 1 | $3,000 | $10,000 | $13,000 |
| Madison | 12,226 | 1 | $3,000 | $10,000 | $13,000 |
| Maries | 9,176 | 1 | $3,000 | $10,000 | $13,000 |
| Marion | 28,781 | 1 | $3,000 | $10,000 | $13,000 |
| Mercer | 3,785 | 1 | $3,000 | $10,000 | $13,000 |
| Miller | 24,748 | 1 | $3,000 | $10,000 | $13,000 |
| Mississippi | 14,358 | 1 | $3,000 | $10,000 | $13,000 |
| Moniteau | 15,607 | 1 | $3,000 | $10,000 | $13,000 |
| Monroe | 8,840 | 1 | $3,000 | $10,000 | $13,000 |
| Montgomery | 12,236 | 1 | $3,000 | $10,000 | $13,000 |
| Morgan | 20,565 | 1 | $3,000 | $10,000 | $13,000 |
| New Madrid | 18,956 | 1 | $3,000 | $10,000 | $13,000 |
| Newton | 58,114 | 2 | $6,000 | $20,000 | $26,000 |
| Nodaway | 23,370 | 1 | $3,000 | $10,000 | $13,000 |
| Oregon | 10,881 | 1 | $3,000 | $10,000 | $13,000 |
| Osage | 13,878 | 1 | $3,000 | $10,000 | $13,000 |
| Ozark | 9,723 | 1 | $3,000 | $10,000 | $13,000 |
| Pemiscot | 18,296 | 1 | $3,000 | $10,000 | $13,000 |
| Perry | 18,971 | 1 | $3,000 | $10,000 | $13,000 |
| Pettis | 42,201 | 2 | $6,000 | $20,000 | $26,000 |
| Phelps | 45,156 | 2 | $6,000 | $20,000 | $26,000 |
| Pike | 18,516 | 1 | $3,000 | $10,000 | $13,000 |
| Platte | 89,322 | 3 | $9,000 | $30,000 | $39,000 |
| Polk | 31,137 | 2 | $6,000 | $20,000 | $26,000 |
| Pulaski | 52,274 | 2 | $6,000 | $20,000 | $26,000 |
| Putnam | 4,979 | 1 | $3,000 | $10,000 | $13,000 |
| Ralls | 10,167 | 1 | $3,000 | $10,000 | $13,000 |
| Randolph | 25,414 | 1 | $3,000 | $10,000 | $13,000 |
| Ray | 23,494 | 1 | $3,000 | $10,000 | $13,000 |
| Reynolds | 6,696 | 1 | $3,000 | $10,000 | $13,000 |
| Ripley | 14,100 | 1 | $3,000 | $10,000 | $13,000 |
| St. Charles | 360,485 | 13 | $39,000 | $130,000 | $169,000 |
| St. Clair | 9,805 | 1 | $3,000 | $10,000 | $13,000 |
| Ste. Genevieve | 18,145 | 1 | $3,000 | $10,000 | $13,000 |
| St. Francois | 65,359 | 3 | $9,000 | $30,000 | $39,000 |
| St. Louis | 998,954 | 34 | $102,000 | $340,000 | $442,000 |
| Saline | 23,370 | 1 | $3,000 | $10,000 | $13,000 |
| Schuyler | 4,431 | 1 | $3,000 | $10,000 | $13,000 |
| Scotland | 4,843 | 1 | $3,000 | $10,000 | $13,000 |
| Scott | 39,191 | 2 | $6,000 | $20,000 | $26,000 |
| Shannon | 8,441 | 1 | $3,000 | $10,000 | $13,000 |
| Shelby | 6,373 | 1 | $3,000 | $10,000 | $13,000 |
| Stoddard | 29,968 | 1 | $3,000 | $10,000 | $13,000 |
| Stone | 32,202 | 2 | $6,000 | $20,000 | $26,000 |
| Sullivan | 6,714 | 1 | $3,000 | $10,000 | $13,000 |
| Taney | 51,675 | 2 | $6,000 | $20,000 | $26,000 |

| | | | | | |
|---|---|---|---|---|---|
| Texas | 26,008 | 1 | $3,000 | $10,000 | $13,000 |
| Vernon | 21,159 | 1 | $3,000 | $10,000 | $13,000 |
| Warren | 32,513 | 2 | $6,000 | $20,000 | $26,000 |
| Washington | 25,195 | 1 | $3,000 | $10,000 | $13,000 |
| Wayne | 13,521 | 1 | $3,000 | $10,000 | $13,000 |
| Webster | 36,202 | 2 | $6,000 | $20,000 | $26,000 |
| Worth | 2,171 | 1 | $3,000 | $10,000 | $13,000 |
| Wright | 18,815 | 1 | $3,000 | $10,000 | $13,000 |
| St. Louis city | 319,294 | 11 | $33,000 | $110,000 | $143,000 |
| **Missouri** | **5,988,927** | **262** | $786,000 | $2,620,000 | $3,406,000 |

Source: Census 2000 - SF1 and 2010 P.L. 94-171
From Missouri Office of Administration-Division of Budget and Planning website

However, it is possible that every county may not limit the number of medical marijuana dispensary facilities. In addition, such a facility may not open in every county due to the small number of inhabitants and the economics of businesses being viable in a small market. Missouri has 114 counties plus the City of St. Louis. Table 6 shows the amount of revenue generated by size of county. There are 26 counties with less than 10,000 in population. There are 18 counties with a population between 10,000 and 15,000. Table 6 shows that if no dispensary opened in counties with populations less than 15,000 in population the revenue generated would still be $2.8 million. That amounts to a loss of $572,000 which is 17% of the revenue while losing 38% of the counties. Given experiences in other states it is unlikely that 44 counties will not have a medical marijuana dispensary. In addition, this assumption would mean that 26 of the 44 counties north of the Missouri River would be unserved, thus wide swaths of northern Missouri would be without a dispensary. The same would be true of a large area in southeast Missouri.

Given the grouping of small counties in northern and southern Missouri it is likely that regional dispensaries serving multiple counties will attempt to operate to serve any local demand. For example, one or several regional dispensaries might serve a combination of counties grouped in northwest Missouri (Worth, Gentry, Dekalb, Harrison, Daviess counties) or southeast Missouri (Shannon, Oregon, Reynolds, Carter, Ripley, Iron, Wayne counties). The success of the regional dispensaries will be more difficult and it will likely require several years of experience before the number of dispensaries in small counties settles into a long-term supportable number.

**Table 6 - Revenue from Medical Marijuana Dispensary Facilities by County Size**

| Missouri county populations | # of counties | % of counties | # of dispensaries | Revenue from dispensary application and license fees |
|---|---|---|---|---|
| Less than 10,000 population | 26 | 22.6% | 26 | $338,000 |
| Between 10,000 and 15,000 | 18 | 15.7% | 18 | $234,000 |
| Greater than 15,000 | 71 | 61.7% | 218 | $2,834,000 |
| Total | 115 | 100.0% | 262 | $3,406,000 |

Another way to look at the number of possible dispensaries is to look at the experience of other states. The states with laws most similar to the proposed initiative petition are Oregon and Colorado. A number of the states restrict dispensaries to a small number. Other states have local registration, have a different distribution structure, or are too early in their operations to have approved dispensaries in part or in full.

Missouri's population is larger than both Colorado and Oregon. Table 7 shows the U.S. Census Bureau's population estimate for the three states. Table 7 also provides statistics on the need and demand for dispensaries as measured by the number of dispensaries per population and per square mile. There were 515 dispensaries in Colorado in 2015 or 1 for every 10,400 people compared to Oregon's 345 dispensaries with 1 for every 11,508 people. This is not much difference in the number of people per dispensary. Colorado has one dispensary per every 201 square miles in the state compared to Oregon's one dispensary per every 278 square miles.

Based on Missouri's population it would have between 527 and 583 dispensaries if it has Oregon or Colorado levels of dispensaries per person. Based on Missouri square miles it would have between 248 and 343 dispensaries. If Missouri experience is at the mid-point of the Oregon and Colorado dispensaries per square mile it would have 287 dispensaries. This calculation produces about ten percent more dispensaries as Table 5 which calculates 262 dispensaries assuming that each county will set a limit as provided by the proposed petition.

**TABLE 7 - Estimating Missouri dispensaries from Colorado and Oregon dispensaries**

| | | | Missouri Estimates | | |
|---|---|---|---|---|---|
| | Colorado | Oregon | at Colorado level | at Oregon level | if mid-point |
| Estimated 2014 population by U.S. Census Bureau | 5,355,866 | 3,970,239 | 6,063,589 | 6,063,589 | 6,063,589 |
| Square miles in state | 103,718 | 95,997 | 68,886 | 68,886 | 68,886 |
| | | | | | |
| | | | | | |
| 1 dispensary per # population | 10,400 | 11,508 | 10,400 | 11,508 | 10,954 |
| # of dispensaries - 2015 | 515 | 345 | 583 | 527 | 554 |
| | | | | | |
| 1 dispensary per # sq. miles | 201 | 278 | 201 | 278 | 240 |
| # of dispensaries - 2015 | 515 | 345 | 343 | 248 | 287 |

The estimate in Table 8 below assumes that action by the counties limits the Department of Health and Senior Services (DHSS) to approving 262 Medical Marijuana Dispensary Facilities, the minimum number allowed under the proposal. Table 8 assumes that:

- Given the economics of operating in small counties with limited demand, it is assumed that dispensaries will only operate in counties with more than 15,000 in population. A total of 218 dispensaries will operate under this assumption. While it is likely that regional dispensaries will provide service to multiple counties, the assumption below is conservative and discounts this possibility.
- In addition, the possible operators of Medical Marijuana-Dispensary Facilities will want to ramp up their activities along a timeline that correlates with the operation of the Medical Marijuana Cultivation Faculties and Medical Marijuana-Infused Product Facilities. Given the time needed for dispensary construction and preparation Table 8 assumes a that one-half of the 218 dispensaries

will apply for licenses in FY 2017 with the remainder in FY 2018. The DHSS could wait until the last date allowed for it to accept applications which is late in the fiscal year - May 7, 2017.

- Application fees are assumed for 218 licenses. Since application fees are non-refundable an additional $3,000 will be collected from any applicant that is ultimately refused a license. For example, a 10% or 25% refusal rate would mean 23 to 73 applications would pay the $3,000 non-refundable fee yet be rejected which would generate an additional $69,000 or $219,000 respectively not calculated into this revenue estimate.
- DHSS will first collect the non-refundable application fee. It is assumed the license fee will be collected later at the time of DHSS approval in order to limit the number of refunds that would need to be processed to rejected applicants.
- No license revenue will occur until FY 2018 since DHSS is not required to issue any licenses until October 2017.
- No license fees are assumed for the annual license fee required for the second year of the license which will occur in FY 2019 for licenses first issued in 2018.

The total revenue in applicant and licenses fees generated in FY 2017 and FY 2018 shown in Table 8 from the 218 facilities is $2,834,000 including:

- $327,000 in FY 2017, and
- $2,507,000 in FY 2018.

**Table 8 - Minimum Medical Marijuana Dispensary Facilities**

| **Assumptions** | **FY 2017** | **FY 2018** | **Total** |
|---|---|---|---|
| Date of applications | Applications to be allowed no later than 5/7/17 | Applications open all year | |
| % of applications submitted assuming minimal number approved by DHSS | 50.0% | 50.0% | 100.0% |
| Total applications assuming minimal number approved by DHSS | 109 | 109 | 218 |
| Total licenses approved by DHSS | 0 | 218 | 218 |
| | | | |
| | **FY 2017** | **FY 2018** | **Total** |
| **Revenues** | **Amount** | **Amount** | **Amount** |
| One-time non-refundable fee of $3,000 | $327,000 | $327,000 | $654,000 |
| First year license fee of $10,000 - good for 3 years | $0 | $2,180,000 | $2,180,000 |
| Total fees and licenses at minimum # of licensees | $327,000 | $2,507,000 | $2,834,000 |

## Patient identification cards and caregiver cards

The proposal requires that the Department of Health and Senior Services issue identification cards for qualifying patients, primary caregivers, and qualifying patient cultivation. No limit is established on the number of such cards that can be issued. However, a qualifying medical condition must be present as certified in accordance with the procedures outlined in the proposal.

The Department of Health and Senior Services is required by paragraphs 3(17) and 3(18) of the proposal to charge a $25 fee per year per card. The $25 card fee shall be increased or decreased by the percentage of increase or decrease in the Consumer Price Index calculated from the end of the previous calendar year.

In the medical marijuana fiscal notes prepared for bills considered by the Missouri General Assembly over the past three years, the Department of Health and Senior Services has used Oregon's experience with patient identification cards and caregiver cards as a basis to estimate what might occur in Missouri. DHSS indicated that Oregon had similar language to that being considered and the data was available. The states with laws most similar to the proposed initiative petition are Oregon and Colorado.

Qualifying patient cards

Table 9 provides information on the number of qualifying patient cards as of the end of FY 2014 and FY 2015 from each state. In both years Colorado had about 113,500 cards which amounted to 2.1% of the population. In Oregon the number of cards grew from 64,838 to 72,517 with a very slightly lower percent of the population of 1.8% in FY 2015. Missouri's population is larger than both Colorado and Oregon.

Based on the U.S. Census Bureau's population estimates for the three states if the Missouri experience is:

- at Colorado's level we will have 127,335 qualifying patient cards.
- at Oregon's level we will have 103,081 qualifying patient cards
- at the mid-point of the Oregon and Colorado we would have 115,208 cards

**TABLE 9 - Missouri Estimates of Qualifying Patients from Colorado and Oregon Experience**

| | Colorado | | Oregon | | | Missouri Estimates | | |
|---|---|---|---|---|---|---|---|---|
| | 2014 | 2015 | 2014 | 2015 | | at Colorado level | at Oregon level | if mid-point |
| Estimated 2014 population by U.S. Census Bureau | 5,355,866 | 5,355,866 | 3,970,239 | 3,970,239 | | 6,063,589 | 6,063,589 | 6,063,589 |
| # of qualifying patient cards | 113,506 | 113,585 | 64,838 | 72,517 | | 127,335 | 103,081 | 115,208 |
| % of population | 2.1% | 2.1% | 1.6% | 1.8% | | 2.1% | 1.7% | 1.9% |

In the medical marijuana fiscal notes for bills considered by the General Assembly the DHSS also made an adjustment upward in its estimate on the number of qualifying patient cards. For example, in the fiscal note for HB 490 (2015 session) the DHSS assumed that the number of Missouri cards would be higher because the rates of chronic diseases are generally higher than those in Oregon. DHSS estimated 25% more applicants in Missouri as a result of that assumption.

Table 10 looks at the reasonableness of the extra 25% in applicants by reviewing the specific rates of cancer, HIV, and obesity (as an indicator of overall chronic disease) since they are among the items that would likely generate qualifying conditions under the proposed petition. Missouri's rate for each of the four conditions is higher, and sometimes substantially higher, than Colorado and Oregon. For example, Missouri's cancer rate is 6.7% higher than Oregon and 11.1% higher than Colorado. Similarly, Missouri's obesity rate is 8.2% higher than Oregon's and 41.8% higher than Colorado's rate.

**Table 10 - Chronic Disease Rates in Colorado, Oregon, and Missouri**

| | Cancer rate | Diabetes rate | Obesity rate | HIV rate |
|---|---|---|---|---|
| Colorado | 405.5 | 3.6 | 21.3 | 7.5 |
| Oregon | 422.2 | 4.7 | 27.9 | 6.9 |
| Missouri | 450.6 | 5.2 | 30.2 | 9.6 |
| | | | | |
| MO difference from other state | | | | |
| % Difference from Colorado | 11.1% | 44.4% | 41.8% | 28.0% |
| % Difference from Oregon | 6.7% | 10.6% | 8.2% | 39.1% |

The data in Table 10 appears to corroborate the DHSS assumption that Missouri will have 25% more applicants based on a higher level of chronic diseases. The following fiscal analysis will accept and use the additional 25% in its identification card calculations. Table 11 estimates that there will be 144,010 patient and caregiver cards issued as a result of the proposed petition.

**Table 11 - Estimated Qualifying Patient Cards**

| | |
|---|---|
| Qualifying Patient cards calculated at 1.9% of population (mid-point between Colorado's 2.1% and Oregon's 1.7%) | 115,208 |
| Chronic disease factor boost (25% based on DHSS assumption and data in Table 10) | 25.0% |
| Number of qualifying patient cards to be issued | 144,010 |
| | |

Caregiver cards

DHSS is also responsible for issuing Primary Caregiver identification cards under the provisions of the initiative petition. In its fiscal note on medical marijuana legislation considered by the General Assembly the DHSS used Oregon's experience as a model for its estimate due to the similar mandatory registration provisions. The DHSS used the number of caregivers and adjusted for Missouri's larger population and then adjusted upward by a factor of 25% due to Missouri's higher chronic disease levels. These are the same adjustment factors used for qualifying patients by DHSS.

Tables 12 and 13 use information from Oregon to estimate the number of Missouri caregiver identification cards. Table 12 shows that the number of Oregon caregiver cards in 2014 and 2015 amounted to about 0.9% of its population. Adjusting for Missouri's larger population would produce an estimated 54,572 Missouri caregiver cards. Further adjusting for Missouri's higher chronic disease levels, as done previously by DHSS, would result in 68,215 caregiver cards.

**Table 12**
**Missouri Caregiver Cards using Oregon Rate plus Chronic Disease adjustment**

| | Oregon 2014 | Oregon 2015 | Missouri estimate if at Oregon rate | Missouri estimate with 25% adjustment for chronic disease levels |
|---|---|---|---|---|
| Estimated 2014 population by U.S. Census Bureau | 3,970,239 | 3,970,239 | 6,063,589 | 6,063,589 |
| # of caregiver cards | 32,796 | 35,864 | 54,572 | 68,215 |
| % of population | 0.8% | 0.9% | 0.9% | 1.1% |

Another way to look at the issue is to look at the rate of caregiver cards compared to the number of qualifying patient cards. Table 13 shows that Oregon caregiver cards were about 50% of the total of qualifying patient cards. Using the estimated number of Missouri qualifying patient cards calculated in Table 11, the number of caregiver cards would total 72,005 if it were 50% of the number of qualifying patient cards.

**Table 13 - Missouri Caregiver cards based on Oregon Qualifying Patient Cards**

| | | | |
|---|---|---|---|
| | Oregon 2014 | Oregon 2015 | Missouri estimate at Oregon average for care givers |
| Qualifying patient cards | 64,838 | 72,517 | 144,010 |
| Caregiver cards | 32,796 | 35,864 | 72,005 |
| Total Qualifying patient and Caregiver cards | 97,634 | 108,381 | 216,015 |
| % of caregiver cards to qualifying patients | 50.6% | 49.5% | 50.0% |

Both Table 12 and Table 13 produce caregiver card numbers in approximately the same number. For purposes of this fiscal note the number of caregiver cards is 70,110, the average of the Table 12 and Table 13 estimates.

Summary of Fee Revenue from Qualifying Patient and Primary Caregiver identification cards

Table 14 estimates the number of patient and caregiver cards and the revenue generated in the first two years. DHSS must allow applications for identification cards by May 7, 2017. The proposal requires that DHSS approve or deny applications within 30 days. Thus, the latest that the first identification card can be issued is June 6, 2017. Given the construction timeline for cultivation faculties and dispensaries and crop growing time, qualifying patients and caregivers are likely to apply for identification cards closer to the time those facilities will be completed. There are individuals that will want to be early in line for medical and legal reasons. It is assumed that one-fourth of the new applicants will come in during the first year. Half of the qualifying patients and primary caregivers will apply during FY 2018 and the remainder in FY 2019. The annual fee and renewal fee is $25. Those receiving identification cards in FY 2017 will have to renew them in FY 2018. In its medical marijuana legislative fiscal note the DHSS estimated that there would be a two percent increase in applications per year. This analysis does not assume identification card growth in the first two years. The petition requires increases or decreases in the annual fee based on CPI changes. However, no inflation/deflation calculation is included in this analysis.

Table 14 estimates that there will be 214,122 qualifying patient and caregiver cards issued in FY 2017 and FY 2018, including first time participants and renewals. Table 14 estimates that $5.4 million will be collected in the first two years of the program including:

- $1.3 million in FY 2017
- $4.0 million in FY 2018

**Table 14 - Fee Revenue from Qualifying Patient and Primary Caregiver Cards**

| **Assumptions** | **FY 2017** | **FY 2018** | **Total** |
|---|---|---|---|
| Application deadlines | Applications to be allowed no later than 5/7/17 | Applications open all year | |
| % of new applications submitted | 25.0% | 50.0% | 75.0% |
| | | | |
| Qualifying patient identification cards | | | |
| Total new applications | 36,003 | 72,005 | 108,008 |
| Total renewal applications | | 36,003 | 36,003 |
| | | | |
| Primary caregiver identification cards | | | |
| Total new applications | 17,528 | 35,055 | 52,583 |
| Total renewal applications | | 17,528 | 17,528 |
| | | | |
| Total of all applications for qualifying patients and caregivers | 53,531 | 160,591 | 214,122 |
| | | | |
| | **FY 2017** | **FY 2018** | **Total** |
| **Revenues** | **Amount** | **Amount** | **Amount** |
| Qualifying patient cards | - | - | - |
| Annual fee of $25 | $900,075 | $1,800,125 | $2,700,200 |
| First renewal fee for those approved in FY 2017 | $0 | $900,075 | $900,075 |
| subtotal qualifying patient cards | $900,075 | $2,700,200 | $3,600,275 |
| | | | |
| Primary caregiver cards | - | - | - |
| Annual fee of $25 | $438,200 | $876,375 | $1,314,575 |
| First renewal fee for those approved in FY 2017 | $0 | $438,200 | $438,200 |
| subtotal primary caregiver cards | $438,200 | $1,314,575 | $1,752,775 |
| | | | |
| Total qualifying patient and primary caregiver card revenue | - | - | - |
| Annual fee of $25 | $1,338,275 | $2,676,500 | $4,014,775 |
| First renewal fee for those approved in FY 2017 | $0 | $1,338,275 | $1,338,275 |
| Total application fee revenue | $1,338,275 | $4,014,775 | $5,353,050 |

**Qualifying Patient Cultivation Cards**

The proposal requires that the Department of Health and Senior Services issue identification cards for qualifying patient cultivation. No limit is established on the number of such cards that can be issued. DHSS must allow applications for qualifying patient cultivation identification cards by May 7, 2017. The proposal requires that DHSS approve or deny applications within 30 days. Thus, the latest that the first identification card can be issued is June 6, 2017, assuming that it receives any such applications.

The Department of Health and Senior Services is required by paragraphs 3(17) and 3(18) of the proposal to charge a $25 fee per year per card. The $25 card fee shall be increased or decreased by the percentage of increase or decrease in the Consumer Price Index calculated from the end of the previous calendar year.

The states allowing the use of medical marijuana have varying provisions for cultivation by patients, if it is allowed at all. Thus, estimating the total number of patient cultivation cards using other state data is more difficult. In addition, paragraph 7(10) of the proposal requires that "all patient cultivation shall take place in an enclosed, locked facility that is equipped with security devices that permit access only by the qualifying patient or by such patient's primary caregiver."

This analysis assumes that given the construction timeline for cultivation faculties and dispensaries and crop growing time, the earliest sales of medical marijuana will take place in October 2017. The cost to qualifying patients or their caregivers of the security upgrades or construction of the enclosed, locked facility required by paragraph 7(10) will substantially diminish the number of patient cultivators initially. Qualifying patients are more likely to first use product purchased from dispensaries to determine the efficacy of medical marijuana in treating their qualifying medical condition. Only after determining the treatment's efficacy will patients consider paying for the security and facility required by paragraph 7(10). Paragraph 3(d) requires the DHSS to establish a seed-to-sale tracking system that in effect requires the qualifying patients or their caregivers to obtain their cultivation plants from the Medical Marijuana Dispensary Facilities.

Table 15 assumes that 15% of the qualifying patients will apply for patient cultivation identification cards. It is assumed that those qualifying patients will use medical marijuana from medical marijuana dispensary facilities for six months before moving to patient cultivation and incurring the required security and facility costs required in the proposal. The first patient cultivation card is assumed to be issued in March 2018, six months after the first dispensary sale. Table 15 assumes that the patient cultivation cards will be issued and phased-in over a 16 month period from March 2018 to June 2019. A total of 1,350 patient cultivation cards per month results in 5,400 patient cultivation cards issued in FY 2018 producing revenue of $135,000.

**Table 15 - Qualifying Patient Cultivation Cards**

| | |
|---|---|
| # patient cultivation cards issued per month | 1,350 |
| # months issued (March to June 2018) | 4 |
| # cultivation cards issued in FY 2018 | 5,400 |
| Missouri fee | $25 |
| Total FY 2018 revenue | $135,000 |

**Tax Revenues**

Colorado and Oregon have been used throughout this analysis as the benchmark states for comparison to Missouri's possible experience. Oregon does not tax medical marijuana sales so it has no data that can be used to help estimate Missouri sales. Table 16 shows that Colorado state tax collections for medical marijuana was $10.6 million in FY 2014 and $10.4 million in FY 2015. Colorado taxes medical marijuana at 2.9% and has explicit accounting of those revenues on its website. To generate $10.4 million in FY 2015 with a 2.9% sales tax the economic value that was taxed would need to be $358.9 million. This computes to $3,160 per cardholder per year or $263 per month per cardholder. Multiplying the estimated 144,010 Missouri qualifying patient cardholders times $3,160 per month would produce a market of $455.1 million in Missouri economic value.

**Table 16 - Colorado Taxes and Economic Activity for Medical Marijuana**

| | Colorado 2014 | Colorado 2015 |
|---|---|---|
| State tax revenue collected from medical marijuana | $10,562,577 | $10,409,340 |
| Colorado Sales Tax Rate | 2.9% | 2.9% |
| Implied economic value taxed in Colorado sales | $364,226,793 | $358,942,759 |
| | | |
| Colorado Patient and care giver cards | 113,506 | 113,585 |
| $ per Colorado identification cardholder for year | $3,209 | $3,160 |
| $ per Colorado identification cardholder for month | $267 | $263 |
| | | |
| Estimated Missouri qualifying patient cardholders (Table 11) | 144,010 | 144,010 |
| Implied economic value tax in Missouri sales at same $ per Colorado identification cardholder | $462,128,090 | $455,071,600 |

Table 17 builds from the estimate of likely Missouri qualifying patients and caregivers to calculate the likely tax revenue. The assumptions in Table 17 include:

- 144,010 qualifying patients as calculated in Table 11.
- A phase-in of applicants and identification cards issued as calculated in Table 14. The FY 2018 applicants are phased-in at a standard monthly rate of 6,000 per month.
- October 2017 is the earliest that medical marijuana will be purchased. Nine months of purchasing in FY 2018 will be possible for 60,003 qualifying patients (36,003 with FY 2017 issued identification cards and 24,000 for the July through October 2017 cards issued in FY 2018). The remaining FY 2018 patients will only be able to purchase for the number of months left in the fiscal year based on the month their card is issued. The remaining 25% of qualifying patients will not start purchasing until they get their identification cards in FY 2019.
- A $265 per month, $3,180 per year, purchase of medical marijuana based on Colorado's experience. The State of Arizona in its FY 2014 Annual Report on Medical Marijuana used an estimate of $350 price per ounce. Arizona estimated that its 1.4 million transactions were worth $112 million in revenue.
- A 4% sales tax going to the Missouri Veterans' Health and Care Fund.
- Paragraph 4(4) of the proposal states that the 4% sales tax for Veterans is in addition to any other state general or local sales tax. The State's other sales taxes amount to 4.225% including 3% GR, 1% Prop C for K-12, 0.125% for Conservation, 0.1% for Parks/Soils.

Based on these assumptions Table 17 shows sales tax revenues of $16.5 million in total. The following amounts would go to state funds in FY 2017 and FY 2018.

- Missouri Veterans' Health and Care Fund - $8.0 million

- General Revenue - $6.0 million
- Prop C - $2.0 million
- Conservation - $0.25 million
- Parks/Soils - $0.2 million

**Table 17 - Missouri Tax Revenue Estimate**

| **Assumptions** | **FY 2017** | **FY 2018** | **Total** |
|---|---|---|---|
| Date of applications | Applications to be allowed no later than 5/7/17 | Applications open all year | |
| Total new applications for identification cards | 36,003 | 72,005 | 108,008 |
| Total renewal applications for identification cards | | 36,003 | 36,003 |
| | | | |
| $ per cardholder for month | $265 | $265 | |
| Number of months of purchases for FY 2017 applicants | 0 | 9 | |
| Number of months of purchases for FY 2018 applicants (net effective for monthly phase-in) | 0 | 6 | |
| | | | |
| | **FY 2017** | **FY 2018** | **Total** |
| **Value of sales taxed** | **Amount** | **Amount** | **Amount** |
| Value of sales made to FY 2017 applicants | $0 | $85,867,155 | $85,867,155 |
| Value of sales made to FY 2018 applicants | $0 | $114,487,950 | $114,487,950 |
| Total value of sales made to applicants | $0 | $200,355,105 | $200,355,105 |
| | | | |
| **SALES TAX COLLECTIONS** | | | |
| | | | |
| **Missouri Veterans' Health and Care Fund** | **Amount** | **Amount** | **Amount** |
| Proposed Missouri sales tax rate on Medical Marijuana | 4.0% | 4.0% | 4.0% |
| Sales tax revenue from FY 2017 applicants | $0 | $3,434,686 | $3,434,686 |
| Sales tax revenue from FY 2018 applicants | $0 | $4,579,518 | $4,579,518 |
| subtotal tax revenue | $0 | $8,014,204 | $8,014,204 |
| | | | |
| | | | |
| **General Revenue** | **Amount** | **Amount** | **Amount** |
| GR statutory sales tax rate on Medical Marijuana | 3.0% | 3.0% | 3.0% |
| Sales tax revenue from FY 2017 applicants | $0 | $2,576,015 | $2,576,015 |
| Sales tax revenue from FY 2018 applicants | $0 | $3,434,639 | $3,434,639 |
| subtotal tax revenue | $0 | $6,010,653 | $6,010,653 |
| | | | |
| **Prop C** | **Amount** | **Amount** | **Amount** |
| Prop C sales tax rate on Medical Marijuana | 1.0% | 1.0% | 1.0% |
| Sales tax revenue from FY 2017 applicants | $0 | $858,672 | $858,672 |
| Sales tax revenue from FY 2018 applicants | $0 | $1,144,880 | $1,144,880 |
| subtotal tax revenue | $0 | $2,003,551 | $2,003,551 |
| | | | |

| **Conservation** | **Amount** | **Amount** | **Amount** |
|---|---|---|---|
| Conservation sales tax rate on Medical Marijuana | 0.125% | 0.125% | 0.125% |
| Sales tax revenue from FY 2017 applicants | $0 | $107,334 | $107,334 |
| Sales tax revenue from FY 2018 applicants | $0 | $143,110 | $143,110 |
| subtotal tax revenue | $0 | $250,444 | $250,444 |
| | | | |
| **Parks and Soils** | **Amount** | **Amount** | **Amount** |
| Parks and Soils sales tax rate on Medical Marijuana | 0.10% | 0.10% | 0.10% |
| Sales tax revenue from FY 2017 applicants | $0 | $85,867 | $85,867 |
| Sales tax revenue from FY 2018 applicants | $0 | $114,488 | $114,488 |
| subtotal tax revenue | $0 | $200,355 | $200,355 |
| | | | |
| **Total State Funds** | **Amount** | **Amount** | **Amount** |
| All state funds sales tax rate on Medical Marijuana | 8.225% | 8.225% | 8.225% |
| Sales tax revenue from FY 2017 applicants | $0 | $7,062,573 | $7,062,573 |
| Sales tax revenue from FY 2018 applicants | $0 | $9,416,634 | $9,416,634 |
| Total State Tax Revenue | $0 | $16,479,207 | $16,479,207 |

**Local Revenue and Costs for Medical Marijuana bills filed in past three legislative sessions**

Six of the seven medical marijuana bills have completed fiscal notes for some version of the bill. Local costs identified in the various fiscal notes prepared by the Oversight Division are very low.

Table 18 estimates the local tax revenue generated as a result of the proposed petition. The table uses the same methodology as used in Table 17 in estimating state tax revenue. The Oversight Division uses a 3.88% local sales tax rate for its estimates in fiscal notes. That assumption is adopted here as well. Using this methodology results in an estimate of $10 million in local sales tax revenue in FY 2018.

**Table 18 - Missouri Local Tax Revenue Estimate**

| **Assumptions** | **FY 2017** | **FY 2018** | **Total** |
|---|---|---|---|
| Date of applications | Applications to be allowed no later than 5/7/17 | Applications open all year | |
| Total new applications for identification cards | 36,003 | 72,005 | 108,008 |
| Total renewal applications for identification cards | | 36,003 | 36,003 |
| | | | |
| $ per cardholder for month | $265 | $265 | |
| Number of months of purchases for FY 2017 applicants | 0 | 9 | |
| Number of months of purchases for FY 2018 applicants (net effective for monthly phase-in) | 0 | 6 | |
| | | | |
| | **FY 2017** | **FY 2018** | **Total** |
| **Value of sales taxed** | **Amount** | **Amount** | **Amount** |
| Value of sales made to FY 2017 applicants | $0 | $85,867,155 | $85,867,155 |
| Value of sales made to FY 2018 applicants | $0 | $114,487,950 | $114,487,950 |
| Total value of sales made to applicants | $0 | $200,355,105 | $200,355,105 |
| | | | |
| **SALES TAX COLLECTIONS** | | | |
| | | | |
| **Local Sales Taxes** | **Amount** | **Amount** | **Amount** |
| Average sales tax rate used by Legislature's Oversight Division for Local Sales Taxes | 3.88% | 3.88% | 3.88% |
| Sales tax revenue from FY 2017 applicants | $0 | $3,331,646 | $3,331,646 |
| Sales tax revenue from FY 2018 applicants | $0 | $4,442,132 | $4,442,132 |
| subtotal local tax revenue | $0 | $7,773,778 | $7,773,778 |

In several instances the fiscal note indicates that anticipated income exceeds anticipated costs. A summary of the Oversight Division's fiscal notes is shown in Table 19: More detailed information about those fiscal notes is outlined below. However, the local sales tax revenues that are estimated in Table 18 far outweigh the minor costs identified.

**Table 19**
**MISSOURI MEDICAL MARIJUANA LEGISLATION**
**SUMMARY OF LOCAL COSTS**
**OVERSIGHT DIVISION FISCAL NOTES**
**2013, 2014, AND 2015 LEGISLATIVE SESSIONS**

| Session | Bill | Local Revenues | Local Costs | Local Net Effect |
|---|---|---|---|---|
| 2015 | SB 395 | Could exceed $787,160 | Unknown | Could exceed $787,160 |
| 2015 | HB 490 | $0 | Could exceed ($310,320) | Could exceed ($310,320) |
| 2015 | HB 800 | Could exceed $787,160 | Unknown to greater than ($310,320) | Could exceed $787,160 to Unknown to greater than ($204,600) |
| 2015 | HB 930 | Unknown | Greater than ($310,320) | Unknown to greater than ($310,320) |
| 2014 | SB 951 | $0 or unknown | None identified | $0 or unknown |
| 2014 | HB 1324 | $0 | $0 | $0 |
| 2013 | HB 688 | N/A | N/A | N/A |

- The Oversight Division reported that a number of local entities said one or more of the various proposals would have no cost to them, would have a limited impact if any, or the minor costs could be absorbed within current budget.
  - Law enforcement - Springfield Police Department , Columbia Police Department, and the Jefferson City Police Department, Cole County Sheriff Department
  - Counties - St. Louis County, Mississippi County, and Callaway County
  - Cities - City of Kansas City, City of Columbia, City of Jefferson City, City of Springfield
  - K-12 Schools - Carondelet Leadership Academy, Kansas City Public Schools, Malta Bend School District, and the Francis Howell School District
  - Higher Education - Linn State Technical College, Metropolitan Community College, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, University of Central Missouri, and the University of Missouri
  - Local Public Health Agencies - Columbia/Boone County Department of Public Health and Human Services, Harrison County Public Health Department and Hospice, and the City of Independence Health Department
  - Fire districts - Central County Fire and Rescue

- A large number of local entities did not respond to the Oversight Division. The most likely reason for lack of response is that they do not anticipate any cost.

- Law enforcement - Boone County Sheriff's Department, Buchanan County Sheriff's Department, Clark County Sheriff's Department, Cole County Sheriff, Columbia Police Department, Independence Police Department, Jackson County Sheriff's Department, Jefferson City Police Department, Jefferson County 911 Dispatch, Platte County Sheriff's Department, St. Charles Police Department, St. Joseph Police Department, St. Louis County Police Department and the St. Louis Metropolitan Police Department

- Counties - Andrew, Atchison, Audrain, Barry, Bates, Bollinger, Boone, Buchanan, Callaway, Camden, Cape Girardeau, Carroll, Cass, Clay, Cole, Cooper, DeKalb, Dent, Franklin, Greene, Holt, Jackson, Jefferson, Johnson, Knox, Laclede, Lawrence, Lincoln, Marion, McDonald, Miller, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Ozark, Perry, Pettis, Platte, Pulaski, Scott, Shelby, St. Charles, St. Louis, St. Francois, Taney, Warren, Wayne, and Worth

- Cities - Ashland, Belton, Bernie, Bonne Terre, Boonville, California, Cape Girardeau, Clayton, Columbia, Dardenne Prairie, Excelsior Springs, Florissant, Frontenac, Fulton, Gladstone, Grandview, Harrisonville, Independence, Jefferson City, Joplin, Kearney, Knob Noster, Ladue, Lake Ozark, Lebanon, Lee Summit, Liberty, Louisiana, Maryland Heights, Maryville, Mexico, Monett, Neosho, O'Fallon, Pacific, Peculiar, Pineville, Popular Bluff, Raytown, Republic, Richmond, Rolla, Sedalia, Springfield, St. Charles, St. Joseph, St. Louis, St. Robert, Sugar Creek, Sullivan, Warrensburg, Warrenton, Webb City, Weldon Spring and West Plains

- K-12 Schools - Blue Springs Public Schools, Branson Public Schools, Carondelet Leadership Academy, Charleston R-I Schools, Cole R-I Schools, Columbia Public Schools, Fair Grove Schools, Fulton Public School, Independence Public Schools, Jefferson City Public Schools, Kirksville Public Schools, Kirbyville R-VI Schools, Lee Summit Public Schools, Malden R-I Schools, Malta Bend Schools, Mexico Public Schools, Monroe City R-I Schools, Nixa Public Schools, Parkway Public Schools, Pattonville Schools, Raymore-Peculiar R-III Schools, Raytown School District, Sedalia School District, Sikeston Public Schools, Silex Public Schools, Special School District of St. Louis County, Spickard School District, St Joseph School District, St Louis Public Schools, St. Charles Public Schools, Sullivan Public Schools and Warren County R-III School District

- Higher Education - Crowder College, East Central Community College, Harris-Stowe, Jefferson College, Lincoln University, Moberly Area Community College, Southeast Missouri State University, State Fair Community College, St. Charles Community College, St. Louis Community College, Three Rivers Community College, Truman State University, and the University of Missouri

- Local Public Health Agencies - Audrain County Health Unit, Cass County Health Department, Clay County Public Health Center, Henry County Health Center, Hickory County Health Department, Howell County Health Department, Jefferson County Health Department, Linn County Health Department, McDonald County Health Department, Madison County Health Department, Marion County Health Department, Miller County Health Center, Morgan County Health Center, Nodaway County Health Center, Platte County Health Department, Polk County Health Center, Pulaski County Health Center and Home Health Agency, Randolph County Health Department, Reynolds County Health Center, Ripley County Health Center, Shelby County Health Department, the St. Francois County Health Center, the St. Joseph Health Department and the Taney County Health Department

- Fire districts - Battlefield Fire Protection District, Centralia Fire Department, Creve Couer Fire District, DeSoto Rural Fire Protection District, Eureka Fire Protection, Hawk Point Fire Protection District, Hillsboro Fire Protection District, Jefferson County 911 Dispatch, Lake

St. Louis Fire District, Mehlville Fire District, Nixa Fire Protection District, Saline Valley Fire Protection District and the Southern Iron County Fire Protection District

- Ambulance districts - Jefferson County 911 Dispatch, St. Charles County Ambulance District, Taney County Ambulance District and Valle Ambulance District

- Hospitals - Barton County Memorial Hospital, Bates County Memorial Hospital, Cedar County Memorial Hospital, Cooper County Hospital, Excelsior Springs Medical Center, Putnam County Memorial Hospital, Washington County Memorial Hospital,

- Only one local entity responded with a specific cost estimate in multiple fiscal notes. The St. Louis County Police Department indicated that four additional officers would be needed to investigate possible diversion of medical marijuana to illegal or recreational use.

- No entity responded with an estimate of any inspection costs for marijuana facilities. Any inspection costs of the various medical marijuana facilities would be covered by local fees already in effect to support those costs at the local level. Thus, there would be no additional uncovered costs that need to be reflected in the fiscal note for this proposal.

**Marijuana bills filed in past three legislative sessions**

The Missouri General Assembly has considered 26 bills during the past three legislative session - 2015, 2014, and 2013. A list of those bills is provided in Table 21 of this document along with links to the bill summaries and the fiscal notes. Fiscal notes were prepared for most but not all of the bills. Only seven of the bills dealt specifically with medical marijuana which are shown in Table 20 below. The other 19 bills dealt with other or more expansive issues such as full legalization, decriminalization, expungement of records, medical hemp, and industrial hemp. This analysis will only discuss the seven medical marijuana bills.

**Table 20**
**MISSOURI MEDICAL MARIJUANA LEGISLATION**
**2013, 2014, AND 2015 LEGISLATIVE SESSIONS**

| Session | Bill | Sponsor | Subject | Bill Summary Link | Fiscal Note Summary Link |
|---|---|---|---|---|---|
| 2015 | SB 395 | Holsman-D | Medical Marijuana | http://www.senate.mo.gov/15info/BTS_Web/Bill.aspx?SessionType=R&BillID=2584380 | http://www.moga.mo.gov/OverSight/Over20151//fispdf/1979-01N.ORG.pdf |
| 2015 | HB 490 | English-I | Medical Marijuana | http://www.house.mo.gov/billsummary.aspx?bill=HB490&year=2015&code=R | http://www.moga.mo.gov/OverSight/Over20151//fispdf/1268-01N.ORG.pdf |
| 2015 | HB 800 | Hinson-R | Medical Marijuana | http://www.house.mo.gov/billsummary.aspx?bill=HB800&year=2015&code=R | http://www.moga.mo.gov/OverSight/Over20151//fispdf/1749-02N.ORG.pdf |
| 2015 | HB 930 | English-I | Medical Marijuana | http://www.house.mo.gov/billsummary.aspx?bill=HB930&year=2015&code=R | http://www.moga.mo.gov/OverSight/Over20151//fispdf/2109-01N.ORG.pdf |
| 2014 | SB 951 | Holsman-D | Medical Marijuana | http://www.senate.mo.gov/14info/BTS_Web/Bill.aspx?SessionType=R&BillID=31394939 | http://www.moga.mo.gov/Oversight/OVER14/fishtm/4158-01N.ORG.htm |
| 2014 | HB 1324 | Ellinger-D | Medical Marijuana | http://www.house.mo.gov/billsummary.aspx?bill=HB1324&year=2014&code=R | http://www.moga.mo.gov/Oversight/OVER14/fishtm/4036-01N.ORG.htm |
| 2013 | HB 688 | Colona-D | Medical Marijuana | http://www.house.mo.gov/billsummary.aspx?bill=HB688&year=2013&code=R | N/A |

**Table 21**
**MISSOURI MARIJUANA AND RELATED LEGISLATION**
**2013, 2014, AND 2015 LEGISLATIVE SESSIONS**

| Session | Bill | Sponsor | Subject | Bill Summary Link | Fiscal Note Summary Link |
|---|---|---|---|---|---|
| 2015 | SB 395 | Holsman-D | Medical Marijuana | http://www.senate.mo.gov/15info/BTS_Web/Bill.aspx?SessionType=R&BillID=2584380 | http://www.moga.mo.gov/OverSight/Over20151//fispdf/1979-01N.ORG.pdf |
| 2015 | HB 490 | English-I | Medical Marijuana | http://www.house.mo.gov/billsummary.aspx?bill=HB490&year=2015&code=R | http://www.moga.mo.gov/OverSight/Over20151//fispdf/1268-01N.ORG.pdf |
| 2015 | HB 800 | Hinson-R | Medical Marijuana | http://www.house.mo.gov/billsummary.aspx?bill=HB800&year=2015&code=R | http://www.moga.mo.gov/OverSight/Over20151//fispdf/1749-02N.ORG.pdf |
| 2015 | HB 930 | English-I | Medical Marijuana | http://www.house.mo.gov/billsummary.aspx?bill=HB930&year=2015&code=R | http://www.moga.mo.gov/OverSight/Over20151//fispdf/2109-01N.ORG.pdf |
| 2014 | SB 951 | Holsman-D | Medical Marijuana | http://www.senate.mo.gov/14info/BTS_Web/Bill.aspx?SessionType=R&BillID=31394939 | http://www.moga.mo.gov/oversight/OVER14/fishtm/4158-01N.ORG.htm |
| 2014 | HB 1324 | Ellinger-D | Medical Marijuana | http://www.house.mo.gov/billsummary.aspx?bill=HB1324&year=2014&code=R | http://www.moga.mo.gov/oversight/OVER14/fishtm/4036-01N.ORG.htm |
| 2013 | HB 688 | Colona-D | Medical Marijuana | http://www.house.mo.gov/billsummary.aspx?bill=HB688&year=2013&code=R | N/A |
| 2015 | SB 386 | Keaveny-D | medical hemp | http://www.senate.mo.gov/15info/BTS_Web/Bill.aspx?SessionType=R&BillID=2501418 | http://www.moga.mo.gov/OverSight/Over20151//fispdf/0274-10P.ORG.pdf |
| 2015 | HB 1183 | Jones, Caleb-R | medical hemp | http://www.house.mo.gov/billsummary.aspx?bill=HB1183&year=2015&code=R | http://www.moga.mo.gov/OverSight/Over20151//fispdf/2156-03N.ORG.pdf |
| 2014 | HB 2238 | Jones, Caleb-R | medical hemp | http://www.house.mo.gov/billsummary.aspx?bill=HB2238&year=2014&code=R | http://www.moga.mo.gov/oversight/OVER14/fishtm/6436-07T.ORG.htm |
| 2015 | SB 255 | Schaaf-R | industrial hemp | http://www.senate.mo.gov/15info/BTS_Web/Bill.aspx?SessionType=R&BillID=1226491 | http://www.moga.mo.gov/OverSight/Over20151//fispdf/1398-01N.ORG.pdf |
| 2015 | HB 701 | Hinson-R | industrial hemp | http://www.house.mo.gov/billsummary.aspx?bill=HB701&year=2015&cod | N/A |

| | | | | | |
|---|---|---|---|---|---|
| | | | | e=R | |
| 2015 | HB 830 | Curtman-R | industrial hemp | http://www.house.mo.gov/billsummary.aspx?bill=HB830&year=2015&code=R | http://www.moga.mo.gov/OverSight/Over20151//fispdf/1840-03N.ORG.pdf |
| 2014 | HB 2054 | Colona-D | industrial hemp | http://www.house.mo.gov/billsummary.aspx?bill=HB2054&year=2014&code=R | http://www.moga.mo.gov/Oversight/OVER14/fishtm/6165-05N.ORG.htm |
| 2013 | SB 358 | Holsman-D | industrial hemp | http://www.senate.mo.gov/13info/BTS_Web/Bill.aspx?SessionType=R&BillID=18713094 | http://www.moga.mo.gov/Oversight/OVER13/fishtm/1748-01N.ORG.htm |
| 2015 | HJR 15 | Ellington-D | legalization | http://www.house.mo.gov/billsummary.aspx?bill=HJR15&year=2015&code=R | N/A |
| 2014 | HJR 86 | Ellington-D | legalization | http://www.house.mo.gov/billsummary.aspx?bill=HJR86&year=2014&code=R | N/A |
| 2015 | SB 560 | Chappelle-Nadal-D | decriminalizes | http://www.senate.mo.gov/15info/BTS_Web/Bill.aspx?SessionType=R&BillID=4721672 | N/A |
| 2015 | HB 978 | Dogan-R | decriminalizes | http://www.house.mo.gov/billsummary.aspx?bill=HB978&year=2015&code=R | http://www.moga.mo.gov/OverSight/Over20151//fispdf/1738-03N.ORG.pdf |
| 2014 | HB 1325 | Ellinger-D | decriminalizes | http://www.house.mo.gov/billsummary.aspx?bill=HB1325&year=2014&code=R | N/A |
| 2014 | HB 1659 | Kelly-D | decriminalizes | http://www.house.mo.gov/billsummary.aspx?bill=HB1659&year=2014&code=R | http://www.moga.mo.gov/Oversight/OVER14/fishtm/5345-01N.ORG.htm |
| 2013 | HB 512 | Ellinger-D | decriminalizes | http://www.house.mo.gov/billsummary.aspx?bill=HB512&year=2013&code=R | http://www.moga.mo.gov/Oversight/OVER13/fishtm/0382-01N.ORG.htm |
| 2015 | HB 1138 | Rhoads-R | excise tax | http://www.house.mo.gov/billsummary.aspx?bill=HB1138&year=2015&code=R | http://www.moga.mo.gov/OverSight/Over20151//fispdf/2072-03N.ORG.pdf |
| 2013 | HB 40 | Roorda-D | excise tax | http://www.house.mo.gov/billsummary.aspx?bill=HB40&year=2013&code=R | N/A |
| 2015 | HB 166 | English-I | expungement | http://www.house.mo.gov/billsummary.aspx?bill=HB166&year=2015&code=R | N/A |

| | | | | | |
|---|---|---|---|---|---|
| 2014 | HB 2234 | Ellington-D | expungement | http://www.house.mo.gov/billsummary.aspx?bill=HB2234&year=2014&code=R | N/A |

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **Missouri Senate, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri,** and **Metropolitan Community College**.

**Fiscal Note Summary**

This proposal is estimated to generate additional annual taxes and fees of $17 million to $21 million for state operating costs and veterans programs, $8 million for other state programs, and $7 million for local governments. State operating costs will be significant. Additional local government costs are likely.

RECEIVED
NOV 0 3 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-133

November 3, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article III, version 18 (2016-133)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on November 3, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-133

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 NOV -3 AM 11:35
SEC OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

My commission expires _____

_____
Address of Notary (Street, City, State & Zip Code)

16-133

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article III of the Constitution is revised by amending Sections 2, 7, 12 and 19 and adopting 5 new sections to be known as Article III Sections 16(a), 20(c), 20(d), 20(e) and 20(f) to read as follows:

Section 2. 1. The house of representatives shall consist of one hundred sixty-three members elected at each general election and apportioned in the following manner: Within sixty days after the population of this state is reported to the President for each decennial census of the United States and, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

2. The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.

Each district shall be composed of contiguous territory as compact as may be.

The commission shall create districts in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The commission shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the commission shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then

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calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the commission shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The commission shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the commission shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned consistent with the criteria of this section by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.

3. Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

4. No reapportionment shall be subject to the referendum.

5. Any taxpayer of this state shall have standing to bring suit in a circuit court of proper venue to enforce the provisions of this section.

Section 7. 1. Within sixty days after the population of this state is reported to the President for each decennial census of the United States, and within sixty days after notification by the governor that a reapportionment has been invalidated by a court of competent jurisdiction, the state committee of each of the two political parties casting the highest vote for governor at the last preceding election shall, at a committee meeting duly called, select by a vote of the individual committee members, and thereafter submit to the governor a list of ten persons, and within thirty days thereafter the governor shall appoint a commission of ten members, five from each list, to reapportion the thirty-four senatorial districts and to establish the numbers and boundaries of said districts.

If either of the party committees fails to submit a list within such time the governor shall appoint five members of his own choice from the party of the committee so failing to act.

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Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the secretary of the senate within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

2. The commission shall reapportion the senatorial districts by dividing the population of the state by the number thirty-four and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure; no county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

The commission shall create districts in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The commission shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the commission shall determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the commission shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The commission shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the commission shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven members.

After the statement is filed senators shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand

discharged and the senate shall be apportioned consistent with the criteria of this section by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter senators shall be elected according to such districts until a reapportionment is made as herein provided.

3. Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session, but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

4. No reapportionment shall be subject to the referendum.

5. Any taxpayer of this state shall have standing to bring suit in a circuit court of proper venue to enforce the provisions of this section.

Section 12. 1. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This subsection shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

2. No senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist until the expiration of one calendar year after the conclusion of the session of the general assembly in which the member or employee last served. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

3. No senator or representative or their employees or any entity controlled by a senator or representative or their employees shall act or serve as a paid employee or paid consultant to a political committee or political candidate or solicit prospective employers or clients as a paid employee or paid consultant to a political committee or political candidate. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

4. For purposes of this section, the term "lobbyist" means any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official.

Section 16(a). 1. No senator or representative or their employees or staff shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value

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from any lobbyist or lobbyist principal in excess of five dollars per occurrence. Senators or representatives and their employees and staff may accept informational material relevant to the general assembly's official functions and items that are available or distributed free of charge to members of the general public. All gifts by a lobbyist or lobbyist principal to a senator or representative or their employees or staff shall be reported to the ethics commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient. Candidates for senator or representative, including candidates for reelection, or candidates for offices within the senate or house may accept campaign contributions consistent with this article and applicable campaign finance law. Any violation of this section shall be punishable by a term of imprisonment of up to six months and the imposition of a fine of up to five hundred dollars or both.

2. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly and is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

Section 19. 1. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place.

2. Legislative records shall be public records and subject to generally applicable state laws governing public access to public records, including the "sunshine law." Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member, their employees and staff. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate, respectively.

3. Legislative proceedings, including committee proceedings, shall be public meetings subject to generally applicable law governing public access to public meetings, including the "sunshine law." Open public meetings of legislative proceedings shall be subject to recording by citizens, so long as the proceedings are not materially disrupted.

Section 20(c). No senator or representative or their employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by policy or law for the victim, any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars.

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Section 20(d).

1. Unlimited campaign contributions to candidates for legislative offices are banned. In addition to other campaign contribution limitations or restrictions provided for by law, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for legislative office shall not exceed the following:
   (1) To elect an individual to the office of state senator, two hundred fifty dollars; and
   (2) To elect an individual to the office of state representative, two hundred fifty dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this subsection, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the ethics commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a legislative candidate shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No legislative candidate shall accept a contribution from a corporation.

4. In determining if a contribution to candidate for legislative office is made or accepted with the intent to circumvent the contribution limits imposed in this section, one factor that may be considered is whether the contribution is received from a committee or organization that is, at the time the contribution was made, funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. For purposes of this subsection, a committee or organization is "primarily funded by a single person, individual, or other committee" when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

5. No contribution to a candidate for legislative office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

6. If a payment for a covered communication for a candidate for legislative office is made by a person who is a coordinated spender with respect to the candidate, the payment or expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

7. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

8. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

9. For purposes of this section, the following terms are defined as follows:

   (1) "Candidate", an individual who seeks nomination or election to the house or senate or as an officer of the house or senate, an individual who seeks nomination by the individual's political party for election to the house or senate or as an

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officer of the house or senate, and an individual who is a write-in candidate for the house or senate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

h. Any payment or expenditure by any person other than a candidate or a candidate committee made in connection with any candidate that is authorized, requested, suggested, or fostered by or made in cooperation with a candidate, candidate committee, or agents of the candidate or candidate committee; or

i. Any payment or expenditure for any communication which republishes, disseminates, or distributes in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or agents of the candidate or candidate committee, other than a photograph obtained from a public source.

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

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b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

d. The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders.

(c) In determining whether a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to a candidate's opponent is a contribution for purposes of this section, the following non-exclusive list of factors may be considered:

a. Information not generally available to the public regarding the candidate's campaign, plans, projects, activities, or needs is material to the creation, production or distribution of the communication;

b. The person discusses or negotiates the communication with the candidate, candidate's committee or an agent of the candidate or candidate's committee prior to the date the communication is publicly disseminated or distributed;

c. The person and the candidate or candidate's committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting or legal services, or other non-campaign services.

(d) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;
b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;
c. The person made contributions to the candidate;
d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;
e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the

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two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience that refers to a clearly identified candidate and:

(a) Either:

a. Contains words such as "vote", "oppose", "support", "elect", "defeat", or "reject," in expressly advocating the election or defeat of the candidate; or

b. Is made on or after January first of the year of the election in which the candidate seeks office, and is susceptible of no reasonable interpretation other than as an appeal to vote for or against a candidate; and

(b) Is:

a. A broadcast, cable or satellite audio or video communication or internet communication; or

b. Printed advertisements, pamphlets, circulars, flyers, brochures, or a billboard.

(c) A communication over the internet is a "covered communication" only if it is placed for a fee on another person's Web site.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization

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however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

10. Any violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year and or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.
(2) For the second and subsequent violations, a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

Section 20(e). No political fundraising activities or political fundraising event, including the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party or political committee, shall occur in or on any premises, property or building owned, leased or controlled by the house of representatives, senate or general assembly. Any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars plus an amount equal to three times the illegal contributions.

Section 20(f). If any provision of sections 12, 16(a), 19, 20(c), 20(d) or 20(e) or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

RECEIVED
NOV 0 3 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 3, 2015

16-132

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article III, version 17 (2016-132)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on November 3, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-132 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 NOV -3 AM 11:36
Office of Secretary of State

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this _____day of _____, A.D. 201_____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

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*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article III of the Constitution is revised by amending Sections 2, 7, 12 and 19 and adopting 5 new sections to be known as Article III Sections 16(a), 20(c), 20(d), 20(e) and 20(f) to read as follows:

Section 2. 1. The house of representatives shall consist of one hundred sixty-three members elected at each general election and apportioned in the following manner: Within sixty days after the population of this state is reported to the President for each decennial census of the United States and, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

2. The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.

Each district shall be composed of contiguous territory as compact as may be.

The commission shall create districts in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The commission shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the commission shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then

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calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the commission shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The commission shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the commission shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned consistent with the criteria of this section by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.

3. Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

4. No reapportionment shall be subject to the referendum.

5. Any taxpayer of this state shall have standing to bring suit in a circuit court of proper venue to enforce the provisions of this section.

Section 7. 1. Within sixty days after the population of this state is reported to the President for each decennial census of the United States, and within sixty days after notification by the governor that a reapportionment has been invalidated by a court of competent jurisdiction, the state committee of each of the two political parties casting the highest vote for governor at the last preceding election shall, at a committee meeting duly called, select by a vote of the individual committee members, and thereafter submit to the governor a list of ten persons, and within thirty days thereafter the governor shall appoint a commission of ten members, five from each list, to reapportion the thirty-four senatorial districts and to establish the numbers and boundaries of said districts.

If either of the party committees fails to submit a list within such time the governor shall appoint five members of his own choice from the party of the committee so failing to act.

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Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the secretary of the senate within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

2. The commission shall reapportion the senatorial districts by dividing the population of the state by the number thirty-four and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure; no county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

The commission shall create districts in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The commission shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the commission shall determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the commission shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The commission shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the commission shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven members.

After the statement is filed senators shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand

discharged and the senate shall be apportioned consistent with the criteria of this section by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter senators shall be elected according to such districts until a reapportionment is made as herein provided.

3. Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session, but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

4. No reapportionment shall be subject to the referendum.

5. Any taxpayer of this state shall have standing to bring suit in a circuit court of proper venue to enforce the provisions of this section.

Section 12. 1. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This subsection shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

2. No senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist until the expiration of one calendar year after the conclusion of the session of the general assembly in which the member or employee last served. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

3. No senator or representative or their employees or any entity controlled by a senator or representative or their employees shall act or serve as a paid employee or paid consultant to a political committee or political candidate or solicit prospective employers or clients as a paid employee or paid consultant to a political committee or political candidate. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

4. For purposes of this section, the term "lobbyist" means any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official.

Section 16(a). 1. No senator or representative or their employees or staff shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value

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from any lobbyist or lobbyist principal in excess of five dollars per occurrence. Senators or representatives and their employees and staff may accept informational material relevant to the general assembly's official functions and items that are available or distributed free of charge to members of the general public. All gifts by a lobbyist or lobbyist principal to a senator or representative or their employees or staff shall be reported to the ethics commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient. Candidates for senator or representative, including candidates for reelection, or candidates for offices within the senate or house may accept campaign contributions consistent with this article and applicable campaign finance law. Any violation of this section shall be punishable by a term of imprisonment of up to six months and the imposition of a fine of up to five hundred dollars or both.

2. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly and is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

Section 19. 1. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place.

2. Legislative records shall be public records and subject to generally applicable state laws governing public access to public records, including the "sunshine law." Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member, their employees and staff. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate, respectively.

3. Legislative proceedings, including committee proceedings, shall be public meetings subject to generally applicable law governing public access to public meetings, including the "sunshine law." Open public meetings of legislative proceedings shall be subject to recording by citizens, so long as the proceedings are not materially disrupted.

Section 20(c). No senator or representative or their employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by policy or law for the victim, any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars.

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Section 20(d).

1. Unlimited campaign contributions to candidates for legislative offices are banned. In addition to other campaign contribution limitations or restrictions provided for by law, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for legislative office shall not exceed the following:
   (1) To elect an individual to the office of state senator, one thousand dollars; and
   (2) To elect an individual to the office of state representative, one thousand dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this subsection, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the ethics commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a legislative candidate shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No legislative candidate shall accept a contribution from a corporation.

4. In determining if a contribution to candidate for legislative office is made or accepted with the intent to circumvent the contribution limits imposed in this section, one factor that may be considered is whether the contribution is received from a committee or organization that is, at the time the contribution was made, funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. For purposes of this subsection, a committee or organization is "primarily funded by a single person, individual, or other committee" when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

5. No contribution to a candidate for legislative office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

6. If a payment for a covered communication for a candidate for legislative office is made by a person who is a coordinated spender with respect to the candidate, the payment or expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

7. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

8. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

9. For purposes of this section, the following terms are defined as follows:

   (1) "Candidate", an individual who seeks nomination or election to the house or senate or as an officer of the house or senate, an individual who seeks nomination by the individual's political party for election to the house or senate or as an officer of the house or senate, and an individual who is a write-in candidate for the house or senate.

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(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

h. Any payment or expenditure by any person other than a candidate or a candidate committee made in connection with any candidate that is authorized, requested, suggested, or fostered by or made in cooperation with a candidate, candidate committee, or agents of the candidate or candidate committee; or

i. Any payment or expenditure for any communication which republishes, disseminates, or distributes in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or agents of the candidate or candidate committee, other than a photograph obtained from a public source.

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

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c. Interest earned on deposit of candidate committee funds;

d. The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders.

(c) In determining whether a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to a candidate's opponent is a contribution for purposes of this section, the following non-exclusive list of factors may be considered:

a. Information not generally available to the public regarding the candidate's campaign, plans, projects, activities, or needs is material to the creation, production or distribution of the communication;

b. The person discusses or negotiates the communication with the candidate, candidate's committee or an agent of the candidate or candidate's committee prior to the date the communication is publicly disseminated or distributed;

c. The person and the candidate or candidate's committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting or legal services, or other non-campaign services.

(d) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;
b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;
c. The person made contributions to the candidate;
d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;
e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any

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other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience that refers to a clearly identified candidate and:

(a) Either:

a. Contains words such as "vote", "oppose", "support", "elect", "defeat", or "reject," in expressly advocating the election or defeat of the candidate; or

b. Is made on or after January first of the year of the election in which the candidate seeks office, and is susceptible of no reasonable interpretation other than as an appeal to vote for or against a candidate; and

(b) Is:

a. A broadcast, cable or satellite audio or video communication or internet communication; or

b. Printed advertisements, pamphlets, circulars, flyers, brochures, or a billboard.

(c) A communication over the internet is a "covered communication" only if it is placed for a fee on another person's Web site.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

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10. Any violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year and or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.
(2) For the second and subsequent violations, a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

Section 20(e). No political fundraising activities or political fundraising event, including the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party or political committee, shall occur in or on any premises, property or building owned, leased or controlled by the house of representatives, senate or general assembly. Any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars plus an amount equal to three times the illegal contributions.

Section 20(f). If any provision of sections 12, 16(a), 19, 20(c), 20(d) or 20(e) or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

RECEIVED
NOV 0 3 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-131

November 3, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article III, version 16 (2016-131)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on November 3, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

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County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 NOV -3 AM 11:37
SECRETARY OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

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*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article III of the Constitution is revised by amending Sections 2, 7, 12 and 19 and adopting 5 new sections to be known as Article III Sections 16(a), 20(c), 20(d), 20(e) and 20(f) to read as follows:

Section 2. 1. The house of representatives shall consist of one hundred sixty-three members elected at each general election and apportioned in the following manner: Within sixty days after the population of this state is reported to the President for each decennial census of the United States and, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

2. The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.

Each district shall be composed of contiguous territory as compact as may be.

The commission shall create districts in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The commission shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the commission shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then

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calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the commission shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The commission shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the commission shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned consistent with the criteria of this section by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.

3. Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

4. No reapportionment shall be subject to the referendum.

5. Any taxpayer of this state shall have standing to bring suit in a circuit court of proper venue to enforce the provisions of this section.

Section 7. 1. Within sixty days after the population of this state is reported to the President for each decennial census of the United States, and within sixty days after notification by the governor that a reapportionment has been invalidated by a court of competent jurisdiction, the state committee of each of the two political parties casting the highest vote for governor at the last preceding election shall, at a committee meeting duly called, select by a vote of the individual committee members, and thereafter submit to the governor a list of ten persons, and within thirty days thereafter the governor shall appoint a commission of ten members, five from each list, to reapportion the thirty-four senatorial districts and to establish the numbers and boundaries of said districts.

If either of the party committees fails to submit a list within such time the governor shall appoint five members of his own choice from the party of the committee so failing to act.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the secretary of the senate within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

2. The commission shall reapportion the senatorial districts by dividing the population of the state by the number thirty-four and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure; no county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

The commission shall create districts in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The commission shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the commission shall determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the commission shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The commission shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the commission shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven members.

After the statement is filed senators shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand

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discharged and the senate shall be apportioned consistent with the criteria of this section by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter senators shall be elected according to such districts until a reapportionment is made as herein provided.

3. Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session, but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

4. No reapportionment shall be subject to the referendum.

5. Any taxpayer of this state shall have standing to bring suit in a circuit court of proper venue to enforce the provisions of this section.

Section 12. 1. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This subsection shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

2. No senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist until the expiration of one calendar year after the conclusion of the session of the general assembly in which the member or employee last served. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

3. No senator or representative or their employees or any entity controlled by a senator or representative or their employees shall act or serve as a paid employee or paid consultant to a political committee or political candidate or solicit prospective employers or clients as a paid employee or paid consultant to a political committee or political candidate. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

4. For purposes of this section, the term "lobbyist" means any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official.

Section 16(a). 1. No senator or representative or their employees or staff shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value

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from any lobbyist or lobbyist principal in excess of five dollars per occurrence. Senators or representatives and their employees and staff may accept informational material relevant to the general assembly's official functions and items that are available or distributed free of charge to members of the general public. All gifts by a lobbyist or lobbyist principal to a senator or representative or their employees or staff shall be reported to the ethics commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient. Candidates for senator or representative, including candidates for reelection, or candidates for offices within the senate or house may accept campaign contributions consistent with this article and applicable campaign finance law. Any violation of this section shall be punishable by a term of imprisonment of up to six months and the imposition of a fine of up to five hundred dollars or both.

2. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly and is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

Section 19. 1. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place.

2. Legislative records shall be public records and subject to generally applicable state laws governing public access to public records, including the "sunshine law." Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member, their employees and staff. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate, respectively.

3. Legislative proceedings, including committee proceedings, shall be public meetings subject to generally applicable law governing public access to public meetings, including the "sunshine law." Open public meetings of legislative proceedings shall be subject to recording by citizens, so long as the proceedings are not materially disrupted.

Section 20(c). No senator or representative or their employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by policy or law for the victim, any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars.

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Section 20(d).

1. Unlimited campaign contributions to candidates for legislative offices are banned. In addition to other campaign contribution limitations or restrictions provided for by law, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for legislative office shall not exceed the following:
   (1) To elect an individual to the office of state senator, two thousand seven hundred dollars; and
   (2) To elect an individual to the office of state representative, two thousand seven hundred dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this subsection, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the ethics commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a legislative candidate shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No legislative candidate shall accept a contribution from a corporation.

4. In determining if a contribution to candidate for legislative office is made or accepted with the intent to circumvent the contribution limits imposed in this section, one factor that may be considered is whether the contribution is received from a committee or organization that is, at the time the contribution was made, funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. For purposes of this subsection, a committee or organization is "primarily funded by a single person, individual, or other committee" when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

5. No contribution to a candidate for legislative office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

6. If a payment for a covered communication for a candidate for legislative office is made by a person who is a coordinated spender with respect to the candidate, the payment or expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

7. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

8. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

9. For purposes of this section, the following terms are defined as follows:

   (1) "Candidate", an individual who seeks nomination or election to the house or senate or as an officer of the house or senate, an individual who seeks nomination by the individual's political party for election to the house or senate or as an

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officer of the house or senate, and an individual who is a write-in candidate for the house or senate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

h. Any payment or expenditure by any person other than a candidate or a candidate committee made in connection with any candidate that is authorized, requested, suggested, or fostered by or made in cooperation with a candidate, candidate committee, or agents of the candidate or candidate committee; or

i. Any payment or expenditure for any communication which republishes, disseminates, or distributes in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or agents of the candidate or candidate committee, other than a photograph obtained from a public source.

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

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b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

d. The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders.

(c) In determining whether a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to a candidate's opponent is a contribution for purposes of this section, the following non-exclusive list of factors may be considered:

a. Information not generally available to the public regarding the candidate's campaign, plans, projects, activities, or needs is material to the creation, production or distribution of the communication;

b. The person discusses or negotiates the communication with the candidate, candidate's committee or an agent of the candidate or candidate's committee prior to the date the communication is publicly disseminated or distributed;

c. The person and the candidate or candidate's committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting or legal services, or other non-campaign services.

(d) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;
b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;
c. The person made contributions to the candidate;
d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;
e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the

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two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience that refers to a clearly identified candidate and:

(a) Either:

a. Contains words such as "vote", "oppose", "support", "elect", "defeat", or "reject," in expressly advocating the election or defeat of the candidate; or

b. Is made on or after January first of the year of the election in which the candidate seeks office, and is susceptible of no reasonable interpretation other than as an appeal to vote for or against a candidate; and

(b) Is:

a. A broadcast, cable or satellite audio or video communication or internet communication; or

b. Printed advertisements, pamphlets, circulars, flyers, brochures, or a billboard.

(c) A communication over the internet is a "covered communication" only if it is placed for a fee on another person's Web site.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization

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however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

10. Any violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year and or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.
(2) For the second and subsequent violations, a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

Section 20(e). No political fundraising activities or political fundraising event, including the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party or political committee, shall occur in or on any premises, property or building owned, leased or controlled by the house of representatives, senate or general assembly. Any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars plus an amount equal to three times the illegal contributions.

Section 20(f). If any provision of sections 12, 16(a), 19, 20(c), 20(d) or 20(e) or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

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JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

October 28, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Sheila Dundon regarding a proposed constitutional amendment to Article XVI, version 2 (2016-130)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Sheila Dundon on October 27, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

RECEIVED
OCT 28 2015
STATE AUDITORS OFFICE

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

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County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 OCT 27 PM 5:21
SECRETARY OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

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*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Article XVI is created by enacting one new section to be known as Section 1 of Article XVI, to read as follows:

**Section 1. Right to Access Medical Marijuana**

**1. Purposes**

This section is intended to permit state-licensed physicians to recommend marijuana for medical purposes to patients with serious illnesses and medical conditions. The section allows patients with qualifying medical conditions the right to discuss freely with their physicians the possible benefits of medical marijuana use, the right of their physicians to provide professional advice concerning the same, and the right to use medical marijuana for treatment under the supervision of a physician.

This section is intended to make only those changes to Missouri laws that are necessary to protect patients, their primary caregivers, and their physicians from civil and criminal penalties, and to allow for the limited legal production, distribution, sale and purchase of marijuana for medical use. This section is not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes. The section does not allow for the public use of marijuana and driving under the influence of marijuana.

**2. Definitions**

(1) "Administer" means the direct application of marijuana to a qualifying patient by way of any of the following methods:

(a) Ingestion of capsules, teas, oils, and other marijuana-infused products;

(b) Vaporization or smoking of dried flowers, buds, plant material, extracts, or oils;

(c) Application of ointments or balms;

(d) Transdermal patches and suppositories;

(e) Consuming marijuana-infused food products; or

(f) Any other method recommended by a qualifying patient's physician.

(2) "Department" means the Department of Health and Senior Services, or its successor agency.

(3) "Entity" means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(4) "Flowering plant" means a marijuana plant from the time it exhibits the first signs of sexual maturity through harvest.

(5) "Marijuana" means *Cannabis indica*, *Cannabis sativa*, and *Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the plant and marijuana-infused products. "Marijuana" does not include industrial hemp containing a crop-wide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis, or commodities or products manufactured from industrial hemp.

(6) "Marijuana-Infused Products" means products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including but not limited to edible products, ointments, and tinctures.

(7) "Medical Marijuana Cultivation Facility" means a facility licensed by the Department, to acquire, cultivate, process, transport, and sell marijuana to a Medical Marijuana Dispensary Facility or to a Medical Marijuana-Infused Products Manufacturing Facility.

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(8) "Medical Marijuana Dispensary Facility" means a facility licensed by the Department, to acquire, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section.

(9) "Medical Marijuana-Infused Products Manufacturing Facility" means a facility licensed by the Department, to acquire, manufacture, transport, and sell marijuana-infused products to a Medical Marijuana Dispensary Facility.

(10) "Medical use" means the production, possession, delivery, distribution, transportation, or administration of marijuana or a marijuana-infused product, or drug paraphernalia used to administer marijuana or a marijuana-infused product, for the benefit of a qualifying patient to mitigate the symptoms or effects of the patient's qualifying medical condition.

(11) "Physician" means an individual who is licensed and in good standing to practice medicine or osteopathy under Missouri law.

(12) "Physician certification" means a document, whether handwritten, electronic or in another commonly used format, signed by a physician and stating that in the physician's professional opinion, the patient suffers from a qualifying medical condition and is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's qualifying medical condition or symptoms associated with the qualifying medical condition.

(13) "Primary caregiver" means an individual twenty-one years of age or older who has significant responsibility for managing the well-being of a qualifying patient and who is designated as such on the primary caregiver's application for an identification card under this section or in other written notification to the Department.

(14) "Qualifying medical condition" means the condition of, symptoms related to, or side-effects from the treatment of:

(a) Cancer;

(b) Epilepsy;

(c) Glaucoma;

(d) Intractable migraines unresponsive to other treatment;

(e) A chronic medical condition that causes severe, persistent pain or persistent muscle spasms, including but not limited to those associated with multiple sclerosis, seizures, Parkinson's disease, and Tourette's syndrome;

(f) Debilitating psychiatric disorders, including but not limited to post-traumatic stress disorder, if diagnosed by a state licensed psychiatrist;

(g) Human immunodeficiency virus or acquired immune deficiency syndrome;

(h) A chronic medical condition that is normally treated with a prescription medication that could lead to physical or psychological dependence, when a physician determines that medical use of marijuana could be effective in treating that condition and would serve as a safer alternative to the prescription medication;

(i) Any terminal illness; or

(j) In the professional judgment of a physician, any other chronic, debilitating or otherwise equivalent condition, including, but not limited to, hepatitis C, amyotrophic lateral sclerosis, inflammatory bowel disease, agitation of Alzheimer's disease, cachexia, and wasting syndrome.

(15) "Qualifying Patient" means a Missouri resident diagnosed with at least one qualifying medical condition.

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**3. Creating Patient Access to Medical Marijuana**

(1) In carrying out the implementation of this section, the Department shall have the authority to:

(a) Grant or refuse state licenses for the cultivation, manufacture, distribution, and sale of marijuana for medical use as provided by law; suspend, fine, restrict, or revoke such licenses upon a violation of this section or a rule promulgated pursuant to this section; and impose any administrative penalty authorized by this section or any rule promulgated pursuant to this section.

(b) Promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, distribution, and sale of marijuana for medical use and for the enforcement of this section.

(c) Develop such forms, licenses, identification cards, and applications as are necessary or convenient in the discretion of the Department for the administration of this section or any of the rules promulgated under this section;

(d) Require a seed-to-sale tracking system that tracks medical marijuana from either the seed or immature plant stage until the medical marijuana or medical marijuana-infused product is sold to a qualifying patient or primary caregiver at a Medical Marijuana Dispensary Facility to ensure that no medical marijuana grown by a Medical Marijuana Cultivation Facility or manufactured by a Medical Marijuana-Infused Products Manufacturing Facility is sold or otherwise transferred except by a Medical Marijuana Dispensary Facility. If it creates a seed-to-sale tracking system, the Department shall certify, if possible, at least two commercially available systems to licensees as compliant with its tracking standards and issue standards for the creation or use of other systems by licensees.

(e) Prepare and transmit annually a publicly available report accounting to the Governor for the efficient discharge of all responsibilities assigned to the Department under this section;

(2) The Department may issue any rules or emergency rules necessary for the implementation and enforcement of this section and to ensure the right to, availability, and safe use of marijuana for medical use by qualifying patients. In developing such rules or emergency rules, the Department may consult with other public agencies. In addition to any other rules or emergency rules necessary to carry out the mandates of this section, the Department may issue rules or emergency rules relating to the following subjects:

(a) Compliance with, enforcement of, or violation of any provision of this section or any rule issued pursuant to this section, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license issued pursuant to this section;

(b) Specifications of duties of officers and employees of the Department;

(c) Instructions or guidance for local authorities and law enforcement officers;

(d) Requirements for inspections, investigations, searches, seizures, and such additional enforcement activities as may become necessary from time to time;

(e) Creation of a range of administrative penalties for use by the Department;

(f) Prohibition of misrepresentation and unfair practices;

(g) Control of informational and product displays on licensed premises;

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(h) Development of individual identification cards for owners, officers, managers, contractors, employees, and other support staff of entities licensed pursuant to this section, including a fingerprint-based federal and state criminal record check in accordance with U.S. Public Law 92-544, or its successor provisions, as may be required by the Department prior to issuing a card and procedures to ensure that cards for new applicants are issued within fourteen days;

(i) Security requirements for any premises licensed pursuant to this section, including, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the Department to properly administer and enforce the provisions of this section, including reporting requirements for changes, alterations, or modifications to the premises;

(j) Regulation of the storage of, warehouses for, and transportation of marijuana for medical use;

(k) Sanitary requirements for, including, but not limited to, the preparation of medical marijuana-infused products;

(l) The specification of acceptable forms of picture identification that a Medical Marijuana Dispensary Facility may accept when verifying a sale;

(m) Labeling and packaging standards;

(n) Records to be kept by licensees and the required availability of the records;

(o) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(p) The reporting and transmittal of tax payments;

(q) Authorization for the Department of Revenue to have access to licensing information to ensure tax payment and the effective administration of this section; and

(r) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this section.

(3) The Department shall issue rules or emergency rules for a medical marijuana and medical marijuana-infused products independent testing and certification program for medical marijuana licensees and requiring licensees to test medical marijuana using an impartial, independent laboratory to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health and to ensure correct labeling.

(4) The Department shall maintain the confidentiality of reports or other information obtained from an applicant or licensee containing any individualized data, information, or records related to the licensee or its operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans, or revealing any patient information, or any other records that are exempt from public inspection pursuant to state or federal law. Such reports or other information may be used only for a purpose authorized by this section. Any information released related to patients may be used only for a purpose authorized by federal law and this section, including verifying that a person who presented a patient identification card to a state or local law enforcement official is lawfully in possession of such card.

(5) Within ninety days of the effective date of this section, the Department shall make available to the public license application forms and application instructions for Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensary Facilities, and Medical Marijuana-Infused Products Manufacturing Facilities.

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(6) Within ninety days of the effective date of this section, the Department shall make available to the public application forms and application instructions for qualifying patient, qualifying patient cultivation, and primary caregiver identification cards. Within one hundred fifty days of the effective date of this section, the Department shall begin accepting applications for such identification cards.

(7) An entity may apply to the Department for and obtain a license to grow marijuana as a Medical Marijuana Cultivation Facility. Each facility in operation shall require a separate license. Each indoor facility utilizing artificial lighting may be limited by the Department to thirty thousand square feet of flowering plant canopy space. Each outdoor facility utilizing natural lighting may be limited by the Department to two thousand eight hundred flowering plants. Each greenhouse facility using a combination of natural and artificial lighting may be limited by the Department, at the election of the licensee, to two thousand eight hundred flowering plants or thirty thousand square feet of flowering plant canopy space. The license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The Department shall charge each applicant a non-refundable fee of three thousand dollars per license application or renewal. Once granted, the Department shall charge each licensee an annual fee of twenty thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than three Medical Marijuana Cultivation Facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(8) An entity may apply to the Department for and obtain a license to operate a Medical Marijuana Dispensary Facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The Department shall charge each applicant a non-refundable fee of three thousand dollars per license application or renewal. Once granted, the Department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than six Medical Marijuana Dispensary Facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(9) An entity may apply to the Department for and obtain one or more licenses to operate a Medical Marijuana-Infused Products Manufacturing Facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The Department shall charge each applicant a non-refundable fee of three thousand dollars per license application or renewal. Once granted, the Department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than five Medical Marijuana-Infused Products Manufacturing Facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(10) Except for good cause, a qualifying patient or his or her primary caregiver may obtain an identification card from the Department to cultivate up to six flowering marijuana plants for the exclusive use of that qualifying patient. The card shall be valid for twelve months from its date of issuance and shall be renewable with the annual submittal of a new or updated physician's certification. The Department shall charge an annual fee for the card of one hundred dollars, with such rate to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency.

(11) The Department may set a limit on the amount of marijuana that may be purchased by or on behalf of a single qualifying patient in a thirty day period, provided that limit is not less than six ounces of dried, unprocessed marijuana, or its

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equivalent. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons why the qualifying patient needs a greater amount than the limit established by the Department.

(12) The Department may set a limit on the amount of marijuana that may be possessed by or on behalf of each qualifying patient, provided that limit is not less than a sixty day supply of dried, unprocessed marijuana, or its equivalent. A primary caregiver may possess a separate legal limit for each qualifying patient under their care and a separate legal limit for themselves if they are a qualifying patient. Qualifying patients cultivating marijuana for medical use may possess up to a ninety day supply, so long as the supply remains on property under their control. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons for additional amounts. Possession of between the legal limit and up to twice the legal limit shall subject the possessor to Department sanctions, including an administrative penalty and loss of their patient identification card for up to a year. Purposefully possessing amounts in excess of twice the legal limit shall be punishable by imprisonment of up to one year and a fine of up to two thousand dollars.

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(13) The Department may restrict the aggregate number of licenses granted for Medical Marijuana Cultivation Facilities, provided, however, that the number may not be limited to fewer than one license per every eighty thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. In any year, if the number of qualifying applicants and any renewals exceed such a restriction, the Department shall, after renewing all qualifying licenses, rank new applicants using the following factors: site security; capacity or experience with agriculture, horticulture, health care, or a legal cannabis market; acceptance in the site community; potential for positive economic impact in the site community; and maintaining competitiveness in the marijuana for medical use marketplace. In ranking applicants and awarding licenses, the Department may consult or contract with other public agencies with relevant expertise regarding these factors. The Department shall lift or ease any limit on the number Medical Marijuana Cultivation Facilities to meet the demand for medical marijuana by qualifying patients.

(14) The Department may restrict the aggregate number of licenses granted for Marijuana-Infused Products Manufacturing Facilities, provided, however, that the number may not be limited to fewer than one license per every fifty thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. In any year, if the number of qualifying applicants and any renewals exceed such a restriction, the Department shall, after renewing all qualifying licenses, rank new applicants using the following factors: site security; capacity or experience with food and beverage manufacturing or a legal cannabis market; acceptance in the site community; potential for positive economic impact in the site community; and maintaining competitiveness in the marijuana for medical use marketplace. In ranking applicants and awarding licenses, the Department may consult or contract with other public agencies with relevant expertise regarding these factors.

(15) If a county has restricted the number of licenses for Medical Marijuana Dispensary Facilities, then, in any year that the number of qualifying applicants and any renewals exceed such restriction, the Department shall, after renewing all qualifying licenses, rank new applicants using the following factors: site security; experience or capacity with health care or a legal cannabis market; acceptance in the site community; potential for positive economic impact in the site community; and maintaining competitiveness in the marijuana for medical use marketplace. In ranking applicants and awarding licenses, the Department may consult or contract with other public agencies with relevant expertise regarding these factors.

(16) The Department shall begin accepting license applications for Medical Marijuana Dispensary Facilities, Medical Marijuana Cultivation Facilities, and Medical Marijuana-Infused Products Manufacturing Facilities no later than one hundred fifty days after the effective date of this section. Applications for licenses under this section shall be approved or denied by the Department no later than one hundred fifty days after their submission. If the Department fails to carry out its non-

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discretionary duty to approve or deny an application within one hundred fifty days of submission, an applicant may immediately seek a court order compelling the Department to approve or deny the application.

(17) Qualifying patients under this section shall obtain and annually renew an identification card or cards from the Department. The Department shall charge a fee of twenty-five dollars per year per card with such fee to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor or its successor agency. Upon receiving an application for a qualifying patient identification card or qualifying patient cultivation identification card, the Department shall, within thirty days, either issue the card or provide a written explanation for its denial. If the Department fails to issue a card to an eligible qualifying patient within thirty days, then their physician certification shall serve as their patient identification card or qualifying patient cultivation identification card for up to one year from the date of physician certification. All initial applications for or renewals of a qualifying patient identification card or qualifying patient cultivation identification card shall be accompanied by a physician certification that is less than thirty days old.

(18) Primary caregivers under this section shall obtain and annually renew an identification card from the Department. The Department shall charge a fee of twenty-five dollars per year, with such fee to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. Upon receiving an application for a primary caregiver identification card, the Department shall, within thirty days, either issue the card or provide a written explanation for its denial.

(19) All marijuana for medical use sold in Missouri shall be cultivated in a licensed Medical Marijuana Cultivation Facility located in Missouri.

(20) All marijuana-infused products for medical use sold in the state of Missouri shall be manufactured in a Medical Marijuana-Infused Products Manufacturing Facility.

(21) The denial of a license, license renewal, or identification card by the Department shall be appealable to the Administrative Hearing Commission, or its successor entity. Following the exhaustion of administrative review, denial of a license, license renewal, or identification card by the Department shall be subject to judicial review as provided by law.

(22) No elected official shall interfere directly or indirectly with the Department's obligations and activities under this section.

**4. Taxation and Reporting**

(1) A tax is levied upon the retail sale of marijuana for medical use sold at Medical Marijuana Dispensary Facilities within the state. The tax shall be at a rate of four percent of the retail price. The tax shall be collected by each licensed Medical Marijuana Dispensary Facility and paid to the Department of Revenue. After retaining no more than five percent for its actual collection costs, amounts generated by the tax levied in this section shall be deposited by the Department of Revenue into the Missouri Veterans' Health and Care Fund. Licensed entities making retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.

(2) There is hereby created in the state treasury the "Missouri Veterans' Health and Care Fund," which shall consist of taxes and fees collected under this section. The State Treasurer shall be custodian of the fund, and he or she shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund. Notwithstanding any other provision of law, any moneys remaining in the fund at the end of a biennium shall not revert to the credit of the general revenue fund. The Commissioner of Administration is authorized to make cash operating transfers to the fund for purposes of meeting the cash requirements of the Department in advance of it

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receiving annual application, licensing, and tax revenue, with any such transfers to be repaid as provided by law. The fund shall be a dedicated fund and shall stand appropriated without further legislative action as follows:

(a) First, to the Department, an amount necessary for the Department to carry out this section, including repayment of any cash operating transfers, payments made through contract or agreement with other state and public agencies necessary to carry out this section, and a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out this section;

(b) Next, the remainder of such funds shall be transferred to the Missouri Veterans Commission for health and care services for military veterans, including the following purposes: operations, maintenance and capital improvements of the Missouri Veteran's Homes, the Missouri Service Officer's Program, and other services for veterans approved by the Commission, including but not limited to health care services, mental health services, drug rehabilitation services, housing assistance, job training, tuition assistance, and housing assistance to prevent homelessness. The Missouri Veterans Commission shall contract with other public agencies for the delivery of services beyond its expertise.

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(c) All moneys from the taxes authorized under this subsection shall provide additional dedicated funding for the purposes enumerated above and shall not replace existing dedicated funding.

(3) For all retail sales of marijuana for medical use, a record shall be kept by the seller which identifies by secure and encrypted patient number issued by the seller to the qualifying patient involved in the sale, all amounts and types of marijuana involved in the sale and the total amount of money involved in the sale, including itemizations, taxes collected and grand total sale amounts. All such records shall be kept on the premises in a readily available format and be made available for review by the Department and the Department of Revenue upon request. Such records shall be retained for five years from the date of the sale.

(4) The tax levied pursuant to this subsection is separate from and in addition to any general state and local sales and use taxes that apply to retail sales, which shall continue to be collected and distributed as provided by general law.

(5) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of marijuana for medical use.

**5. Additional Patient, Physician, Caregiver and Provider Protections**

(1) Except as provided in this section, the possession of marijuana in quantities less than the limits of this section or established by the Department and transportation of marijuana from a Medical Marijuana Dispensary Facility to the qualifying patient residence shall not subject the possessor to arrest, criminal or civil liability, or sanctions under Missouri law, provided that the possessor produces on demand to the appropriate authority a valid qualifying patient identification card; a valid patient cultivation identification card; a valid physician certification while making application for an identification card; or a valid primary caregiver identification card. Production of the respective equivalent identification card or authorization issued by another state or political subdivision of another state shall also meet the requirements of this subdivision.

(2) No patient shall be denied access to or priority for an organ transplant because they hold a qualifying patient identification card or use marijuana for medical use.

(3) A physician shall not be subject to criminal or civil liability or sanctions under Missouri law or discipline by the Missouri State Board of Registration for the Healing Arts, or its successor agency, for issuing a physician certification to a patient diagnosed with a qualifying medical condition in a manner consistent with this section and legal standards of professional conduct.

(4) A health care provider shall not be subject to civil or criminal prosecution, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for providing health

care services that involve the medical use of marijuana consistent with this section and legal standards of professional conduct.

(5) A testing laboratory shall not be subject to civil or criminal prosecution, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for providing laboratory testing services that relate to the medical use of marijuana consistent with this section and otherwise meeting legal standards of professional conduct.

(6) A health care provider shall not be subject to mandatory reporting requirements for the medical use of marijuana by non-emancipated qualifying patients under eighteen years of age in a manner consistent with this section and with consent of a parent or guardian.

(7) A primary caregiver shall not be subject to criminal or civil liability or sanctions under Missouri law for purchasing, transporting, or administering marijuana for medical use by a qualifying patient or participating in the patient cultivation of up to six flowering marijuana plants per patient in a manner consistent with this section and generally established legal standards of personal or professional conduct.

(8) An attorney shall not be subject to disciplinary action by the state bar association or other professional licensing body for providing legal assistance to prospective or licensed Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensary Facilities, Medical Marijuana-Infused Products Manufacturing Facilities, qualifying patients, primary caregivers, physicians, health care providers or others related to activity that is no longer subject to criminal penalties under state law pursuant to this section.

(9) Actions and conduct by Qualifying Patients, Primary Caregivers, Medical Marijuana Cultivation Facilities, Medical Marijuana-Infused Products Manufacturing Facilities, or Medical Marijuana Dispensary Facilities licensed or registered with the Department, or their employees or agents, as permitted by this section and in compliance with Department regulations and other standards of legal conduct, shall not be subject to criminal or civil liability or sanctions under Missouri law, except as provided for by this section.

(10) Nothing in this section shall provide immunity for negligence, either common law or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of marijuana.

(11) It is the public policy of the state of Missouri that contracts related to marijuana for medical use that are entered into by Qualifying Patients, Primary Caregivers, Medical Marijuana Cultivation Facilities, Medical Marijuana-Infused Products Manufacturing Facilities, or Medical Marijuana Dispensary Facilities and those who allow property to be used by those entities, should be enforceable. It is the public policy of the state of Missouri that no contract entered into by Qualifying Patients, Primary Caregivers, Medical Marijuana Cultivation Facilities, Medical Marijuana-Infused Products Manufacturing Facilities, or Medical Marijuana Dispensary Facilities, or by a person who allows property to be used for activities that are exempt from state criminal penalties by this section, shall be unenforceable on the basis that activities related to medical marijuana may be prohibited by federal law.

**6. Legislation**

Nothing in this section shall limit the General Assembly from enacting laws consistent with this section, or otherwise effectuating the patient rights of this section. The legislature shall not enact laws that hinder the right of qualifying patients to access marijuana for medical use as granted by this section

**7. Additional Provisions**

(1) Nothing in this section permits a person to:

(a) Consume marijuana for medical use in a jail or correctional facility;

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(b) Undertake any task under the influence of marijuana when doing so would constitute negligence or professional malpractice; or

(c) Operate, navigate, or be in actual physical control of any dangerous device or motor vehicle, aircraft or motorboat while under the influence of marijuana; or

(d) Bring a claim against any employer, former employer, or prospective employer for wrongful discharge, discrimination, or any similar cause of action or remedy, based on the employer, former employer, or prospective employer prohibiting the employee, former employee, or prospective employee from being under the influence of marijuana while at work or disciplining the employee or former employee, up to and including termination from employment, for working or attempting to work while under the influence of marijuana.

(2) No Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility shall be owned, in whole or in part, or have as an officer, director, board member, manager, or employee, any individual with a disqualifying felony offense. A "disqualifying felony offense" is a violation of, and conviction or guilty plea to, state or federal law that is, or would have been, a felony under Missouri law, regardless of the sentence imposed, unless the Department determines that:

(a) The person's conviction was for the medical use of marijuana or assisting in the medical use of marijuana; or

(b) The person's conviction was for a non-violent crime for which he or she was not incarcerated and that is more than five years old; or

(c) More than five years have passed since the person was released from parole or probation, and he or she has not been convicted of any subsequent criminal offenses.

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The Department may consult with and rely on the records, advice and recommendations of the Attorney General and the Department of Public Safety, or their successor entities, in applying this subdivision.

(3) All Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility licenses shall be held by entities that are majority owned by natural persons who have been citizens of the state of Missouri for at least one year prior to the application for such license or licenses. Notwithstanding the forgoing, entities outside the state of Missouri may own a minority stake in such entities.

(4) A county may require a site permit for a Medical Marijuana Dispensary Facility utilizing generally applicable permitting standards. In addition, by February 1, 2017, a county may limit the number of site permits to be granted for Medical Marijuana Dispensary Facilities, provided, however, that the number may not be limited to fewer than one site for every thirty thousand inhabitants, or any portion thereof, in such county, according to the most recent census of the United States. After a county's initial site permit limit notification, a county shall notify the Department of any change to its site permit limit within ten days of such decision; however, the number of site permits shall not be less than the number of licenses previously issued by the Department for that county.

(5) No Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility shall manufacture, package or label marijuana or marijuana-infused products in a false or misleading manner. No person shall sell any product in a manner designed to cause confusion between a marijuana or marijuana-infused product and any product not containing marijuana. A violation of this subdivision shall be punishable by an appropriate and proportional Department sanction, up to and including loss of license.

(6) All edible marijuana-infused products shall be sold in individual, child-resistant containers that are labeled with dosage amounts, instructions for use, and estimated length of effectiveness. All marijuana and marijuana-infused products shall be sold in containers clearly and conspicuously labeled, in a font size at least as large as the largest other font size used on the package, as containing "Marijuana," or a

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"Marijuana-Infused Product." Violation of this prohibition shall subject the violator to Department sanctions, including an administrative penalty.

(7) No individual shall serve as the primary caregiver for more than three qualifying patients.

(8) No qualifying patient shall consume marijuana for medical use in a public place. Violation of this prohibition shall subject the violator to sanctions as provided by general law.

(9) No person shall extract resins from marijuana using dangerous materials or combustible gasses without a Medical Marijuana-Infused Products Manufacturing Facility license. Violation of this prohibition shall subject the violator to Department sanctions, including an administrative penalty and loss of their identification card or license for up to one year.

(10) All patient cultivation shall take place in an enclosed, locked facility that is equipped with security devices that permit access only by the qualifying patient or by such patient's primary caregiver. Two qualifying patients, who both hold valid patient cultivation identification cards, may share one enclosed, locked facility. No more than twelve patient or primary caregiver cultivated flowering marijuana plants may be cultivated in a single, enclosed locked facility, except when a primary caregiver also holds a patient cultivation identification card, in which case no more than eighteen flowering marijuana plants may be cultivated in a single, enclosed, locked facility.

(11) No Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility shall assign, sell, give, lease, sublicense, or otherwise transfer its license to any other entity without the express consent of the Department, not to be unreasonably withheld.

(12) Unless allowed by the local government, no new Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility shall be initially sited within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church. No local government shall prohibit Medical Marijuana Cultivation Facilities, Medical Marijuana-Infused Products Manufacturing Facilities, or Medical Marijuana Dispensary Facilities, either expressly or through the enactment of ordinances or regulations that make their operation unduly burdensome in the jurisdiction. However, local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place, and manner of such facilities in the locality. A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of operation of a Medical Marijuana Cultivation Facility, Medical Marijuana Infused Products Manufacturing Facility, or Medical Marijuana Dispensary Facility that may operate in such locality.

(13) Unless superseded by federal law or an amendment to this Constitution, a physician shall not recommend the medical use of marijuana to a patient by any means other than providing a physician certification for the patient, whether handwritten, electronic or in another commonly used format. In any year, no physician shall issue more physician certifications than a number equivalent to twenty-five percent of their total number of prescriptions for other drugs. A qualifying patient must obtain a new physician certification at least annually.

(14) A physician shall not issue a certification for the medical use of marijuana for a non-emancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. The Department shall not issue a patient identification card on behalf of a non-emancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. Such card shall be issued to one of the parents or guardians and not directly to the patient. Only a parent or guardian may serve as a primary caregiver for a non-emancipated qualifying patient under the age of eighteen. Only the qualifying patient's parent or guardian shall purchase or possess

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medical marijuana for a non-emancipated patient under the age of eighteen. A parent or guardian shall supervise the administration of medical marijuana to a non-emancipated patient under the age of eighteen

(15) Nothing in this section shall be construed as mandating health insurance coverage of medical marijuana for qualifying patient use.

(16) Real and personal property used in the cultivation, manufacture, transport, testing, distribution, sale, and administration of marijuana for medical use or for activities otherwise in compliance with this section shall not be subject to asset forfeiture solely because of that use.

**8. Severability**

The provisions of this section are severable, and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, the other provisions shall continue to be in effect to the fullest extent possible.

**9. Effective Date**

The provisions of this section shall become effective on December 8, 2016, as provided by this Constitution.

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JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

October 28, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Sheila Dundon regarding a proposed constitutional amendment to Article I, version 1 (2016-129)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Sheila Dundon on October 27, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

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STATE AUDITORS OFFICE

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

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County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

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[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____.
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

My commission expires _____

_____
Address of Notary (Street, City, State & Zip Code)

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*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Article I is amended by creating one new section to be known as Section 37 of Article I, to read as follows:

**Section 37. Right to Access Medical Marijuana**

**1. Purposes**

This section is intended to permit state-licensed physicians to recommend marijuana for medical purposes to patients with serious illnesses and medical conditions. The section allows patients with qualifying medical conditions the right to discuss freely with their physicians the possible benefits of medical marijuana use, the right of their physicians to provide professional advice concerning the same, and the right to use medical marijuana for treatment under the supervision of a physician.

This section is intended to make only those changes to Missouri laws that are necessary to protect patients, their primary caregivers, and their physicians from civil and criminal penalties, and to allow for the limited legal production, distribution, sale and purchase of marijuana for medical use. This section is not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes. The section does not allow for the public use of marijuana and driving under the influence of marijuana.

**2. Definitions**

(1) "Administer" means the direct application of marijuana to a qualifying patient by way of any of the following methods:

(a) Ingestion of capsules, teas, oils, and other marijuana-infused products;

(b) Vaporization or smoking of dried flowers, buds, plant material, extracts, or oils;

(c) Application of ointments or balms;

(d) Transdermal patches and suppositories;

(e) Consuming marijuana-infused food products; or

(f) Any other method recommended by a qualifying patient's physician.

(2) "Department" means the Department of Health and Senior Services, or its successor agency.

(3) "Entity" means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(4) "Flowering plant" means a marijuana plant from the time it exhibits the first signs of sexual maturity through harvest.

(5) "Marijuana" means *Cannabis indica*, *Cannabis sativa*, and *Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the plant and marijuana-infused products. "Marijuana" does not include industrial hemp containing a crop-wide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis, or commodities or products manufactured from industrial hemp.

(6) "Marijuana-Infused Products" means products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including but not limited to edible products, ointments, and tinctures.

(7) "Medical Marijuana Cultivation Facility" means a facility licensed by the Department, to acquire, cultivate, process, transport, and sell marijuana to a Medical Marijuana Dispensary Facility or to a Medical Marijuana-Infused Products Manufacturing Facility.

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(8) "Medical Marijuana Dispensary Facility" means a facility licensed by the Department, to acquire, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section.

(9) "Medical Marijuana-Infused Products Manufacturing Facility" means a facility licensed by the Department, to acquire, manufacture, transport, and sell marijuana-infused products to a Medical Marijuana Dispensary Facility.

(10) "Medical use" means the production, possession, delivery, distribution, transportation, or administration of marijuana or a marijuana-infused product, or drug paraphernalia used to administer marijuana or a marijuana-infused product, for the benefit of a qualifying patient to mitigate the symptoms or effects of the patient's qualifying medical condition.

(11) "Physician" means an individual who is licensed and in good standing to practice medicine or osteopathy under Missouri law.

(12) "Physician certification" means a document, whether handwritten, electronic or in another commonly used format, signed by a physician and stating that in the physician's professional opinion, the patient suffers from a qualifying medical condition and is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's qualifying medical condition or symptoms associated with the qualifying medical condition.

(13) "Primary caregiver" means an individual twenty-one years of age or older who has significant responsibility for managing the well-being of a qualifying patient and who is designated as such on the primary caregiver's application for an identification card under this section or in other written notification to the Department.

(14) "Qualifying medical condition" means the condition of, symptoms related to, or side-effects from the treatment of:

(a) Cancer;

(b) Epilepsy;

(c) Glaucoma;

(d) Intractable migraines unresponsive to other treatment;

(e) A chronic medical condition that causes severe, persistent pain or persistent muscle spasms, including but not limited to those associated with multiple sclerosis, seizures, Parkinson's disease, and Tourette's syndrome;

(f) Debilitating psychiatric disorders, including but not limited to post-traumatic stress disorder, if diagnosed by a state licensed psychiatrist;

(g) Human immunodeficiency virus or acquired immune deficiency syndrome;

(h) A chronic medical condition that is normally treated with a prescription medication that could lead to physical or psychological dependence, when a physician determines that medical use of marijuana could be effective in treating that condition and would serve as a safer alternative to the prescription medication;

(i) Any terminal illness; or

(j) In the professional judgment of a physician, any other chronic, debilitating or otherwise equivalent condition, including, but not limited to, hepatitis C, amyotrophic lateral sclerosis, inflammatory bowel disease, agitation of Alzheimer's disease, cachexia, and wasting syndrome.

(15) "Qualifying Patient" means a Missouri resident diagnosed with at least one qualifying medical condition.

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**3. Creating Patient Access to Medical Marijuana**

(1) In carrying out the implementation of this section, the Department shall have the authority to:

(a) Grant or refuse state licenses for the cultivation, manufacture, distribution, and sale of marijuana for medical use as provided by law; suspend, fine, restrict, or revoke such licenses upon a violation of this section or a rule promulgated pursuant to this section; and impose any administrative penalty authorized by this section or any rule promulgated pursuant to this section.

(b) Promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, distribution, and sale of marijuana for medical use and for the enforcement of this section.

(c) Develop such forms, licenses, identification cards, and applications as are necessary or convenient in the discretion of the Department for the administration of this section or any of the rules promulgated under this section;

(d) Require a seed-to-sale tracking system that tracks medical marijuana from either the seed or immature plant stage until the medical marijuana or medical marijuana-infused product is sold to a qualifying patient or primary caregiver at a Medical Marijuana Dispensary Facility to ensure that no medical marijuana grown by a Medical Marijuana Cultivation Facility or manufactured by a Medical Marijuana-Infused Products Manufacturing Facility is sold or otherwise transferred except by a Medical Marijuana Dispensary Facility. If it creates a seed-to-sale tracking system, the Department shall certify, if possible, at least two commercially available systems to licensees as compliant with its tracking standards and issue standards for the creation or use of other systems by licensees.

(e) Prepare and transmit annually a publicly available report accounting to the Governor for the efficient discharge of all responsibilities assigned to the Department under this section;

(2) The Department may issue any rules or emergency rules necessary for the implementation and enforcement of this section and to ensure the right to, availability, and safe use of marijuana for medical use by qualifying patients. In developing such rules or emergency rules, the Department may consult with other public agencies. In addition to any other rules or emergency rules necessary to carry out the mandates of this section, the Department may issue rules or emergency rules relating to the following subjects:

(a) Compliance with, enforcement of, or violation of any provision of this section or any rule issued pursuant to this section, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license issued pursuant to this section;

(b) Specifications of duties of officers and employees of the Department;

(c) Instructions or guidance for local authorities and law enforcement officers;

(d) Requirements for inspections, investigations, searches, seizures, and such additional enforcement activities as may become necessary from time to time;

(e) Creation of a range of administrative penalties for use by the Department;

(f) Prohibition of misrepresentation and unfair practices;

(g) Control of informational and product displays on licensed premises;

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(h) Development of individual identification cards for owners, officers, managers, contractors, employees, and other support staff of entities licensed pursuant to this section, including a fingerprint-based federal and state criminal record check in accordance with U.S. Public Law 92-544, or its successor provisions, as may be required by the Department prior to issuing a card and procedures to ensure that cards for new applicants are issued within fourteen days;

(i) Security requirements for any premises licensed pursuant to this section, including, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the Department to properly administer and enforce the provisions of this section, including reporting requirements for changes, alterations, or modifications to the premises;

(j) Regulation of the storage of, warehouses for, and transportation of marijuana for medical use;

(k) Sanitary requirements for, including, but not limited to, the preparation of medical marijuana-infused products;

(l) The specification of acceptable forms of picture identification that a Medical Marijuana Dispensary Facility may accept when verifying a sale;

(m) Labeling and packaging standards;

(n) Records to be kept by licensees and the required availability of the records;

(o) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(p) The reporting and transmittal of tax payments;

(q) Authorization for the Department of Revenue to have access to licensing information to ensure tax payment and the effective administration of this section; and

(r) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this section.

(3) The Department shall issue rules or emergency rules for a medical marijuana and medical marijuana-infused products independent testing and certification program for medical marijuana licensees and requiring licensees to test medical marijuana using an impartial, independent laboratory to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health and to ensure correct labeling.

(4) The Department shall maintain the confidentiality of reports or other information obtained from an applicant or licensee containing any individualized data, information, or records related to the licensee or its operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans, or revealing any patient information, or any other records that are exempt from public inspection pursuant to state or federal law. Such reports or other information may be used only for a purpose authorized by this section. Any information released related to patients may be used only for a purpose authorized by federal law and this section, including verifying that a person who presented a patient identification card to a state or local law enforcement official is lawfully in possession of such card.

(5) Within ninety days of the effective date of this section, the Department shall make available to the public license application forms and application instructions for Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensary Facilities, and Medical Marijuana-Infused Products Manufacturing Facilities.

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(6) Within ninety days of the effective date of this section, the Department shall make available to the public application forms and application instructions for qualifying patient, qualifying patient cultivation, and primary caregiver identification cards. Within one hundred fifty days of the effective date of this section, the Department shall begin accepting applications for such identification cards.

(7) An entity may apply to the Department for and obtain a license to grow marijuana as a Medical Marijuana Cultivation Facility. Each facility in operation shall require a separate license. Each indoor facility utilizing artificial lighting may be limited by the Department to thirty thousand square feet of flowering plant canopy space. Each outdoor facility utilizing natural lighting may be limited by the Department to two thousand eight hundred flowering plants. Each greenhouse facility using a combination of natural and artificial lighting may be limited by the Department, at the election of the licensee, to two thousand eight hundred flowering plants or thirty thousand square feet of flowering plant canopy space. The license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The Department shall charge each applicant a non-refundable fee of three thousand dollars per license application or renewal. Once granted, the Department shall charge each licensee an annual fee of twenty thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than three Medical Marijuana Cultivation Facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(8) An entity may apply to the Department for and obtain a license to operate a Medical Marijuana Dispensary Facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The Department shall charge each applicant a non-refundable fee of three thousand dollars per license application or renewal. Once granted, the Department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than six Medical Marijuana Dispensary Facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(9) An entity may apply to the Department for and obtain one or more licenses to operate a Medical Marijuana-Infused Products Manufacturing Facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The Department shall charge each applicant a non-refundable fee of three thousand dollars per license application or renewal. Once granted, the Department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than five Medical Marijuana-Infused Products Manufacturing Facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(10) Except for good cause, a qualifying patient or his or her primary caregiver may obtain an identification card from the Department to cultivate up to six flowering marijuana plants for the exclusive use of that qualifying patient. The card shall be valid for twelve months from its date of issuance and shall be renewable with the annual submittal of a new or updated physician's certification. The Department shall charge an annual fee for the card of one hundred dollars, with such rate to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency.

(11) The Department may set a limit on the amount of marijuana that may be purchased by or on behalf of a single qualifying patient in a thirty day period, provided that limit is not less than six ounces of dried, unprocessed marijuana, or its

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equivalent. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons why the qualifying patient needs a greater amount than the limit established by the Department.

(12) The Department may set a limit on the amount of marijuana that may be possessed by or on behalf of each qualifying patient, provided that limit is not less than a sixty day supply of dried, unprocessed marijuana, or its equivalent. A primary caregiver may possess a separate legal limit for each qualifying patient under their care and a separate legal limit for themselves if they are a qualifying patient. Qualifying patients cultivating marijuana for medical use may possess up to a ninety day supply, so long as the supply remains on property under their control. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons for additional amounts. Possession of between the legal limit and up to twice the legal limit shall subject the possessor to Department sanctions, including an administrative penalty and loss of their patient identification card for up to a year. Purposefully possessing amounts in excess of twice the legal limit shall be punishable by imprisonment of up to one year and a fine of up to two thousand dollars.

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(13) The Department may restrict the aggregate number of licenses granted for Medical Marijuana Cultivation Facilities, provided, however, that the number may not be limited to fewer than one license per every eighty thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. In any year, if the number of qualifying applicants and any renewals exceed such a restriction, the Department shall, after renewing all qualifying licenses, rank new applicants using the following factors: site security; capacity or experience with agriculture, horticulture, health care, or a legal cannabis market; acceptance in the site community; potential for positive economic impact in the site community; and maintaining competitiveness in the marijuana for medical use marketplace. In ranking applicants and awarding licenses, the Department may consult or contract with other public agencies with relevant expertise regarding these factors. The Department shall lift or ease any limit on the number Medical Marijuana Cultivation Facilities to meet the demand for medical marijuana by qualifying patients.

(14) The Department may restrict the aggregate number of licenses granted for Marijuana-Infused Products Manufacturing Facilities, provided, however, that the number may not be limited to fewer than one license per every fifty thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. In any year, if the number of qualifying applicants and any renewals exceed such a restriction, the Department shall, after renewing all qualifying licenses, rank new applicants using the following factors: site security; capacity or experience with food and beverage manufacturing or a legal cannabis market; acceptance in the site community; potential for positive economic impact in the site community; and maintaining competitiveness in the marijuana for medical use marketplace. In ranking applicants and awarding licenses, the Department may consult or contract with other public agencies with relevant expertise regarding these factors.

(15) If a county has restricted the number of licenses for Medical Marijuana Dispensary Facilities, then, in any year that the number of qualifying applicants and any renewals exceed such restriction, the Department shall, after renewing all qualifying licenses, rank new applicants using the following factors: site security; experience or capacity with health care or a legal cannabis market; acceptance in the site community; potential for positive economic impact in the site community; and maintaining competitiveness in the marijuana for medical use marketplace. In ranking applicants and awarding licenses, the Department may consult or contract with other public agencies with relevant expertise regarding these factors.

(16) The Department shall begin accepting license applications for Medical Marijuana Dispensary Facilities, Medical Marijuana Cultivation Facilities, and Medical Marijuana-Infused Products Manufacturing Facilities no later than one hundred fifty days after the effective date of this section. Applications for licenses under this section shall be approved or denied by the Department no later than one hundred fifty days after their submission. If the Department fails to carry out its non-

discretionary duty to approve or deny an application within one hundred fifty days of submission, an applicant may immediately seek a court order compelling the Department to approve or deny the application.

(17) Qualifying patients under this section shall obtain and annually renew an identification card or cards from the Department. The Department shall charge a fee of twenty-five dollars per year per card with such fee to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor or its successor agency. Upon receiving an application for a qualifying patient identification card or qualifying patient cultivation identification card, the Department shall, within thirty days, either issue the card or provide a written explanation for its denial. If the Department fails to issue a card to an eligible qualifying patient within thirty days, then their physician certification shall serve as their patient identification card or qualifying patient cultivation identification card for up to one year from the date of physician certification. All initial applications for or renewals of a qualifying patient identification card or qualifying patient cultivation identification card shall be accompanied by a physician certification that is less than thirty days old.

(18) Primary caregivers under this section shall obtain and annually renew an identification card from the Department. The Department shall charge a fee of twenty-five dollars per year, with such fee to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. Upon receiving an application for a primary caregiver identification card, the Department shall, within thirty days, either issue the card or provide a written explanation for its denial.

(19) All marijuana for medical use sold in Missouri shall be cultivated in a licensed Medical Marijuana Cultivation Facility located in Missouri.

(20) All marijuana-infused products for medical use sold in the state of Missouri shall be manufactured in a Medical Marijuana-Infused Products Manufacturing Facility.

(21) The denial of a license, license renewal, or identification card by the Department shall be appealable to the Administrative Hearing Commission, or its successor entity. Following the exhaustion of administrative review, denial of a license, license renewal, or identification card by the Department shall be subject to judicial review as provided by law.

(22) No elected official shall interfere directly or indirectly with the Department's obligations and activities under this section.

**4. Taxation and Reporting**

(1) A tax is levied upon the retail sale of marijuana for medical use sold at Medical Marijuana Dispensary Facilities within the state. The tax shall be at a rate of four percent of the retail price. The tax shall be collected by each licensed Medical Marijuana Dispensary Facility and paid to the Department of Revenue. After retaining no more than five percent for its actual collection costs, amounts generated by the tax levied in this section shall be deposited by the Department of Revenue into the Missouri Veterans' Health and Care Fund. Licensed entities making retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.

(2) There is hereby created in the state treasury the "Missouri Veterans' Health and Care Fund," which shall consist of taxes and fees collected under this section. The State Treasurer shall be custodian of the fund, and he or she shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund. Notwithstanding any other provision of law, any moneys remaining in the fund at the end of a biennium shall not revert to the credit of the general revenue fund. The Commissioner of Administration is authorized to make cash operating transfers to the fund for purposes of meeting the cash requirements of the Department in advance of it

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receiving annual application, licensing, and tax revenue, with any such transfers to be repaid as provided by law. The fund shall be a dedicated fund and shall stand appropriated without further legislative action as follows:

(a) First, to the Department, an amount necessary for the Department to carry out this section, including repayment of any cash operating transfers, payments made through contract or agreement with other state and public agencies necessary to carry out this section, and a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out this section;

(b) Next, the remainder of such funds shall be transferred to the Missouri Veterans Commission for health and care services for military veterans, including the following purposes: operations, maintenance and capital improvements of the Missouri Veteran's Homes, the Missouri Service Officer's Program, and other services for veterans approved by the Commission, including but not limited to health care services, mental health services, drug rehabilitation services, housing assistance, job training, tuition assistance, and housing assistance to prevent homelessness. The Missouri Veterans Commission shall contract with other public agencies for the delivery of services beyond its expertise.

(c) All moneys from the taxes authorized under this subsection shall provide additional dedicated funding for the purposes enumerated above and shall not replace existing dedicated funding.

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(3) For all retail sales of marijuana for medical use, a record shall be kept by the seller which identifies by secure and encrypted patient number issued by the seller to the qualifying patient involved in the sale, all amounts and types of marijuana involved in the sale and the total amount of money involved in the sale, including itemizations, taxes collected and grand total sale amounts. All such records shall be kept on the premises in a readily available format and be made available for review by the Department and the Department of Revenue upon request. Such records shall be retained for five years from the date of the sale.

(4) The tax levied pursuant to this subsection is separate from and in addition to any general state and local sales and use taxes that apply to retail sales, which shall continue to be collected and distributed as provided by general law.

(5) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of marijuana for medical use.

**5. Additional Patient, Physician, Caregiver and Provider Protections**

(1) Except as provided in this section, the possession of marijuana in quantities less than the limits of this section or established by the Department and transportation of marijuana from a Medical Marijuana Dispensary Facility to the qualifying patient residence shall not subject the possessor to arrest, criminal or civil liability, or sanctions under Missouri law, provided that the possessor produces on demand to the appropriate authority a valid qualifying patient identification card; a valid patient cultivation identification card; a valid physician certification while making application for an identification card; or a valid primary caregiver identification card. Production of the respective equivalent identification card or authorization issued by another state or political subdivision of another state shall also meet the requirements of this subdivision.

(2) No patient shall be denied access to or priority for an organ transplant because they hold a qualifying patient identification card or use marijuana for medical use.

(3) A physician shall not be subject to criminal or civil liability or sanctions under Missouri law or discipline by the Missouri State Board of Registration for the Healing Arts, or its successor agency, for issuing a physician certification to a patient diagnosed with a qualifying medical condition in a manner consistent with this section and legal standards of professional conduct.

(4) A health care provider shall not be subject to civil or criminal prosecution, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for providing health

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care services that involve the medical use of marijuana consistent with this section and legal standards of professional conduct.

(5) A testing laboratory shall not be subject to civil or criminal prosecution, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for providing laboratory testing services that relate to the medical use of marijuana consistent with this section and otherwise meeting legal standards of professional conduct.

(6) A health care provider shall not be subject to mandatory reporting requirements for the medical use of marijuana by non-emancipated qualifying patients under eighteen years of age in a manner consistent with this section and with consent of a parent or guardian.

(7) A primary caregiver shall not be subject to criminal or civil liability or sanctions under Missouri law for purchasing, transporting, or administering marijuana for medical use by a qualifying patient or participating in the patient cultivation of up to six flowering marijuana plants per patient in a manner consistent with this section and generally established legal standards of personal or professional conduct.

(8) An attorney shall not be subject to disciplinary action by the state bar association or other professional licensing body for providing legal assistance to prospective or licensed Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensary Facilities, Medical Marijuana-Infused Products Manufacturing Facilities, qualifying patients, primary caregivers, physicians, health care providers or others related to activity that is no longer subject to criminal penalties under state law pursuant to this section.

(9) Actions and conduct by Qualifying Patients, Primary Caregivers, Medical Marijuana Cultivation Facilities, Medical Marijuana-Infused Products Manufacturing Facilities, or Medical Marijuana Dispensary Facilities licensed or registered with the Department, or their employees or agents, as permitted by this section and in compliance with Department regulations and other standards of legal conduct, shall not be subject to criminal or civil liability or sanctions under Missouri law, except as provided for by this section.

(10) Nothing in this section shall provide immunity for negligence, either common law or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of marijuana.

(11) It is the public policy of the state of Missouri that contracts related to marijuana for medical use that are entered into by Qualifying Patients, Primary Caregivers, Medical Marijuana Cultivation Facilities, Medical Marijuana-Infused Products Manufacturing Facilities, or Medical Marijuana Dispensary Facilities and those who allow property to be used by those entities, should be enforceable. It is the public policy of the state of Missouri that no contract entered into by Qualifying Patients, Primary Caregivers, Medical Marijuana Cultivation Facilities, Medical Marijuana-Infused Products Manufacturing Facilities, or Medical Marijuana Dispensary Facilities, or by a person who allows property to be used for activities that are exempt from state criminal penalties by this section, shall be unenforceable on the basis that activities related to medical marijuana may be prohibited by federal law.

**6. Legislation**

Nothing in this section shall limit the General Assembly from enacting laws consistent with this section, or otherwise effectuating the patient rights of this section. The legislature shall not enact laws that hinder the right of qualifying patients to access marijuana for medical use as granted by this section

**7. Additional Provisions**

(1) Nothing in this section permits a person to:

(a) Consume marijuana for medical use in a jail or correctional facility;

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(b) Undertake any task under the influence of marijuana when doing so would constitute negligence or professional malpractice; or

(c) Operate, navigate, or be in actual physical control of any dangerous device or motor vehicle, aircraft or motorboat while under the influence of marijuana; or

(d) Bring a claim against any employer, former employer, or prospective employer for wrongful discharge, discrimination, or any similar cause of action or remedy, based on the employer, former employer, or prospective employer prohibiting the employee, former employee, or prospective employee from being under the influence of marijuana while at work or disciplining the employee or former employee, up to and including termination from employment, for working or attempting to work while under the influence of marijuana.

(2) No Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility shall be owned, in whole or in part, or have as an officer, director, board member, manager, or employee, any individual with a disqualifying felony offense. A "disqualifying felony offense" is a violation of, and conviction or guilty plea to, state or federal law that is, or would have been, a felony under Missouri law, regardless of the sentence imposed, unless the Department determines that:

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(a) The person's conviction was for the medical use of marijuana or assisting in the medical use of marijuana; or

(b) The person's conviction was for a non-violent crime for which he or she was not incarcerated and that is more than five years old; or

(c) More than five years have passed since the person was released from parole or probation, and he or she has not been convicted of any subsequent criminal offenses.

The Department may consult with and rely on the records, advice and recommendations of the Attorney General and the Department of Public Safety, or their successor entities, in applying this subdivision.

(3) All Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility licenses shall be held by entities that are majority owned by natural persons who have been citizens of the state of Missouri for at least one year prior to the application for such license or licenses. Notwithstanding the forgoing, entities outside the state of Missouri may own a minority stake in such entities.

(4) A county may require a site permit for a Medical Marijuana Dispensary Facility utilizing generally applicable permitting standards. In addition, by February 1, 2017, a county may limit the number of site permits to be granted for Medical Marijuana Dispensary Facilities, provided, however, that the number may not be limited to fewer than one site for every thirty thousand inhabitants, or any portion thereof, in such county, according to the most recent census of the United States. After a county's initial site permit limit notification, a county shall notify the Department of any change to its site permit limit within ten days of such decision; however, the number of site permits shall not be less than the number of licenses previously issued by the Department for that county.

(5) No Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility shall manufacture, package or label marijuana or marijuana-infused products in a false or misleading manner. No person shall sell any product in a manner designed to cause confusion between a marijuana or marijuana-infused product and any product not containing marijuana. A violation of this subdivision shall be punishable by an appropriate and proportional Department sanction, up to and including loss of license.

(6) All edible marijuana-infused products shall be sold in individual, child-resistant containers that are labeled with dosage amounts, instructions for use, and estimated length of effectiveness. All marijuana and marijuana-infused products shall be sold in containers clearly and conspicuously labeled, in a font size at least as large as the largest other font size used on the package, as containing "Marijuana," or a

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"Marijuana-Infused Product." Violation of this prohibition shall subject the violator to Department sanctions, including an administrative penalty.

(7) No individual shall serve as the primary caregiver for more than three qualifying patients.

(8) No qualifying patient shall consume marijuana for medical use in a public place. Violation of this prohibition shall subject the violator to sanctions as provided by general law.

(9) No person shall extract resins from marijuana using dangerous materials or combustible gasses without a Medical Marijuana-Infused Products Manufacturing Facility license. Violation of this prohibition shall subject the violator to Department sanctions, including an administrative penalty and loss of their identification card or license for up to one year.

(10) All patient cultivation shall take place in an enclosed, locked facility that is equipped with security devices that permit access only by the qualifying patient or by such patient's primary caregiver. Two qualifying patients, who both hold valid patient cultivation identification cards, may share one enclosed, locked facility. No more than twelve patient or primary caregiver cultivated flowering marijuana plants may be cultivated in a single, enclosed locked facility, except when a primary caregiver also holds a patient cultivation identification card, in which case no more than eighteen flowering marijuana plants may be cultivated in a single, enclosed, locked facility.

(11) No Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility shall assign, sell, give, lease, sublicense, or otherwise transfer its license to any other entity without the express consent of the Department, not to be unreasonably withheld.

(12) Unless allowed by the local government, no new Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility shall be initially sited within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church. No local government shall prohibit Medical Marijuana Cultivation Facilities, Medical Marijuana-Infused Products Manufacturing Facilities, or Medical Marijuana Dispensary Facilities, either expressly or through the enactment of ordinances or regulations that make their operation unduly burdensome in the jurisdiction. However, local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place, and manner of such facilities in the locality. A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of operation of a Medical Marijuana Cultivation Facility, Medical Marijuana Infused Products Manufacturing Facility, or Medical Marijuana Dispensary Facility that may operate in such locality.

(13) Unless superseded by federal law or an amendment to this Constitution, a physician shall not recommend the medical use of marijuana to a patient by any means other than providing a physician certification for the patient, whether handwritten, electronic or in another commonly used format. In any year, no physician shall issue more physician certifications than a number equivalent to twenty-five percent of their total number of prescriptions for other drugs. A qualifying patient must obtain a new physician certification at least annually.

(14) A physician shall not issue a certification for the medical use of marijuana for a non-emancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. The Department shall not issue a patient identification card on behalf of a non-emancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. Such card shall be issued to one of the parents or guardians and not directly to the patient. Only a parent or guardian may serve as a primary caregiver for a non-emancipated qualifying patient under the age of eighteen. Only the qualifying patient's parent or guardian shall purchase or possess

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medical marijuana for a non-emancipated patient under the age of eighteen. A parent or guardian shall supervise the administration of medical marijuana to a non-emancipated patient under the age of eighteen

(15) Nothing in this section shall be construed as mandating health insurance coverage of medical marijuana for qualifying patient use.

(16) Real and personal property used in the cultivation, manufacture, transport, testing, distribution, sale, and administration of marijuana for medical use or for activities otherwise in compliance with this section shall not be subject to asset forfeiture solely because of that use.

**8. Severability**

The provisions of this section are severable, and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, the other provisions shall continue to be in effect to the fullest extent possible.

**9. Effective Date**

The provisions of this section shall become effective on December 8, 2016, as provided by this Constitution.

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2015 OCT 27 PM 5:12
SECRETARY OF STATE

16-128

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

October 20, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Brad Bradshaw regarding a proposed constitutional amendment to Article XV (2016-128)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Brad Bradshaw on October 19, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

RECEIVED
OCT 20 2015
STATE AUDITORS OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-128

County_____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of Section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the State of Missouri and _____County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the State of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016 and each for himself or herself says: I have personally signed this petition; I am a registered voter of the State of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

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CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say
(print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS Street, No PO Boxes (City, Town or Village) | ZIP CODE | CONG. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | / / | | | | |
| 2. | / / | | | | |
| 3. | / / | | | | |
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| 10. | / / | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the State of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer _____.

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant (Person obtaining signatures)

_____
Address of Affiant (Person obtaining signatures)

Subscribed and sworn to before me this _____day of _____, A.D. _____.

_____
Signature of Notary

_____
Address of Notary

Notary Public (Seal)

My commission expires _____.

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*Be it resolved by the people of the State of Missouri that the Constitution be amended:*

One new article and eleven new sections are adopted by adding eleven new sections to a new Article, to be known as Sections 1 through Section 11 of Article XV to read as follows:

**Section 1. Purpose.**

(a) For the purpose of benefiting the citizens of Missouri by providing for medical research to find and develop cures and treatments for cancer and other incurable and chronic diseases or medical conditions, and generate revenue therefrom by funding said medical research by the legalization and use of medical marijuana or its derivatives as palliative or ameliorative treatment for any such condition, with taxes on medical marijuana or any derivatives thereof as set forth herein, with the proceeds of such taxes to be used to establish, provide for, and continue such medical research as provided herein.

**Section 2. Definitions:**

As used in this Article XV, the following terms shall mean:

(a) "Administer" means the direct application of marijuana to the body of a qualifying patient by any approved method, as defined herein.

(b) "Approved methods" for the administration of marijuana are defined to include ingestion of capsules, teas and other sanctioned marijuana-infused products, vaporization or smoking of dried flowers/buds or plant material, application of ointments, patches, or balms, consuming marijuana-infused food products or any other method recommended by a qualifying patient's physician and approved by the Research Board.

(c) "Authorized physician" means an individual who is licensed by the Missouri State Board of Registration for the Healing Arts and in good standing to practice medicine or osteopathy under Missouri law and has not, within the past ten (10) years, been subject to discipline by the Missouri State Board of Registration for the Healing Arts for inappropriate personal use of controlled substances or alcohol, or inappropriate prescribing of controlled substances.

(d) "Building and construction" means the erection, renovation, development or remodeling of any structure called for in this Article XV including, but not limited to, marijuana cultivation facilities, offices, buildings, clinics, hospitals, sidewalks, roads, public transit systems and structures, public recreational and entertainment zones and facilities, community development and zoology areas, landscaping, green spaces, business enterprise zones, housings, apartments, condominiums, grocery stores, parks, recreational areas and the planning, design, development, architectural design and engineering and management of any of the same.

(e) "Campus" means the primary and main physical location of a campus where medical research and treatment shall be performed, medical marijuana may be cultivated and studied for the diseases it ameliorates, the location of the headquarters of the Research Board and where the Board shall primarily operate, also including but not limited to, the campus selected and developed under land acquisition and land development, and used as the primary physical location for jobs, building and construction, land development, improvements, research and education in Missouri in the endeavor to find cures for presently incurable diseases under this Article XV.

(f) "Cures" means any and all cures, also including but not limited to, medical treatments, psychiatric and psychological treatments, medications, protocols, therapies, surgeries, genetic material, biologicals, behavioral treatments, clinical trials, laboratory studies, diagnostic tests, evaluations, counseling, treatments, implants, grafts, hardware, orthotics, machines, electronic devices, computers, software programs, studies, and endeavors that help or may help in studying, slowing, curing, eliminating, halting, placing in remission, ameliorating, ending, or regressing any or all presently incurable diseases, targeted diseases, or conditions, illnesses and diseases that are otherwise incurable.

(g) "Designated primary caregiver" means an individual twenty-one (21) years of age or older who has significant responsibility for managing the well-being of a qualified patient who has a physician certification, as identified in the application for a designated primary caregiver identification card consistent with the regulations of the Research Board.

(h) "Designated primary caregiver identification card" means a card issued by the Research Board to a designated primary caregiver.

(i) "Education" means any and all education, also including but not limited to, teaching, training and education that is, directly or indirectly, necessary, helpful or supportive to jobs, building and construction, land development, campus development, campus improvement, research, jobs and education in Missouri in the endeavor to find cures for incurable diseases.

(j) "Endeavor" means any and all endeavors, also including but not limited to, attempts, quests, searches, championing, pursuit, travel, work, inquiries, treatments, protocols, implementations, and research relating to jobs, building and construction, land development, campus, research and education in Missouri in the effort to find cures for presently incurable diseases.

(k) "In Missouri" means within the geographic boundaries of the State of Missouri as established by law and this Constitution.

(l) "Jobs" means any and all forms of jobs and work, also including but not limited to, employment of individuals where the work classification is directly or indirectly related to building and construction, land development, campus, research and education in Missouri in the endeavor to find cures for presently incurable diseases.

(m) "Land acquisition" means the acquisition of real and personal property, also including but not limited to investigations, inquiries, studies, plans and review of data to determine from three (3) to five (5) potential locations for land development and acquisition for a campus where jobs will be had, building and construction will occur and research and education in Missouri will take place in the endeavor to find cures for presently incurable diseases and where the Research Board shall be primarily located.

(n) "Land development" means any and all land planning and development, also including but not limited to studies, inquiries, exploration, research, planning, and actual purchase of lands, buildings, real estate and property related to site development and the campus, land acquisition, land design and use, covenants, restrictions, and ancillary jobs, building and construction, research and education in Missouri in the endeavor to find cures for presently incurable diseases.

(o) "Marijuana" means *Cannabis indica*, *Cannabis sativa*, and *Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana or otherwise designated as such by the Research Board.

(p) "Medical Marijuana Cultivation Facility" means a facility licensed by the Research Board, to cultivate, transport and sell marijuana to a Medical Marijuana Dispensary Facility for sale for medical use or to a Medical Marijuana-Infused Products Manufacturing Facility for use and manufacture in marijuana-infused products for sale to a Medical Marijuana Dispensary Facility for sale for medical use.

(q) "Medical Marijuana Dispensary Facility" means a facility, licensed by the Research Board, to sell and transport marijuana or marijuana-infused products for medical use, as provided in this Article XV.

(r) "Medical Marijuana-Infused Products Manufacturing Facility" means a facility, licensed by the Research Board, to manufacture and transport marijuana-infused products for sale to a Medical Marijuana Dispensary Facility for sale for medical use.

(s) "Medical use of marijuana" means the production, possession, delivery, transportation, distribution or administration of marijuana, or paraphernalia used to administer marijuana, as a reasonable benefit for a person to mitigate the symptoms or effects of the person's qualifying medical condition.

(t) "Participating research entities" means public, private, quasi-public or quasi-private entities that enter into contracts with the Research Board for research, jobs, education, building and construction, and endeavors to facilitate finding cures for presently incurable diseases.

(u) "Physician certification" means a written document, signed by an authorized physician that states in the physician's professional opinion, the qualifying patient suffers from a qualifying medical condition, and that the potential benefits of the medical use of marijuana may outweigh the health risks to the qualifying patient.

(v) "Plant canopy" means the area dedicated to live marijuana plants, such as plants cultivated for sale, maintaining mother plants, propagating plants from seed to plant tissue, clones, vegetative or flowering area. Plant canopy does not include areas such as space used for the storage of fertilizers, pesticides, or other products, quarantine, gardening tools, office space, walkways and the like.

(w) "Presently incurable diseases" means any and all diseases and disorders that are presently as well as in the future determined to be incurable, including but not limited to, illnesses, diseases, ailments, conditions and syndromes that are terminal, fatal, progressive, not necessarily progressive but result in long term and frequently permanent injury, disability or suffering, or such conditions that are not readily or not effectively treatable to a full cure.

(x) "Qualifying medical condition" means diseases that medical marijuana ameliorates, including but not limited to:

i. cancer,
ii. epilepsy,
iii. multiple sclerosis,
iv. human immunodeficiency virus and acquired immune deficiency syndrome,
v. glaucoma,
vi. intractable migraines unresponsive to other treatment,
vii. a chronic medical condition that causes persistent pain and/or persistent muscle spasms including but not limited to those associated with paralysis, Bell's Palsy, and Tourette's syndrome,
viii. debilitating psychiatric disorders that benefit from medical marijuana and have been treated at some point in the patient's medical history by a physician who has received at least one year of training in a psychiatric internship or residency program,
ix. a terminal illness, and
x. any other diseases that the Research Board determines, based upon reliable data and generally accepted scientific principles, will benefit from treatment with medical marijuana.

(y) "Qualifying patient" means 1) a patient, eighteen (18) years old or older, with one or more qualifying medical conditions, or 2) a patient, under eighteen (18) years old, with one or more qualifying medical conditions who also has notarized written consent from a parent or legal guardian to use medical marijuana or medical marijuana-infused products.

(z) "Qualifying patient identification card" means a card issued by the Research Board for a qualifying patient with a valid physician certification.

(aa) "Research" means any and all research and development, also including but not limited to, teaching, training, studies, analysis, evaluations, and education that is, directly or indirectly, necessary, helpful or supportive to discovering, implementing, or finding cures, and studies for cures of illnesses and diseases that are presently incurable diseases and ancillary jobs, building and construction, research and education in Missouri in the endeavor to find cures for presently incurable diseases.

(bb) "Research Board" means the Board of Research and Drug Development.

(cc) "Secondary campus" means Research Board discretionary secondary physical locations, including but not limited to building and construction of such secondary campuses that will operate in collaboration with any accredited medical or pharmacy school located within Missouri under this Article XV, section 3 and section 5, and used for jobs, building and construction, research, and education in Missouri in the endeavor to find cures for presently incurable diseases under this Article XV.

(dd) "Targeted disease(s)" means any and all presently incurable diseases that are, or may be, specifically identified or singled out, or otherwise isolated, whether by type, sub-type, sub-sub-type, and to show by example: breast cancer, or interlobular breast cancer, or estrogen positive breast cancer, or estrogen negative interlobular breast cancer, or poorly differentiated estrogen positive interlobular breast cancer, etc.; or leukemia or chronic lymphocytic leukemia or acute lymphocytic leukemia, or acute lymphocytic leukemia with certain genetic markers, or chronic myelogenous leukemia, etc.; or Parkinson's disease, or early onset Parkinson's disease, etc.; or endogenous depression, or depression secondary to bipolar disorder, etc.

All of the provisions of this section shall be self-enforcing. All of the provisions and phrases of this section are severable. If any provision or phrase of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions or phrases of this section shall be and remain valid.

**Section 3. Research Board and Duties.**

(a) There is hereby created and established as a governmental instrumentality of the state of Missouri the "Research and Drug Development Institute" which shall constitute a body corporate and politic and operate pursuant to this Article XV. The Research and Drug Development Institute shall exist on a campus established by building and construction on land acquired and land developed pursuant to this Article XV. On this Research and Drug Development Institute, campus research shall be performed in the endeavor to find cures for presently incurable diseases. The Research and Drug Development Institute shall have located on its campus targeted disease research groups to further this research.

(b) "Research and Drug Development Institute" shall be governed by the "Board of Research and Drug Development," hereinafter "Research Board".

(c) The Research and Drug Development Institute and the Research Board shall not be assigned to any Missouri Department but rather shall be independent entities existing and operating pursuant to this Article XV under the direction of the Lieutenant Governor who shall be the director of the Research Board.

(d) In the event the "Research and Drug Development Institute" and "Research Board" are transferred by operation of Article IV section 12 to a Department, then they shall be assigned to the Department of Health and Senior Services with supervision of the department extending only to budgeting and reporting as provided by subdivisions (4) and (5) of subsection 6 of section 1 of the Reorganization Act of 1974. Supervision by the department shall not extend to matters relating to policies, regulatory functions, contracts, or other matters specifically entrusted to the Research Board by this Article XV, and neither the director of the department nor any employee of the department shall, directly or indirectly, interfere with the activities of the Research Board or the research provided by this Article XV.

(e) The Research Board is charged by the people of the State of Missouri to effectuate this Article XV, to find cures for currently incurable diseases, and to the extent reasonably practicable generate income to the State of Missouri with such cures.

(f) It is the duty of the Research Board to promulgate rules and regulations in accordance with the provisions of this Article XV, and to effectuate the provisions of this Article XV. The Research Board shall file proposed rules with the secretary of state no later than ten (10) months after the effective date of this Article XV.

(g) All rules and regulations of the Research Board, except those relating to its organization and internal management, shall take effect not less than ten (10) days after the filing thereof in the office of the secretary of state.

(h) The Research Board shall consist of the Lieutenant Governor, and eight (8) members to be selected by the Lieutenant Governor as set forth in this Article XV. The members of the Board, other than the temporary "then existing Research Board" in section 3(p), appointed by the Lieutenant Governor shall serve the following terms: four (4) shall serve three (3) years, and four (4) shall serve six (6) years. Thereafter, each appointment shall be for a term of six (6) years. If for any reason a vacancy occurs, the Lieutenant Governor shall appoint a new member to fill the unexpired term. Members are eligible for up to four reappointments. Other than the Lieutenant Governor, no member of such Research Board shall hold any public office, and no member shall hold any official position in a political party.

(i) Five (5) members of the Research Board shall constitute a quorum. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all the rights and perform all the duties of the Research Board. The Research Board may act only by the concurrence of a majority of a quorum, with such quorum meeting in person when practicable but by video teleconference or similar means when approved by a majority of the quorum. Except for the Lieutenant Governor, failure to regularly and frequently participate in Research Board business shall be grounds for dismissal from the Research Board upon a vote of six (6) members of the Research Board.

(j) The Research Board is hereby granted, has and may exercise all powers necessary or appropriate to implement, carry out, enforce and effectuate its purpose, and the purposes of this Article XV including but not limited to the following:

i. To make, purchase or participate in the purchase of property;
ii. Adopt bylaws for the regulation of its affairs and the conduct or discharge of its business and define terms so as to reasonably and effectively carry out the purpose of this Article XV;
iii. To accept appropriations, gifts, grants, bequests, and devises and to utilize or dispose of the same to carry out its purpose;
iv. To make and execute contracts, releases, compromises, and other instruments necessary or convenient for the exercise of its powers, or to carry out its purpose;
v. To sue and be sued;
vi. To have a seal and alter the same at will;
vii. To make, promulgate, and, from time to time, amend and repeal rules and regulations;
viii. To perform all administrative duties necessary or that reasonably assist in the discharge and conduct of its business as defined in this Article XV, including, but not limited to, the formation of committees and subcommittees and the delegation of its authority to such committees and subcommittees.
ix. To acquire, hold and dispose of personal property for its purpose;
x. To sell, at public or private sale, any mortgage, negotiable instrument or obligation securing building and construction or land development;
xi. To enter into agreements or other transactions with any federal or state agency, any person or any domestic or foreign partnership, corporation, association, organization, or participating research entity;
xii. To acquire real property, or an interest therein, in its own name, to lease for up to one hundred (100) years and one option to renew up to another one hundred (100) years such property to a tenant to develop, for building and construction, and to manage and operate such property, to enter into management contracts with respect to such property and to mortgage such property;

xiii. To procure insurance against any loss in connection with its property in such amounts, and from such insurers, as may be necessary or desirable;

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xiv. To issue and sell revenue bonds to fund any purpose authorized by this Article XV. Any bonds issued under the provisions of this Article XV shall not be deemed to be an indebtedness of the State of Missouri or of any political subdivision thereof, and shall not be deemed to be an indebtedness within the meaning of any constitutional or statutory limitation upon the incurring of indebtedness. The proceeds of the sale or sales of any bonds issued hereunder shall be paid into the state treasury and be credited to a fund to be designated the "Research and Drug Development Institute Trust Fund" General Purpose Account. The bonds shall be retired serially and by installments within a period not to exceed twenty-five (25) years from their date of issue and shall bear interest at a rate or rates not exceeding the rate permitted by law.

(k) The Research Board shall issue rules and regulations for licensure of marijuana facilities, including but not limited to procedures for issuing, renewing and revoking licenses for Medical Marijuana Cultivation Facilities, Medical Marijuana-Infused Products Manufacturing Facilities, and Medical Marijuana Dispensary Facilities, for the issuance, renewal and revocation of qualifying patient identification cards and designated primary caregiver identification cards, and the creation of a confidential qualifying patient and designated primary caregiver registry. The purpose of the regulations within this subsection (k) is to ensure the availability and safe use of marijuana by qualifying patients.

(l) The Research Board shall charge each applicant for a license to operate a Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility or Medical Marijuana-Infused Products Manufacturing Facility, all fees and taxes as provided in this Article XV, and an additional fee equal to the pro-rata estimated average yearly cost to the Research Board of administrating and enforcing this Article XV, estimated over a five (5) year period beginning on January 1st of the year the applicant applies for such license, divided equally among all applicants based on the yearly estimated number of applicants for such licenses over the same five (5) year period, as reasonably estimated by the Research Board.

(m) The Research Board may set a limit on the amount of marijuana that may be purchased per month, provided that limit is not less than one hundred (100) grams per month of dried unprocessed marijuana or its extract equivalent as reasonably determined by the Research Board. Any such limit shall not apply to a qualifying patient with written certification from two physicians, not of the same clinic, that there are compelling reasons for additional amounts.

(n) The Research Board shall restrict the number of licenses granted for Medical Marijuana Dispensary Facilities within each county or city not within a county to two (2) for every twenty thousand (20,000) inhabitants. If a county or city not within a county has fewer than twenty thousand (20,000) inhabitants, the Research Board shall restrict the number of licenses granted for Medical Marijuana Dispensary Facilities to two (2). Upon the written request of the governing body of a county or city not within a county to increase the number of available licenses, the Research Board shall accordingly increase the number of licenses granted for Medical Marijuana Dispensary Facilities within the same county or city not within a county.

(o) The Lieutenant Governor shall not receive compensation under this Article XV but shall receive reimbursements for discharging his/her duties under this Article XV. Other members of the Research Board shall receive compensation and reimbursement for expenses incurred in discharging their duties under this Article XV. For members other than the Lieutenant Governor the initial eight members of the Research Board shall have their compensation set as the annual salary received by the Missouri Supreme Court Chief Justice. Thereafter, for new members of the Research Board, the compensation shall be an amount agreed upon by the Lieutenant Governor, and one fourth of the Research Board, and approved by the Governor, but not less than the annual salary received by the Missouri Supreme Court Chief Justice. Upon further years of service, the compensation shall be increased every three years by the greater of a cost of living increase based upon the Consumer Price Index (CPI), or successor index as published by the U.S. Research Board of Labor or its successor agency, or at a raised amount agreed upon unanimously by the Research Board and approved by the Lieutenant Governor and Governor.

(p) A nonpartisan scientific nominating committee, hereafter nominating committee, of five (5) individuals shall review applications, interview candidates and for each vacancy in the Research Board shall select a panel of seven individuals from which the Lieutenant Governor shall appoint as member(s) of the Research Board. Residents of the State of Missouri who are licensed Missouri physicians or licensed Missouri pharmacists and living in the State of Missouri at least six (6) months over the twelve (12) months before the election shall elect a grand total of four (4) from the combined pool of licensed Missouri physicians and pharmacists to serve as members of said nominating committee. The members of the nominating committee shall serve four (4) year terms, except from the first election of the nominating committee the two members who received the most votes shall serve a four (4) year term, and the two members elected who received the least votes shall each serve a two (2) year term. The Lieutenant Governor shall appoint one citizen from among the residents of this state to serve as a member of said nominating committee for a four (4) year term. The members of the nominating committee shall select one of their number to serve as chairperson. No member of the nominating committee shall hold any public office, and no member shall hold any official position in a political party. The nominating committee may act only by the concurrence of a majority of its members. The members of such nominating committee

shall receive a salary equal to that of an elected state senator as compensation for their services and they shall receive their necessary traveling and other expenses incurred while actually engaged in the discharge of their official duties. Any and all such nominating committees shall be administered, and all nominating committee elections provided for under this section shall be held by, and regulated under, such rules as a panel of three (3) retired Missouri judges appointed by the Lieutenant Governor shall promulgate. Said rules shall be presented to the Research Board who shall, either with or without modifications by the Research Board, file such rules with the secretary of state within twenty-one (21) days of receiving them from the three judge panel. The three judge panel shall be compensated the standard rate of retired senior judges paid out of the General Purpose Account during the weeks in which they perform work. Pending selection and appointment that will fill the Research Board, the Lieutenant Governor shall appoint four (4) temporary members who together shall be the "then existing Research Board" and shall have the power and duties of the Research Board until such member positions are otherwise filled pursuant to this Article XV. Those temporary members shall serve at the same rate as Research Board members so long as there are funds available. If no funds are immediately available, the members may serve without compensation until funds are available and when funds become available the members shall be reimbursed for time served from appointment, and for their reasonable expenses incurred to effectuate their duties.

(q) For vacancies in the Research Board any licensed physician or licensed pharmacist residing in the State of Missouri may submit an application to the nominating committee for consideration. Any citizen of the United States, or Nobel Laureate in the field of medicine, chemistry, physics, and economics with permanent residence in the United States, who holds a PhD in Biology, Chemistry, Biochemistry, Physics, Genetics, or equivalent degree, from an accredited university that has been in existence at least fifty (50) years, upon nomination of a Dean of the School of Medicine of the University of Missouri – Columbia, Kansas City, St. Louis, St. Louis University, or Washington University in St. Louis, or upon nomination of a member of the Missouri State Senate may submit their application to the nominating committee for consideration.

(r) The Research Board shall establish targeted diseases research groups, hereafter research groups, aimed at research, finding cures, and endeavors for fighting specific "targeted" presently incurable diseases consistent with the purpose of the charge of this Article XV. Specific targeted incurable diseases shall be identified by the Research Board, and such targeted diseases may be identified for receiving segregated donations and contributions before and after the targeted disease research group is established. Each research group shall be governed by a panel of not less than three (3) individuals and not more than seven (7), chosen by the Research Board, each panel shall oversee, administer, steer, and regulate the research group's research to find cures. Individuals on the Research Board may sit on up to four (4) targeted disease research group governing panels.

(s) Members of the Research Board, except as allowed under this Article XV shall not enter into any financial or business relationships with an entity that profits from medical research or medications and therapies to treat incurable disease under this Article XV, other than in an accredited university faculty position, during the member's tenure on the Research Board, and for a period of two (2) years after that member's tenure on the Research Board ends. A Research Board member shall not ever steer research to or toward a particular direction or activity with the purpose of helping an entity or company or for personal or for family financial gain. Except for participating research entities, nothing in this subsection (s) shall prohibit or prejudice a member from entering into any financial or business relationship so long as such does not steer or influence Article XV research toward a particular company nor toward a result/outcome.

(t) The monies generated, obtained, and distributed under this Article XV shall not be included within the definition of "total state revenues" as that term is used in section 17 of Article X of this constitution nor be considered as an "expense of state government" as that term is used in section 20 of Article X of this constitution.

(u) The Research Board shall establish a public website for transmission and receipt of information to and from the public, hereafter Research Board website.

(v) All of the provisions of this section shall be self-enforcing. All of the provisions and phrases of this section are severable. If any provision or phrase of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions or phrases of this section shall be and remain valid.

**Section 4. Taxation and Reporting.**

(a) A tax is hereby imposed on each wholesale sale in Missouri by a Medical Marijuana Cultivation Facility to a Medical Marijuana-Infused Products Manufacturing Facility, by a Medical Marijuana Cultivation Facility to a Medical Marijuana Dispensary Facility or by a Medical Marijuana-Infused Products Manufacturing Facility to Medical Marijuana Dispensary Facility, at a rate of ten percent (10%) of the purchase price paid or charged, or in case such sale involves the exchange of property, a tax equivalent to ten percent (10%) of the consideration paid or charged, including the fair market value of the property exchanged at the time and place of the exchange.

i. If said Medical Marijuana Cultivation Facility or Medical Marijuana-Infused Products Manufacturing Facility is owned, in whole or in part, by any person or entity, either directly or indirectly, that also owns, in whole or in part, either directly or indirectly, the Medical Marijuana-Infused Products Manufacturing Facility or the Medical Marijuana Dispensary Facility to which the wholesale sale is made, there shall be a rebuttable presumption that the purchase price paid is the greater of the amount paid or the current fair market value for marijuana as determined by the Research Board yearly.

ii. The tax must be collected by the Medical Marijuana Cultivation Facility or, if the sale is by a Medical Marijuana-Infused Products Manufacturing Facility by the Medical Marijuana-Infused Products Manufacturing Facility, and paid to the Department of Revenue within thirty (30) days.

iii. For all wholesale sales of marijuana, a receipt must be given by the seller which identifies all the parties involved in the sale, all amounts and types of marijuana involved in the sale and the total amount of money involved in the sale, including itemizations and grand total sale amounts.

(b) A tax is hereby imposed on each retail sale in Missouri by a Medical Marijuana Dispensary Facility at a rate of seventy-five percent (75%) of the purchase price paid or charged, or in case such sale involves the exchange of property, a tax equivalent to seventy-five percent (75%) of the consideration paid or charged, including the fair market value of the property exchanged at the time and place of the exchange.

i. The tax must be collected by the Medical Marijuana Dispensary Facility and paid to the Department of Revenue within thirty (30) days of the retail sale.

ii. For all retail sales of marijuana, a receipt must be given by the seller which identifies all the parties involved in the sale, all amounts and types of marijuana involved in the sale and the total amount of money involved in the sale, including itemizations and grand total sale amounts.

(c) Subject to the limitations within this Article XV a person or entity may apply for and obtain a license to operate a Medical Marijuana Cultivation Facility. Such person or entity may apply to the Research Board for and obtain up to ten (10) yearly licenses to grow marijuana. Each license shall be valid for growing marijuana in up to one hundred (100) square meters of plant canopy. Marijuana grown indoors must be grown in an enclosed, locked facility: a closet, room, greenhouse, or other enclosed area equipped with locks or other security devices that permit access only by authorized personnel, meeting industry standards for safety and safe use of electricity. Marijuana grown outdoors must be grown in an enclosed area which is defined as an outdoor space surrounded by solid ten (10) foot walls constructed of metal, concrete, or stone that meet industry standards for such walls and prevent any viewing of the marijuana plants, with a one-inch-thick metal gate. Each license shall be taxed at an initial rate of twenty thousand dollars ($20,000) per license, with such rate to be increased or decreased each year by the percentage of increase or decrease of the Consumer Price Index (CPI), or successor index as published by the U.S. Research Board of Labor or its successor agency.

i. Upon request to the Research Board, state institutions of higher education governed by sections 174.020 to 174.500 Revised Statutes of Missouri and chapter 172 Revised Statutes of Missouri shall be granted, without charge, ten (10) licenses per institution per year to grow marijuana.

ii. Upon request to the Research Board by an entity operating under authority of section 10 of this Article XV, the Research Board may grant, without charge, up to one (1) license to a total of no more than ten (10) such entities for purposes of researching the benefits of medical marijuana for various presently incurable diseases.

(d) Subject to the limitations within this Article XV a person or entity may apply for and obtain a license to operate a Medical Marijuana Dispensary Facility. Such person or entity may apply to the Research Board and obtain a license to sell marijuana or marijuana-infused products for medical use for a twelve (12) month period within a county or city not within a county. Each such license shall be taxed at an initial rate of fifty thousand dollars ($50,000) for the first year per license (which must be by money order, cashier's check, or other means as determined by the Research Board and accompany the application and will be returned if the application is unsuccessful) and then annually fifteen thousand dollars ($15,000) per license upon renewal, with such rate to be increased or decreased each year by the percentage of increase or decrease of the Consumer Price Index (CPI), or successor index as published by the U.S. Research Board of Labor or its successor agency.

i. Initial applications for licenses shall be accepted beginning one year after passage of this Article XV. The initial application period shall remain open for ninety (90) days.

ii. After the initial application period, when one or more licenses become available in a county or city not within a county, the opening shall be published on the Research Board's website for ninety (90) days, after which an additional application period of ninety (90) days shall immediately commence.

iii. In issuing licenses, priority shall be given in the following order and shall not proceed to the next class until all applications in priority above it are extinguished:

a. Class 1: Individuals who are licensed Missouri pharmacists or entities owned in whole by licensed Missouri pharmacists,

b. Class 2: Individuals who are licensed Missouri physicians or entities owned in whole by licensed Missouri physicians, and

c. Class 3: Individuals who are licensed Missouri health care providers or entities owned in whole by licensed Missouri health care providers.

d. Class 4: All other individuals and entities.

iv. When there are more applications for licenses than there are licenses available before a class is extinguished, licenses within that class shall be on the basis of competitive bids (such bids must be by

money order, cashier's check, or other means as determined by the Research Board, and accompany the application and will be returned if the bid is unsuccessful), with licenses awarded to the highest bidder. Such bids shall be made in a manner to avoid disclosure of bid amounts to competing bidders during the bidding process. 16-128

v. No individual, or entity owned or controlled, in whole or in part, directly or indirectly, by the same individual or other entity involved in the bidding process, shall bid on or be awarded more than five (5) licenses in the same calendar year, nor possess more than fifty percent (50%) of the licenses for a given county or city not within a county.

(e) Subject to the limitations within this Article XV a person or entity may apply for and operate a Medical Marijuana-Infused Products Manufacturing Facility. Such person or entity may apply to the Research Board for and obtain a license to sell medical marijuana-infused products to a Medical Marijuana Dispensary Facility for a twelve (12) month period within a county or city not within a county. Each such license shall be taxed at an initial rate of twenty thousand dollars ($20,000) for the first year per license (which must be by money order, cashier's check, or other means as determined by the Research Board and accompany the application and will be returned if the application is unsuccessful) and then annually ten thousand dollars ($10,000) per license upon renewal, with such rate to be increased or decreased each year by the percentage of increase or decrease of the Consumer Price Index (CPI), or successor index as published by the U.S. Research Board of Labor or its successor agency.

(f) A qualifying patient must obtain annually a qualifying patient identification card from the Research Board and shall be taxed at an initial rate of twenty-five dollars ($25) per issuance with such rate to be increased or decreased each year by the percentage of increase or decrease of the Consumer Price Index (CPI), or successor index as published by the U.S. Research Board of Labor or its successor agency. Upon application for a qualifying patient identification card, the Research Board must, within thirty (30) days, provide either the card or a written explanation for its denial of the card. It shall not be grounds for denial that use of medical marijuana is not approved under federal law.

(g) A designated primary caregiver must obtain annually a designated primary caregiver identification card from the Research Board and shall be taxed at an initial rate of twenty-five ($25) per issuance, with such rate to be increased or decreased each year by the percentage of increase or decrease of the Consumer Price Index (CPI), or successor index as published by the U.S. Research Board of Labor or its successor agency. Upon application for a designated primary caregiver identification card, the Research Board must, within thirty (30) days, provide either the card or a written explanation for its denial of the card. It shall not be grounds for denial that use of medical marijuana is not approved under federal law.

(h) The taxes imposed pursuant to this section are separate from and in addition to any general state and local sales and use taxes that apply to retail sales of tangible personal property. All revenues collected from the taxes imposed on the sale of medical marijuana pursuant to this section must be deposited in the Research and Drug Development Institute Trust Fund General Purpose Account. All revenues and taxes collected from the issuance of licenses to Medical Marijuana Cultivation Facilities, Medical Marijuana-Infused Products Manufacturing Facilities, and Medical Marijuana Dispensary Facilities must likewise be deposited in the Research and Drug Development Institute Trust Fund General Purpose Account.

(i) No taxes or fees shall be imposed on the sale of medical marijuana except as provided in this Article XV.

(j) No license under this Section shall be sold, traded, subleased, or otherwise transferred or assigned.

(k) All of the provisions of this section shall be self-enforcing. All of the provisions and phrases of this section are severable. If any provision or phrase of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions or phrases of this section shall be and remain valid.

Section 5 Trust Fund

(a) The "Research and Drug Development Institute Trust Fund" is hereby established in the state treasury. Within the Research and Drug Development Institute Trust Fund there shall be the following accounts which include but are not necessarily limited to:

i. General Purpose Account;
ii. Land Acquisition Account;
iii. Targeted Diseases Account and its sub-accounts.

(b) At the conclusion of each fiscal year, the state treasurer shall allocate all monies in the Research and Drug Development Institute Trust Fund that are not otherwise in an account to the Research Board for disbursement and investment as directed in this section. During the first five (5) years, the monies shall be deposited fifty percent (50%) into the General Purpose Account, twenty-five percent (25%) into the Land Acquisition Account and twenty five percent (25%) into the targeted diseases account. Thereafter the Research

Board shall direct the percentage of money to be deposited into each account. Monies deposited in the fund shall include but are not limited to the designated funds received from sections 4, 5 and 10 of Article XV, money transferred from the Research Board and any other amounts which may be received from grants, gifts, devises, bequests, contributions, donations, and money from contracts, from the state or federal government, derivative of intellectual property rights, or any other source. Monies in the fund shall be used solely for the purposes established by this Article XV. 16-128

(c) Monies deposited into the General Purpose Account shall be used for research, presently incurable diseases, targeted diseases, building and construction, the campus, cures, endeavors, jobs, administrative expenses, and education in Missouri. Up to five percent (5%), but no more, of the General Purpose Account may be allocated by the Board to various universities in the State of Missouri with accredited medical or pharmacy schools, or currently existing at the time of passage of this Article XV independently accredited medical or pharmacy schools within the State of Missouri, for collaborative efforts pursuant to section 10 of Article XV, and to the development of secondary campuses in Missouri at these in-state universities with accredited medical schools and pharmacy schools. Additionally, up to three percent (3%), but no more, of the General Purpose Account may be allocated by the Board to various joint collaborative in-Missouri/non-Missouri research efforts pursuant to section 10 of Article XV.

(d) Monies deposited into the Land Acquisition Account shall be used for land acquisition and land development. The Land Acquisition Account may receive specific designated grants, gifts, devises, bequests, contributions, donations, and money from contracts received pursuant to section 10 of Article XV, from the state or federal government, derivative of intellectual property rights, or any other source, and such specific designated monies shall be segregated for land acquisition and land development, not commingled with other money.

(e) Monies deposited into the Targeted Diseases Account shall be used for research performed by targeted disease research groups, targeted diseases research building and construction, targeted disease research jobs, ancillary activities of the research groups and for support of the research of targeted diseases research groups as set forth in this Article XV. Individual targeted diseases groups may receive specific designated grants, gifts, bequests, contributions, donations, and money from contracts received pursuant to section 10 of Article XV, from the state or federal government, derivative of intellectual property rights, or any other source, and such specific designated monies shall be segregated into targeted disease sub accounts for that individual targeted disease group, not commingled with other money, and shall be used only for the purposes of that research group.

(f) Except where specifically stated otherwise, all administrative costs of this program incurred under this Article XV and by the Research Board shall be paid from the General Purpose Account of this fund.

(g) The unexpended balance existing in the fund and its accounts and their subaccounts at the end of any biennium year shall be exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the general revenue fund.

(h) All monies deposited in the Research and Drug Development Institute Trust Fund and its accounts and their subaccounts shall remain separate and apart from the general review of the State of Missouri and shall be used only for the purposes of this Article XV. Monies in the Research and Drug Development Institute Trust Fund shall be first used to repay bonds and any other form of indebtedness, if any, issued by the Board for the purposes authorized by Article XV. The unexpended balances of such monies shall remain in the Research and Drug Development Institute Trust Fund and in the particular account and subaccounts in which the monies are placed, and such balances shall not revert to the general revenue fund.

(i) Money from any account, individually or in combination, shall never be used to clone a human or humans nor for embryonic stem cell research from an aborted embryo, fetus or baby.

(j) To maintain transparency, each year the Research Board shall publish the itemized income and expenses from the fund and its accounts and subaccounts in a report made available on the Research Board's website using generally accepted accounting principles.

(k) All of the provisions of this section shall be self-enforcing. All of the provisions and phrases of this section are severable. If any provision or phrase of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions or phrases of this section shall be and remain valid.

**Section 6. Land Acquisition.**

(a) Within the Research Board shall be established a subcommittee known as the Land Acquisition Board. Such subcommittee members shall not receive any additional pay. The Land Acquisition Board shall consist of five (5) individuals, four (4) members of the Research Board selected by the Lieutenant Governor, and the fifth member being the Lieutenant Governor. The members of the Land Acquisition Board appointed by the

Lieutenant Governor shall serve the following initial terms: one shall serve two (2) years, one shall serve three (3) years, and two (2) shall serve four (4) years. Thereafter, each appointment shall be for a term of four (4) years. If for any reason a vacancy occurs, the Lieutenant Governor shall appoint a new member from within the Research Board to fill the unexpired term. Members are eligible for reappointment. Before the appointments occur that will fill the Research Board and then in turn the Land Acquisition Board, the Lieutenant Governor shall appoint four (4) temporary members of the Land Acquisition Board who together shall be the "then existing Land Acquisition Board" and shall have the power and duties of the Land Acquisition Board. The then existing Land Acquisition Board may consist of individuals other than those who are members of the then existing Research Board. Those temporary members shall serve at the same rate as Research Board members so long as there are funds available. If no funds are immediately available, the members may serve without compensation until funds are available and when funds become available the members shall be reimbursed for time served from appointment, and reasonable expenses incurred to effectuate their duties. 16-128

(b) The Land Acquisition Board shall make investigations, inquiries, studies and review data to identify no more than five (5) but no less than three (3) potential locations for land development and land acquisition and for a campus.

(c) The Land Acquisition Board shall have the authority to promulgate any necessary and supportive rules, regulations and procedures to fulfill its duties and authorized activities under this Article XV, by and through the Research Board.

(d) The Land Acquisition Board shall report an overview of activities and status of the Land Acquisition Board to the Research Board no less than once every one hundred and twenty (120) days.

(e) No earlier than one year after the Land Acquisition Board is formed, and no later than four (4) years after it is formed, the Land Acquisition Board shall submit a report of final proposed locations for a campus and designate on maps for each proposed location. Such maps shall be drawn, by lines of longitude and latitude or by use of historical boundaries such as state lines, rivers, long standing thoroughfares, and county or city boundaries. The final dimensions and geographic inclusions of the land for campus development, which shall at a minimum include the inner two (2) contiguous square miles, layered by additional increments at four (4), nine (9), sixteen (16), twenty-five (25), and thirty-six (36) contiguous square miles, with thirty-six (36) being the maximum that could be purchased by eminent domain for campus development, will be determined by the Land Acquisition Board. The proposed locations of the campus and maps must be approved by two-thirds (2/3) of the Research Board, or if the Research Board is not yet formed then by a unanimous vote of the then-existing Research Board members and the consent of the Governor.

(f) Upon approval pursuant to section 6(e), in the next general election more than six (6) months after the section 6(e) approval occurs, voters of the affected county or counties, shall have a "yes" or "no" vote on whether they desire to allow the land to be acquired and the campus developed, along with its building and construction and Article XV activities, on the proposed location that is within their respective county. Maps that include more than one county shall be designated a multi-county map, and the votes of all affected counties within the multi-county map shall be counted as though one county.

(g) The proposed campus location county which receives the most "yes" votes by percentage of votes cast in the respective proposed campus location counties shall be the approved campus development site.

(h) The question presented to voters shall be in the following format:

> Shall a campus for research, development and cures for incurable diseases, and all that entails under Article XV of the Missouri Constitution, be built on the proposed campus development site that includes the county in which I live and will result in some or all land, in and around the vicinity set forth on the Research and Drug Development Institute Map below, being affected and/or taken by eminent domain:
>
> Yes _____ No
>
> [map here]
>
> The amount to be acquired shall be a minimum of two (2) square miles of contiguous property, but otherwise limited only by purchasing funds to a maximum of thirty six contiguous square miles.

(i) As funds become available, and offers are made to landowners to purchase property, landowners willing to sell their land within the designated campus location with an agreed upon fair market value and without an action for eminent domain will receive one and one half times the fair market value of the property, except land that has been within the same family for more than one hundred (100) years shall be paid two (2) times the fair market value. If the fair market value cannot be agreed upon or a landowner is otherwise unwilling to sell their land, then the land may be taken by eminent domain.

(j) The amount to be acquired shall be a minimum of two (2) square miles of a contiguous property, but

otherwise limited only by purchasing funds to a maximum of thirty-six (36) square miles of contiguous property. The final dimensions and geographic inclusions of the land for campus development, which shall at a minimum include the inner two (2) contiguous square miles, will be determined by the Land Acquisition Board.

(k) The Land Acquisition Board shall begin acquiring land by purchasing land, as outlined in this section of Article XV, six (6) months after the general election referenced in section 6(f) takes place, or as soon thereafter as practicable. The purchasing shall proceed in a manner consistent with reasonable campus development.

(l) Clerical, research and general administrative support staff for the Land Acquisition Board shall be provided wages or salaries by the Land Acquisition Account. The Research Board, and the then existing Land Acquisition Board members until the Research Board members are all appointed and fill the Land Acquisition Board, shall have the authority to employ, hire, fire and set wages for all clerical, research and general administrative support staff for the Land Acquisition Board and to fulfill its functions under this Article XV.

(m) The Land Acquisition Board, until the board is terminated and its powers and duties then transferred to the Research Board, may establish a land use plan and set aside up to twenty-five percent (25%) of the acquired land for building and construction not primarily or specifically research related, such as sidewalks, enterprise zones, housing, parks, recreational activities and management, within the campus. Such land, at the Research Board's discretion, may be leased but not purchased from the Research Board.

(n) By unanimous vote of the Land Acquisition Board, upon the final payment for land made, or on January 1, 2028, whichever occurs first, the Land Acquisition Board shall terminate and all powers and duties shall transfer to the Research Board, including but not limited to all those powers and duties under this section 6.

(o) All of the provisions of this section shall be self-enforcing. All of the provisions and phrases of this section are severable. If any provision or phrase of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions or phrases of this section shall be and remain valid.

**Section 7. Immunities.**

(a) The medical use of marijuana pursuant to this Article XV is legal in Missouri.

(b) A Medical Marijuana Dispensary Facility may sell medical marijuana or medical marijuana-infused products to a qualifying patient or designated primary caregiver upon production of a valid qualifying patient identification card or designated primary caregiver identification card, respectively.

(c) Medical marijuana cultivation, transportation, infusion of products, and sale pursuant to this Article XV is hereby legal, and shall not be subject to criminal or civil liability or sanctions under Missouri law except as provided for by this Article XV.

(d) The possession of marijuana, in quantities less than the monthly limit established by the Research Board, shall not subject the possessor to arrest, criminal or civil liability, or sanctions under Missouri law, provided that a valid qualifying patient identification card, a designated primary caregiver identification card, or the equivalent issued to a non-Missouri resident by another state or political subdivision of another state that is that non-Missouri resident's place of residency, is produced upon demand.

(e) A physician shall not be subject to criminal or civil liability or sanctions under Missouri law or discipline by the Missouri State Board of Registration for the Healing Arts for issuing a physician certification or recommending the use of Medical Marijuana to a person diagnosed with a qualifying medical condition in a manner consistent with this Article XV.

(f) A health care provider, including but not limited to any pharmacist, shall not be subject to professional discipline, or to criminal or civil liability or sanctions under Missouri law, for providing health care services that involve the medical use of marijuana consistent with this Article XV.

(g) A designated primary caregiver shall not be subject to criminal or civil liability or sanctions under Missouri law for purchasing or administering marijuana for medical use by a qualifying patient in a manner consistent with this Article XV. No individual shall serve as the designated primary caregiver for more than seven (7) qualifying patients at one time.

(h) Actions and conduct by a Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility or a Medical Marijuana-Infused Products Manufacturing Facility, licensed and registered with the Research Board, or employees of such facilities, pursuant to and as permitted by this Article XV and in compliance with Research Board regulations, shall not be subject to criminal or civil liability or sanctions relating to marijuana under Missouri law except as provided for by this Article XV.

i. A Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility or Medical Marijuana-Infused Product Manufacturing Facility who allows any license under this Article XV to lapse

or expire through failure to timely renew or reapply for such license shall still be subject to the protections of this Article XV, provided the licensee obtain a valid license within ninety (90) days of the date of the lapse or expiration of the prior license and pay all fines called for in this Article XV.

ii. A Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility or Medical Marijuana-Infused Products Manufacturing Facility who allows any license under this Article XV to lapse or expire through failure to timely renew or reapply for such license shall be subject to and must pay a fine of five thousand dollars ($5,000) if a valid license is obtained within ninety (90) days of the lapse or expiration of the prior license.

(i) There shall be no immunities for negligence, either common law or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat, under the influence of marijuana, and except as specifically set out in this Article XV, the use of marijuana shall not be a defense to any civil liability or criminal activity except as specifically provided in this section 7.

(j) Missouri attorneys providing legal advice or representation relative to this Article XV shall not be subject to professional discipline, or to criminal or civil liability or sanctions under Missouri law

(k) Patient information under this Article XV shall be afforded the same protection and confidentiality under the law as other patient medical information.

(l) All of the provisions of this section shall be self-enforcing. All of the provisions and phrases of this section are severable. If any provision or phrase of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions or phrases of this section shall be and remain valid.

**Section 8. Legislation.**

(a) Nothing in this Article XV shall limit the legislature from enacting laws consistent with this Article XV, or otherwise effectuating this Article XV, but the legislature shall not be allowed to enact laws to hinder the effectiveness of this Article XV or otherwise alter this Article XV. Except as specifically provided in this Article XV, nothing in this Article XV shall limit the authority of a municipality or county under its land planning and zoning regulations to restrict the location, but not the number of or presence of in a municipality or county of Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensary Facilities or Medical Marijuana-Infused Products Manufacturing Facilities.

(b) All of the provisions of this section shall be self-enforcing. All of the provisions and phrases of this section are severable. If any provision or phrase of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions or phrases of this section shall be and remain valid.

**Section 9. Limitations.**

(a) Nothing in this Article XV permits a person to:

i. Undertake any task under the influence of marijuana when doing so would constitute negligence or professional malpractice; or

ii. Operate, navigate, or be in actual physical control of any dangerous device or motor vehicle, aircraft or motorboat while under the influence of marijuana; or

iii. Bring a claim against any employer, former employer or prospective employer for wrongful discharge, discrimination, or any similar cause of action or remedy, based on the employer, former employer or prospective employer prohibiting the employee, former employee or prospective employee from being under the influence of marijuana while at work or disciplining the employer or former employee, up to and including termination from employment, for working or attempting to work while under the influence of marijuana; or

iv. Consume, smoke, or use marijuana in a jail, prison, or other correctional facility; or

v. Consume, smoke, or use marijuana in a drug rehabilitation facility; or

vi. Consume, smoke or use marijuana in a public place, including specifically, but not limited to, sidewalks, parks, playgrounds, sporting facilities, businesses, airports, bus stations, trains, casinos, government buildings, churches, synagogues or mosques; or

vii. Undertake growing or processing marijuana in a negligent or dangerous manner.

(b) A physician certification may only be given after the physician has conducted a full assessment of the patient's medical history and an in-person physical examination. A physician certification may be valid for up to twelve months.

(c) No Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility or Medical Marijuana-Infused Products Manufacturing Facility shall be owned, in whole or in part, or have as an officer, director, board member, manager or employee, any individual with a disqualifying felony offense. A "disqualifying felony offense" is a violation of, and conviction or guilty plea to, a state or federal crime that is,

or would have been, a felony under Missouri law, regardless of the sentence imposed, unless the Research Board determines that:

i. The person's conviction was for the medical use of marijuana or assisting in the medical use of marijuana; or

ii. The person's conviction was for a non-violent crime that is more than ten (10) years old and for which the person was not incarcerated in the Missouri Department of Corrections, or its equivalent in other jurisdictions; or

iii. The person's conviction was for a non-violent crime for which the person was incarcerated in the Missouri Department of Corrections, or its equivalent in other jurisdictions, that is more than fifteen (15) years old; provided that at least ten (10) years has elapsed since that person's release from incarceration.

(d) A Medical Marijuana Cultivation Facility shall not be owned or controlled, in whole or in part, by any person who has not been a resident of Missouri for at least nine months prior to the date of the Medical Marijuana Cultivation Facility's application.

(e) No marijuana or medical marijuana-infused product may be brought into the State of Missouri from outside of the state for use, sale or distribution.

(f) A Medical Marijuana Dispensary Facility must have on call during all operating hours an individual licensed in Missouri to practice pharmacy as defined in Chapter 338 of the Revised Statutes of Missouri, who is available for on-site or telephone consultation within thirty (30) minutes. A Medical Marijuana Dispensary Facility shall not be owned or controlled, in whole or in part, by any person who has committed a disqualifying felony offense. A Medical Marijuana Dispensary Facility shall not be owned or controlled, in whole or in part, directly, indirectly or by derivative, by any person or group of persons or business entity or affiliated business entities that owns or controls five (5) such facilities, not more than three of which may be in the same county, and who has not been a resident of Missouri for at least the nine month immediately prior to the date of the Medical Marijuana Dispensary Facility's application.

(g) The limited purpose of a Medical Marijuana-Infused Products Manufacturing Facility is to manufacture those products which qualify as approved methods for the administration of marijuana for medical use, as provided for in this Article XV. A Medical Marijuana-Infused Products Manufacturing Facility shall not be owned or controlled, in whole or in part, directly, indirectly or by derivative, by any person, group of persons or business entity who has not been a resident of Missouri for at least the nine (9) months immediately prior to the date of the Medical Marijuana-Infused Products Manufacturing Facility's application.

(h) No Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility or Medical Marijuana-Infused Products Manufacturing Facility shall manufacture, package or label marijuana or marijuana-infused products in a false, misleading or confusing manner or in any manner likely to cause confusion between the marijuana or marijuana-infused product and any product not containing marijuana.

(i) All edible marijuana-infused product must be sold in individual child-resistant re-closeable containers that are labeled with dosage amounts, instructions for use, and estimated length of effectiveness. All marijuana and marijuana-infused products must be sold in containers clearly and consciously labeled, in a font size at least as large as the largest other font size used on the package, as containing "Marijuana," or a "Marijuana-Infused Product." The amount of dosages per container may be limited by the Research Board.

(j) No poisonous or deleterious substances shall be added to any marijuana or marijuana-infused product. Doing so shall be punishable by law as established by the State of Missouri.

(k) It shall be the responsibility of the Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility and Medical Marijuana-Infused Products Facility to provide each subsequent person or entity in the stream of commerce a listing of all substances used in the growth of medical marijuana, other than soil, water, and seed, and in any subsequent processing, and such shall be made available to any qualifying patient purchasing that particular medical marijuana.

(l) No Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility or Medical Marijuana-Infused Products Manufacturing Facility shall assign, sell, give, lease, sublicense, or otherwise transfer its license to any other facility, person, or entity.

(m) This Article XV shall not be construed as requiring health insurance companies to provide coverage for medical marijuana use.

(n) No new license shall be granted to any Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility or Medical Marijuana-Infused Products Manufacturing Facility that is located within one thousand feet of any then-existing school, group day care home, child day care center, church, synagogue or mosque.

(o) A physician:

i. shall not issue physician certifications for the use of medical marijuana exceeding twenty percent (20%) of the number of prescriptions written by that physician in the same calendar year;

ii. shall not have an income from treating qualifying patients with primarily medical marijuana exceeding twenty percent (20%) of the physician's gross income.

(p) All of the provisions of this section shall be self-enforcing. All of the provisions and phrases of this section are severable. If any provision or phrase of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions or phrases of this section shall be and remain valid.

**Section 10. Public-Private Collaborative Ventures.**

(a) The Research Board may enter into leases of property owned by the Research Board on the campus to participating research entities for research to find cures, and in such endeavors enter into contracts for joint ventures and collaborative efforts and to find cures and treatments for presently incurable diseases and targeted diseases and to develop cures that may be discovered, improved or patented, in whole or part, and lease property for reasonable campus development and pursuant to this Article XV.

(b) Any participating research entities, whether public, private, quasi-public or quasi-private, which develops cures or treatments which occurs in whole or part, directly or indirectly, by having its presence on the Research and Drug Development Institute Campus or in participation by written agreement with the Research Board, shall pay to the State of Missouri an agreed upon contractual amount but if no contract has been entered into as to an amount, then the greater of three percent of all gross revenues or seventeen percent of all profits derived from the participating research entities cures or treatments, whether such monies were produced, earned, derivative, interest or otherwise received. All contracts shall be published on the Research Board's website at least fourteen (14) calendar days before any contract is finalized and published again after the contract is finalized.

(c) The Research Board may, along with or in conjunction with the participating research entity, or other entities, or on its own, make, produce, develop, market, distribute, license, and sell cures, goods, services and products, both of a medical and non-medical nature.

(d) All participating research entities shall establish a physical presence in Missouri, be licensed to do business in the State of Missouri and consent to jurisdiction of Missouri courts, and all contracts shall be governed by Missouri law.

(e) Participating research entities shall not provide anything of value to any member of the Research Board or their employees that would be reasonably interpreted as something that was provided with the intent to influence academic or research freedom, or otherwise interfere with the academic or research freedom of any member of the Research Board, nor to targeted disease groups or panels. Participating research entities who violate this prohibition shall have leases voided, and shall surrender all profits derived from the participating cures and treatments produced, earned or received, to the State of Missouri, and shall be liable for any actual and consequential damages and in appropriate circumstances also punitive damages, to the Research Board with all such damage awards being credited to the General Purpose Account.

(f) Any monies received pursuant to this section 10 shall be disbursed by the following formula:

i. twenty-five percent to the Research and Drug Development Institute Trust Fund General Purpose Account;

ii. twenty-five percent (25%) to general revenue of the State of Missouri with

a) one-third (1/3) of this twenty-five (25%) for the exclusive purpose of funding Missouri state roads and bridges infrastructure repairs,

b) one-third (1/3) of this twenty-five (25%) for the exclusive purpose of funding public pre-school programs, public elementary and secondary school programs, and to provide grants to in-state Missouri students to attend state institutions of higher education governed at the time of the enactment of this Article XV by sections of 174.020 to 174.500 Revised Statutes of Missouri and chapter 172 Revised Statutes of Missouri, and

c) one-third (1/3) of this twenty-five percent (25%) for the exclusive purpose of funding medical care for Missouri residents; and

iii. fifty percent (50%) to be refunded to Missouri state income tax paying citizens, refunded equally to all citizens of Missouri who have paid state income taxes of more than five hundred ($500) or more in the year prior to the payments being received by the Research Board pursuant to this section 10, up to the total amount of state income tax paid by such Missouri citizen in that year. The refund check to Missouri citizens shall clearly state "Research Board Tax Refund".

(g) All contracts entered into pursuant to this section 10 and this Article XV shall require that any cures obtained pursuant to section 10 and this Article XV shall be made available to the residents of the State of Missouri at cost, with no mark-up.

(h) All of the provisions of this section shall be self-enforcing. All of the provisions and phrases of this section are severable. If any provision or phrase of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions or phrases of this section shall be and remain valid.

16-128

**Section 11. Effective Date.**

(a) The provisions of this Article XV shall become effective on January 26, 2017.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-128)**

**Subject**

Initiative petition from Brad Bradshaw regarding a proposed constitutional amendment to Article XV of the Constitution of Missouri. (Received October 20, 2015)

**Date**

November 9, 2015

**Description**

This proposal would create a new Article XV of the Constitution of Missouri.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Lieutenant Governor's Office**.

**Brad Bradshaw** provided information as a proponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated through collection of a tax imposed on each wholesale and each retail sale of medical marijuana, this proposal has the potential to significantly impact the revenue stream of state and local governments.

In addition, when participating research entities develop cures or treatments, a portion of profits or contractual amounts shall be paid to the state of Missouri. Moneys received shall be distributed among various purposes, two of which are the funding of public pre-school programs and public elementary and secondary school programs.

Their department has no means to calculate such impact from either tax, nor can they determine the likelihood that developed cures and treatments will result in profits.

Officials from the **Department of Higher Education** indicated:

In Section 4(c)i., "state institutions of higher education governed by **section 174.020 to 174.500 Revised Statutes of Missouri and chapter 172 Revised Statutes of Missouri** shall be granted, without charge, ten (10) licenses per institution per year to grow marijuana." That description of institutions leaves out Lincoln University, Truman State University, State Technical College of Missouri, and all the community colleges (with the exception of Missouri State University – West Plains). Should any of those institutions wish to grow marijuana for educational or research purposes, they would have to purchase licenses each year at a significant expense (up to $200,000). In addition, Section 10(f)ii.b) would provide grants to students to attend the same institutions described above, thus leaving out in-state Missouri students who wish to attend Lincoln, Truman, State Tech, and community colleges.

Section 10(f)ii.b) could have a fiscal impact on the department as well, depending on how the funds would be disbursed by the legislature. If the funds are to be distributed with one of our already existing grants and scholarships, the cost to administer the funds would be minimal. However, if an additional grant or scholarship program were to be created through appropriations, there could be significant costs involved in developing an application, hiring staff to review and approve applications, etc. Either way, the amount of aid that students could expect to receive is impossible to calculate.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact. However, the impact on the demand for substance use disorder treatment is unknown. Their department sees the legalization of marijuana as a broader public health issue, especially for children.

Officials from the **Department of Natural Resources** indicated their department would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated the total estimated costs for salaries, fringe benefits, and expense and equipment will be $232,421 for fiscal year 2017, $84,086 for fiscal year 2018, and $84,960 for fiscal year 2019, which includes information technology (IT) related costs of $150,012 for fiscal year 2017 for IT consultants.

The petition allows for the creation of cultivation, dispensary, and marijuana-infused products manufacturing facilities. These entities will create jobs and be required to collect taxes on the sale of medical marijuana products.

The tax on medical marijuana creates increased revenues for identified entities, but will not be included in Total State Revenues per Section 3(t). However, Section 10(f) allows 25 percent of revenues from leases to research entities to be deposited into General Revenue.

The legislation increases state revenues from research entity leases.

**Section 4**

The provisions of this section impose a 10 percent tax on each wholesale sale by:

1. Cultivation Facilities to Marijuana-Infused Products Manufacturing Facilities;
2. Cultivation Facilities to Dispensary Facilities; or,
3. Marijuana-Infused Products Manufacturing Facilities to Dispensary Facilities.

If the sale involves the exchange of property, a tax equivalent to 10 percent of the consideration paid or charged, including the fair market value of the property exchanged at the time and place of the exchange.

The legislation imposes a tax on each retail sale by a Dispensary Facility at 75 percent of the purchase price paid or charged. If the sale involves the exchange of property, a tax equivalent to 75 percent of the consideration paid or charged, including the fair market value of the property exchanged at the time and place of the exchange.

The taxes imposed by this section are in addition to any general state and local sales and use taxes imposed on retail sales of tangible personal property.

**Section 10**
The legislation distributes revenues from leases to research entities with 25 percent going to General Revenue (GR). The legislation then divides the 25 percent going to GR into thirds and allocates the funds to:

1) Funding Missouri state roads and bridges infrastructure repairs;
2) Funding public pre-school programs, public elementary, and secondary school programs, and provide grants to in-state Missouri students to attend state institutions of higher education; and
3) Funding medical care for Missouri residents.

**Administrative Impact:**
**Sales Tax:**
The appropriate facility pays the tax to the Department, requiring the Department to develop a form for reporting purposes and programming to track the payments. The Department would implement this as a new item tax.

**Collections & Tax Assistance:**
Collections & Tax Assistance will see additional registrations, registration phone calls, business tax account update requests, and delinquent phone contacts from the additional business registering to collect sales tax on medical marijuana. The section requires two (2) Revenue Processing Technicians I (Range 10, Step L) per 24,000 additional contacts annually to the registration section and every additional 15,000 contacts annually on the delinquent tax line. Each technician requires CARES equipment and license.

Officials from the **Department of Public Safety - Missouri State Highway Patrol** indicated no fiscal impact on their department but submitted the following comments.

Section 9 prohibits employment with or ownership of a Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility or Medical Marijuana-Infused Products Manufacturing Facility by any individual with a disqualifying felony offense. A "disqualifying felony offense" is a violation of, and conviction or guilty plea to, a state or federal crime that is, or would have been, a felony under Missouri law, regardless of the sentence imposed, unless the Research Board determines that:

i. The person's conviction was for the medical use of marijuana or assisting in the medical use of marijuana; or

ii. The person's conviction was for a non-violent crime that is more than ten (l0) years old and for which the person was not incarcerated in the Missouri Department of Corrections, or its equivalent in other jurisdictions; or

iii. The person's conviction was for a non-violent crime for which the person was incarcerated in the Missouri Department of Corrections, or its equivalent in other jurisdictions, that is more than fifteen (15) years old; provided that at least ten (10) years has elapsed since that person's release from incarceration.

While there is a prohibition against ownership or employment with a Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility or Medical Marijuana-Infused Products Manufacturing Facility for a person with a "disqualifying felony offense," there is no requirement for a criminal background check to identify those individuals with a "disqualifying felony offense."

As the Constitutional amendment is currently written, a state and federal fingerprint-based criminal background check would be required to obtain the necessary criminal history record information to identify individuals with a "federal crime that is or would be a felony under Missouri law, regardless of the sentence imposed."

To authorize a state and federal fingerprint-based criminal background check, language in the Constitutional amendment must meet Public Law 92-544 criteria.

Public Law 92-544 criteria is as follows:

The authority for the FBI to conduct a criminal record check for a noncriminal justice licensing or employment purpose is based upon Public Law 92-544. Pursuant to Public Law 92-544, the FBI is empowered to exchange identification records with officials of state and local governments for the purposes of licensing and employment if authorized by a state statute which has been approved by the Attorney General of the United States. The Attorney General's authority to approve the statute is delegated to the FBI by Title 28, Code of Federal Regulations, Section 0.85(j). The standards employed by the FBI in approving Public Law 92-544 authorizations have been established by a series of memoranda issued by the Office of Legal Counsel, Department of Justice. The standards are:

1. The authorization must exist as the result of legislative enactment (or its functional equivalent);
2. The authorization must require fingerprinting of the applicant;
3. The authorization must, expressly or by implication, authorize use of FBI records for screening of the applicant;
4. The authorization must not be against public policy;
5. The authorization must not be overly broad in its scope; it must identify the specific category of applicants/licensees.

Fingerprint card submissions to the FBI under Public Law 92-544 must be forwarded through the SIB. The state must also designate an authorized governmental agency to be responsible for receiving and screening the results of the record check to determine an applicant's suitability for employment or licensing.

To meet Public Law 92-544, the following wording must be included:

Applicants licensed pursuant to this section shall submit fingerprints to the Missouri state highway patrol for the purpose of conducting a state and federal fingerprint-based criminal background check. The Missouri state highway patrol, if necessary, shall forward the fingerprints to the Federal Bureau of Investigation for the purpose of conducting a fingerprint-based criminal background check. Fingerprints shall be submitted pursuant to 43.543 and fees shall be paid pursuant to 43.530.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's Office** indicated there should be no fiscal impact to their office.

Officials from the **House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated no fiscal impact to their department.

Officials from the **Office of Administration** (OA) indicated the proposal adds Article XV, Sections 1-11 to the Missouri Constitution, relating to marijuana usage for medical purposes.

The following provisions are included:

- Research and Drug Development Institute, a body corporate and politic is created to provide research to find cures for presently incurable diseases.
- Board of Research and Drug Development created to govern the Research and Drug Development Institute, to find cures for currently incurable diseases and to the extent practicable, generate income to the state with such cures. It is under the direction of the Lt. Governor. If the Board is eventually transferred to a department, it will be assigned to the Department of Health and Senior Services. The Lt. Governor selects members of the Board. Members of the Board, except for the Lt. Governor will receive compensation and reimbursement for their expenses as soon as funds are available. The Lt. Governor and the Governor must approve the compensation amounts.
- The Board is assigned various duties to regulate the use of marijuana for the specified purposes and is allowed to acquire real and personal property and issue/sell revenue

bonds to fund authorized purposes. The Research and Drug Development Institute Trust Fund is created for the Board's use, with subaccounts to be used for general purpose, land acquisition and targeted diseases (for research). The language specifically prohibits use of funds for human cloning and embryonic stem cell research.

- A Land Acquisition Board is created as a subcommittee of the Research Board. Members are selected by the Lt. Governor. This board is tasked with finding 3-5 potential locations for a research campus. The board is given eminent domain power.
- The Board shall charge license fees for medical Marijuana Cultivation Facilities, Medical Marijuana Dispensaries, and Medical Marijuana-Infused Products Manufacturing Facilities.
- A 10% wholesale sales tax is imposed on sales Manufacturing Facilities and Dispensary facilities.
- A 75% retail sales tax is imposed on the sales at Medical Marijuana Dispensary Facilities.
- A tax is also imposed on the licenses for cultivation facilities, dispensary facilities, manufacturing facilities, qualifying patient identification cards and designated primary caregiver identification cards.
- The proposal declares the medical use of marijuana is legal and provides criminal and civil liability protection for the parties involved. However, there are restrictions as to where the marijuana may be used and what the patient may do while under the influence (i.e. They may not operate a motor vehicle).
- Localities may restrict the location of these facilities, but may not limit the number of or presence of these facilities. That is determined by the Board.
- Other research entities may enter into contracts for joint ventures and collaborative efforts at the research campuses. Those contracts will include provisions for the entities to pay the state the greater or 3% of gross revenues or 17% of all profits derived from the participating research entities cures or treatments. These monies will be used for:
    - 25% - to the Research and Drug Development Institute Trust Fund.
    - 25% - road/bridge infrastructure repairs, public pre-school programs public elementary and secondary school programs and grants to in-state Missouri students to attend state institutions of higher education, and medical care for Missouri residents.
    - 50% - refunded to MO state income tax paying citizens who have paid more than $500 of state income taxes.
- The provisions will be effective January 26, 2017.

Summary of Fiscal Impact

The Department of Revenue is given additional responsibilities to collect, which could result in a fiscal impact for that agency. The Department of Health and Senior Services could also have additional duties which could result in a fiscal impact for that agency.

The revenue generated from the application and license fees and the taxes would be deposited into the state treasury, with a portion deposited to the state's General Revenue

Fund. OA does not have the data available to provide an estimate of the amount of additional revenue from the application fees, license fees or taxes.

It is unclear if the board members and related staff would be state employees and part of the state employee retirement system. For the purposes of this fiscal response, we assume the employees would not be state employees. If they were to be state employees, there would likely be a fiscal impact to the Office of Administration for the costs of administering the payroll and associated fringe benefits. Also, the proposal would allow retrospective payroll expenditures for the board members if sufficient funding was not immediately available to pay salaries. The state accounting system is not designed to handle such payroll expenditures; therefore, if the state was responsible for the payroll of these individuals, there would be some unknown added cost for system changes necessary to accommodate the changes. In addition, if the Office of Administration was responsible for the bond issuances there would be a cost to the Office of Administration. In addition, there is no specific guidance on how the bonds would be repaid.

There are several inconsistencies in this proposal's language that lead to confusion on how the provisions would be implemented.

- As mentioned above, there is no clear direction on if the staff would be state employees and participate in the state retirement system.
- The proposal is inconsistent with regards to distribution of the revenues in the newly created "Research and Drug Development Institute Trust Fund". Section 5 (b) provides instructions for allocating the funds between three accounts. Section 10 provides different instructions for allocating the funds.
- Section 3 directs bond proceeds to the Research and Drug Development Institute Trust Fund – General Purpose Account. Section 5(c) lists allowable uses for the General Purpose Account and debt service for bonds is not mentioned as an allowable use. This presents the question of how the bonds are to be repaid.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact to the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was

appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Columbia** indicated their initial take is that Sec. 8 still leaves the city with the regulatory authority to define the uses and locations of facilities covered by Article XV. The city may not, however, have regulatory authority over land development on the campus developed by the Research Board. This would be similar to the arrangement that exists with the University of Missouri campus in Columbia.

If so, this would mean a loss of revenue, inability to ensure code compliant construction, and compliance with environmental regulations.

Furthermore, is a local business license going to be required in addition to that issued by the state? Will local taxes be able to be collected on the sale of goods sold/manufactured in dispensary or manufacturing facilities? The Article does not appear to speak to these issues. If not, they stand to lose money and may have additional costs incurred in public safety enforcement and utility provision.

It is unclear how many facilities covered by the Article could be licensed. If only a handful of retail establishments or manufacturing facilities are permitted, that may not have significant resource impact. However, if flooded with growers, retail/manufacturing establishments and dispensaries, there could be significant ramifications to service delivery as well as community reputation/image.

If the legislation is passed, it appears as though the city would have approximately two months to prepare their code to address the new uses. This period of time is not sufficient to prepare text changes, hold required hearings with the Planning and Zoning Commission and then have Council take action. A minimum of 90, if not 180 days, would be needed to properly revise the zoning code.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from **University of Missouri** indicated the University of Missouri Health Care (MUHC) has reviewed the proposed initiative petition and should not incur costs that exceed $100,000 annually. This is due primarily to the fact that MUHC would have potential conflicts with the U.S. Drug Enforcement Agency (DEA) in the implementation of these proposals and could not implement these services in the facilities.

**Brad Bradshaw** provided the following information as a proponent of this initiative petition.

Dr. Brad Bradshaw
1736 E. Sunshine, Suite 600
Springfield, MO 65804
816-606-5324

October 26, 2015

Honorable Nicole Galloway
State Auditor's Office
Truman Building, 301 West High Street
Jefferson City, Missouri 65101

RE: Fiscal Impact Information--- Missouri Medical Marijuana Initiative Petition

Dear Auditor Galloway:

On October 19, 2015, I filed the above-referenced initiative petition with the Secretary of State.

I am submitting the attached fiscal information in support of the initiative petition. In summary, and as detailed in the attached report, using the most conservative data the proposed initiative will generate, via the new medical marijuana tax revenue alone, over $45 million (45,000,000) annually.

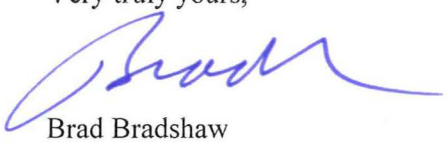
This amendment will be completely self-funded and will not cost any money to the State of Missouri, see amendment Section 4(g), 5(a) - 5(h). The "except as otherwise stated" of 5(f) is in reference to 6(l), which taken together, makes this institute, its development, and the board, completely self-funded by the revenue generated from the medical marijuana tax.

This conservative data shows over 700 permanent high paying new jobs will be initially created, and over 6,600 jobs will be created during the campus development phase, taking the total number of jobs directly created from this amendment to over 7,000. The state's economy will expand by over $80 million annually.

The attached economic impact study provides a summary on page three, and additional information throughout the document, such as, even the most conservative estimates show an initial yield of two dollars to Missouri for every dollar of investment, page 5-6, and between one and four dollars in private and federal funds for every dollar of investment, page 8.

Please contact me at the address or phone number listed above if you have any questions or comments. I will remain the primary contact on this matter.

Very truly yours,



Brad Bradshaw

# THE IMPACTS OF MEDICAL MARIJUANA SALES TAX FOR MISSOURI'S RESEARCH AND DRUG DEVELOPMENT TRUST FUND

October, 2015

TrippUmbach
Research • Strategy • Impact

Brad Bradshaw MD JD Plan

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## Executive Summary

Currently, there is an initiative petition in Missouri that should approve the sale and taxation of medical marijuana to fund medical research. The initiative petition process gives Missouri citizens the chance to take part in shaping the laws of their state. Throughout this process, citizens of Missouri may initiate legislation by either a state statute or a constitutional amendment. The citizens also have the power to repeal active legislation by introducing a veto referendum. The process begins with a citizen introducing an initiative petition, which is then certified by the secretary of state's office, and after the remaining procedures are followed, the secretary of state's office will then approve the petition for the ballot. Following all of the process, the petition would be voted on in the next general election.

The purpose of this report is to examine the impacts of two varying levels of sale of medical marijuana and the sales taxes levied on the sale of the medical marijuana (at both a conservative and an aggressive sales level), and what the impact of the generated tax revenue for a medical research fund would provide to Missouri.

- ✓ Tripp Umbach estimated based on the medical marijuana sales in other similarly-sized states. On average, this industry could generate between **$45.4 million (conservative)** and **$58.7 million (aggressive)** in tax revenue in the first year of full operations, which could then be used to conduct medical research within the state of Missouri

- ✓ A conservative estimate of taxes generated in Missouri if medical marijuana is approved would be **$45.4 million.** Once collected, this tax revenue would be passed through to Missouri's Research and Drug Development Institute, and would generate **$84.9 million** in business volume impact, supporting above-average paying jobs for a majority of the **548 jobs created or sustained,** and generate more than **$2.7 million** in new additional state and local tax revenues within Missouri.

- ✓ If the sales of the newly approved medical marijuana in Missouri reach the more aggressive estimate, this would increase the impact seen by Missouri even more. The additional **$58.7 million** in tax revenue received from the sale of medical marijuana would generate **$109.9 million** in economic impact for Missouri, through being invested into medical research. This business volume increase would create or sustain **708 jobs** and **$3.6 million** in state and local taxes.

- ✓ The construction of a **$1 billion** biomedical research campus to house the research activities would generate nearly an additional **$1.4 billion** of economic activity through

the development of the construction project. This project would also create or sustain **6,672 jobs** during this period and generate **$30 million** in state and local taxes.

- ✓ This Missouri Research and Drug Development Institute could also be used to leverage federal medical research funds, dramatically improve the health care in Missouri, and create additional business volume in the state by spinning off thousands of biomedical discoveries, expanding the biomedical research sector in the Missouri economy. Tripp Umbach estimates from other benchmark studies that between $1 and $4 for every dollar provided by the state can be leveraged from additional sources such as federal and private sources.

- ✓ Finally, once the research fund and research campus are up and running, the commercialization of this campus will generate massive impact in Missouri. On average, between the conservative and aggressive models, this commercialization is expected to generate $247.9 million in additional economic activity annually once the fund is successfully conducting research for approximately 10 years. This would also mean 1,652 additional jobs supported in the state and an additional $8.25 million in state and local government revenue annually once the commercialization of research takes place.

- ✓ Additional impacts could be realized with the donation of charitable funds as well as with a realization of a top 10 drug but this research is not currently available.

- ✓ Finally, this study does not focus on the impact this research could have on the health care cost-savings, however research conducted by Silverstein et al. (1995) shows that NIH-supported research returns seven dollars in health care cost-savings for every dollar invested in NIH supported research.

**Each of these impacts, unless stated otherwise, are annual impacts which are expected to remain consistent or grow over time.**

The assumptions made in this report are based on the current level of spending on medical marijuana within states where it is legal, the current population of Missouri, the projected tax revenue collected at two levels, and the current IMPLAN multipliers for the biomedical research industry in Missouri. It is important to note that as the industry sectors impacted grow and change, the results of this spending may also grow proportionately.

## Taxing Sales of Medical Marijuana

Missouri is looking to approve the use of marijuana as medicine for those citizens who would benefit from access. The initiative petition currently being crafted suggests that the state tax revenues generated from the purchase of any property or services, which fall under the taxable guidelines, be passed through the Missouri Research and Drugs Development Trust Fund to Missouri's Research and Drug Development Institute. The research in this document makes assumptions on the sales rate of medical marijuana as based on current wording in the initiative petition and based on the sales rate in states similar in size who also have passed medical marijuana laws and currently tax this medication[1][2].

The model this study is based on is that once medical marijuana is legalized, Missouri will take the additional state tax revenue generated and create the a Research and Drug Development Trust Fund. This report estimates the additional tax revenue, which would be collected by this revenue stream at both a conservative level and an aggressive level as it is uncertain the exact number of individuals who would sell or be prescribed the substance, as well as the quantity which would be used throughout the state. The study follows the conservative and aggressive scenarios through the biomedical research spending in state economy and quantifies the economic impact, the jobs created and how this biomedical research spending will help to generate additional government revenue.

Tripp Umbach estimated based on the medical marijuana sales in other similarly-sized states. On average, this industry could generate between **$45.4 million (conservative)** and **$58.7 million (aggressive)** in tax revenue, which could then be used to conduct biomedical research within the state of Missouri. Throughout this report the analysis will talk about the conservative scenario impacts[3] which is the impact at a lower end of the use scale and a lower

[1] The research is based on a 10% wholesale to retail tax, 75% point of sale tax, $20,000 cultivation license tax yearly for every 100 square meters (1076.39 square feet) of canopy for harvesting with up to 10 licenses per person, $50,000 one-time dispensary licenses fee with roughly 300 dispensaries across the state (in subsequent years this fee would change to $15,000 annually), sales price points ranging from $7 per gram on the low end to $30 per gram on the high end.

[2] Arizona, Colorado, Connecticut, Michigan, and Washington were used as the peer group of states who both have similar populations as Missouri but who also tax medical marijuana to determine baseline averages for these states in their medical marijuana sales and state taxes generated.

[3] The conservative scenario factors in a 0.11 gram per capita and a lower price point at $7 per gram.

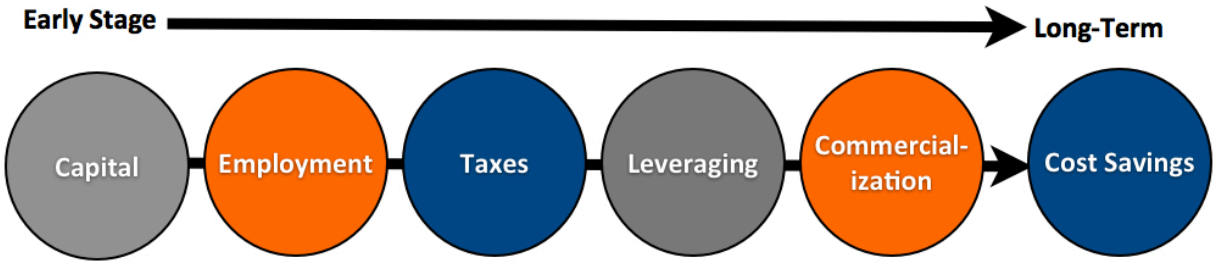
price point and also an aggressive scenario impact[4] which is the impact a higher end of the use scale as well as a higher level price point.[5]

It is important to note that any discussion of the economic impact of the Missouri Research and Drug Development Institute must be based on an understanding that research investments, by their nature, have a multitude of impacts on any state's economy, both in the present and in the future. Short-term impacts include capital and non-capital investment, employment growth supported by the funds, and new federal medical research funding leveraged by Missouri's funds that expand the state's economy. Longer-term impacts include a strengthened ability to compete nationally for funding and to attract exceptional first-class scientists; the economic and employment advances that will be achieved when medical research and innovation are translated into commercial products and services; and health care cost-savings to the state as a result of innovation (see Figure 1):

### Early-Stage Economic Impact of Funding

These tax dollars, once invested in research, will result in an expansion of the state's economy by an estimated **$84.9 million on the conservative side and $109.9 million on the aggressive side** within the first year the investment is made into the biomedical research sector in Missouri. Tripp Umbach's economic impact analysis indicates that even in the very early stage, program investments in capital and human resources return nearly two dollars to the state's economy for every one dollar invested. As this research fund matures, this government revenue impact amount will rise to provide even higher levels of return for every dollar invested. Spending attributable to the fund is divided into three parts: direct, indirect, and induced impacts[6].

**Figure 1: Research Return on Investment Timeline**




[4] The aggressive scenario factors in a 0.88 gram per capita and a higher-level price point at $30 per gram.
[5] In order to keep this research at a conservative end of the scale the dispensary number remains static at 300 within the state of Missouri.
[6] IMPLAN Group, LLC, 16905 North Cross Drive, Suite 120 Huntersville, NC 28078

The direct impacts of program funding include institutional expenditures for capital improvements, goods and services, as well as the spending by researchers, research staff, subcontractors, and visitors who come to these institutions for conferences and meetings. The indirect impacts of these funds result from the direct, first-round expenditures, which are received as income by businesses and individuals in the state and recirculate through the economy in successive rounds of spending. The end result is a multiplied economic impact that is a linear result of the state's investment in research.

### Early-Stage Impact of Fund on Employment

Tripp Umbach estimates that in the first year, the Missouri Research and Drug Development Trust Fund will created or sustain between 548 (conservative) and 708 (aggressive) jobs of which, more than half would be high-paying research-related jobs throughout Missouri. These are jobs for which the average pay is 156% of the average pay of an employee in Missouri.[7] The economic expansion created by the funds allocated to the fund will, in turn, bring about demand for additional employment in the state's economy.

### Early- and Later-Stage State Tax Impacts

Tripp Umbach estimates that funds provided in the initial year will result in between $2.7 million (conservative) and $3.6 million (aggressive) in tax revenues to Missouri. This is separate from the individual local municipalities which will also generate between $48 thousand (conservative) and $844.5 thousand (aggressive) in additional taxes if they kept the sales tax on medical marijuana the same as their local sales tax.[8] In-state spending by the recipient organizations and spending in the state by out-of-state parties have a significant impact on state tax revenue. Taxes created as a result of spending in the state's biomedical research sector would increase the impact within the Missouri economy, and generation of fresh dollars from outside of the state are expected to grow as early-stage research is commercialized.

## Biomedical Research Campus Construction Impact

Across the globe, the biomedical and bioscience fields are growing and innovating at astounding rates. It is a popular economic development strategy for cities to encourage biomedical/bioscience innovation districts to form. Innovation districts can come in a variety of

[7] According to the IMPLAN data for Missouri the average employee makes $43,237 annually.

[8] Based upon the assumption that the average municipality adds an additional 3.085% to the Missouri state sales tax collected.

shapes and sizes, such as bioscience, information sciences, research and manufacturing, etc. Specifically looking at biomedical/bioscience innovation districts, they can be an area of land or a grouping of buildings where research, education, outreach, and health care organizations put down their roots in order to work closely and collaboratively on the most exciting developments in the field. The districts lend themselves to collaboration by allowing researchers, students, doctors, professors, and others to work in the same buildings or spaces to find solutions to shared problems. Start-up companies and commercialization of new ideas and products are common outcomes of innovation districts. The rise in the number of innovation districts within the U.S. has been substantial.[9]

It is a part of the Tripp Umbach assumptions that if this research fund is developed there would be capital funds generated to develop a substantial research campus. With the funds generated from this revenue stream, a large full-scale biomedical research campus in Missouri can be built.

Over the course of this expected capital plan, from the start of the initial development of this campus to the end of Phase 1 the fund is expected to invest $1 billion in this phase of the capital development project. Over the project period, this spending would translate to an economic impact of nearly $1.4 billion dollars in statewide economic output, 6,672 jobs and an additional $30 million dollars in state and local tax revenues. This is in addition to the start-up and annual operational impacts that this campus would have on Missouri as well as separate from the impacts of the tax revenues of the medical marijuana legalization. Additionally, the initial phase is over one-fifth of a square mile on the proposed two square mile campus.

Not only is this a boost to the economy of the area while the construction project is taking place. Following the construction of the biomedical campus the operations of this research fund and other businesses attracted to the area and spin-off from this research are expected to increase economic impact as well.

*Traditionally, people have looked at the number of patents in order to measure innovation whereas now we are steadily moving toward tracking the number of start-up companies and amount of venture capital drawn to an area. We can think of these places through the concept of the Innovation City.*

[9] Cities as a Lab: Designing the Innovation Economy. The American Institute of Architects.

## Impacts Associated with Leveraged Federal Medical Research Funds

The Missouri academic medical industry and growing life sciences industry will be measurably enhanced by these state funds. This federal medical research funding will help fuel new or improve existing clinical enterprises. According to the Association of American Medical Colleges, Missouri's academic medical industry is among the top 13 nationally in total annual economic impact[10]. This points to a strength in the state with room to grow this business industry segment competing strongly alongside other peer states who are also looking to grow the research within their state. It is the experience of Tripp Umbach that once a strong research campus is developed the federal research funds will become attracted to the area. Tripp Umbach estimates that between $1 and $4 for every dollar provided by the state can be leveraged from federal and private coffers.[11]

These funds will encourage researchers at the recipient organizations in the state to collaborate with other research centers, and to apply for and win highly competitive federal grants. These funds once received and used in the state to grow the biomedical research sector in the state will allow this Research and Drug Development Institute to leverage millions in federal health research funding.

## Commercialization

Additional impacts which would be realized due to the Missouri Research and Drugs Development Institute are the levels of commercialization that occur when clusters of biotech professionals collaborate. The impacts listed below demonstrate the effects that will be realized as these collaborations and partnerships begin to develop and build a biotech/ biomedical sector in the Missouri area. The research is likely to have impactful findings and the development of a top 10 drug or similar medical breakthrough is possible.

Tripp Umbach estimates that after ten years of funding and operations, the commercialization of the Research and Drug Development Institute will produce discoveries and spinoffs which will generate between $135.1 million and $297.4 million annually using the conservative level of funding generated by the medical marijuana tax in additional economic activity within Missouri. These activities will also create between an additional 901 and 1,983 jobs. These additional economic and employment impacts will translate into additional state and local government revenue of between $4.7 million and $9.7 million annually.

[10] In 2012, Missouri ranked 13th in Academic Medical Impact of AAMC members and COTH hospitals.

[11] Tripp Umbach has used a variety of research benchmarks from past clients including PA Cancer Alliance, UCRF, Kentucky Lung Cancer Foundation, and many other research university clients.

If the medical marijuana sales generates funds at the more aggressive level, these commercialization impacts will increase exponentially. The higher, more aggressive level for the Missouri Research and Drugs Development Institute. will produce discoveries and spinoffs which will generate between $174.6 million and $384.5 million in additional economic activity within Missouri annually. This will increase the employment impact to an additional 1,164 jobs and 2,563 jobs. These additional economic and employment impacts will also convert into additional state and local government revenue of between $6.1 million and $12.5 million annually after the initial start-up period and 10 years has passed.

It is important to note that these commercialization impacts are in addition to the annual operational impacts of the Research and Drug Development Institute. These are impacts that are realized after years of research once the breakthroughs or discoveries have been made and are marketed.

The difference with this research and development is that it will retain the intellectual property of the researchers as a part of this fund and the State of Missouri, and will continue to generate income through the discoveries in the form of patents and licensing. This income which is generated by the research conducted through the fund will come back to the state in the form of additional funding for the research fund, through general revenue for the state to be used to pay for pre-schools, elementary and secondary schools, and grants for higher education, roads and infrastructure in the state, medical care for state residents, as well as allotting half of all of the proceeds to provide a state income tax refund equally to all residents of the state paying over $1,000 in state taxes.

## Health Care Cost-Savings

While this study does not include detailed economic impact models that calculate the potential cost-savings attributable to research activities, a growing body of literature provides some potential insights. Breakthrough research by Silverstein et al. (1995) documented $69 billion in annual economic savings resulted from NIH-supported research. The return on investment calculated by Silverstein was seven dollars in health care cost-savings for every dollar invested in NIH-sponsored research[12].

[12] Cost-Savings Resulting from NIH Research Support, NIH Publication No. 93. Silverstein, H.H. Garrison and S.J. Heinig, 1995.

# Appendix A: Definition of Terms

### Study Year

The research analysis is in 2015 dollars.

### Total Impact

The total impact of an organization is a compilation of the direct impact, the indirect impact, and the induced impact generated in the economy because of the organization.

### Direct Impact

Direct impact includes all direct effects the organization has on the regional area due to the organizational operations. These items include direct employees, organizational spending, employee spending, as well as spending by patients and visitors to the organization.

### Indirect Impact

The indirect impact includes the impact of local industries buying goods and services from other local industries. The cycle of spending works its way backward through the supply chain until all money leaks from the local economy, either through imports or by payments to value added. The impacts are calculated by applying direct effects to the Type I Multipliers.

### Induced Impact

The response by an economy to an initial change (direct effect) that occurs through re-spending of income received by a component of value added. IMPLAN's default multiplier recognizes that labor income (employee compensation and proprietor income components of value added) is not leakage to the regional economy. This money is recirculated through the household spending patterns causing further local economic activity.

### Multiplier Effect

The multiplier effect is the additional economic impact created as a result of the organization's direct economic impact. Local companies that provide goods and services to an organization increase their purchasing by creating a multiplier.

# Appendix B: Consultant Qualifications

Tripp Umbach has performed more than 500 economic impact studies for medical schools, private corporations, higher education institutions, health care systems, tourist events, bodies of government, and other non-profit organizations. Sample clients include UW Medicine (University of Washington), Lake Erie College of Osteopathic Medicine, General Electric, Regions Bank, University of Minnesota, University at Buffalo, Pittsburgh Regatta, Race for the Cure, Pennsylvania Legislative Budget and Finance Committee, City of Tyler, Texas, PA Cancer Alliance, and National Cancer Institutes. The Tripp Umbach methodology generally employed in these studies is the industry standard methodology IMPLAN developed by the IMPLAN Group LLC.[13]

Tripp Umbach's projections are based on the national experience of peer academic medical centers that have implemented similar academic, clinical, research, and economic development plans over the past 20 years. Since 1995, Tripp Umbach has measured the economic impact of every U.S. academic medical center on behalf of the Association of American Medical Colleges (AAMC) and used historical trending data from this experience in making projections.

### Questions and Contact Information:

For questions on this research please contact –

Carrie Kennedy
Principal
Tripp Umbach, Inc.
814.923.4375 (direct)
412.973.3835 (mobile)
www.trippumbach.com

[13] IMPLAN Group, LLC, 16905 North Cross Drive, Suite 120 Huntersville, NC 28078

## Appendix C: Methodology

Tripp Umbach determined that the use of the IMPLAN Pro economic impact model software was most appropriate for this analysis. The IMPLAN econometric model operates by estimating the direct impact, indirect impacts, and induced impacts of specific economic activity. Direct economic impacts, are those attributable to the initial economic activity. For example, an operation with 10 full-time employees creates 10 direct jobs. Indirect economic impacts are those economic activities undertaken by vendors and suppliers within the supply chain of the direct activity because of the initial economic activity. For example, suppliers of goods, materials, and services used in the direct activities produce indirect economic impacts. Induced economic impacts result from the spending of wages paid to employees in local industries involved in direct and indirect activities. Tripp Umbach selected the IMPLAN model due to its frequent use in economic impact, in addition to its development independent of local influences.

In this report, the impact was measured using IMPLAN datasets. The IMPLAN data files include information for 528 different industries (generally three- or four-digit SIC code breakdown) and 21 different economic variables. IMPLAN sources their employment data from ES202 employment security data supplemented by county business patterns and REIS data. Employment data utilized in the analysis includes full-time and part-time positions.

It should be noted that, at the time of performing this assessment, the most recent IMPLAN data files for the state of Missouri were for 2012. While the data is not current, it is unlikely that the fundamental economic structure of Missouri's economic fabric has changed to an extent that would invalidate the analysis. IMPLAN data and accounts closely follow the accounting conventions used in the "Input/Output Study of the U.S. Economy" by the U.S. Bureau of Economic Analysis and the rectangular format recommended by the United Nations.

## Appendix D: Assumptions

Tripp Umbach used a standard set of assumptions to model the economic impacts in this research. The assumptions are based on both current trends in the medical marijuana market as well as the information laid out in the initiative petition.

The research is based details laid out in the initiative petition which state that there will be a 10% wholesale to retail tax, 75% point of sale tax, $20,000 cultivation license tax yearly for every 100 square meters (1076.39 square feet) of canopy for harvesting with up to 10 licenses per person, $50,000 one-time dispensary licenses fee with roughly 300 dispensaries across the state (in subsequent years this fee would change to $15,000 annually), sales price points ranging from $7 per gram on the low end to $30 per gram on the high end.

Additionally Tripp Umbach looked at states where medical marijuana was already legal and where the population and state characteristics were similar to Missouri. These states were Arizona, Colorado, Connecticut, Michigan, and Washington were used as the peer group of states who both have similar populations as Missouri but who also tax medical marijuana to determine baseline averages for these states in their medical marijuana sales and state taxes generated. The data for Colorado was taken out as an outlier in sales per capital because it was much higher than the other peer states and the state also allows for sale of recreational marijuana. With these calculations the conservative scenario factors in a 0.11 gram per capita and a lower price point at $7 per gram. Then the aggressive scenario factors in a 0.88 gram per capita and a higher-level price point at $30 per gram. In order to keep this research at a conservative end of the scale the dispensary number remains static at 300 within the state of Missouri and there was an assumption of an average of 5 licenses per dispensary. Finally, using the Missouri current sales tax data as the model, there was also an assumption that the average municipality adds an additional 3.085% to the Missouri state sales tax collected.

The research facility data was modeled based on Tripp Umbach past experience modeling such research centers for clients such as PA Cancer Alliance, University Cancer Research Fund in North Carolina, Kentucky Lung Cancer Foundation, and many other research university clients.

It should also be noted that, this amendment will self-fund the agency, no cost to Missouri. This means that except where otherwise stated the entire amendment will completely self-fund or will operate at no cost to the state of Missouri. The only exception to this would be for land acquisition as noted in Section 4(g), 5(a) - 5(h), and 6(l) of the initiative petition.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Missouri Senate,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, St. Louis Community College,** and the **Lieutenant Governor's Office**.

**Fiscal Note Summary**

This proposal is estimated to generate annual taxes and fees of $45 million to $58 million for medical research with state and local government implementation costs. Medical research job creation and other economic activity is likely to result in significant additional tax revenues to state and local governmental entities.

RECEIVED
OCT 0 9 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-127

October 9, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Jane Dueker regarding a proposed constitutional amendment to Article III (2016-127)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Jane Dueker on October 9, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-127

County_____

Page No._____

**It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.**

**INITIATIVE PETITION**

**To the Honorable Jason Kander, Secretary of State for the state of Missouri:**

**We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.**

**(Official Ballot title)**

RECEIVED
2015 OCT -9 PM 1:48

**CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, County Of _____ I, _____, being first duly sworn, say (print or type names of signers)**

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong Dist. | NAME (Print or Typed) |
|---|---|---|---|---|---|---|
| 1. | | | | | | |
| 2. | | | | | | |
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**signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.**

**FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.**

**I am at least 18 years of age. I do____ do not _____ (check one) expect to be paid for circulating this petition. If paid, list the payer _____**

_____

**Signature of Affiant (Person obtaining signatures)**

_____

**(Printed Name of Affiant)**

_____

**Address of Affiant**

**Subscribed and sworn to before me this ____day of _____, A.D. _____.**

_____

**Signature of Notary**

**Address of Notary:**_____

_____

**Notary Public (Seal)**

**My commission expires** _____

16-127

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Article III of the Constitution of Missouri is revised by amending sections 2 and 9, to read as follows:

Section 2. The house of representatives shall consist of one hundred sixty-three members and, beginning with the one hundred second general assembly, one hundred twenty-three members, elected at each general election and apportioned in the following manner: Within sixty days after the population of this state is reported to the President for each decennial census of the United States and, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and, beginning with the one hundred second general assembly, one hundred twenty-three representative districts, and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and, beginning with the one hundred second general assembly, the number one hundred twenty-three, and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.

Each district shall be composed of contiguous territory as compact as may be.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.

Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

No reapportionment shall be subject to the referendum.

Section 9. Until the convening of the [Seventy-fourth General Assembly the House of Representatives]one hundred second general assembly, the house of representatives shall consist of one hundred sixty-three members elected from the one hundred sixty-three representative districts, as they existed [January 1, 1965.] during the one hundred first general assembly. Beginning with the one hundred second general assembly, the house of representatives shall consist of one hundred twenty-three members pursuant to section 2 of this article.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-127)**

## Subject

Initiative petition from Jane Dueker regarding a proposed constitutional amendment to Article III. (Received October 9, 2015)

## Date

October 29, 2015

## Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated effective January 2023 or the 1st regular session of the 102nd General Assembly, House membership would drop from 163 to 123. Using today's costs, here are the estimated annual savings resulting from the reduction of 40 members:

**SAVINGS:**
Member salaries = 40 x $35,915 = $1,436,600
LA salaries = 40 x $29,500 = $1,180,000
Member $700 accounts = 40 x $8,400 = $336,000
Session per diem = 40 x $103.20 x 70 days = $288,960
Session mileage = 40 x 270 miles x $0.37 x 19 weeks = $75,924
Total estimated annual savings (excluding fringes) = $3,317,484

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this proposal will have no impact on their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Columbia** indicated it is not possible to estimate potential fiscal impact of decreasing the number of members in the Missouri House of Representatives. They assume that each member will represent more people and wider geographic areas, with the potential to reduce the number of legislators representing districts that include the City of Columbia. At this time, there appears to be little, if any, fiscal impact related to this possible change.

Officials from the **City of Jefferson** indicated they expect no fiscal impact should this become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **University of Missouri** indicated they have determined there is no fiscal impact.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

Reduced legislative operating costs would result in annual estimated savings to state governmental entities of at least $3.3 million. Local governmental entities report no expected fiscal impact.

RECEIVED
OCT 0 9 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-126

October 9, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from John Lamping regarding a proposed constitutional amendment to Article III (2016-126)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by John Lamping on October 9, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-126

County_____

Page No._____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot title)

RECEIVED
2015 OCT -9 PM 1:46
SECRETARY OF STATE

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, County Of _____ I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong Dist. | NAME (Print or Typed) |
|---|---|---|---|---|---|---|
| 1. | | | | | | |
| 2. | | | | | | |
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| 15. | | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do____ do not _____ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____

Signature of Affiant (Person obtaining signatures)

_____

(Printed Name of Affiant)

_____

Address of Affiant

Subscribed and sworn to before me this ____day of _____, A.D. _____.

_____

Signature of Notary

Address of Notary:_____

_____

Notary Public (Seal)

My commission expires _____

16-126

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Article III of the Constitution of Missouri is revised by amending sections 2 and 9, to read as follows:

Section 2. The house of representatives shall consist of one hundred sixty-three members and, beginning with the one hundred second general assembly, one hundred twenty-three members, elected at each general election and apportioned in the following manner: Within sixty days after the population of this state is reported to the President for each decennial census of the United States and, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and, beginning with the one hundred second general assembly, one hundred twenty-three representative districts, and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and, beginning with the one hundred second general assembly, the number one hundred twenty-three, and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.

Each district shall be composed of contiguous territory as compact as may be.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.

Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

No reapportionment shall be subject to the referendum.

Section 9. Until the convening of the [Seventy-fourth General Assembly the House of Representatives]one hundred second general assembly, the house of representatives shall consist of one hundred sixty-three members elected from the one hundred sixty-three representative districts, as they existed [January 1, 1965.] during the one hundred first general assembly. Beginning with the one hundred second general assembly, the house of representatives shall consist of one hundred twenty-three members pursuant to section 2 of this article.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-126)**

## Subject

Initiative petition from John Lamping regarding a proposed constitutional amendment to Article III. (Received October 9, 2015)

## Date

October 29, 2015

## Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated effective January 2023 or the 1st regular session of the 102nd General Assembly, House membership would drop from 163 to 123. Using today's costs, here are the estimated annual savings resulting from the reduction of 40 members:

**SAVINGS:**
Member salaries = 40 x $35,915 = $1,436,600
LA salaries = 40 x $29,500 = $1,180,000
Member $700 accounts = 40 x $8,400 = $336,000
Session per diem = 40 x $103.20 x 70 days = $288,960
Session mileage = 40 x 270 miles x $0.37 x 19 weeks = $75,924
Total estimated annual savings (excluding fringes) = $3,317,484

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Office of Administration** indicated this proposal will have no impact on their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Columbia** indicated it is not possible to estimate potential fiscal impact of decreasing the number of members in the Missouri House of Representatives. They assume that each member will represent more people and wider geographic areas, with the potential to reduce the number of legislators representing districts that include the City of Columbia. At this time, there appears to be little, if any, fiscal impact related to this possible change.

Officials from the **City of Jefferson** indicated they expect no fiscal impact should this become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **University of Missouri** indicated they have determined there is no fiscal impact.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Elementary and Secondary Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

Reduced legislative operating costs would result in annual estimated savings to state governmental entities of at least $3.3 million. Local governmental entities report no expected fiscal impact.

RECEIVED
OCT 08 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-125

October 8, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Sheila Dundon regarding a proposed constitutional amendment to Article XVI, version 2 (2016-125)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Sheila Dundon on October 8, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-125

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

2015 OCT -8 PM 9:37

RECEIVED

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
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| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____

(Name of payer) Signature of Affiant (Person obtaining signatures)

_____

Printed Name of Affiant

_____

Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____

Signature of Notary

_____

Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-125

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Article XVI is created by enacting one new section to be known as Section 1 of Article XVI, to read as follows:

**Section 1. Right to Access Medical Marijuana**

**1. Purposes**

This section is intended to permit state-licensed physicians to recommend marijuana for medical purposes to patients with serious illnesses and medical conditions. The section allows patients with qualifying medical conditions the right to discuss freely with their physicians the possible benefits of medical marijuana use, the right to have the benefit of their physician's professional advice concerning the same, and the right to use medical marijuana for treatment under the supervision of a physician.

This section is intended to make only those changes to Missouri laws that are necessary to protect patients and their physicians from civil and criminal penalties, and allow for the limited legal production, distribution, sale and purchase of marijuana for medical use. This section is not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes. The section would maintain the prohibition against the public use of marijuana and driving under the influence of marijuana.

**2. Definitions**

(1) "Administer" means the direct application of marijuana to a qualifying patient by way of any of the following methods:

(a) Ingestion of capsules, teas, oils, and other marijuana-infused products;

(b) Vaporization or smoking of dried flowers, buds or plant material;

(c) Application of ointments or balms;

(d) Transdermal patches;

(e) Consuming marijuana-infused food products; or

(f) Any other method approved by the Department or recommended by a qualifying patient's physician.

(2) "Department" means the Department of Health and Senior Services, or its successor agency.

(3) "Entity" means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(4) "Marijuana" means *Cannabis indica*, *Cannabis sativa*, and *Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the plant and marijuana-infused products.

(5) "Medical Marijuana Cultivation Facility" means an entity, licensed by the department, to cultivate, process, transport, and sell marijuana to a Medical Marijuana Dispensary Facility or to a Medical Marijuana-Infused Products Manufacturing Facility.

(6) "Medical Marijuana Dispensary Facility" means an entity, licensed by the department, to sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section.

(7) "Medical Marijuana-Infused Products Manufacturing Facility" means an entity, licensed by the department, to manufacture and transport marijuana-infused products for sale to a Medical Marijuana Dispensary Facility.

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(8) "Medical use" means the production, possession, delivery, distribution, transportation, or administration of marijuana or a marijuana-infused product, or drug paraphernalia used to administer marijuana or a marijuana-infused product, for the benefit of a patient to mitigate the symptoms or effects of the patient's qualifying medical condition.

(9) "Physician" means an individual who is licensed and in good standing to practice medicine or osteopathy under Missouri law.

(10) "Physician certification" means a document in whatever format, including electronic, signed by a physician, stating that in the physician's professional opinion, the patient has been diagnosed with a qualifying medical condition and is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's qualifying medical condition or symptoms associated with the qualifying medical condition.

(11) "Primary caregiver" means an individual twenty-one years of age or older who has significant responsibility for managing the well-being of a person diagnosed with a qualifying medical condition and who is designated as such on the caregiver's application for an identification card under this section or in other written notification to the department.

(12) "Qualifying medical condition" means symptoms related to or the treatment of:

(a) Cancer;

(b) Epilepsy;

(c) Glaucoma;

(d) Intractable migraines unresponsive to other treatment;

(e) A chronic medical condition that causes severe, persistent pain or persistent muscle spasms, including but not limited to those associated with multiple sclerosis, seizures, Parkinson's disease, and Tourette's syndrome;

(f) Debilitating psychiatric disorders, including but not limited to post-traumatic stress disorder, if diagnosed by a state licensed psychiatrist;

(g) Human immunodeficiency virus or acquired immune deficiency syndrome;

(h) A chronic medical condition that is normally treated with a prescription medication that could lead to physical or psychological dependence, when a physician determines that medical use of marijuana could be effective in treating that condition and would serve as a safer alternative to the prescription medication;

(i) Any terminal illness;

(j) In the professional judgment of a physician, any other chronic, debilitating or otherwise equivalent condition, including, but not limited to, hepatitis C, amyotrophic lateral sclerosis, inflammatory bowel disease, agitation of Alzheimer's disease, cachexia and wasting syndrome; or

(k) Any additional conditions determined by the department.

(13) "Qualifying Patient" means a Missouri resident diagnosed with at least one qualifying medical condition.

**3. Creating Patient Access to Medical Marijuana**

(1) In carrying out the implementation of this section, the Department shall have the authority to:

(a) Grant or refuse state licenses for the cultivation, manufacture, distribution, and sale of marijuana for medical use as provided by law; suspend, fine, restrict, or revoke such licenses upon a violation of this section or a rule promulgated pursuant to this section; and impose any

administrative penalty authorized by this section or any rule promulgated pursuant to this section.

(b) Promulgate such rules and emergency rules as necessary for the proper regulation and control of the cultivation, manufacture, distribution, and sale of marijuana for medical use and for the enforcement of this section.

(c) Hear and determine at a public hearing any contested state license denial and any complaints against a licensee and administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of any hearing so held, all in accordance with the Missouri Administrative Procedures Act, as amended from time to time, or successor provisions.

(d) Develop such forms, licenses, identification cards, and applications as are necessary or convenient in the discretion of the department for the administration of this section or any of the rules promulgated under this section;

(e) Require a seed-to-sale tracking system that tracks medical marijuana from either the seed or immature plant stage until the medical marijuana or medical marijuana-infused product is sold to a customer at a Medical Marijuana Dispensary Facility to ensure that no medical marijuana grown by a Medical Marijuana Cultivation Facility or processed by a Medical Marijuana-Infused Products Manufacturing Facility is sold or otherwise transferred except by a Medical Marijuana Dispensary Facility. The department shall certify at least two commercially available software programs to licensees as compliant with its tracking standards.

(f) Prepare and transmit annually a report accounting to the Governor for the efficient discharge of all responsibilities assigned to the department under this section;

(2) The department shall issue any rules or emergency rules necessary for the implementation and enforcement of this section and to ensure the right to, availability and safe use of marijuana for medical use by qualifying patients. In developing such rules or emergency rules, the department may consult with other public agencies. In addition to any other rules or emergency rules necessary to carry out the mandates of this section, the department may issue rules or emergency rules relating to the following subjects:

(a) Compliance with, enforcement of, or violation of any provision of this section or any rule issued pursuant to this section, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license issued pursuant to this section;

(b) Specifications of duties of officers and employees of the department;

(c) Instructions or guidance for local authorities and law enforcement officers;

(d) Requirements for inspections, investigations, searches, seizures, and such additional enforcement activities as may become necessary from time to time;

(e) Creation of a range of administrative penalties for use by the department;

(f) Prohibition of misrepresentation and unfair practices;

(g) Control of informational and product displays on licensed premises;

(h) Development of individual identification cards for owners, officers, managers, contractors, employees, and other support staff of entities licensed pursuant to this section, including a fingerprint-based criminal history record check as may be required prior to issuing a card;

(i) Security requirements for any premises licensed pursuant to this section, including, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the department to properly administer and enforce the provisions of this section, including reporting requirements for changes, alterations, or modifications to the premises;

(j) Regulation of the storage of, warehouses for, and transportation of marijuana for medical use;

(k) Sanitary requirements for, including, but not limited to, the preparation of medical marijuana-infused products;

(l) The specification of acceptable forms of picture identification that a Medical Marijuana Dispensary Facility may accept when verifying a sale;

(m) Labeling and packaging standards;

(n) Records to be kept by licensees and the required availability of the records;

(o) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(p) The reporting and transmittal of tax payments;

(q) Authorization for the Department of Revenue to have access to licensing information to ensure tax payment and the effective administration of this section; and

(r) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this section.

(3) The department shall issue rules or emergency rules for a medical marijuana and medical marijuana-infused products independent testing and certification program for medical marijuana licensees and requiring licensees to test medical marijuana to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health and to ensure correct labeling.

(4) The department shall maintain the confidentiality of reports or other information obtained from an applicant or licensee containing any individualized data, information, or records related to the licensee or its operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans or revealing any patient information, or any other records that are exempt from public inspection pursuant to state or federal law. Such reports or other information may be used only for a purpose authorized by this section. Any information released related to patients may be used only for a purpose authorized by this section or to verify that a person who presented a patient identification card to a state or local law enforcement official is lawfully in possession of such card.

(5) Within thirty days of the effective date of this section, the department shall make available to the public license application forms and application instructions for Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensary Facilities, and Medical Marijuana-Infused Products Manufacturing Facilities.

(6) Within thirty days of the effective date of this section, the department shall make available to the public application forms and application instructions for qualifying patient, qualifying patient cultivation, and primary caregiver identification cards. Within sixty days of the effective date of this section, the departments shall begin accepting applications for such identification cards.

(7) An entity may apply to the department for and obtain one or more licenses to grow marijuana as a Medical Marijuana Cultivation Facility. Each facility in operation

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shall require a separate license and such facility may be limited by the department to thirty thousand square feet of canopy space. The license shall be valid for three years from its date of issuance and shall be renewable, except for cause. The department shall charge each first-time applicant a one-time, non-refundable fee of three thousand dollars. The department shall charge each licensee an annual fee of ten thousand dollars per license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency.

(8) An entity may apply to the department for and obtain one or more licenses to operate a Medical Marijuana Dispensary Facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for cause. The department shall charge each first-time applicant a one-time, non-refundable fee of three thousand dollars. The department shall charge each licensee an annual fee of five thousand dollars per license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency.

(9) An entity may apply to the department for and obtain one or more licenses to operate a Medical Marijuana-Infused Products Manufacturing Facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for cause. The department shall charge each first-time applicant a one-time, non-refundable fee of three thousand dollars. The department shall charge each licensee an annual fee of five thousand dollars per license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency.

(10) Except for cause, a qualifying patient or his or her primary caregiver may obtain an authorization and identification card from the department to cultivate up to six marijuana plants for the exclusive use of that patient. The card shall be valid for twelve months from its date of issuance and shall be renewable with the annual submittal of a new or updated physician's certification. The department shall charge an annual fee for the card of one hundred dollars, with such rate to be increased or decreased each year by the percentage of increase or decrease of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency.

(11) The department may set a limit on the amount of marijuana that may be purchased by or on behalf of a qualifying patient in a 30 day period, provided that limit is not less than six ounces of dried, unprocessed marijuana, or its equivalent. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons for additional amounts.

(12) The department may set a limit on the amount of marijuana that may be possessed by or on behalf of a qualifying patient, provided that limit is not less than a sixty day supply of dried, unprocessed marijuana, or its equivalent. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons for additional amounts. Possession of between the legal limit and up to twice the legal limit shall subject the possessor to department sanctions, including an administrative penalty and loss of their patient identification card for up to a year. Purposefully possessing amounts in excess of twice the legal limit shall be punishable by imprisonment of up to one year and a fine of up to ten thousand dollars.

(13) The department may restrict the aggregate number of licenses granted for Medical Marijuana Cultivation Facilities, provided however that the number may not be limited to fewer than one license per every seventy-five thousand inhabitants of the state of Missouri, according to the most recent census of the United States. In any year, if the number of qualifying applicants and any renewals exceed any such restriction, the department shall, after renewing all qualifying licenses, rank new applicants using the following factors: site security; experience with agriculture, horticulture or the legal cannabis market; medical or botany experience; acceptance

in the site community; potential for positive economic impact in the site community; and maintaining competitiveness in the marijuana for medical use marketplace. In evaluating licenses, the department may consult or contract with other public agencies with relevant expertise regarding these factors.

(14) If a county has restricted the number of licenses for Medical Marijuana Dispensary Facilities, then, in any year that the number of qualifying applicants and any renewals exceed any such restriction, the department shall, after renewing all qualifying licenses, rank new applicants using the following factors: site security; medical or botany experience; acceptance in the site community; potential for positive economic impact in the site community; and maintaining competitiveness in the marijuana for medical use marketplace. In evaluating licenses, the department may consult or contract with other public agencies with relevant expertise regarding these factors.

(15) The department shall begin accepting license applications for Medical Marijuana Dispensary Facilities, Medical Marijuana Cultivation Facilities, and Medical Marijuana-Infused Products Manufacturing Facilities no later than one hundred twenty days after the effective date of this section. Applications for licenses under this section shall be approved or denied by the department no later than ninety days after their submission. If the department fails to carry out its non-discretionary duty to approve or deny an application within ninety days of submission, an applicant may immediately seek a court order compelling the department to approve or deny the application.

(16) Qualifying patients under this section shall obtain and annually renew an identification card from the department. The department shall charge a fee of twenty-five dollars per issuance with such fee to be increased or decreased each year by the percentage of increase or decrease of the Consumer Price Index, or successor index as published by the U.S. Department of Labor or its successor agency. Upon receiving an application for a qualifying patient identification card, the department shall, within fourteen days, either issue the card or provide a written explanation for its denial.

(17) Primary caregivers under this section shall obtain and annually renew an identification card from the department. The department shall charge a fee of twenty-five dollars per issuance, with such fee to be increased or decreased each year by the percentage of increase or decrease of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. Upon receiving an application for a primary caregiver identification card, the department shall, within fourteen days, either issue the card or provide a written explanation for its denial.

**4. Taxation and Reporting**

(1) A tax is levied upon the retail sale of marijuana for medical use sold at Medical Marijuana Dispensary Facilities within the state. The tax shall be at a rate of six percent of the retail price. The tax shall be collected by each licensed Medical Marijuana Dispensary Facility and paid to the Department of Revenue. After retaining no more than one percent for its actual collection costs, amounts generated by the tax levied in this section shall be deposited by the Department of Revenue into the Missouri Veterans' Healthcare Fund. Licensed entities making retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.

(2) There is hereby created in the state treasury the "Missouri Veterans' Healthcare Fund," which shall consist of taxes and fees collected under this section. The State Treasurer shall be custodian of the fund and he or she shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund. Notwithstanding any other provision of law, any moneys remaining in the fund at the end of a biennium shall not revert to the credit of the general revenue fund. The fund shall be a dedicated fund and shall stand appropriated without further legislative action as follows:

(a) First, to the department, an amount necessary for the department to carry out this section, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

(b) Next, the remainder of such funds shall be transferred to the Missouri Veterans Commission for healthcare services for military veterans, including the following purposes: operations of the Missouri Veteran's Homes and Missouri Service Officer's Program.

(c) All moneys appropriated from the taxes authorized under this subsection shall provide additional funds for the purposes enumerated above and shall not replace existing funding.

(3) For all retail sales of marijuana for medical use, a record shall be kept by the seller which identifies by secure and encrypted patient number, the qualifying patient involved in the sale, all amounts and types of marijuana involved in the sale and the total amount of money involved in the sale, including itemizations and grand total sale amounts. All such records shall be kept on the premises and be made available for review by the department and the Department of Revenue upon request.

(4) The tax levied pursuant to this subsection is separate from and in addition to any general state and local sales and use taxes that apply to retail sales, which shall continue to be collected and distributed as provided by general law.

(5) Except as auth rized in this subsection, no additional taxes shall be imposed on the sale of marijuana for medical use.

**5. Additional Patient, Physician, Caregiver and Provider Protections**

(1) Except as provided in this section, the possession of marijuana in quantities less than the limits of this section or established by the department shall not subject the possessor to arrest, criminal or civil liability, or sanctions under Missouri law, provided that a valid qualifying patient identification card; a valid patient cultivation registration; while a related patient identification card application is pending, a valid physician certification written fewer than thirty days prior; and a valid primary caregiver identification card, or the respective equivalent issued by another state or political subdivision of another state, is produced upon demand.

(2) A physician shall not be subject to criminal or civil liability or sanctions under Missouri law or discipline by the Missouri State Board of Registration for the Healing Arts, or its successor agency, for issuing a physician certification to a person diagnosed with a qualifying medical condition in a manner consistent with this section and legal standards of professional conduct.

(3) A health care provider shall not be subject to civil or criminal prosecution, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission, for providing health care services that involve the medical use of marijuana consistent with this section and legal standards of professional conduct.

(4) A testing laboratory shall not be subject to civil or criminal prosecution, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission, for providing laboratory testing services that relate to the medical use of marijuana consistent with this section and otherwise meeting legal standards of professional conduct.

(5) A health care provider shall not be subject to mandatory reporting requirements for the medical use of marijuana by qualifying patients under eighteen years of age in a manner consistent with this section.

(6) A primary caregiver shall not be subject to criminal or civil liability or sanctions under Missouri law for purchasing or administering marijuana for medical use by a qualifying patient or participating in the patient cultivation of up to six marijuana plants per patient in a manner consistent with this section and generally established legal standards of personal or professional conduct.

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(7) An attorney shall not be subject to disciplinary action by the state bar association or other professional licensing body for providing legal assistance to prospective or licensed Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensary Facilities, Medical Marijuana-Infused Products Manufacturing Facilities, qualifying patients, primary caregivers, or others related to activity that is no longer subject to criminal penalties under state law pursuant to this section.

(8) Actions and conduct by Qualifying Patients, Primary Caregivers, Medical Marijuana Cultivation Facilities, Medical Marijuana-Infused Products Manufacturing Facilities or Medical Marijuana Dispensary Facilities licensed or registered with the department, or their employees, as permitted by this section and in compliance with department regulations and other standards of legal conduct, shall not be subject to criminal or civil liability or sanctions under Missouri law, except as provided for by this section.

(9) There shall be no immunities for negligence, either common law or statutorily created, nor civil or criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of marijuana, and except as specifically set out in this section, the use of marijuana shall not be a defense to any illegal civil or criminal activity unrelated to this section.

(10) It is the public policy of the state of Missouri that contracts related to marijuana for medical use that are entered into by Qualifying Patients, Primary Caregivers, Medical Marijuana Cultivation Facilities, Medical Marijuana-Infused Products Manufacturing Facilities or Medical Marijuana Dispensary Facilities and those who allow property to be used by those persons, should be enforceable. It is the public policy of the state of Missouri that no contract entered into by Qualifying Patients, Primary Caregivers, Medical Marijuana Cultivation Facilities, Medical Marijuana-Infused Products Manufacturing Facilities or Medical Marijuana Dispensary Facilities, or by a person who allows property to be used for activities that are exempt from state criminal penalties by this chapter, shall be unenforceable on the basis that activities related to medical marijuana may be prohibited by federal law.

**6. Legislation**

Nothing in this section shall limit the General Assembly from enacting laws consistent with this section, or otherwise effectuating the patient rights of this section. The legislature shall not enact laws that hinder the right of qualifying patients to access marijuana for medical use as granted by this section

**7. Additional Provisions**

(1) Nothing in this section permits a person to:

(a) Consume marijuana for medical use in a jail or correctional facility;

(b) Undertake any task under the influence of marijuana when doing so would constitute negligence or professional malpractice; or

(c) Operate, navigate, or be in actual physical control of any dangerous device or motor vehicle, aircraft or motorboat while under the influence of marijuana; or

(d) Bring a claim against any employer, former employer or prospective employer for wrongful discharge, discrimination, or any similar cause of action or remedy, based on the employer, former employer or prospective employer prohibiting the employee, former employee or prospective employee from being under the influence of marijuana while at work or disciplining the employer or former employee, up to and including termination from employment, for working or attempting to work while under the influence of marijuana.

(2) No Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility shall be owned, in whole or in part, or have as an officer, director, board member, manager, or employee, any individual with a disqualifying felony offense. A "disqualifying felony offense" is a violation of, and conviction or guilty plea to, state or federal law that is, or would have been, a felony under Missouri law, regardless of the sentence imposed, unless the department determines that:

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(a) The person's conviction was for the medical use of marijuana or assisting in the medical use of marijuana; or

(b) The person's conviction was for a non-violent crime for which he or she was not incarcerated and that is more than five years old; or

(c) More than five years have passed since the person was released from parole or probation, and he or she has not been convicted of any subsequent criminal offenses.

(3) All Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility licenses shall be held by entities that are controlled by natural persons who have been citizens of the state of Missouri for at least one year. Notwithstanding the forgoing, entities outside the state of Missouri may own a minority stake in such entities.

(4) A county may require a site permit for a Medical Marijuana Dispensary Facility utilizing generally applicable permitting standards. In addition, a county may limit the number of site permits granted for Medical Marijuana Dispensary Facilities, provided however that the number may not be limited to fewer than one site for every thirty thousand inhabitants, or any portion thereof, in such county, according to the most recent census of the United States.

(5) No Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility or Medical Marijuana-Infused Products Manufacturing Facility shall manufacture, package or label marijuana or marijuana-infused products in a false, misleading or confusing manner or in any manner likely to cause confusion between the marijuana or marijuana-infused product and any product not containing marijuana. All edible marijuana-infused products shall be sold in individual child-resistant containers that are labeled with dosage amounts, instructions for use, and estimated length of effectiveness. All marijuana and marijuana-infused products shall be sold in containers clearly and conspicuously labeled, in a font size at least as large as the largest other font size used on the package, as containing "Marijuana," or a "Marijuana-Infused Product." A purposeful violation of this subdivision shall be punishable by imprisonment of up to one year and a fine of up to ten thousand dollars.

(6) No poisonous or deleterious substances shall be added to any marijuana or marijuana-infused product sold for medical use. Doing so purposefully shall be punishable by imprisonment of up to one year and a fine of up to ten thousand dollars.

(7) No individual shall serve as the primary caregiver for more than three qualifying patients.

(8) No qualifying patient shall consume marijuana for medical use in a public place. Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty and loss of their patient identification card for up to a year.

(9) No person shall extract resins from marijuana using dangerous materials or combustible gasses without a Medical Marijuana-Infused Products Manufacturing Facility license. Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty and loss of their identification card or license for up to a year.

(10) All patient cultivation shall take place in an enclosed, locked facility that is equipped with security devices that permit access only by the qualifying patient authorized to cultivate the plants or by such patient's primary caregiver. Two qualifying patients, who both hold valid patient cultivation identifications, may share one enclosed locked facility. No more than twenty-four marijuana plants may be cultivated in a single enclosed locked facility.

(11) No Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility shall assign, sell, give, lease, sublicense, or otherwise transfer its license to any other entity.

(12) Unless allowed by the local government, no new Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility shall be located within one thousand feet of any then-

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existing elementary or secondary school, child day-care center, or church. No local government shall prohibit Medical Marijuana Cultivation Facilities, Medical Marijuana Infused Products Manufacturing Facilities, or Medical Marijuana Dispensary Facility, either expressly or through the enactment of ordinances or regulations which make their operation impracticable in the jurisdiction. However, local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place, and manner of such facilities in the locality. A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of a Medical Marijuana Cultivation Facility, Medical Marijuana Infused Products Manufacturing Facility, or Medical Marijuana Dispensary Facility that may operate in such locality.

(13) Unless superseded by federal law or an amendment to this Constitution, a physician shall not recommend or prescribe the medical use of marijuana to a patient by any means other than providing a physician certification for the patient, whether handwritten, electronic or in another commonly used format. No physician shall issue more physician certifications than a number equivalent to twenty-five percent of their total number of prescriptions for other drugs.

(14) A physician shall not recommend or prescribe the medical use of marijuana to an non-emancipated patient under the age of eighteen without the written consent of a parent or legal guardian.

(15) Nothing in this section shall be construed as mandating health insurance coverage of medical marijuana for patient use.

(16) Real and personal property used in the cultivation, transport, sale, and administration of marijuana for medical use shall not be subject to asset forfeiture solely because of that use.

**8. Severability**

The provisions of this section are severable and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, other provisions shall continue to be in effect to the fullest extent possible.

**9. Effective Date**

The provisions of this section shall become effective on December 8, 2016, as provided by this Constitution.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

RECEIVED
OCT 08 2015
STATE AUDITORS OFFICE
ELECTIONS DIVISION
(573) 751-2301

16-124

October 8, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Sheila Dundon regarding a proposed constitutional amendment to Article I, version 1 (2016-124)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Sheila Dundon on October 8, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-124

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

2015 OCT -8 AM 9:32

RECEIVED

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____

(Name of payer) Signature of Affiant (Person obtaining signatures)

_____

Printed Name of Affiant

_____

Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____

Signature of Notary

_____

Address of Notary (Street, City, State & Zip Code)

My commission expires _____

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*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Article I is amended by creating one new section to be known as Section 37 of Article I, to read as follows:

**Section 37. Right to Access Medical Marijuana**

**1. Purposes**

This section is intended to permit state-licensed physicians to recommend marijuana for medical purposes to patients with serious illnesses and medical conditions. The section allows patients with qualifying medical conditions the right to discuss freely with their physicians the possible benefits of medical marijuana use, the right to have the benefit of their physician's professional advice concerning the same, and the right to use medical marijuana for treatment under the supervision of a physician.

This section is intended to make only those changes to Missouri laws that are necessary to protect patients and their physicians from civil and criminal penalties, and allow for the limited legal production, distribution, sale and purchase of marijuana for medical use. This section is not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes. The section would maintain the prohibition against the public use of marijuana and driving under the influence of marijuana.

**2. Definitions**

(1) "Administer" means the direct application of marijuana to a qualifying patient by way of any of the following methods:

(a) Ingestion of capsules, teas, oils, and other marijuana-infused products;

(b) Vaporization or smoking of dried flowers, buds or plant material;

(c) Application of ointments or balms;

(d) Transdermal patches;

(e) Consuming marijuana-infused food products; or

(f) Any other method approved by the Department or recommended by a qualifying patient's physician.

(2) "Department" means the Department of Health and Senior Services, or its successor agency.

(3) "Entity" means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(4) "Marijuana" means *Cannabis indica*, *Cannabis sativa*, and *Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the plant and marijuana-infused products.

(5) "Medical Marijuana Cultivation Facility" means an entity, licensed by the department, to cultivate, process, transport, and sell marijuana to a Medical Marijuana Dispensary Facility or to a Medical Marijuana-Infused Products Manufacturing Facility.

(6) "Medical Marijuana Dispensary Facility" means an entity, licensed by the department, to sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section.

(7) "Medical Marijuana-Infused Products Manufacturing Facility" means an entity, licensed by the department, to manufacture and transport marijuana-infused products for sale to a Medical Marijuana Dispensary Facility.

(8) "Medical use" means the production, possession, delivery, distribution, transportation, or administration of marijuana or a marijuana-infused product, or drug paraphernalia used to administer marijuana or a marijuana-infused product, for the benefit of a patient to mitigate the symptoms or effects of the patient's qualifying medical condition.

(9) "Physician" means an individual who is licensed and in good standing to practice medicine or osteopathy under Missouri law.

(10) "Physician certification" means a document in whatever format, including electronic, signed by a physician, stating that in the physician's professional opinion, the patient has been diagnosed with a qualifying medical condition and is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's qualifying medical condition or symptoms associated with the qualifying medical condition.

(11) "Primary caregiver" means an individual twenty-one years of age or older who has significant responsibility for managing the well-being of a person diagnosed with a qualifying medical condition and who is designated as such on the caregiver's application for an identification card under this section or in other written notification to the department.

(12) "Qualifying medical condition" means symptoms related to or the treatment of:

(a) Cancer;

(b) Epilepsy;

(c) Glaucoma;

(d) Intractable migraines unresponsive to other treatment;

(e) A chronic medical condition that causes severe, persistent pain or persistent muscle spasms, including but not limited to those associated with multiple sclerosis, seizures, Parkinson's disease, and Tourette's syndrome;

(f) Debilitating psychiatric disorders, including but not limited to post-traumatic stress disorder, if diagnosed by a state licensed psychiatrist;

(g) Human immunodeficiency virus or acquired immune deficiency syndrome;

(h) A chronic medical condition that is normally treated with a prescription medication that could lead to physical or psychological dependence, when a physician determines that medical use of marijuana could be effective in treating that condition and would serve as a safer alternative to the prescription medication;

(i) Any terminal illness;

(j) In the professional judgment of a physician, any other chronic, debilitating or otherwise equivalent condition, including, but not limited to, hepatitis C, amyotrophic lateral sclerosis, inflammatory bowel disease, agitation of Alzheimer's disease, cachexia and wasting syndrome; or

(k) Any additional conditions determined by the department.

(13) "Qualifying Patient" means a Missouri resident diagnosed with at least one qualifying medical condition.

**3. Creating Patient Access to Medical Marijuana**

(1) In carrying out the implementation of this section, the Department shall have the authority to:

(a) Grant or refuse state licenses for the cultivation, manufacture, distribution, and sale of marijuana for medical use as provided by law; suspend, fine, restrict, or revoke such licenses upon a violation of this section or a rule promulgated pursuant to this section; and impose any

administrative penalty authorized by this section or any rule promulgated pursuant to this section.

(b) Promulgate such rules and emergency rules as necessary for the proper regulation and control of the cultivation, manufacture, distribution, and sale of marijuana for medical use and for the enforcement of this section.

(c) Hear and determine at a public hearing any contested state license denial and any complaints against a licensee and administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of any hearing so held, all in accordance with the Missouri Administrative Procedures Act, as amended from time to time, or successor provisions.

(d) Develop such forms, licenses, identification cards, and applications as are necessary or convenient in the discretion of the department for the administration of this section or any of the rules promulgated under this section;

(e) Require a seed-to-sale tracking system that tracks medical marijuana from either the seed or immature plant stage until the medical marijuana or medical marijuana-infused product is sold to a customer at a Medical Marijuana Dispensary Facility to ensure that no medical marijuana grown by a Medical Marijuana Cultivation Facility or processed by a Medical Marijuana-Infused Products Manufacturing Facility is sold or otherwise transferred except by a Medical Marijuana Dispensary Facility. The department shall certify at least two commercially available software programs to licensees as compliant with its tracking standards.

(f) Prepare and transmit annually a report accounting to the Governor for the efficient discharge of all responsibilities assigned to the department under this section;

(2) The department shall issue any rules or emergency rules necessary for the implementation and enforcement of this section and to ensure the right to, availability and safe use of marijuana for medical use by qualifying patients. In developing such rules or emergency rules, the department may consult with other public agencies. In addition to any other rules or emergency rules necessary to carry out the mandates of this section, the department may issue rules or emergency rules relating to the following subjects:

(a) Compliance with, enforcement of, or violation of any provision of this section or any rule issued pursuant to this section, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license issued pursuant to this section;

(b) Specifications of duties of officers and employees of the department;

(c) Instructions or guidance for local authorities and law enforcement officers;

(d) Requirements for inspections, investigations, searches, seizures, and such additional enforcement activities as may become necessary from time to time;

(e) Creation of a range of administrative penalties for use by the department;

(f) Prohibition of misrepresentation and unfair practices;

(g) Control of informational and product displays on licensed premises;

(h) Development of individual identification cards for owners, officers, managers, contractors, employees, and other support staff of entities licensed pursuant to this section, including a fingerprint-based criminal history record check as may be required prior to issuing a card;

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(i) Security requirements for any premises licensed pursuant to this section, including, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the department to properly administer and enforce the provisions of this section, including reporting requirements for changes, alterations, or modifications to the premises;

(j) Regulation of the storage of, warehouses for, and transportation of marijuana for medical use;

(k) Sanitary requirements for, including, but not limited to, the preparation of medical marijuana-infused products;

(l) The specification of acceptable forms of picture identification that a Medical Marijuana Dispensary Facility may accept when verifying a sale;

(m) Labeling and packaging standards;

(n) Records to be kept by licensees and the required availability of the records;

(o) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(p) The reporting and transmittal of tax payments;

(q) Authorization for the Department of Revenue to have access to licensing information to ensure tax payment and the effective administration of this section; and

(r) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this section.

(3) The department shall issue rules or emergency rules for a medical marijuana and medical marijuana-infused products independent testing and certification program for medical marijuana licensees and requiring licensees to test medical marijuana to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health and to ensure correct labeling.

(4) The department shall maintain the confidentiality of reports or other information obtained from an applicant or licensee containing any individualized data, information, or records related to the licensee or its operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans or revealing any patient information, or any other records that are exempt from public inspection pursuant to state or federal law. Such reports or other information may be used only for a purpose authorized by this section. Any information released related to patients may be used only for a purpose authorized by this section or to verify that a person who presented a patient identification card to a state or local law enforcement official is lawfully in possession of such card.

(5) Within thirty days of the effective date of this section, the department shall make available to the public license application forms and application instructions for Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensary Facilities, and Medical Marijuana-Infused Products Manufacturing Facilities.

(6) Within thirty days of the effective date of this section, the department shall make available to the public application forms and application instructions for qualifying patient, qualifying patient cultivation, and primary caregiver identification cards. Within sixty days of the effective date of this section, the departments shall begin accepting applications for such identification cards.

(7) An entity may apply to the department for and obtain one or more licenses to grow marijuana as a Medical Marijuana Cultivation Facility. Each facility in operation shall require a separate license and such facility may be limited by the department to thirty thousand square feet of canopy space. The license shall be valid for three

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years from its date of issuance and shall be renewable, except for cause. The department shall charge each first-time applicant a one-time, non-refundable fee of three thousand dollars. The department shall charge each licensee an annual fee of ten thousand dollars per license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency.

(8) An entity may apply to the department for and obtain one or more licenses to operate a Medical Marijuana Dispensary Facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for cause. The department shall charge each first-time applicant a one-time, non-refundable fee of three thousand dollars. The department shall charge each licensee an annual fee of five thousand dollars per license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency.

(9) An entity may apply to the department for and obtain one or more licenses to operate a Medical Marijuana-Infused Products Manufacturing Facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for cause. The department shall charge each first-time applicant a one-time, non-refundable fee of three thousand dollars. The department shall charge each licensee an annual fee of five thousand dollars per license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency.

(10) Except for cause, a qualifying patient or his or her primary caregiver may obtain an authorization and identification card from the department to cultivate up to six marijuana plants for the exclusive use of that patient. The card shall be valid for twelve months from its date of issuance and shall be renewable with the annual submittal of a new or updated physician's certification. The department shall charge an annual fee for the card of one hundred dollars, with such rate to be increased or decreased each year by the percentage of increase or decrease of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency.

(11) The department may set a limit on the amount of marijuana that may be purchased by or on behalf of a qualifying patient in a 30 day period, provided that limit is not less than six ounces of dried, unprocessed marijuana, or its equivalent. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons for additional amounts.

(12) The department may set a limit on the amount of marijuana that may be possessed by or on behalf of a qualifying patient, provided that limit is not less than a sixty day supply of dried, unprocessed marijuana, or its equivalent. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons for additional amounts. Possession of between the legal limit and up to twice the legal limit shall subject the possessor to department sanctions, including an administrative penalty and loss of their patient identification card for up to a year. Purposefully possessing amounts in excess of twice the legal limit shall be punishable by imprisonment of up to one year and a fine of up to ten thousand dollars.

(13) The department may restrict the aggregate number of licenses granted for Medical Marijuana Cultivation Facilities, provided however that the number may not be limited to fewer than one license per every seventy-five thousand inhabitants of the state of Missouri, according to the most recent census of the United States. In any year, if the number of qualifying applicants and any renewals exceed any such restriction, the department shall, after renewing all qualifying licenses, rank new applicants using the following factors: site security; experience with agriculture, horticulture or the legal cannabis market; medical or botany experience; acceptance in the site community; potential for positive economic impact in the site community; and maintaining competitiveness in the marijuana for medical use

marketplace. In evaluating licenses, the department may consult or contract with other public agencies with relevant expertise regarding these factors.

(14) If a county has restricted the number of licenses for Medical Marijuana Dispensary Facilities, then, in any year that the number of qualifying applicants and any renewals exceed any such restriction, the department shall, after renewing all qualifying licenses, rank new applicants using the following factors: site security; medical or botany experience; acceptance in the site community; potential for positive economic impact in the site community; and maintaining competitiveness in the marijuana for medical use marketplace. In evaluating licenses, the department may consult or contract with other public agencies with relevant expertise regarding these factors.

(15) The department shall begin accepting license applications for Medical Marijuana Dispensary Facilities, Medical Marijuana Cultivation Facilities, and Medical Marijuana-Infused Products Manufacturing Facilities no later than one hundred twenty days after the effective date of this section. Applications for licenses under this section shall be approved or denied by the department no later than ninety days after their submission. If the department fails to carry out its non-discretionary duty to approve or deny an application within ninety days of submission, an applicant may immediately seek a court order compelling the department to approve or deny the application.

(16) Qualifying patients under this section shall obtain and annually renew an identification card from the department. The department shall charge a fee of twenty-five dollars per issuance with such fee to be increased or decreased each year by the percentage of increase or decrease of the Consumer Price Index, or successor index as published by the U.S. Department of Labor or its successor agency. Upon receiving an application for a qualifying patient identification card, the department shall, within fourteen days, either issue the card or provide a written explanation for its denial.

(17) Primary caregivers under this section shall obtain and annually renew an identification card from the department. The department shall charge a fee of twenty-five dollars per issuance, with such fee to be increased or decreased each year by the percentage of increase or decrease of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. Upon receiving an application for a primary caregiver identification card, the department shall, within fourteen days, either issue the card or provide a written explanation for its denial.

**4. Taxation and Reporting**

(1) A tax is levied upon the retail sale of marijuana for medical use sold at Medical Marijuana Dispensary Facilities within the state. The tax shall be at a rate of six percent of the retail price. The tax shall be collected by each licensed Medical Marijuana Dispensary Facility and paid to the Department of Revenue. After retaining no more than one percent for its actual collection costs, amounts generated by the tax levied in this section shall be deposited by the Department of Revenue into the Missouri Veterans' Healthcare Fund. Licensed entities making retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.

(2) There is hereby created in the state treasury the "Missouri Veterans' Healthcare Fund," which shall consist of taxes and fees collected under this section. The State Treasurer shall be custodian of the fund and he or she shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund. Notwithstanding any other provision of law, any moneys remaining in the fund at the end of a biennium shall not revert to the credit of the general revenue fund. The fund shall be a dedicated fund and shall stand appropriated without further legislative action as follows:

(a) First, to the department, an amount necessary for the department to carry out this section, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

(b) Next, the remainder of such funds shall be transferred to the Missouri Veterans Commission for healthcare services for military veterans, including the following purposes: operations of the Missouri Veteran's Homes and Missouri Service Officer's Program.

(c) All moneys appropriated from the taxes authorized under this subsection shall provide additional funds for the purposes enumerated above and shall not replace existing funding.

(3) For all retail sales of marijuana for medical use, a record shall be kept by the seller which identifies by secure and encrypted patient number, the qualifying patient involved in the sale, all amounts and types of marijuana involved in the sale and the total amount of money involved in the sale, including itemizations and grand total sale amounts. All such records shall be kept on the premises and be made available for review by the department and the Department of Revenue upon request.

(4) The tax levied pursuant to this subsection is separate from and in addition to any general state and local sales and use taxes that apply to retail sales, which shall continue to be collected and distributed as provided by general law.

(5) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of marijuana for medical use.

**5. Additional Patient, Physician, Caregiver and Provider Protections**

(1) Except as provided in this section, the possession of marijuana in quantities less than the limits of this section or established by the department shall not subject the possessor to arrest, criminal or civil liability, or sanctions under Missouri law, provided that a valid qualifying patient identification card; a valid patient cultivation registration; while a related patient identification card application is pending, a valid physician certification written fewer than thirty days prior; and a valid primary caregiver identification card, or the respective equivalent issued by another state or political subdivision of another state, is produced upon demand.

(2) A physician shall not be subject to criminal or civil liability or sanctions under Missouri law or discipline by the Missouri State Board of Registration for the Healing Arts, or its successor agency, for issuing a physician certification to a person diagnosed with a qualifying medical condition in a manner consistent with this section and legal standards of professional conduct.

(3) A health care provider shall not be subject to civil or criminal prosecution, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission, for providing health care services that involve the medical use of marijuana consistent with this section and legal standards of professional conduct.

(4) A testing laboratory shall not be subject to civil or criminal prosecution, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission, for providing laboratory testing services that relate to the medical use of marijuana consistent with this section and otherwise meeting legal standards of professional conduct.

(5) A health care provider shall not be subject to mandatory reporting requirements for the medical use of marijuana by qualifying patients under eighteen years of age in a manner consistent with this section.

(6) A primary caregiver shall not be subject to criminal or civil liability or sanctions under Missouri law for purchasing or administering marijuana for medical use by a qualifying patient or participating in the patient cultivation of up to six marijuana plants per patient in a manner consistent with this section and generally established legal standards of personal or professional conduct.

(7) An attorney shall not be subject to disciplinary action by the state bar association or other professional licensing body for providing legal assistance to prospective or licensed Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensary Facilities, Medical Marijuana-Infused Products Manufacturing Facilities, qualifying

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patients, primary caregivers, or others related to activity that is no longer subject to criminal penalties under state law pursuant to this section.

(8) Actions and conduct by Qualifying Patients, Primary Caregivers, Medical Marijuana Cultivation Facilities, Medical Marijuana-Infused Products Manufacturing Facilities or Medical Marijuana Dispensary Facilities licensed or registered with the department, or their employees, as permitted by this section and in compliance with department regulations and other standards of legal conduct, shall not be subject to criminal or civil liability or sanctions under Missouri law, except as provided for by this section.

(9) There shall be no immunities for negligence, either common law or statutorily created, nor civil or criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of marijuana, and except as specifically set out in this section, the use of marijuana shall not be a defense to any illegal civil or criminal activity unrelated to this section.

(10) It is the public policy of the state of Missouri that contracts related to marijuana for medical use that are entered into by Qualifying Patients, Primary Caregivers, Medical Marijuana Cultivation Facilities, Medical Marijuana-Infused Products Manufacturing Facilities or Medical Marijuana Dispensary Facilities and those who allow property to be used by those persons, should be enforceable. It is the public policy of the state of Missouri that no contract entered into by Qualifying Patients, Primary Caregivers, Medical Marijuana Cultivation Facilities, Medical Marijuana-Infused Products Manufacturing Facilities or Medical Marijuana Dispensary Facilities, or by a person who allows property to be used for activities that are exempt from state criminal penalties by this chapter, shall be unenforceable on the basis that activities related to medical marijuana may be prohibited by federal law.

**6. Legislation**

Nothing in this section shall limit the General Assembly from enacting laws consistent with this section, or otherwise effectuating the patient rights of this section. The legislature shall not enact laws that hinder the right of qualifying patients to access marijuana for medical use as granted by this section

**7. Additional Provisions**

(1) Nothing in this section permits a person to:

(a) Consume marijuana for medical use in a jail or correctional facility;

(b) Undertake any task under the influence of marijuana when doing so would constitute negligence or professional malpractice; or

(c) Operate, navigate, or be in actual physical control of any dangerous device or motor vehicle, aircraft or motorboat while under the influence of marijuana; or

(d) Bring a claim against any employer, former employer or prospective employer for wrongful discharge, discrimination, or any similar cause of action or remedy, based on the employer, former employer or prospective employer prohibiting the employee, former employee or prospective employee from being under the influence of marijuana while at work or disciplining the employer or former employee, up to and including termination from employment, for working or attempting to work while under the influence of marijuana.

(2) No Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility shall be owned, in whole or in part, or have as an officer, director, board member, manager, or employee, any individual with a disqualifying felony offense. A "disqualifying felony offense" is a violation of, and conviction or guilty plea to, state or federal law that is, or would have been, a felony under Missouri law, regardless of the sentence imposed, unless the department determines that:

(a) The person's conviction was for the medical use of marijuana or assisting in the medical use of marijuana; or

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(b) The person's conviction was for a non-violent crime for which he or she was not incarcerated and that is more than five years old; or

(c) More than five years have passed since the person was released from parole or probation, and he or she has not been convicted of any subsequent criminal offenses.

(3) All Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility licenses shall be held by entities that are controlled by natural persons who have been citizens of the state of Missouri for at least one year. Notwithstanding the forgoing, entities outside the state of Missouri may own a minority stake in such entities.

(4) A county may require a site permit for a Medical Marijuana Dispensary Facility utilizing generally applicable permitting standards. In addition, a county may limit the number of site permits granted for Medical Marijuana Dispensary Facilities, provided however that the number may not be limited to fewer than one site for every thirty thousand inhabitants, or any portion thereof, in such county, according to the most recent census of the United States.

(5) No Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility or Medical Marijuana-Infused Products Manufacturing Facility shall manufacture, package or label marijuana or marijuana-infused products in a false, misleading or confusing manner or in any manner likely to cause confusion between the marijuana or marijuana-infused product and any product not containing marijuana. All edible marijuana-infused products shall be sold in individual child-resistant containers that are labeled with dosage amounts, instructions for use, and estimated length of effectiveness. All marijuana and marijuana-infused products shall be sold in containers clearly and conspicuously labeled, in a font size at least as large as the largest other font size used on the package, as containing "Marijuana," or a "Marijuana-Infused Product." A purposeful violation of this subdivision shall be punishable by imprisonment of up to one year and a fine of up to ten thousand dollars.

(6) No poisonous or deleterious substances shall be added to any marijuana or marijuana-infused product sold for medical use. Doing so purposefully shall be punishable by imprisonment of up to one year and a fine of up to ten thousand dollars.

(7) No individual shall serve as the primary caregiver for more than three qualifying patients.

(8) No qualifying patient shall consume marijuana for medical use in a public place. Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty and loss of their patient identification card for up to a year.

(9) No person shall extract resins from marijuana using dangerous materials or combustible gasses without a Medical Marijuana-Infused Products Manufacturing Facility license. Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty and loss of their identification card or license for up to a year.

(10) All patient cultivation shall take place in an enclosed, locked facility that is equipped with security devices that permit access only by the qualifying patient authorized to cultivate the plants or by such patient's primary caregiver. Two qualifying patients, who both hold valid patient cultivation identifications, may share one enclosed locked facility. No more than twenty-four marijuana plants may be cultivated in a single enclosed locked facility.

(11) No Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility shall assign, sell, give, lease, sublicense, or otherwise transfer its license to any other entity.

(12) Unless allowed by the local government, no new Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility shall be located within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church. No local government shall prohibit Medical Marijuana Cultivation Facilities, Medical Marijuana Infused Products Manufacturing Facilities, or Medical Marijuana Dispensary Facility,

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either expressly or through the enactment of ordinances or regulations which make their operation impracticable in the jurisdiction. However, local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place, and manner of such facilities in the locality. A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of a Medical Marijuana Cultivation Facility, Medical Marijuana Infused Products Manufacturing Facility, or Medical Marijuana Dispensary Facility that may operate in such locality.

(13) Unless superseded by federal law or an amendment to this Constitution, a physician shall not recommend or prescribe the medical use of marijuana to a patient by any means other than providing a physician certification for the patient, whether handwritten, electronic or in another commonly used format. No physician shall issue more physician certifications than a number equivalent to twenty-five percent of their total number of prescriptions for other drugs.

(14) A physician shall not recommend or prescribe the medical use of marijuana to an non-emancipated patient under the age of eighteen without the written consent of a parent or legal guardian.

(15) Nothing in this section shall be construed as mandating health insurance coverage of medical marijuana for patient use.

(16) Real and personal property used in the cultivation, transport, sale, and administration of marijuana for medical use shall not be subject to asset forfeiture solely because of that use.

**8. Severability**

The provisions of this section are severable and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, other provisions shall continue to be in effect to the fullest extent possible.

**9. Effective Date**

The provisions of this section shall become effective on December 8, 2016, as provided by this Constitution.

RECEIVED
SEP 30 2015
STATE AUDITORS OFFICE

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

STATE AUDITORS OFFICE

ELECTIONS DIVISION
(573) 751-2301

16-123

September 30, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Jane Dueker regarding a proposed constitutional amendment to Article III (2016-123)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Jane Dueker on September 30, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-123

County_____

Page No._____

**It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.**

**INITIATIVE PETITION**

RECEIVED
2015 SEP 28 AM 12: 26

**To the Honorable Jason Kander, Secretary of State for the state of Missouri:**

**We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed law amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2015, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.**

**(Official Ballot title)**

**CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, County Of _____ I, _____, being first duly sworn, say (print or type names of signers)**

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong Dist. | NAME (Print or Typed) |
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| 1. | | | | | | |
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**signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.**

**FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.**

**I am at least 18 years of age. I do____ do not _____ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____**

_____

**Signature of Affiant (Person obtaining signatures)**

_____

**(Printed Name of Affiant)**

_____

**Address of Affiant**

**Subscribed and sworn to before me this ____day of _____, A.D. _____.**

_____

**Signature of Notary**

**Address of Notary:_____**

_____

**Notary Public (Seal)**

**My commission expires _____**

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

16-123

Sections 2 and 9, Article III, Constitution of Missouri, is repealed and two new sections adopted in lieu thereof, to be known as sections 2 and 9, to read as follows:

Section 2. The house of representatives shall consist of one hundred sixty-three members and, beginning with the one hundred second general assembly, one hundred twenty-three members, elected at each general election and apportioned in the following manner: Within sixty days after the population of this state is reported to the President for each decennial census of the United States and, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and, beginning with the one hundred second general assembly, one hundred twenty-three representative districts, and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and, beginning with the one hundred second general assembly, the number one hundred twenty-three, and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.

Each district shall be composed of contiguous territory as compact as may be.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.

Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

No reapportionment shall be subject to the referendum.

Section 9. Until the convening of the [Seventy-fourth General Assembly the House of Representatives]one hundred second general assembly, the house of representatives shall consist of one hundred sixty-three members elected from the one hundred sixty-three representative districts, as they existed [January 1, 1965.] during the one hundred first general assembly. Beginning with the one hundred second general assembly, the house of representatives shall consist of one hundred twenty-three members pursuant to section 2 of this article.

RECEIVED
SEP 30 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-122

September 30, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from John Lamping regarding a proposed constitutional amendment to Article III (2016-122)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by John Lamping on September 30, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-122

County_____

Page No._____

**It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.**

**INITIATIVE PETITION**

**To the Honorable Jason Kander, Secretary of State for the state of Missouri:**

**We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed law amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2015, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.**

**(Official Ballot title)**

RECEIVED
2015 SEP 30 PM 12:25
SECRETARY OF STATE

**CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, County Of _____ I, _____, being first duly sworn, say (print or type names of signers)**

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong Dist. | NAME (Print or Typed) |
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**signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.**

**FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.**

**I am at least 18 years of age. I do____ do not _____ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____**

_____

**Signature of Affiant (Person obtaining signatures)**

_____

**(Printed Name of Affiant)**

_____

**Address of Affiant**

**Subscribed and sworn to before me this ____day of _____, A.D. _____.**

_____

**Signature of Notary**

**Address of Notary:**_____

_____

**Notary Public (Seal)**

**My commission expires** _____

16-122

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Sections 2 and 9, Article III, Constitution of Missouri, is repealed and two new sections adopted in lieu thereof, to be known as sections 2 and 9, to read as follows:

Section 2. The house of representatives shall consist of one hundred sixty-three members and, beginning with the one hundred second general assembly, one hundred twenty-three members, elected at each general election and apportioned in the following manner: Within sixty days after the population of this state is reported to the President for each decennial census of the United States and, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and, beginning with the one hundred second general assembly, one hundred twenty-three representative districts, and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and, beginning with the one hundred second general assembly, the number one hundred twenty-three, and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.

RECEIVED
2015 SEP 30 PM 3:51

Each district shall be composed of contiguous territory as compact as may be.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.

Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

No reapportionment shall be subject to the referendum.

Section 9. Until the convening of the [Seventy-fourth General Assembly the House of Representatives]one hundred second general assembly, the house of representatives shall consist of one hundred sixty-three members elected from the one hundred sixty-three representative districts, as they existed [January 1, 1965.] during the one hundred first general assembly. Beginning with the one hundred second general assembly, the house of representatives shall consist of one hundred twenty-three members pursuant to section 2 of this article.

16-121

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

September 28, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Theodis Brown regarding a proposed statutory amendment to Chapter 178 (2016-121)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Theodis Brown on September 28, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

RECEIVED
SEP 28 2015
STATE AUDITORS OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County .....

16-121

Page No. .....

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year, a fine not to exceed one thousand dollars, or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, all registered voters of the state of Missouri and ..... County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and ..... County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot title.) BE IT ENACTED BY THE VOTER PEOPLES OF STATE: SHALL SECTION 170.82 RSMo 2016 BE INVOKED TO ALLOW VOTERS TO ORDER ST LOUIS CITY + COUNTY POLICE DEPT TO CONTRACT CAMPUS POLICE SERVICE ON CITIZEN PETITION VOTE BALLOT MEASURE TO WIT: YES? OR NO?

## CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF .....

I, ....., being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
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| 10. | | | | | 10. |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and .....County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do..... do not ..... (check one) expect to be paid for circulating this petition. If paid, list the payer; .....

.....
Signature of Affiant
(Person obtaining signatures)

.....
(Printed Name of Affiant)

.....
Address of Affiant

Subscribed and sworn to before me this ..... day of ..... A.D. ....

.....
Signature of Notary

Address of Notary

Notary Public (Seal)
My commission expires .....

RECEIVED
2015 SEP 28 AM 9:23

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
SEP 23 2015
STATE AUDITORS OFFICE

16-120

September 23, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Steven L. Reed regarding a proposed constitutional amendment to Article I, version 2 (2016-120)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Steven L. Reed on September 22, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-120

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 SEP 22 PM 3:26
MO SECRETARY OF STATE

[Insert official ballot title]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI,

COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)
(Petition Circulator's Printed Name)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | Zip Code | Congr. Dist. | NAME (Printed or Typed) |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer _____.

_____
Signature of Affiant (Person obtaining signatures)

_____
Street address of Affiant

_____
Printed Name of Affiant

_____
City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My commission expires:

16-120

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*
Article I, is amended by adding one new section to be known as Section 36, to read as follows:
Section 36. All Missouri Career Center locations will allow the people of Missouri to petition at their public entrances.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-120)**

**Subject**

Initiative petition from Steven L. Reed regarding a proposed constitutional amendment to Article I. (Received September 23, 2015)

**Date**

October 13, 2015

**Description**

This proposal would amend Article I of the Missouri Constitution.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Assumptions**

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated this bill would require their department to hire security at 28 Missouri Career Centers currently without security at an average cost of $35,000/year. This would cost their department $980,000/year.

This fiscal impact was calculated with the assumption that their department would need to hire security at 28 Missouri Career Centers that currently do not have security. The average cost of security at the 3 Career Centers that do have security is $35,000/year.

Officials from the **Department of Elementary and Secondary Education** indicated the proposal does not impact the department or local schools.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact for this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated no impact to their department.

Officials from the **Office of Administration** indicated there should be no impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **University of Missouri** indicated they have reviewed this initiative petition and determined it will have no fiscal impact.

The State Auditor's office did not receive a response from the **Attorney General's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate increased annual operating costs of $980,000 to provide security at applicable career centers. Local governmental entities report no expected fiscal impact.

RECEIVED
SEP 23 2015
STATE AUDITORS OFFICE

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

16-119

September 23, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Steven L. Reed regarding a proposed constitutional amendment to Article I, version 1 (2016-119)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Steven L. Reed on September 22, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-19

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and name of the city, town or village in which I live are correctly written after my name.

RECEIVED
SEP 22 PM 3:25
SECRETARY OF STATE

[Insert official ballot title]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI,

COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)
(Petition Circulator's Printed Name)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | Zip Code | Congr. Dist. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
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| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer _____.

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Street address of Affiant

_____
City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary

_____
Address of Notary

Notary Public (Seal)

My commission expires:

16-119

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*
Article I entitled Bill of Rights, is amended by adding one new section to be known as Section 36, to read as follows:
Section 36. All Missouri Career Center locations will allow the people of Missouri to petition at their public entrances.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-119)**

**Subject**

Initiative petition from Steven L. Reed regarding a proposed constitutional amendment to Article I. (Received September 23, 2015)

**Date**

October 13, 2015

**Description**

This proposal would amend Article I of the Missouri Constitution.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Assumptions**

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated this bill would require their department to hire security at 28 Missouri Career Centers currently without security at an average cost of $35,000/year. This would cost their department $980,000/year.

This fiscal impact was calculated with the assumption that their department would need to hire security at 28 Missouri Career Centers that currently do not have security. The average cost of security at the 3 Career Centers that do have security is $35,000/year.

Officials from the **Department of Elementary and Secondary Education** indicated the proposal does not impact the department or local schools.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact for this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated no fiscal impact to their department.

Officials from the **Office of Administration** indicated there should be no impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **University of Missouri** indicated they have reviewed this initiative petition and determined it will have no fiscal impact.

The State Auditor's office did not receive a response from the **Attorney General's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate increased annual operating costs of $980,000 to provide security at applicable career centers. Local governmental entities report no expected fiscal impact.

RECEIVED
SEP 17 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-118

September 17, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article VII, version 15 (2016-118)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on September 17, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-118 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

RECEIVED
2015 SEP 17 AM 9:06
SECRETARY OF STATE

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
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| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____
(Name of payer) Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-118

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article VII of the Constitution is revised by adopting 4 new sections to be known as Article VII Sections 15, 16, 17, and 18 to read as follows:

Article VII

Section 15.

1. No statewide elected officer or member of the general assembly shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit clients to represent as a paid lobbyist until one year after the expiration of any term of office for which such official is elected. No statewide elected officer or member of the general assembly shall act or serve as a paid political consultant or solicit clients to represent as a paid political consultant during any term of office for which such official is elected. Any paid employee of such officials shall also be barred from acting or serving as a paid lobbyist, registering as a paid lobbyist, or soliciting clients to represent as a paid lobbyist until one year after termination of their employment. Any paid employee of such officials shall also be barred from acting or serving as a paid political consultant or soliciting clients to represent as a paid political consultant during their employment.

2. No statewide elected officer or member of the general assembly, or the spouse, dependent children, staff or employees of such officer or member, or any department or division director of the executive branch, or any judicial branch purchasing officer or any locally elected government official shall accept any gift, tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. This subsection shall not be construed to prevent any public official from accepting contributions to political committees under his or her control, consistent with this section and applicable law, accepting informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, or accepting items that are available or distributed free of charge to members of the general public. However, no such public official or committee controlled by the public official shall accept an in-kind contribution of food, entertainment, lodging, or travel from a lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal.

3. No lobbyist shall deliver any gift, tangible or intangible item, service, or thing of value in excess of five dollars per occurrence to any statewide elected officer or member of the general assembly, or to the spouse, dependent children, staff or employees of such officer or member, or to any department or division director of the executive branch, or to any judicial branch purchasing officer, or to any locally elected government official. This subsection shall not be construed to prevent a lobbyist from delivering to a public official any contribution to a political committee under the control of that public official, consistent with this section and applicable law, any informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, or items that are available or distributed free of charge to members of the general public. However, no lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal shall make an in-kind contribution of food, entertainment, lodging, or travel to a public official or political committee controlled by a public official.

4. Notwithstanding any provision of law to the contrary, nothing in this section shall prohibit a paid employee of a statewide elected official from acting, serving or registering as a lobbyist for such employer before the legislative branch of state government.

5. Any violation of this section shall be punishable by a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars or both.

6. For purposes of this section, the following terms mean:

   "Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to

16-118

influence any action by a locally elected government official; and such person is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

"Paid political consultant", a person or organization controlled by the person that is paid to promote the election of a candidate, group of candidates or the interest of an organization or committee, as defined under the campaign finance laws of this state, which shall include, but not be limited to, planning campaign strategies, coordinating campaign staff, organizing meetings and public events to publicize the candidate or cause, public opinion polling, providing research on issues or opposition background, coordinating, producing or purchasing print, electronic, digital, broadcast or other media, direct mail production, phone solicitation, fundraising, and any other political activities.

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2015 SEP 17 AM 9:06

Section 16.

1. Unlimited campaign contributions to candidates for public office are banned. In addition to other campaign contribution limitations or restrictions provided for by law and unless local charter or ordinance provides for a lower contribution limit for a local office, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for public office shall not exceed the following:

   (1) To elect an individual to the office of governor, lieutenant governor, secretary of state, state treasurer, state auditor, or attorney general, one thousand dollars;
   (2) To elect an individual to the office of state senator, two hundred fifty dollars;
   (3) To elect an individual to the office of state representative, two hundred fifty dollars; and
   (4) To elect an individual to any other office, including judicial office, two hundred fifty dollars.

   The contribution limits under this subsection shall also apply to any person exploring a candidacy for a public office listed in this subsection.

   For purposes of this subsection, "base year amount" shall be the contribution limits prescribed in this subsection on January 1, 2017. Contribution limits set forth herein shall be adjusted on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a candidate for public office shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No contribution to a candidate for public office shall be made by or accepted from a corporation.

4. No candidate for public office shall accept a contribution from an out-of-state political committee unless the out-of-state committee has registered and filed a disclosure report with the ethics commission.

5. No political committee or candidate for public office shall accept a contribution from a foreign government or from a natural person who is not a citizen of the United States.

6. There shall be a rebuttable presumption that a contribution to a candidate for public office is made or accepted with the intent to circumvent the limitations on contributions imposed in this section when a contribution is received from a committee or organization that is primarily funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. A committee or organization shall be deemed to be primarily funded by a single person, individual, or other committee when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

7. No contribution to a candidate for public office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

16-118

8. If a payment for a covered communication for a candidate for public office is made by a person who is a coordinated spender with respect to the candidate, the payment or expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

9. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

10. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

11. No public official or candidate for public office shall solicit contributions, conduct fundraising activities, or hold fundraising events, supporting or opposing any candidate, ballot measure, political party, or political committee, on any property or in any building owned or leased by the state or any political subdivision, unless the property or building is routinely used by and made available for rent or for a fee to all members of the public by the state or the political subdivision.

12. For purposes of this section, the following terms are defined as follows:

(1) "Candidate", an individual who seeks nomination or election to public office, including an elected officeholder who is the subject of a recall election, an individual who seeks nomination by the individual's political party for election to public office, an individual standing for retention in an election to an office to which the individual was previously appointed, an individual who seeks nomination or election whether or not the specific elective public office to be sought has been finally determined, and an individual who is a write-in candidate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for public office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or

16-118

candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

(c) In addition, the term "contribution" shall include any payment or expenditure by any person other than a candidate or a candidate committee made in connection with the election of any candidate that is authorized, requested, suggested, or fostered by a candidate, candidate committee, or agents of the candidate or candidate committee, or made in cooperation with the candidate, candidate committee, or agents of the candidate or candidate committee, and any payment or expenditure for any communication which republishes, disseminates, or distributes, in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or by agents of the candidate or candidate committee.

2015 SEP 17 AM 9:06 RECEIVED

(d) For purposes of the definition of "contribution", there is a rebuttable presumption that a payment or expenditure by a person for a communication about a candidate or a candidate's opponent is a contribution in any of the following circumstances:

a. The communication includes or is based on information about a candidate's campaign plans, projects, or needs that is not generally available to the public or is provided directly or indirectly by the candidate;

b. The person discusses or negotiates the communication with the candidate;

c. The person and the candidate or the candidate's committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting, legal services, or other non-campaign services.

(e) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;

b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;

c. The person made contributions to the candidate;

d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;

e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee, including with the express or tacit approval of the candidate or candidate committee or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

16-118

(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience in the form of:

(a) An audio or video communication via internet, broadcast, cable or satellite;

(b) A written communication via internet or printed advertisements, pamphlets, circulars, flyers, brochures, letterheads; or

(c) Other published statements which:

a. Irrespective of when such communication is made, contain words such as "vote", "oppose", "support", "elect", "defeat", or "reject", which call for the election or defeat of the clearly identified candidate; or

b. Refers to and advocates for or against a clearly identified candidate on or after January first of the year of the election in which such candidate is seeking office.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

13. Any violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year or a fine of up to one thousand dollars or both, plus an amount equal to three times the value of the illegal contributions.
(2) For the second and subsequent violations, a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the value of the illegal contributions.

16-118

Section 17.

No statewide elected officer, or any member of the general assembly, or any of such elected official's employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by law or policy for the victim, any violation of this section shall be punishable by imprisonment for up to one year or a fine of up to one thousand dollars or both.

Section 18.

If any provision of sections 15, 16, or 17 of this article or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

RECEIVED
2015 SEP 17 AM 9:06
SECRETARY OF STATE

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-118)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article VII. (Received September 17, 2015)

## Date

October 7, 2015

## Description

This proposal would amend Article VII of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated no fiscal impact to their department.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **University of Missouri** indicated this initiative petition will have no fiscal impact on the university.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for FY 2017, $61,107 for FY 2018 and $61,734 for FY 2019.

**Summarize how this bill would affect the agency**

Prohibiting a statewide official, member of the general assembly, employee of such office holders from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130, RSMo

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific prohibition of receiving compensation as a political consultant from the entities outlined in Section 105.456, RSMo, including reviewing campaign finance reports as established in Section 105.955.14 (2), (3), RSMo.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a statewide official, member of the general assembly, employee of such office holders from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period

of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.

- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a statewide official, member of general assembly, spouse and/or dependent child of such office holders, department and/or division directors of executive brand agencies, judicial purchasing officers and local elected government officials to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

- $15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

- 1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

- If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate increased annual operating costs of at least $61,000 and indicate there may be minimal incarceration costs if people are convicted under the provisions of this petition. Local governmental entities report no expected fiscal impact.

RECEIVED
SEP 17 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-117

September 17, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article VII, version 14 (2016-117)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on September 17, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-117

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 SEP 17 AM 9:05
SECRETARY OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

My commission expires _____

_____
Address of Notary (Street, City, State & Zip Code)

16-117

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article VII of the Constitution is revised by adopting 4 new sections to be known as Article VII Sections 15, 16, 17, and 18 to read as follows:

Article VII

Section 15.

1. No statewide elected officer or member of the general assembly shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit clients to represent as a paid lobbyist until one year after the expiration of any term of office for which such official is elected. No statewide elected officer or member of the general assembly shall act or serve as a paid political consultant or solicit clients to represent as a paid political consultant during any term of office for which such official is elected. Any paid employee of such officials shall also be barred from acting or serving as a paid lobbyist, registering as a paid lobbyist, or soliciting clients to represent as a paid lobbyist until one year after termination of their employment. Any paid employee of such officials shall also be barred from acting or serving as a paid political consultant or soliciting clients to represent as a paid political consultant during their employment.

2. No statewide elected officer or member of the general assembly, or the spouse, dependent children, staff or employees of such officer or member, or any department or division director of the executive branch, or any judicial branch purchasing officer or any locally elected government official shall accept any gift, tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. This subsection shall not be construed to prevent any public official from accepting contributions to political committees under his or her control, consistent with this section and applicable law, accepting informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, or accepting items that are available or distributed free of charge to members of the general public. However, no such public official or committee controlled by the public official shall accept an in-kind contribution of food, entertainment, lodging, or travel from a lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal.

3. No lobbyist shall deliver any gift, tangible or intangible item, service, or thing of value in excess of five dollars per occurrence to any statewide elected officer or member of the general assembly, or to the spouse, dependent children, staff or employees of such officer or member, or to any department or division director of the executive branch, or to any judicial branch purchasing officer, or to any locally elected government official. This subsection shall not be construed to prevent a lobbyist from delivering to a public official any contribution to a political committee under the control of that public official, consistent with this section and applicable law, any informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, or items that are available or distributed free of charge to members of the general public. However, no lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal shall make an in-kind contribution of food, entertainment, lodging, or travel to a public official or political committee controlled by a public official.

4. Notwithstanding any provision of law to the contrary, nothing in this section shall prohibit a paid employee of a statewide elected official from acting, serving or registering as a lobbyist for such employer before the legislative branch of state government.

5. Any violation of this section shall be punishable by a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars or both.

6. For purposes of this section, the following terms mean:

   "Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to

16-117

influence any action by a locally elected government official; and such person is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

"Paid political consultant", a person or organization controlled by the person that is paid to promote the election of a candidate, group of candidates or the interest of an organization or committee, as defined under the campaign finance laws of this state, which shall include, but not be limited to, planning campaign strategies, coordinating campaign staff, organizing meetings and public events to publicize the candidate or cause, public opinion polling, providing research on issues or opposition background, coordinating, producing or purchasing print, electronic, digital, broadcast or other media, direct mail production, phone solicitation, fundraising, and any other political activities.

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2015 SEP 17 AM 9:05

Section 16.

1. Unlimited campaign contributions to candidates for public office are banned. In addition to other campaign contribution limitations or restrictions provided for by law and unless local charter or ordinance provides for a lower contribution limit for a local office, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for public office shall not exceed the following:

   (1) To elect an individual to the office of governor, lieutenant governor, secretary of state, state treasurer, state auditor, or attorney general, two thousand seven hundred dollars;
   (2) To elect an individual to the office of state senator, one thousand dollars;
   (3) To elect an individual to the office of state representative, one thousand dollars; and
   (4) To elect an individual to any other office, including judicial office, one thousand dollars.

   The contribution limits under this subsection shall also apply to any person exploring a candidacy for a public office listed in this subsection.

   For purposes of this subsection, "base year amount" shall be the contribution limits prescribed in this subsection on January 1, 2017. Contribution limits set forth herein shall be adjusted on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a candidate for public office shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No contribution to a candidate for public office shall be made by or accepted from a corporation.

4. No candidate for public office shall accept a contribution from an out-of-state political committee unless the out-of-state committee has registered and filed a disclosure report with the ethics commission.

5. No political committee or candidate for public office shall accept a contribution from a foreign government or from a natural person who is not a citizen of the United States.

6. There shall be a rebuttable presumption that a contribution to a candidate for public office is made or accepted with the intent to circumvent the limitations on contributions imposed in this section when a contribution is received from a committee or organization that is primarily funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. A committee or organization shall be deemed to be primarily funded by a single person, individual, or other committee when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

7. No contribution to a candidate for public office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

16-117

8. If a payment for a covered communication for a candidate for public office is made by a person who is a coordinated spender with respect to the candidate, the payment or expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

9. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

10. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

11. No public official or candidate for public office shall solicit contributions, conduct fundraising activities, or hold fundraising events, supporting or opposing any candidate, ballot measure, political party, or political committee, on any property or in any building owned or leased by the state or any political subdivision, unless the property or building is routinely used by and made available for rent or for a fee to all members of the public by the state or the political subdivision.

12. For purposes of this section, the following terms are defined as follows:

(1) "Candidate", an individual who seeks nomination or election to public office, including an elected officeholder who is the subject of a recall election, an individual who seeks nomination by the individual's political party for election to public office, an individual standing for retention in an election to an office to which the individual was previously appointed, an individual who seeks nomination or election whether or not the specific elective public office to be sought has been finally determined, and an individual who is a write-in candidate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for public office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or

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candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

(c) In addition, the term "contribution" shall include any payment or expenditure by any person other than a candidate or a candidate committee made in connection with the election of any candidate that is authorized, requested, suggested, or fostered by a candidate, candidate committee, or agents of the candidate or candidate committee, or made in cooperation with the candidate, candidate committee, or agents of the candidate or candidate committee, and any payment or expenditure for any communication which republishes, disseminates, or distributes, in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or by agents of the candidate or candidate committee.

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(d) For purposes of the definition of "contribution", there is a rebuttable presumption that a payment or expenditure by a person for a communication about a candidate or a candidate's opponent is a contribution in any of the following circumstances:

a. The communication includes or is based on information about a candidate's campaign plans, projects, or needs that is not generally available to the public or is provided directly or indirectly by the candidate;

b. The person discusses or negotiates the communication with the candidate;

c. The person and the candidate or the candidate's committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting, legal services, or other non-campaign services.

(e) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;

b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;

c. The person made contributions to the candidate;

d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;

e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee, including with the express or tacit approval of the candidate or candidate committee or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

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(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience in the form of:

(a) An audio or video communication via internet, broadcast, cable or satellite;

(b) A written communication via internet or printed advertisements, pamphlets, circulars, flyers, brochures, letterheads; or

(c) Other published statements which:

a. Irrespective of when such communication is made, contain words such as "vote", "oppose", "support", "elect", "defeat", or "reject", which call for the election or defeat of the clearly identified candidate; or

b. Refers to and advocates for or against a clearly identified candidate on or after January first of the year of the election in which such candidate is seeking office.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

13. Any violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year or a fine of up to one thousand dollars or both, plus an amount equal to three times the value of the illegal contributions.
(2) For the second and subsequent violations, a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the value of the illegal contributions.

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Section 17.

No statewide elected officer, or any member of the general assembly, or any of such elected official's employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by law or policy for the victim, any violation of this section shall be punishable by imprisonment for up to one year or a fine of up to one thousand dollars or both.

Section 18.

If any provision of sections 15, 16, or 17 of this article or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

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SECRETARY OF STATE

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-117)**

**Subject**

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article VII. (Received September 17, 2015)

**Date**

October 7, 2015

**Description**

This proposal would amend Article VII of the Missouri Constitution.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated no fiscal impact to their department.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **University of Missouri** indicated this initiative petition will have no fiscal impact on the university.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for FY 2017, $61,107 for FY 2018 and $61,734 for FY 2019.

**Summarize how this bill would affect the agency**

Prohibiting a statewide official, member of the general assembly, employee of such office holders from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130, RSMo

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific prohibition of receiving compensation as a political consultant from the entities outlined in Section 105.456, RSMo, including reviewing campaign finance reports as established in Section 105.955.14 (2), (3), RSMo.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a statewide official, member of the general assembly, employee of such office holders from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period

of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.

- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a statewide official, member of general assembly, spouse and/or dependent child of such office holders, department and/or division directors of executive brand agencies, judicial purchasing officers and local elected government officials to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

- $15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

- 1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

- If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate increased annual operating costs of at least $61,000 and indicate there may be minimal incarceration costs if people are convicted under the provisions of this petition. Local governmental entities report no expected fiscal impact.

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SEP 17 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-116

September 17, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article VII, version 13 (2016-116)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on September 17, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-116 County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

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[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-116

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article VII of the Constitution is revised by adopting 4 new sections to be known as Article VII Sections 15, 16, 17, and 18 to read as follows:

Article VII

Section 15.

1. No statewide elected officer or member of the general assembly shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit clients to represent as a paid lobbyist until one year after the expiration of any term of office for which such official is elected. No statewide elected officer or member of the general assembly shall act or serve as a paid political consultant or solicit clients to represent as a paid political consultant during any term of office for which such official is elected. Any paid employee of such officials shall also be barred from acting or serving as a paid lobbyist, registering as a paid lobbyist, or soliciting clients to represent as a paid lobbyist until one year after termination of their employment. Any paid employee of such officials shall also be barred from acting or serving as a paid political consultant or soliciting clients to represent as a paid political consultant during their employment.

2. No statewide elected officer or member of the general assembly, or the spouse, dependent children, staff or employees of such officer or member, or any department or division director of the executive branch, or any judicial branch purchasing officer or any locally elected government official shall accept any gift, tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. This subsection shall not be construed to prevent any public official from accepting contributions to political committees under his or her control, consistent with this section and applicable law, accepting informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, or accepting items that are available or distributed free of charge to members of the general public. However, no such public official or committee controlled by the public official shall accept an in-kind contribution of food, entertainment, lodging, or travel from a lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal.

3. No lobbyist shall deliver any gift, tangible or intangible item, service, or thing of value in excess of five dollars per occurrence to any statewide elected officer or member of the general assembly, or to the spouse, dependent children, staff or employees of such officer or member, or to any department or division director of the executive branch, or to any judicial branch purchasing officer, or to any locally elected government official. This subsection shall not be construed to prevent a lobbyist from delivering to a public official any contribution to a political committee under the control of that public official, consistent with this section and applicable law, any informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, or items that are available or distributed free of charge to members of the general public. However, no lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal shall make an in-kind contribution of food, entertainment, lodging, or travel to a public official or political committee controlled by a public official.

4. Notwithstanding any provision of law to the contrary, nothing in this section shall prohibit a paid employee of a statewide elected official from acting, serving or registering as a lobbyist for such employer before the legislative branch of state government.

5. Any violation of this section shall be punishable by a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars or both.

6. For purposes of this section, the following terms mean:

   "Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to

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influence any action by a locally elected government official; and such person is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

"Paid political consultant", a person or organization controlled by the person that is paid to promote the election of a candidate, group of candidates or the interest of an organization or committee, as defined under the campaign finance laws of this state, which shall include, but not be limited to, planning campaign strategies, coordinating campaign staff, organizing meetings and public events to publicize the candidate or cause, public opinion polling, providing research on issues or opposition background, coordinating, producing or purchasing print, electronic, digital, broadcast or other media, direct mail production, phone solicitation, fundraising, and any other political activities.

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Section 16.

1. Unlimited campaign contributions to candidates for public office are banned. In addition to other campaign contribution limitations or restrictions provided for by law and unless local charter or ordinance provides for a lower contribution limit for a local office, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for public office shall not exceed the following:

   (1) To elect an individual to the office of governor, lieutenant governor, secretary of state, state treasurer, state auditor, or attorney general, five thousand four hundred dollars;
   (2) To elect an individual to the office of state senator, two thousand seven hundred dollars;
   (3) To elect an individual to the office of state representative, two thousand seven hundred dollars; and
   (4) To elect an individual to any other office, including judicial office, two thousand seven hundred dollars.

   The contribution limits under this subsection shall also apply to any person exploring a candidacy for a public office listed in this subsection.

   For purposes of this subsection, "base year amount" shall be the contribution limits prescribed in this subsection on January 1, 2017. Contribution limits set forth herein shall be adjusted on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a candidate for public office shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No contribution to a candidate for public office shall be made by or accepted from a corporation.

4. No candidate for public office shall accept a contribution from an out-of-state political committee unless the out-of-state committee has registered and filed a disclosure report with the ethics commission.

5. No political committee or candidate for public office shall accept a contribution from a foreign government or from a natural person who is not a citizen of the United States.

6. There shall be a rebuttable presumption that a contribution to a candidate for public office is made or accepted with the intent to circumvent the limitations on contributions imposed in this section when a contribution is received from a committee or organization that is primarily funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. A committee or organization shall be deemed to be primarily funded by a single person, individual, or other committee when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

7. No contribution to a candidate for public office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

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8. If a payment for a covered communication for a candidate for public office is made by a person who is a coordinated spender with respect to the candidate, the payment or expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

9. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

10. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

11. No public official or candidate for public office shall solicit contributions, conduct fundraising activities, or hold fundraising events, supporting or opposing any candidate, ballot measure, political party, or political committee, on any property or in any building owned or leased by the state or any political subdivision, unless the property or building is routinely used by and made available for rent or for a fee to all members of the public by the state or the political subdivision.

12. For purposes of this section, the following terms are defined as follows:

(1) "Candidate", an individual who seeks nomination or election to public office, including an elected officeholder who is the subject of a recall election, an individual who seeks nomination by the individual's political party for election to public office, an individual standing for retention in an election to an office to which the individual was previously appointed, an individual who seeks nomination or election whether or not the specific elective public office to be sought has been finally determined, and an individual who is a write-in candidate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for public office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or

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candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

(c) In addition, the term "contribution" shall include any payment or expenditure by any person other than a candidate or a candidate committee made in connection with the election of any candidate that is authorized, requested, suggested, or fostered by a candidate, candidate committee, or agents of the candidate or candidate committee, or made in cooperation with the candidate, candidate committee, or agents of the candidate or candidate committee, and any payment or expenditure for any communication which republishes, disseminates, or distributes, in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or by agents of the candidate or candidate committee.

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(d) For purposes of the definition of "contribution", there is a rebuttable presumption that a payment or expenditure by a person for a communication about a candidate or a candidate's opponent is a contribution in any of the following circumstances:

a. The communication includes or is based on information about a candidate's campaign plans, projects, or needs that is not generally available to the public or is provided directly or indirectly by the candidate;

b. The person discusses or negotiates the communication with the candidate;

c. The person and the candidate or the candidate's committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting, legal services, or other non-campaign services.

(e) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;

b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;

c. The person made contributions to the candidate;

d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;

e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee, including with the express or tacit approval of the candidate or candidate committee or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience in the form of:

(a) An audio or video communication via internet, broadcast, cable or satellite;

(b) A written communication via internet or printed advertisements, pamphlets, circulars, flyers, brochures, letterheads; or

(c) Other published statements which:

a. Irrespective of when such communication is made, contain words such as "vote", "oppose", "support", "elect", "defeat", or "reject", which call for the election or defeat of the clearly identified candidate; or

b. Refers to and advocates for or against a clearly identified candidate on or after January first of the year of the election in which such candidate is seeking office.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

13. Any violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year or a fine of up to one thousand dollars or both, plus an amount equal to three times the value of the illegal contributions.
(2) For the second and subsequent violations, a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the value of the illegal contributions.

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Section 17.

No statewide elected officer, or any member of the general assembly, or any of such elected official's employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by law or policy for the victim, any violation of this section shall be punishable by imprisonment for up to one year or a fine of up to one thousand dollars or both.

Section 18.

If any provision of sections 15, 16, or 17 of this article or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

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**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-116)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article VII. (Received September 17, 2015)

## Date

October 7, 2015

## Description

This proposal would amend Article VII of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated no fiscal impact to their department.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **University of Missouri** indicated this initiative petition will have no fiscal impact on the university.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for FY 2017, $61,107 for FY 2018 and $61,734 for FY 2019.

**Summarize how this bill would affect the agency**

Prohibiting a statewide official, member of the general assembly, employee of such office holders from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130, RSMo

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific prohibition of receiving compensation as a political consultant from the entities outlined in Section 105.456, RSMo, including reviewing campaign finance reports as established in Section 105.955.14 (2), (3), RSMo.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a statewide official, member of the general assembly, employee of such office holders from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period

of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.

- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a statewide official, member of general assembly, spouse and/or dependent child of such office holders, department and/or division directors of executive brand agencies, judicial purchasing officers and local elected government officials to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

- $15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

- 1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

- If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate increased annual operating costs of at least $61,000 and indicate there may be minimal incarceration costs if people are convicted under the provisions of this petition. Local governmental entities report no expected fiscal impact.

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SEP 17 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-115

September 17, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Edward Greim regarding a proposed statutory amendment to Chapters 210, 196, & 149, version 17 (2016-115)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Edward Greim on September 17, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-115 County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

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(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do □ do not □ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Address of Affiant

_____
Printed Name of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My commission expires _____

16-115

NOTICE: You are advised that the proposed law changes, repeals, or modifies by implication, or may be construed to change, repeal or modify by implication, the following provisions of the Missouri Revised Statutes — Sections 66.340, 66.350, 149.015, 149.021, 149.065, 149.160, 196.1003, 210.102, and 210.320. The proposed law enacts two new sections, to be known as sections 149.017 and 149.161.

*Be it enacted by the people of the State of Missouri:*

Sections 210.102 and 196.1003 of the Revised Statutes of Missouri are amended and sections 149.017 and 149.161 are enacted, to read as follows:

210.102. 1. Sections 149.017 and 149.161, and certain amendments to 196.1003 and 210.102, shall be referred to as the Early Childhood Health and Education Act, with the purpose of supporting and improving early childhood health and education through regulation of tobacco manufacturers and sellers. This Act:

(1) Creates the Early Childhood Health and Education Trust Fund in order to support and improve early childhood health and education across the state;

(2) Reforms the Coordinating Board for Early Childhood to administer the Early Childhood Health and Education Trust Fund and provide grants that support and improve early childhood health and education; and

(3) Funds the Early Childhood Health and Education Trust Fund through increased regulations on tobacco manufacturers and sellers.

All of the provisions of this act are severable. If any provision of this act is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this act shall be and remain valid and in full force and effect.

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2. It shall be the duty of the Missouri children's services commission to:

(1) Make recommendations which will encourage greater interagency coordination, cooperation, more effective utilization of existing resources and less duplication of effort in activities of state agencies which affect the legal rights and well-being of children in Missouri;

(2) Develop an integrated state plan for the care provided to children in this state through state programs;

(3) Develop a plan to improve the quality of children's programs statewide. Such plan shall include, but not be limited to:

(a) Methods for promoting geographic availability and financial accessibility for all children and families in need of such services;

(b) Program recommendations for children's services which include child development, education, supervision, health and social services;

(4) Design and implement evaluation of the activities of the commission in fulfilling the duties as set out in this section;

(5) Report annually to the governor with five copies each to the house of representatives and senate about its activities including, but not limited to the following:

(a) A general description of the activities pertaining to children of each state agency having a member on the commission;

(b) A general description of the plans and goals, as they affect children, of each state agency having a member on the commission;

(c) Recommendations for statutory and appropriation initiatives to implement the integrated state plan;

(d) A report from the commission regarding the state of children in Missouri.

[2.]3. For years ending on or before December 31, 2016, [There is hereby established within the children's services commission] the "Coordinating Board for Early Childhood", which shall constitute a body corporate and politic, shall be established within the children's services commission, and shall include but not be limited to the following members:

(1) A representative from the governor's office;

(2) A representative from each of the following departments: health and senior services, mental health, social services, and elementary and secondary education;

(3) A representative of the judiciary;

(4) A representative of the family and community trust board (FACT);

(5) A representative from the head start program;

(6) Nine members appointed by the governor with the advice and consent of the senate who are representatives of the groups, such as business, philanthropy, civic groups, faith-based organizations, parent groups, advocacy organizations, early childhood service providers, and other stakeholders. The coordinating board may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers. The coordinating board shall elect from amongst its members a chairperson, vice chairperson, a secretary-reporter, and such other officers as it deems necessary. Members of the board shall serve without compensation but may be reimbursed for actual expenses necessary to the performance of their official duties for the board.

4. Beginning on January 1, 2017, the coordinating board for early childhood, which shall constitute a body corporate and politic, shall be established within the department of elementary and secondary education and shall include the following members:

(1) The director or the director's designee from each of the following departments: health and senior services, mental health, and

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social services;

(2) The commissioner or the commissioner's designee from the department of elementary and secondary education;

(3) Two members of the Missouri general assembly. One member shall be the chairman of the joint committee on education. One member shall be a member of the joint committee on education, shall be from a different party and different legislative chamber than the chairman of the joint committee on education, and shall be appointed by the elected leader, either the speaker of the house of representatives or the president pro tempore of the senate, of the member's legislative chamber;

(4) The director of the Missouri head start-state collaborative office;

(5) Six citizens, representing each of the following areas: early childhood education and development providers, local Head Start agencies, higher education, business, faith, and medicine. The Governor shall appoint, with the advice and consent of the senate, the three citizens representing the areas of medicine, business, and higher education. The state board of education shall appoint the citizens representing the areas of early childhood education and development providers, local Head Start agencies, and faith.

Citizens appointed under subdivision (5) shall serve a term of three years. Such citizens shall be eligible to serve two terms. Such citizens that serve a partial term of less than eighteen months shall be eligible to serve the partial term and two full terms. Such citizens that serve a partial term of more than eighteen months shall be eligible to serve the partial term and one full term.

[3.]5. The coordinating board for early childhood shall have the power to:

(1) Develop a comprehensive statewide long-range strategic plan for a cohesive early childhood system. The board shall review the plan each year and make amendments to the plan as it deems necessary. The board shall submit the plan to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of 2018 and each year thereafter;

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(2) Confer with public and private entities for the purpose of promoting and improving the development of children from birth through age five of this state;

(3) Identify legislative recommendations to improve services for children from birth through age five;

(4)Promote coordination of existing services and programs across public and private entities;

(5) Promote research-based approaches to services and ongoing program evaluation;

(6) Identify service gaps and advise public and private entities on methods to close such gaps;

(7) Apply for and accept gifts, grants, appropriations, loans, or contributions to the coordinating board for early childhood fund from any source, public or private, and enter into contracts or other transactions with any federal or state agency, any private organizations, or any other source in furtherance of the purpose of subsections 3 through 15[2 and 3] of this section, and take any and all actions necessary to avail itself of such aid and cooperation;

(8) Direct disbursements and grants from the coordinating board for early childhood fund and the early childhood health and education trust fund as provided in this section;

(9) Administer the coordinating board for early childhood fund and the early childhood health and education trust fund [and invest any portion of the moneys not required for immediate disbursement in obligations of the United States or any agency or instrumentality of the United States, in obligations of the state of Missouri and its political subdivisions, in certificates of deposit and time deposits, or other obligations of banks and savings and loan associations, or in such other obligations as may be prescribed by the board];

(10) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal with real or personal property or any interests therein, wherever situated;

(11) Sell, convey, lease, exchange, transfer or otherwise dispose of all or any of its property or any interest therein, wherever situated;

(12) Employ and fix the compensation of an executive director and such other agents or employees as it considers necessary;

(13) Adopt, alter, or repeal by its own bylaws, rules, and regulations governing the manner in which its business may be transacted;

(14) Adopt and use an official seal;

(15) Assess or charge fees as the board determines to be reasonable to carry out its purposes;

(16) Make all expenditures which are incident and necessary to carry out its purposes;

(17) Sue and be sued in its official name;

(18) Take such action, enter into such agreements, and exercise all functions necessary or appropriate to carry out the duties and purposes set forth in this section;

(19) Contract with one or more not-for-profits to meet the requirements of this section;

(20) Provide technical assistance to grantees;

(21) Coordinate with parents, community leaders, local governments, and public and private entities to improve the quality of and increase access to early childhood development programs in communities throughout the state; and

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(22) Pursue public and private partnership opportunities that are consistent with the objectives of subsection 6 of this section.

6. Any grants awarded by the coordinating board for early childhood shall accomplish one or more of the following objectives:

(1) Increasing access to existing quality early childhood development programs;

(2) Improving the quality of early childhood development programs;

(3) Increasing access to preventive health care and health and developmental screenings for children ages birth through five;

(4) Offering parent and family support and education concerning prenatal development, early child development, numeracy, and literacy;

(5) Providing professional development and training for early childhood development providers;

(6) Increasing coordination of early childhood development programs and public information about the importance of early childhood development;

(7) Providing evidenced-based smoking cessation programs for pregnant mothers.

7. The coordinating board for early childhood shall consider the following nonexclusive factors when awarding grants as provided in this section:

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(1) Whether the project or activities will improve outcomes for children ages birth through five, consistent with the objectives of this section;

(2) Whether the project or activity leverages matching dollars;

(3) Whether the project or activity addresses needs identified by the local community; and

(4) The sustainability of the project or activity.

8. The coordinating board for early childhood shall establish accountability and audit requirements for all grant recipients, including requirements that success be measured by outcomes for children and families.

9. It shall be the duty of the coordinating board for early childhood to:

(1) Establish and maintain a conflict of interest policy for its members and staff;

(2) Prepare an annual report describing the activities of the board and a description of outcomes for children and families achieved by the board and grant recipients, including a list of all grant recipients and the amount of any grants awarded to such recipients. The board shall submit the report to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of each year, beginning in 2019, and shall provide a copy of the report to the secretary of state; and

(3) Ensure a fair and equitable distribution of funds collected as provided under sections 149.017 and 149.161 based on the established residency population of children ages birth through five.

10. There is hereby created the "Coordinating Board for Early Childhood Fund" which shall consist of the following:

(1) Any moneys appropriated by the general assembly for use by the board in carrying out the powers set out in subsections 3 through 9[2 and 3] of this section;

(2) Any moneys received from grants or which are given, donated, or contributed to the fund from any source;

(3) Any moneys received as fees authorized under subsections 3 through 9[2 and 3] of this section;

(4) Any moneys received as interest on deposits or as income on approved investments of the fund;

(5) Any moneys obtained from any other available source. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the coordinating board for early childhood fund at the end of the biennium shall not revert to the credit of the general revenue fund.

11. There is hereby created the Early Childhood Health and Education Trust Fund which shall consist of all moneys collected as provided in sections 149.017 and 149.161, less any reduction allowed in section 149.021. Interest and moneys earned on the fund shall be credited to the fund.

12. No more than eight percent of the moneys received by the early childhood health and education trust fund shall be used for administrative expenses. Eligible administrative expenses shall include only those reasonable and necessary for:

(1) Salaries, fringe benefits, expenses, and equipment of staff employed by the coordinating board for early childhood;

(2) Expenses associated with cost sharing of salaries, fringe benefits, expenses, and equipment of staff employed or contracted by the coordinating board for early childhood from any other state department or agency of the state;

(3) Expenses of the coordinating board for early childhood associated with contracting with not-for-profit entities;

(4) Expenses of the coordinating board for early childhood associated with audits and outcome evaluations of programs and activities funded under this section;

(5) Expenses of grantees associated with meeting administrative requirements of grants established by the coordinating board for early childhood;

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No more than 40% of administrative expenses shall be expended on items (1) through (4) of this subsection.

13. Moneys in the funds may be invested by the state treasurer, and any income therefrom shall be deposited to the credit of the fund. Any moneys credited to and placed in the early childhood health and education trust fund shall be appropriated and used only for purposes which are authorized by this section and shall not be subject to the provisions of section 33.080.

14. The net proceeds from the moneys collected as provided in sections 149.017 and 149.161 shall constitute new and additional funding for the activities, initiatives, and programs funded by the coordinating board for early childhood and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

15. Beginning January 1, 2017, the department of elementary and secondary education and the coordinating board for early childhood may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This subsection and chapter 536 are nonseverable from one another, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017 shall be invalid and void.

16. Notwithstanding the provisions of this section, section 149.017, or section 149.065, five percent, to be collected annually, of the net proceeds from the moneys collected as provided in sections 149.017 and 149.161 shall constitute new and additional funding for the Missouri Department of Health and Senior Services for the purpose of establishing, maintaining, and enhancing activities, programs, and initiatives to promote tobacco use quit assistance and prevention, including a comprehensive statewide tobacco control program, and public health for tobacco-related diseases. The comprehensive statewide tobacco control program shall be consistent with the United States Centers for Disease Control and Prevention's, or its successor agency's, best practices and guidelines for tobacco control programs, if any, and shall be designed to be effective to prevent and reduce tobacco use, reduce the public's exposure to secondhand smoke, and identify and eliminate disparities related to tobacco use and its effects among different population groups. The components of the comprehensive statewide tobacco control program shall include, but not be limited to: state and community based interventions, health communication interventions, cessation interventions, surveillance and evaluation, and administration and management. No more than fifteen percent of the moneys in this subsection may be expended by the Missouri Department of Health and Senior Services for activities, programs, and initiatives that promote public health for tobacco-related diseases, such as programs to provide student loan forgiveness or scholarships for medical professionals who work in underserved areas of the state, but that are not part of the comprehensive statewide tobacco control program. Moneys pursuant to this subsection expended by the Missouri Department of Health and Senior Services for the purpose of promoting public health for tobacco-related diseases shall be used solely for that purpose and shall not be used directly or indirectly for research activities.

149.017. 1. Beginning January 1, 2017, in addition to the tax levied upon the sale of cigarettes in this state pursuant to section 149.015, a tax shall be levied upon the sale of cigarettes applied a tax at an amount equal to forty mills per cigarette.

2. The tax shall be evidenced by stamps in the same manner as cigarettes stamped pursuant to sections 149.015 and 149.021. Stamped cigarettes in the possession of a wholesaler or retailer before any phase of the additional tax under subsection 1 of this section is imposed, shall not be subject to such phase of the additional tax before retail sale.

3. The tax on any cigarettes contained in packages of four, ten, twenty or similar quantities to be used solely for distribution as samples shall be computed on a per cigarette basis at the rate set forth in this section, and payment of the tax shall be remitted to the director at such time and in such manner as he may prescribe.

4. The provisions of section 149.065 notwithstanding, all moneys collected as a result of the taxes imposed by this section and section 149.161 shall be credited to and placed in the early childhood health and education trust fund established by section 210.102 as said moneys are received. All of the moneys from the taxes imposed by this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the early childhood health and education trust fund.

5. The additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section and section 149.161 may be paid from moneys appropriated from the early childhood health and education trust fund for that purpose, not to exceed one and one half of one percent (1.5%) of the total moneys collected in that fiscal year. Collection and enforcement activities and initiatives that are paid for with moneys from the early childhood health and education trust fund shall be conducted in a fiscally responsible manner in order to maximize the net proceeds available for distribution pursuant to section 210.102. Moneys appropriated from the early childhood health and education trust fund pursuant to this subdivision shall not be used to pay costs that are not additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section;

6. The net proceeds from the taxes imposed by this section and section 149.161 shall constitute new and additional funding for the activities, initiatives, and programs described in section 210.102 and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

7. On an annual basis, the director of the department of revenue, in consultation with the director of health and senior services, shall determine whether the taxes imposed by this section and section 149.161 have resulted in a decrease in consumption of tobacco products and thereby directly caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320 or revenues to local governments under lawfully enacted sales taxes. If a reduction in the amount of moneys collected and deposited into any of those funds pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320, or revenues to local governments under lawfully enacted sales taxes has been directly caused by the taxes imposed by this section and section 149.161, an amount equal to the amount of moneys that were not collected and deposited into that fund or funds or were not generated by the local tobacco taxes authorized by sections 66.340, 210.320, and sections providing authority for local government sales taxes because of the taxes imposed by this section and section 149.161 shall be transferred from the early childhood health and education trust fund pursuant to section 210.102 as follows: first, to the appropriate political subdivisions, second, to local governments to account for any decrease in local sales tax collections, and third to the appropriate fund or funds. The aggregate amount

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transferred to such funds and political subdivisions from the early childhood health and education trust fund for any year shall not exceed four percent of the total moneys collected pursuant to this section and section 149.161 during that same year.

149.161. Beginning on January 1, 2017, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, a tax shall be levied upon the first sale of tobacco products other than cigarettes within this state in the amount of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. The tax on tobacco products shall be at the rate of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. Licensed persons making first sales shall be allowed credit in accordance with the provisions of section 149.160.1. The additional tax levied by this section shall not apply to inventories of tobacco products in the possession of the retailer or wholesaler on December 31, 2016.

196.1003. Requirements.

Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this Act shall do one of the following:

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(a) become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

(b) (1) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts, (as such amounts are adjusted for inflation) —
1999: $.0094241 per unit sold after the date of enactment of this Act;
2000: $.0104712 per unit sold;
for each of 2001 and 2002: $.0136125 per unit sold;
for each of 2003 through 2006: $.0167539 per unit sold;
for each of 2007 and each year thereafter: $.0188482 per unit sold.

(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances —

(A) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (i) in the order in which they were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment) had it been a participating manufacturer, the percentage determined in subdivision (D) of the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(C) to the extent not released from escrow under subparagraphs (A) or (B), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

(D) The amount in subdivision (B) of the excess released from escrow shall be: for units sold during all years ending on or after December 31, 2017, zero percent.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails [in any year] to place into escrow the funds required under this section shall

(A) be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;

(B) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

(C) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years.

Each failure to make an annual deposit required under this section shall constitute a separate violation. Any tobacco product manufacturer that violates the provisions of this section shall pay the State's cost and attorney's fees incurred during a successful prosecution under this section.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-115)**

**Subject**

Initiative petition from Edward Greim regarding a proposed amendment to Chapters 149, 196, and 210 of the Revised Statutes of Missouri. (Received September 17, 2015)

**Date**

October 7, 2015

**Description**

This proposal would amend Chapters 149, 196, and 210 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Edward Greim** provided information as a proponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated the petition provides funds for a comprehensive tobacco control program, which is already administered by the Department. However the current funding appropriated is only 3 percent of the total funding the Centers for Disease Control and Prevention (CDC) recommends for the state of Missouri to have a fully funded comprehensive tobacco control program. The additional funds in this proposal would be used to enhance and expand the existing program and would bring the total funding available to 26 percent of CDC's recommendation (CDC recommendation is $73 million). While Missouri currently has one of the lowest tax rates for tobacco products, it has one of the highest tobacco use rates.

Rental space for five staff located in Jefferson City, one staff in Kansas City, and one staff in St. Louis would be required: 7 full-time employees (FTE) x 230 sq ft/FTE x $16.75/sq ft = $26,967.50.

There is a potential to affect small businesses that sell cigarettes and other tobacco products. Research has shown that interventions that increase the price of tobacco products reduce consumption.

The petition requires that 5 percent of the net proceeds collected by the tax increases be allocated to the Missouri Department of Health and Senior Services for the purpose of establishing, maintaining, and enhancing activities, programs, and initiatives to promote tobacco use quit assistance and prevention, including a comprehensive statewide tobacco control program, and public health for tobacco-related diseases. The comprehensive statewide tobacco control program shall be consistent with the United States Centers for Disease Control and Prevention's (CDC) guidelines for tobacco control programs, and shall be designed to be effective to prevent and reduce tobacco use, reduce the public's exposure to secondhand smoke, and identify and eliminate disparities related to tobacco use and its effects among different population groups. The components of the comprehensive statewide tobacco control program shall include, but not be limited to: state and community based interventions, health communication interventions, cessation interventions, surveillance and evaluation, and administration and management.

**Revenue**:
Section 149.017, raises the tax on cigarettes to 40 mills per cigarette beginning January 1, 2017. The Office of Administration Budget and Planning estimates the total cigarette tax revenue as a result of this increase to be $327,500,000.

Section 149.061 levies an additional 5 percent tax on the first sales of tobacco products other than cigarettes beginning January 1, 2017. The Office of Administration Budget and Planning estimates the total additional tax collected on other tobacco products to be $7,900,000.

Section 149.017.2 requires the additional tax on cigarettes to be stamped in accordance with the provisions of existing sections 149.015 and 149.021. This creates an allowance of 3 percent of the cigarette taxes to the wholesaler for the compensation for the time required to affix the stamps.

Section 149.017.5 allows for up to 1.5 percent of the total funds collected to be appropriated from the fund to the state for the purposes of collecting and enforcing the taxes of this section. This estimate assumes that 1.5 percent will be appropriated for this use.

Section 210.102.16 allocates 5 percent of the net proceeds of money collected as provided in sections 149.017 and 149.161 to the Missouri Department of Health and Senior Services for the purpose of funding a comprehensive tobacco control program.

The estimated revenues for calendar year 2017 are calculated as follows:

| | |
|---|---|
| Cigarette tax | $327,500,000 |
| Other tobacco products tax | $7,900,000 |
| Less 3% of cigarette tax for stamps | ($9,825,000) |
| Total tax collected | $325,575,000 |
| Less 1.5% administrative fee | (4,883,625) |
| Net Proceeds | $320,691,375 |
| **5% of net proceeds for DHSS** | **$16,034,569** |

Since the additional tax would not start until January 1, 2017, it is assumed the first appropriation of funds for the expanded comprehensive tobacco control program would start in the 2018 fiscal year.

**Costs**
The assumptions used for calculating the cost to the Department are as follows:

**Personnel needs**:

| | |
|---|---|
| One Planner III (Range A48, Step B): | $45,156 |
| Two Health Educator III (Range A25, Step B): | $80,760 |
| One Health Program Representative III (Range A24, Step B): | $38,928 |
| One Health Program Representative I/II (Range A18, Step B): | $30,984 |

| | |
|---|---|
| One Sr. Off. Support Assistant, Keyboard (Range A09, Step F): | $25,824 |
| One Public Health Epidemiologist (Range A32, Step A) | $55,416 |

The Planner III would work with multiple partners across the state to identify, plan, and implement evidence-based programs in comprehensive tobacco control. Duties would include preparing, reviewing and approving applications for funding; supervising assigned staff; and assuring an evaluation plan consistent with Department goals for comprehensive tobacco control and chronic disease prevention is executed.

The two Health Educator IIIs would be stationed in Kansas City and St. Louis to work directly with contractors in the major metropolitan areas and surrounding counties providing technical assistance on implementing community based interventions. Duties would include technical assistance, training and education in comprehensive tobacco control issues.

The Health Program Representative III would work with the Program Coordinator, the Planner III, and the Office of Public Information to assure a media plan consistent with Department goals for comprehensive tobacco control and chronic disease prevention is executed.

The Health Program Representative I/II would be responsible for contract management, contract monitoring, invoice tracking, etc.

The Senior Office Support Assistant (Keyboard) would provide support to the staff located in field offices, including the four employees currently in the field. Duties would include such activities as making arrangements for training and travel, preparing expense reports, assembling training packets, routing and tracking program documents, and answering the phone for the program.

The Public Health Epidemiologist will oversee the surveillance and evaluation activities of the program, developing evaluation plans, assuring all interventions are appropriately evaluated, preparing evaluation reports, and coordinating collection of data on tobacco control measures.

Standards costs for equipment and expenses of staff are included in the cost estimation.

**Program Services Costs**
Remaining funds of $15,408,380 would be allocated in contracts for Quitline assistance, media, and local community evidence-based initiatives.

A well-funded Quitline is needed to provide on-going support in quitting tobacco use to any Missourian. The Quitline would provide cessation coaching, texting support, on-line support, and quitting medications – over-the counter and prescription to those without prescription drug benefits – as approved by the U.S. Food and Drug Administration.

A comprehensive tobacco control program must include paid media to promote health messages to adults, youth and communities on issues of not using tobacco and eliminating exposure to secondhand smoke.

Finally, contracts would be offered to local entities to implement evidence-based, community-based interventions in cessation, youth initiation, and secondhand smoke exposure. Contractors would include local public health agencies, faith-based organizations, non-profit organizations, educational institutions. These would be sought through requests for proposals (to be developed by the Planner III).

Evidence-based interventions conducted by contractors would include those supporting the goals of comprehensive tobacco control:

- Reducing tobacco use through local tobacco cessation – for example, one-on-one interventions with individuals needing face-to-face coaching or in culturally sensitive settings for those with a disproportionate burden of tobacco use.
- Reducing youth initiation through prevention – for example, youth leadership in educating their communities on why tobacco use and secondhand smoke are harmful to health, developing local-focused media.
- Exposure to secondhand smoke – for example, local coalitions educating their communities on why tobacco use and secondhand smoke are harmful to health, developing local-focused media.

Contracts could also be funded to support state and local surveillance and evaluation efforts to demonstrate the effectiveness of the funded interventions.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated it does not appear that this proposal would have a direct fiscal impact on their department.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** (DOR) indicated this petition will have a fiscal impact of $75,006 for fiscal year (FY) 2017 on their department, creating additional expense for IT consultants, and will increase revenues for the Early Childhood Health and Education Trust Fund by $395,900,000 annually.

If approved by voters, this petition increases the revenue stream for the Early Childhood Health and Education Trust Fund, but creates a negative impact to general revenue.

**Section 149.017**
Beginning January 1, 2017, the legislation increases the tax on cigarettes to 40 mills per cigarette ($0.80 per pack of 20).

Stamped cigarettes in inventory prior to the effective dates of the increase and in possession of a retailer are not subject to the additional tax before retail sale. The petition also allows for up to one and one-half percent collection fee of the total moneys collected in a fiscal year.

The legislation requires the Department, in consultation with the Department of Health and Senior Services (DHSS), to annually determine if the taxes result in a decrease in consumption of tobacco products. The Departments must further determine if there are reductions in moneys collected and deposited into the fair share fund, health initiatives fund, or the state school moneys fund or local tobacco taxes.

With the additional assessed tax, the Department estimates an increase of $367.9 million per year to the Early Childhood Health and Education Trust Fund.

**Section 149.161**
Beginning on January 1, 2017, this section, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, levies a five percent tax upon the first sale of tobacco products other than cigarettes within this state. The legislation bases the five percent increase on the manufacturer's invoice price before discounts and deals. The person making the first sale within the state pays the tax.

With the additional assessed tax, the Department estimates an increase of $8.2 million per year to the Early Childhood Health and Education Trust Fund.

**Section 196.1003**
The amount of the excess escrow released must be for units sold during all years ending on or after December 31, 2017, zero percent.

**Section 210.102**
The section creates the Early Childhood Health and Education Act. Beginning in 2017, the Coordinating Board for Early Childhood becomes a body corporate and politic under the purview of the Department of Elementary & Secondary Education (DESE). Subsection 11 creates the Early Childhood Health and Education Trust Fund. The legislation deposits all moneys collected under sections 149.017 and 149.161, less any reductions allowed in section 149.021, into the trust fund. The legislation authorizes the collection of five percent annually of the net proceeds from the moneys collected under sections 149.017 and 149.161 to be additional funding for the Missouri Department of Health and Senior Services.

The Department estimates $19.8 million of additional funding for the Missouri Department of Health and Senior Services as a result of this section.

**Administrative Impact:**

**Excise Tax:**

The Early Childhood Health and Education Trust Fund requires changes to SAGE 50 accounting system and cashiering records. The legislation also creates the requirement for a new form.

Officials from the **Department of Public Safety** indicated their department sees no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated no fiscal impact to their department.

Officials from the **Office of Administration** (OA) indicated the proposal amends Sections 210.102 and 196.1003, RSMo, and adds Sections 149.017 and 149.161, RSMo.

Section 210.102, RSMo, moves the Coordinating Board for Early Childhood from the Children's Services Commission to DESE, effective January 1, 2017, changes the board membership and provides further guidance on funding and operations for the Board. Five percent of the new revenue collected is to be used by the MO Department of Health and Senior Services to establish, maintain and enhance activities, programs and initiatives to promote tobacco use quit assistance and prevention, including a comprehensive statewide tobacco control program, and public health for tobacco-related diseases. No more than 15% of these moneys may be used by DHSS to promote public health for tobacco-related diseases, such as student loan forgiveness or scholarships for medical professionals.

Section 149.017, RSMo, increases cigarette tax by 40 mills per cigarette on 1/1/2017. Section 149.161, RSMo, levies an additional 5% tax on other tobacco products beginning 1/1/2017. These monies will go to the Early Childhood Health and Education Trust (ECHET) Fund established in Section 210.102, RSMo. DOR and DHSS must annually determine whether the new taxes have caused a reduction in consumption and therefore a reduction in the amount of money collected for the Fair Share Fund, the Health Initiatives

Fund or the State School Moneys Fund and for local sales and tobacco taxes. If a reduction in consumption is found, then up to 4% of the new revenue collected is to be distributed to the various funds and political subdivisions from the ECHET Fund to hold them harmless.

Section 196.1003, RSMo, changes escrow requirements for the tobacco Master Settlement Agreement, with provisions to direct potential civil penalties to the ECHET Fund. Because this language changes what was previously approved as a "qualifying statute", it could adversely impact future Nonparticipating Manufacturer (NPM) adjustment arbitrations.

FISCAL IMPACT:

Cigarette Tax

In FY15, there was $81.7 million in cigarette excise taxes collected. OA assumes that the average pack of cigarettes retails for $4.50, translating to roughly 480.9 million packs sold in Missouri. OA further assumes that cigarette sales have a (0.8) elasticity. Therefore, OA estimates a tax increase of 40 mills per cigarette in January 2017 will increase the "Early Childhood Health and Education Fund" by $163.7 million in FY17 and $327.5 million once fully implemented in FY18.

There is no way to truly know what impact these tax increases will have on demand due to smoking cessation efforts, other state and federal regulations, and the increase in sales of e-cigarettes. However, OA estimates that the tax increase will decrease the Fair Share Fund by $1.2 million in FY17 and $2.4 million in FY18 and thereafter, the Health Initiatives fund by $1.2 million in FY17 and $2.4 million in FY18 and thereafter, and the State School Moneys Fund by $2.7 million in FY17 and $5.3 million in FY18 and thereafter.

Further, since cigarette sales will decrease slightly, General Revenue will be reduced by $7.7 million, the School District Trust Fund will be reduced by $2.6 million, and local sales tax will be reduced by $10.8 million once fully implemented in FY18, from the loss of sales tax.

Other Tobacco Products

In FY15, there was $17.7 million in other tobacco product excise taxes collected. OA assumes that the average unit retails for $4.09, translating to roughly $176.9 million in wholesales in Missouri. OA further assumes that other tobacco product sales have a (0.8) elasticity. Therefore, OA estimates this proposal will increase the "Early Childhood Health and Education Fund" by $4.0 million in FY17 and $7.9 million once fully implemented in FY18.

There is no way to truly know what impact this tax increase will have on demand due to cessation efforts, other state, federal, and local regulations, and the introduction of alternative products. However, OA estimates that this tax increase will decrease the

Health Initiatives Fund by $0.3 million in FY17 and $0.6 million once fully implemented in FY18.

Further, since other tobacco product sales will decrease slightly, General Revenue will be reduced by $190,000, the School District Trust Fund will be reduced by $62,000, and local sales tax will be reduced by $260,000 once fully implemented in FY18, from the loss of sales tax.

Master Settlement Agreement

The escrow changes should not impact state revenues. When civil penalties are redirected to the ECHET Fund, it would be an unknown loss of potential general revenue to the state.

Total Impact

This proposal will increase the "Early Childhood Health and Education Fund" by $335.4 million once fully implemented in FY18. This proposal will also decrease the Fair Share Fund by $2.4 million, the Health Initiatives fund by $3.0 million, and the State School Moneys Fund by $5.3 million once fully implemented in FY18.

In addition, due to lost sales tax revenue General Revenue will be reduced by $7.9 million, the School District Trust Fund will be reduced by $2.7 million, and local sales tax will be reduced by $11.1 million once fully implemented in FY18.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of

$122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated the initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated that there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **University of Missouri** indicated this initiative petition will have an undetermined fiscal impact on the university, to the extent the petition would affect any general revenue allocated to their university.

**Edward Greim** provided the following information as a proponent of this initiative petition.

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September 28, 2015

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Re: *Fiscal Note in Initiative Petitions 16-114 & 16-115*

To Whom It May Concern:

Based on the information contained in this letter and the attached letter from Tom Kruckemeyer, we propose the following fiscal note summary:

> Estimated additional revenue to state government is $331 million annually with limited estimated implementation costs or savings. The revenue will fund only programs and services allowed by the proposal. The proposal is estimated to result in no net costs or savings to local governmental entities.

**Introduction**

The initiative allows 460,000 children to receive the early health screenings they need to grow and thrive and the early childhood development experiences that will prepare them for long-term educational success. These programs have important trickle-down effects that result in increased revenue and decreased costs at the state and local level. The initiative is accomplished by funding grants across the state to improve early childhood health and education. Funding for grants is provided by a tobacco tax, conservatively resulting in $331 million in direct state revenue, while yielding important public health benefits.

**Early Childhood Delivers Big Benefits**

Missouri enrolls fewer children in its state preschool program than any neighboring state, and funding for programs like Parents as Teachers has been slashed in half. All Missourians benefit

from investments in early childhood education: children start school ready to succeed; parents are able to keep good jobs and earn higher incomes; and taxpayers save money because early childhood education lowers drop-out rates, reduces crime and cuts the cost of social services. Despite clear evidence showing investing in early learning is one of the smartest investments we can make, year after year we battle with the Missouri General Assembly to fund quality early childhood education. Missouri is the 38th worst state for public pre-K funding. In 2012, the General Assembly cut $13.2 million from early childhood programs, and Parents as Teachers remains $19 million behind its 2009 funding.

Traditional thought has long emphasized the relationship between early childhood education and academic success, but researchers now are finding that preschool does not have a substantial effect on increasing IQs but rather develops a child's "soft skills" and can have a profound effect on adult earning potential especially for disadvantaged kids.

Evidence shows that non-cognitive skills matter. Through activities like finger painting, playing with blocks, and interacting with other students, children learn how to control impulses, keep anger in check, stay on task, listen and follow curiosity. These soft skills are basic, but important tools needed to learn, find and keep a job and just manage everyday life. Most children gain these skills at home from their parents, but disadvantaged kids often miss the window of opportunity, which are the critical years before Kindergarten.

A literature of empirical evidence shows strong outcome effects for kids who attend pre-school. Using cost-benefit analyses, researchers have found a link between preschool attendance and reduced crime, fewer teen pregnancies, higher rates of college attendance and less need for public assistance. Cost-benefit studies show that pre-school provides the best value and produces more net benefits to society than increased classroom time or job training programs.

*Evidence from the Perry Preschool Program*

The most widely cited early childhood intervention occurred in Ypsilanti, Michigan during the 60s. Children with low IQ scores and a low socioeconomic index were invited to participate in the Perry Preschool Program. Using a coin toss, researchers divided students into two groups, a treatment group and a control group. Starting at age three the "treatment" kids got 2.5 hours of preschool a day and weekly home visits for two years. The "control" kids did not participate in either of the services. Researchers interviewed both groups at ages 15, 19, 27 and 40 and asked them questions about life events like school, work, marriage, parenting and incarceration. The following chart shows the major findings of the study.



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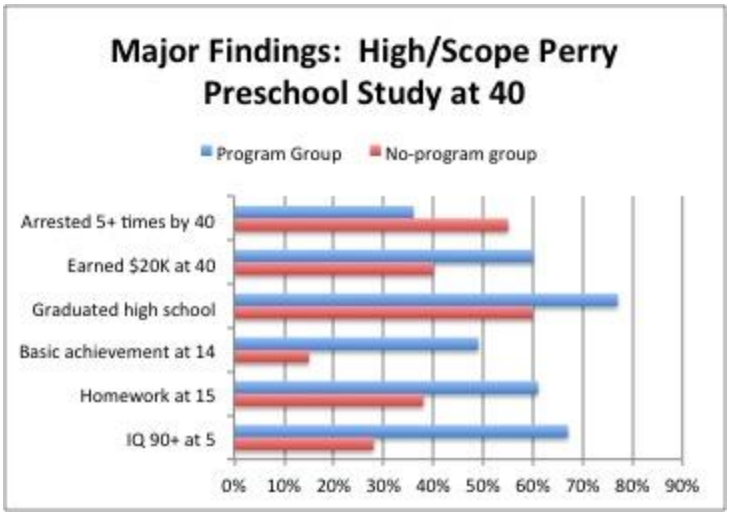


Source: Lifetime Effects: The HighScope Perry Preschool Study Through Age 40 (2005)

The pre-school girls went farther in school, earned higher GPAs, and received less special education than girls from the control group. Boys benefitted as well, but the boys who did not receive the preschool intervention were 2.3 times more likely to get arrested. The cost-savings alone from just the crime reduction demonstrated success.

With increased scrutiny over government spending, cost-benefit analysis gives policy analysts a tool to separate productive programs from ones that yield no social gains. A recent cost-benefit study that used a wider variety of assumptions and applied more rigorous accounting rules, estimated a return rate of about 7-10%. By monetizing social crime, the researchers were able to estimate that for every dollar invested in preschool, society earned back $30 to $300 dollars over the course of a lifetime (Heckman, Moon, Pinto, Savelyev, & Yavitz, 2010).

*Abecedarian and Chicago Studies*

Other studies confirmed the results of the Perry Preschool Project. The Carolina Abecedarian project in the 70s randomly assigned infants into intervention and control groups. The intervention group received full-day childcare from birth through Kindergarten. Intervention kids scored higher in reading and math, completed more education, were older when their first child was born and the mothers of intervention kids progressed farther in school and made more money than the control mothers. Intervention kids even smoked less.

A full-day five-year Pre-K program, while effective, would likely be cost-prohibitive for any state budget; however, the findings proved that early intervention does make a difference. And evidence suggests that a less expensive program could produce similar outcomes (Barnett & Masse, 2007).



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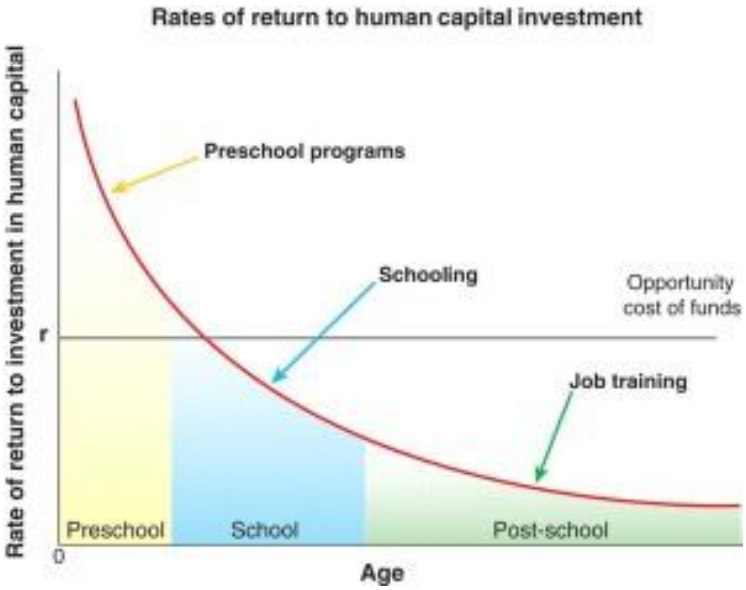
Just as Abecedarian kids earned higher wages than the control group, researchers found similar results from participants of the Chicago Child-Parent Program. The Chicago program targeted disadvantaged kids and provided a Headstart type intervention from ages three to nine. A cost-benefit analysis indicated for every dollar invested, the program produced seven in return. The largest impact was earning capacity, but Chicago kids were also less likely to need special education and less likely to commit crimes (Temple & Reynolds, 2007).

Much like with the Perry Program, the Chicago program demonstrated the relationship between early education, higher wages and crime reduction. Again it was the non-cognitive soft-skill development that made the difference. Second chance efforts like GED and job training provide fewer benefits and struggle to lift people out of poverty (Heckman & Masterov, 2007).




Source: Heckman, The Review of Agricultural Economics (2007)

What the Perry, Abecedarian and Chicago programs show is that pre-school helps kids develop soft-skills that make it easier to gain cognitive skills later and can lead to better jobs and a better quality of life. This in turn lessens the burden on government resources for remedial education, criminal justice and job-training programs.

Investing in human capital through access to finger-paints and story time may appear far-reaching, but multiple studies now point to early intervention as the cheapest, most effective way to prepare kids for the workforce and reduce crime. As labor force growth wanes and the demand for skilled workers increases, these studies suggest that a pipeline that begins at pre-school has great potential to produce big benefits to society in the long run.



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Table 1
Present value of Abecedarian benefits and costs per child (2002 dollars)

| | Discount rate (%) | | |
|---|---|---|---|
| | 3 | 5 | 7 |
| Program cost (net) | $35,864 | $34,599 | $33,421 |
| Program benefits | | | |
| Part. earnings | 37,531 | 16,460 | 6376 |
| Earnings of future generations | 5722 | 1586 | 479 |
| Maternal earnings | 68,728 | 48,496 | 35,560 |
| K-12 education | 8836 | 7375 | 6205 |
| Smoking/health | 17,781 | 4166 | 1008 |
| Higher education costs | −8128 | −5621 | −3920 |
| AFDC | 196 | 129 | 85 |
| Total benefits | $130,666 | $72,591 | $45,793 |
| Net present value | $94,802 | $37,992 | $12,372 |

**Reducing the Harmful Effects of Tobacco**

Tobacco tax increases offer a win-win-win solution for states as they work to balance budgets while preserving essential public services. Tobacco tax increases are one of the most effective ways to reduce smoking and other tobacco use, especially among kids. Every state that has significantly increased its cigarette tax has enjoyed substantial increases in revenue, even while reducing smoking. Higher tobacco taxes also save money by reducing tobacco-related health care costs, including Medicaid expenses. States can realize even greater health benefits and cost savings by allocating some of the revenue to programs that prevent children from smoking and help smokers quit.

National and state polls consistently have found overwhelming public support for tobacco tax increases. Polls also show that, when it comes to balancing budgets, voters prefer raising tobacco taxes to other tax increases or cutting crucial programs such as education and public safety.

Tobacco use causes approximately $3.03 billion in annual health care expenditures in Missouri. Smoking specifically causes over $500 million in annual costs for the Missouri Medicaid program. The initiative petition would increase the tax on cigarettes by $0.50 per pack and would increase the tax on other tobacco products by 5%. By conservative estimates, those tax increases would raise approximately $331 million in new state revenue to improve early childhood health



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and education programs. New state revenue is the amount of additional new revenue over the first full year after the effective date. The state will collect less new revenue to the extent that the rate increase does not apply to all cigarettes and other tobacco products held in wholesaler and retailer inventories on the effective date. This fiscal projection was derived using a price elasticity of demand for cigarettes of -0.8, even though the weight of credible academic literature suggests a conservative estimate for the price elasticity of demand for cigarettes is -0.4.

Tax increases of less than roughly 25 cents per pack or 10% of the average state pack price do not produce significant public health benefits or cost savings because the cigarette companies can easily offset the beneficial impact of such small increases with temporary price cuts, coupons, and other promotional discounting. Splitting a tax rate increase into separate, smaller increases in successive years will similarly diminish or eliminate the public health benefits and related cost savings (as well as reduce the amount of new revenues).

In addition to raising new revenue, the tax increase would have an immediate public health benefit. Each 10% cigarette price increase reduces youth smoking by 6.5%. Each 10% cigarette price increase reduces adult smoking by 2%. The total expected reduction in smoking consumption as a result of a 10% price increase is 4%. It is conservatively estimated that the initiative petition would decrease youth smoking by 6% in Missouri.

There would also be a fiscal benefit to the citizens of the state from the improved public health. As of 2014, the CDC estimated 11,000 annual average smoking-attributable deaths in Missouri. 127,500 Missouri Youth aged 0-17 are projected to die from smoking. Approximately 22.1% of Missouri adults smoke. Approximately 14.9% of Missouri high school students smoke. The average Missouri resident's state and federal tax burden from smoking-caused government expenditures is $588 per household. Approximately one of every six pregnant women smokes, a rate significantly higher than the national average. Smoking during pregnancy increases the risk for preterm delivery, stillbirth, low birth weight and Sudden Infant Death Syndrome.
In recent years, almost every state and the federal government have increased tobacco taxes. Missouri is a notable exception. The average state cigarette tax is currently $1.60 per pack, but rates vary widely from 17 cents in Missouri to $4.35 in New York. On April 1, 2009, the federal cigarette tax increased by 62 cents, to $1.01 per pack.

As of July 1, 2015, Missouri's cigarette tax was less than one-third of any of its border states: IL - $ 1.98; IA - $1.36; KS - $1.29; AR - $1.15; OK - $1.03; NE - $0.64; TN - $0.62; KY - $0.60. Moreover, Missouri's 17-cent per pack tax on cigarettes is the lowest in the country. The real value of the cigarette tax is decreasing. As a percentage of the overall Missouri State Budget, Missouri's tobacco taxes have decreased from 1.036% in 2000 to 0.464% in 2015. See MO Executive Budget Books & MO Office of Administration.

Every day 3,000 kids try their first cigarette and another 700 kids become regular smokers. There are more than 250 thousand new underage smokers each year. One third will eventually die from their addiction. Smoking has declined in every state where the tobacco tax has been increased.



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Ongoing reductions in state smoking levels will, over time, gradually erode state cigarette tax revenues (in the absence of any new rate increases). But those declines are more predictable and less volatile than many other state revenue sources, such as state income tax or corporate tax revenues (which can drop sharply during recessions). In addition, the smoking declines that reduce tobacco tax revenues will simultaneously produce much larger reductions in government and private sector smoking-caused costs. See the Campaign for Tobacco-Free Kids factsheet, *Tobacco Tax Increases are a Reliable Source of Substantial New State Revenue*, http://tobaccofreekids.org/research/factsheets/pdf/0303.pdf.

For other ways states can increase revenues (and promote public health) other than just raising its cigarette tax, see the Campaign factsheet, *The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

For more on sources and calculations, see http://www.tobaccofreekids.org/research/factsheets/pdf/0281.pdf

**Additional Information on Tobacco Product Tax Increases**

*Raising State Cigarette Taxes Always Increases State Revenues and Always Reduces Smoking*, http://tobaccofreekids.org/research/factsheets/pdf/0098.pdf.

*Responses to Misleading and Inaccurate Cigarette Company Arguments Against State Tobacco Tax Increases*, http://tobaccofreekids.org/research/factsheets/pdf/0227.pdf.

*State Cigarette Excise Tax Rates & Rankings*, http://tobaccofreekids.org/research/factsheets/pdf/0097.pdf.

*Top Combined State-Local Cigarette Tax Rates (State plus County plus City)*, http://tobaccofreekids.org/research/factsheets/pdf/0267.pdf.

*State Cigarette Tax Increases Benefit Lower-Income Smokers and Families*, http://tobaccofreekids.org/research/factsheets/pdf/0147.pdf.

*The Best Way to Tax Smokeless Tobacco*, http://tobaccofreekids.org/research/factsheets/pdf/0282.pdf.

*How to Make State Cigar Tax Rates Fair and Effective*, http://tobaccofreekids.org/research/factsheets/pdf/0335.pdf.

*State Benefits from Increasing Smokeless Tobacco Tax Rates*, http://tobaccofreekids.org/research/factsheets/pdf/0180.pdf.



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*The Case for High-Tech Cigarette Tax Stamps*, http://tobaccofreekids.org/research/factsheets/pdf/0310.pdf.

*State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion*, http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf.

*The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

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Sincerely,

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September 28, 2015

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To Whom It May Concern:

I currently work as the Director of Fiscal Policy and Chief Economist at the Missouri Budget Project, a nonprofit, objective, public policy analysis organization that provides independent research on complex state policy issues and how they impact the state budget. I hold a B.A. in Economics and History and an M.A. in Economics from the University of Missouri-St. Louis. I also hold an M.A. Political Science from the University of Missouri-Columbia. I worked in the Missouri Division of Budget from 1978 to 2004, where I served as the chief economist. In the course of both my positions at the Missouri Division of Budget as well as my current position, I have routinely projected the fiscal impact of tax changes.

In my experience, it is a conservative, generally accepted practice to project the revenue generated from a proposed cigarette tax by estimating an average price per cigarette (or price per pack), estimating a uniform price elasticity of demand, and to assume that the tax will result in a penny-for-penny increase in the cost of cigarettes.

Upon information and belief, the Office of Administration usually estimates the price elasticity of demand for cigarettes as -0.8. This estimate means that a 10% increase in the cost of cigarettes results in an 8% reduction in the quantity of cigarettes sold. A price elasticity of demand of -0.8 is a conservative but reasonable estimate for the price elasticity of demand of a product such as cigarettes. Notably, even with a 50 cent to one dollar increase in Missouri's cigarette tax, Missouri's cigarette tax will remain lower than many of its contiguous states, in particular the states that border major metropolitan areas, Illinois and Kansas.

Additionally, the Office of Administration's method for estimating cigarette tax revenue is conservative because it assumes a penny-for-penny price increase in the cost of cigarettes as a result of the tax. In practice, whether the entire tax increase will result in a 50 cent to one dollar increase in the prices of cigarettes is unknown because the market for cigarettes is competitive. Moreover, regardless of whether the Office of Administration estimates that the demand for cigarettes will remain flat or decrease due to societal trends, the overall fiscal impact is largely the same. An estimate of the decrease in future tax collections due to decreased smoking from societal trends is not essential to the findings in the fiscal note that this particular tax will result in a net increase to state revenue with no net cost to local governments.

If the Office of Administration decides to use the same assumptions in projecting the revenue for other tobacco products ("OTP") as it does for cigarettes, it is my opinion that the resulting collection estimate would be conservative but appropriate. Recent trends suggest that the revenue generated from the tax on other tobacco products is increasing.

Based on generally accepted methods for estimating the fiscal impact of a proposed tax, I estimate that a phased-in 50 cent cigarette tax increase will result in approximately 90 million dollars of revenue in calendar years 2017 and 2018. I estimate that the cigarette tax will result in approximately 150 million dollars of revenue in calendar years 2019 and 2020. I estimate that the cigarette tax will result in approximately 206 million dollars of revenue in calendar year 2021. In comparison, I estimate that an immediate 50 cent cigarette tax increase will result in approximately 214 million dollars of revenue in calendar year 2017. An immediate 63 cent cigarette tax increase will result in approximately 263 million dollars of revenue in calendar year 2017. An immediate 72 cent cigarette tax increase will result in approximately 295 million dollars of revenue in calendar year 2017. An immediate 80 cent cigarette tax increase will result in approximately 323 million dollars of revenue in calendar year 2017. An immediate one dollar cigarette tax increase will result in approximately 387 million dollars of revenue in calendar year 2017. These estimates assume a 1% yearly reduction in the state's smoking level. I estimate the 5% increase in the tax on non-cigarette tobacco products will result in approximately 8 million dollars of revenue annually. There may be a small decrease in revenue collection for each phase of the additional tax due to lags associated with the implementation and collection of taxes.

These taxes are expected to result in limited implementation costs to the state. The costs associated with administering the Early Childhood Education and Health Trust Fund will primarily be borne by the Trust Fund. Nonetheless it is proper and reasonable to consider additional costs of administering the cigarette tax increase, which may include fixed costs like salaries as well as additional marginal costs, such as costs associated with stamping cigarettes. All state government costs are estimated to be offset by additional revenue increases.

Local governments will receive revenue from the tax to offset any potential decrease in local tax revenue. Based on a price elasticity of demand of -0.8, local revenue may decrease, but any such decrease in cigarette taxes will be by an amount less than $1 million. By any reasonable estimate, 4% of the Early Childhood Education and Health Trust Fund will exceed the decrease in revenue associated with local tobacco taxes and local sales taxes. Accordingly, any such decrease will be offset as a result local revenue from the transfer of funds to localities with local tobacco taxes and local sales taxes. Additionally, while direct local revenue is zero, there are positive indirect effects the may result in additional revenue to local governments.

Sincerely,

/s/

Tom Kruckemeyer
Director of Fiscal Policy & Chief
Economist, Missouri Budget Project

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College**.

**Fiscal Note Summary**

Estimated additional revenue to state government is $303 million to $395 million annually, with limited estimated implementation costs. The revenue will fund only programs and services allowed by the proposal. The fiscal impact to local governmental entities is unknown.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

RECEIVED
SEP 17 2015
STATE AUDITORS OFFICE

ELECTIONS DIVISION
(573) 751-2301

16-114

September 17, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Edward Greim regarding a proposed statutory amendment to Chapters 210, 196, & 149, version 16 (2016-114)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Edward Greim on September 17, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-114

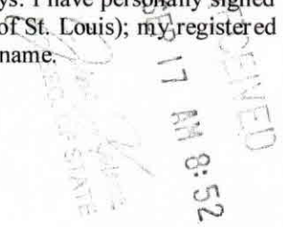
County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.



(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
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| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do □ do not □ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Address of Affiant

_____
Printed Name of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My commission expires _____

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NOTICE: You are advised that the proposed law changes, repeals, or modifies by implication, or may be construed to change, repeal or modify by implication, the following provisions of the Missouri Revised Statutes — Sections 66.340, 66.350, 149.015, 149.021, 149.065, 149.160, 196.1003, 210.102, and 210.320. The proposed law enacts two new sections, to be known as sections 149.017 and 149.161.

*Be it enacted by the people of the State of Missouri:*

Sections 210.102 and 196.1003 of the Revised Statutes of Missouri are amended and sections 149.017 and 149.161 are enacted, to read as follows:

210.102. 1. Sections 149.017 and 149.161, and certain amendments to 196.1003 and 210.102, shall be referred to as the Early Childhood Health and Education Act, with the purpose of supporting and improving early childhood health and education through regulation of tobacco manufacturers and sellers. This Act:

(1) Creates the Early Childhood Health and Education Trust Fund in order to support and improve early childhood health and education across the state;

(2) Reforms the Coordinating Board for Early Childhood to administer the Early Childhood Health and Education Trust Fund and provide grants that support and improve early childhood health and education; and

(3) Funds the Early Childhood Health and Education Trust Fund through increased regulations on tobacco manufacturers and sellers.

All of the provisions of this act are severable. If any provision of this act is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this act shall be and remain valid and in full force and effect.

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2. It shall be the duty of the Missouri children's services commission to:

(1) Make recommendations which will encourage greater interagency coordination, cooperation, more effective utilization of existing resources and less duplication of effort in activities of state agencies which affect the legal rights and well-being of children in Missouri;

(2) Develop an integrated state plan for the care provided to children in this state through state programs;

(3) Develop a plan to improve the quality of children's programs statewide. Such plan shall include, but not be limited to:

(a) Methods for promoting geographic availability and financial accessibility for all children and families in need of such services;

(b) Program recommendations for children's services which include child development, education, supervision, health and social services;

(4) Design and implement evaluation of the activities of the commission in fulfilling the duties as set out in this section;

(5) Report annually to the governor with five copies each to the house of representatives and senate about its activities including, but not limited to the following:

(a) A general description of the activities pertaining to children of each state agency having a member on the commission;

(b) A general description of the plans and goals, as they affect children, of each state agency having a member on the commission;

(c) Recommendations for statutory and appropriation initiatives to implement the integrated state plan;

(d) A report from the commission regarding the state of children in Missouri.

[2.]3. For years ending on or before December 31, 2016, [There is hereby established within the children's services commission] the "Coordinating Board for Early Childhood", which shall constitute a body corporate and politic, shall be established within the children's services commission, and shall include but not be limited to the following members:

(1) A representative from the governor's office;

(2) A representative from each of the following departments: health and senior services, mental health, social services, and elementary and secondary education;

(3) A representative of the judiciary;

(4) A representative of the family and community trust board (FACT);

(5) A representative from the head start program;

(6) Nine members appointed by the governor with the advice and consent of the senate who are representatives of the groups, such as business, philanthropy, civic groups, faith-based organizations, parent groups, advocacy organizations, early childhood service providers, and other stakeholders. The coordinating board may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers. The coordinating board shall elect from amongst its members a chairperson, vice chairperson, a secretary-reporter, and such other officers as it deems necessary. Members of the board shall serve without compensation but may be reimbursed for actual expenses necessary to the performance of their official duties for the board.

4. Beginning on January 1, 2017, the coordinating board for early childhood, which shall constitute a body corporate and politic, shall be established within the department of elementary and secondary education and shall include the following members:

(1) The director or the director's designee from each of the following departments: health and senior services, mental health, and

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social services;

(2) The commissioner or the commissioner's designee from the department of elementary and secondary education;

(3) Two members of the Missouri general assembly. One member shall be the chairman of the joint committee on education. One member shall be a member of the joint committee on education, shall be from a different party and different legislative chamber than the chairman of the joint committee on education, and shall be appointed by the elected leader, either the speaker of the house of representatives or the president pro tempore of the senate, of the member's legislative chamber;

(4) The director of the Missouri head start-state collaborative office;

(5) Six citizens, representing each of the following areas: early childhood education and development providers, local Head Start agencies, higher education, business, faith, and medicine. The Governor shall appoint, with the advice and consent of the senate, the three citizens representing the areas of medicine, business, and higher education. The state board of education shall appoint the citizens representing the areas of early childhood education and development providers, local Head Start agencies, and faith.

Citizens appointed under subdivision (5) shall serve a term of three years. Such citizens shall be eligible to serve two terms. Such citizens that serve a partial term of less than eighteen months shall be eligible to serve the partial term and two full terms. Such citizens that serve a partial term of more than eighteen months shall be eligible to serve the partial term and one full term.

[3.]5. The coordinating board for early childhood shall have the power to:

(1) Develop a comprehensive statewide long-range strategic plan for a cohesive early childhood system. The board shall review the plan each year and make amendments to the plan as it deems necessary. The board shall submit the plan to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of 2018 and each year thereafter;

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SECRETARY OF STATE

(2) Confer with public and private entities for the purpose of promoting and improving the development of children from birth through age five of this state;

(3) Identify legislative recommendations to improve services for children from birth through age five;

(4)Promote coordination of existing services and programs across public and private entities;

(5) Promote research-based approaches to services and ongoing program evaluation;

(6) Identify service gaps and advise public and private entities on methods to close such gaps;

(7) Apply for and accept gifts, grants, appropriations, loans, or contributions to the coordinating board for early childhood fund from any source, public or private, and enter into contracts or other transactions with any federal or state agency, any private organizations, or any other source in furtherance of the purpose of subsections 3 through 15[2 and 3] of this section, and take any and all actions necessary to avail itself of such aid and cooperation;

(8) Direct disbursements and grants from the coordinating board for early childhood fund and the early childhood health and education trust fund as provided in this section;

(9) Administer the coordinating board for early childhood fund and the early childhood health and education trust fund [and invest any portion of the moneys not required for immediate disbursement in obligations of the United States or any agency or instrumentality of the United States, in obligations of the state of Missouri and its political subdivisions, in certificates of deposit and time deposits, or other obligations of banks and savings and loan associations, or in such other obligations as may be prescribed by the board];

(10) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal with real or personal property or any interests therein, wherever situated;

(11) Sell, convey, lease, exchange, transfer or otherwise dispose of all or any of its property or any interest therein, wherever situated;

(12) Employ and fix the compensation of an executive director and such other agents or employees as it considers necessary;

(13) Adopt, alter, or repeal by its own bylaws, rules, and regulations governing the manner in which its business may be transacted;

(14) Adopt and use an official seal;

(15) Assess or charge fees as the board determines to be reasonable to carry out its purposes;

(16) Make all expenditures which are incident and necessary to carry out its purposes;

(17) Sue and be sued in its official name;

(18) Take such action, enter into such agreements, and exercise all functions necessary or appropriate to carry out the duties and purposes set forth in this section;

(19) Contract with one or more not-for-profits to meet the requirements of this section;

(20) Provide technical assistance to grantees;

(21) Coordinate with parents, community leaders, local governments, and public and private entities to improve the quality of and increase access to early childhood development programs in communities throughout the state; and

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(22) Pursue public and private partnership opportunities that are consistent with the objectives of subsection 6 of this section.

6. Any grants awarded by the coordinating board for early childhood shall accomplish one or more of the following objectives:

(1) Increasing access to existing quality early childhood development programs;

(2) Improving the quality of early childhood development programs;

(3) Increasing access to preventive health care and health and developmental screenings for children ages birth through five;

(4) Offering parent and family support and education concerning prenatal development, early child development, numeracy, and literacy;

(5) Providing professional development and training for early childhood development providers;

(6) Increasing coordination of early childhood development programs and public information about the importance of early childhood development;

(7) Providing evidenced-based smoking cessation programs for pregnant mothers.

7. The coordinating board for early childhood shall consider the following nonexclusive factors when awarding grants as provided in this section:

(1) Whether the project or activities will improve outcomes for children ages birth through five, consistent with the objectives of this section;

(2) Whether the project or activity leverages matching dollars;

(3) Whether the project or activity addresses needs identified by the local community; and

(4) The sustainability of the project or activity.

8. The coordinating board for early childhood shall establish accountability and audit requirements for all grant recipients, including requirements that success be measured by outcomes for children and families.

9. It shall be the duty of the coordinating board for early childhood to:

(1) Establish and maintain a conflict of interest policy for its members and staff;

(2) Prepare an annual report describing the activities of the board and a description of outcomes for children and families achieved by the board and grant recipients, including a list of all grant recipients and the amount of any grants awarded to such recipients. The board shall submit the report to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of each year, beginning in 2019, and shall provide a copy of the report to the secretary of state; and

(3) Ensure a fair and equitable distribution of funds collected as provided under sections 149.017 and 149.161 based on the established residency population of children ages birth through five.

10. There is hereby created the "Coordinating Board for Early Childhood Fund" which shall consist of the following:

(1) Any moneys appropriated by the general assembly for use by the board in carrying out the powers set out in subsections 3 through 9[2 and 3] of this section;

(2) Any moneys received from grants or which are given, donated, or contributed to the fund from any source;

(3) Any moneys received as fees authorized under subsections 3 through 9[2 and 3] of this section;

(4) Any moneys received as interest on deposits or as income on approved investments of the fund;

(5) Any moneys obtained from any other available source. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the coordinating board for early childhood fund at the end of the biennium shall not revert to the credit of the general revenue fund.

11. There is hereby created the Early Childhood Health and Education Trust Fund which shall consist of all moneys collected as provided in sections 149.017 and 149.161, less any reduction allowed in section 149.021. Interest and moneys earned on the fund shall be credited to the fund.

12. No more than eight percent of the moneys received by the early childhood health and education trust fund shall be used for administrative expenses. Eligible administrative expenses shall include only those reasonable and necessary for:

(1) Salaries, fringe benefits, expenses, and equipment of staff employed by the coordinating board for early childhood;

(2) Expenses associated with cost sharing of salaries, fringe benefits, expenses, and equipment of staff employed or contracted by the coordinating board for early childhood from any other state department or agency of the state;

(3) Expenses of the coordinating board for early childhood associated with contracting with not-for-profit entities;

(4) Expenses of the coordinating board for early childhood associated with audits and outcome evaluations of programs and activities funded under this section;

(5) Expenses of grantees associated with meeting administrative requirements of grants established by the coordinating board for early childhood;

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No more than 40% of administrative expenses shall be expended on items (1) through (4) of this subsection.

13. Moneys in the funds may be invested by the state treasurer, and any income therefrom shall be deposited to the credit of the fund. Any moneys credited to and placed in the early childhood health and education trust fund shall be appropriated and used only for purposes which are authorized by this section and shall not be subject to the provisions of section 33.080.

14. The net proceeds from the moneys collected as provided in sections 149.017 and 149.161 shall constitute new and additional funding for the activities, initiatives, and programs funded by the coordinating board for early childhood and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

15. Beginning January 1, 2017, the department of elementary and secondary education and the coordinating board for early childhood may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This subsection and chapter 536 are nonseverable from one another, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017 shall be invalid and void.

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149.017. 1. Beginning January 1, 2017, in addition to the tax levied upon the sale of cigarettes in this state pursuant to section 149.015, a tax shall be levied upon the sale of cigarettes applied a tax at an amount equal to forty mills per cigarette.

2. The tax shall be evidenced by stamps in the same manner as cigarettes stamped pursuant to sections 149.015 and 149.021. Stamped cigarettes in the possession of a wholesaler or retailer before any phase of the additional tax under subsection 1 of this section is imposed, shall not be subject to such phase of the additional tax before retail sale.

3. The tax on any cigarettes contained in packages of four, ten, twenty or similar quantities to be used solely for distribution as samples shall be computed on a per cigarette basis at the rate set forth in this section, and payment of the tax shall be remitted to the director at such time and in such manner as he may prescribe.

4. The provisions of section 149.065 notwithstanding, all moneys collected as a result of the taxes imposed by this section and section 149.161 shall be credited to and placed in the early childhood health and education trust fund established by section 210.102 as said moneys are received. All of the moneys from the taxes imposed by this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the early childhood health and education trust fund.

5. The additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section and section 149.161 may be paid from moneys appropriated from the early childhood health and education trust fund for that purpose, not to exceed one and one half of one percent (1.5%) of the total moneys collected in that fiscal year. Collection and enforcement activities and initiatives that are paid for with moneys from the early childhood health and education trust fund shall be conducted in a fiscally responsible manner in order to maximize the net proceeds available for distribution pursuant to section 210.102. Moneys appropriated from the early childhood health and education trust fund pursuant to this subdivision shall not be used to pay costs that are not additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section;

6. The net proceeds from the taxes imposed by this section and section 149.161 shall constitute new and additional funding for the activities, initiatives, and programs described in section 210.102 and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

7. On an annual basis, the director of the department of revenue, in consultation with the director of health and senior services, shall determine whether the taxes imposed by this section and section 149.161 have resulted in a decrease in consumption of tobacco products and thereby directly caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320 or revenues to local governments under lawfully enacted sales taxes. If a reduction in the amount of moneys collected and deposited into any of those funds pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320,or revenues to local governments under lawfully enacted sales taxes has been directly caused by the taxes imposed by this section and section 149.161, an amount equal to the amount of moneys that were not collected and deposited into that fund or funds or were not generated by the local tobacco taxes authorized by sections 66.340, 210.320, and sections providing authority for local government sales taxes because of the taxes imposed by this section and section 149.161 shall be transferred from the early childhood health and education trust fund pursuant to section 210.102 as follows: first, to the appropriate political subdivisions, second, to local governments to account for any decrease in local sales tax collections, and third to the appropriate fund or funds. The aggregate amount transferred to such funds and political subdivisions from the early childhood health and education trust fund for any year shall not exceed four percent of the total moneys collected pursuant to this section and section 149.161 during that same year.

149.161. Beginning on January 1, 2017, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, a tax shall be levied upon the first sale of tobacco products other than cigarettes within this state in the amount of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. The tax on tobacco products shall be at the rate of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. Licensed persons making first sales shall be allowed credit in accordance with the provisions of section 149.160.1. The additional tax levied by this section shall not apply to inventories of tobacco products in the possession of the retailer or wholesaler on December 31, 2016.

196.1003. Requirements.

Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this Act shall do one of the following:

(a) become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

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(b) (1) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts, (as such amounts are adjusted for inflation) —
1999: $.0094241 per unit sold after the date of enactment of this Act;
2000: $.0104712 per unit sold;
for each of 2001 and 2002: $.0136125 per unit sold;
for each of 2003 through 2006: $.0167539 per unit sold;
for each of 2007 and each year thereafter: $.0188482 per unit sold.

(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances —

(A) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (i) in the order in which they were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment) had it been a participating manufacturer, the percentage determined in subdivision (D) of the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(C) to the extent not released from escrow under subparagraphs (A) or (B), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

(D) The amount in subdivision (B) of the excess released from escrow shall be: for units sold during all years ending on or after December 31, 2017, zero percent.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails [in any year] to place into escrow the funds required under this section shall

(A) be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;

(B) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

(C) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years.

Each failure to make an annual deposit required under this section shall constitute a separate violation. Any tobacco product manufacturer that violates the provisions of this section shall pay the State's cost and attorney's fees incurred during a successful prosecution under this section.

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**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-114)**

**Subject**

Initiative petition from Edward Greim regarding a proposed amendment to Chapters 149, 196, and 210 of the Revised Statutes of Missouri. (Received September 17, 2015)

**Date**

October 7, 2015

**Description**

This proposal would amend Chapters 149, 196, and 210 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Edward Greim** provided information as a proponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated it does not appear that this proposal would have a direct fiscal impact on their department.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** (DOR) indicated this petition will have a fiscal impact of $75,006 for fiscal year (FY) 2017 on their department, creating additional expense for IT consultants, and will increase revenues for the Early Childhood Health and Education Trust Fund by $395,900,000 annually.

If approved by voters, this petition increases the revenue stream for the Early Childhood Health and Education Trust Fund, but creates a negative impact to general revenue.

**Section 149.017**
Beginning January 1, 2017, the legislation increases the tax on cigarettes to 40 mills per cigarette ($0.80 per pack of 20).

Stamped cigarettes in inventory prior to the effective dates of the increase and in possession of a retailer are not subject to the additional tax before retail sale. The petition

also allows for up to one and one-half percent collection fee of the total moneys collected in a fiscal year.

The legislation requires the Department, in consultation with the Department of Health and Senior Services (DHSS), to annually determine if the taxes result in a decrease in consumption of tobacco products. The Departments must further determine if there are reductions in moneys collected and deposited into the fair share fund, health initiatives fund, or the state school moneys fund or local tobacco taxes.

With the additional assessed tax, the Department estimates an increase of $387.3 million per year to the Early Childhood Health and Education Trust Fund.

**Section 149.161**
Beginning on January 1, 2017, this section, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, levies a five percent tax upon the first sale of tobacco products other than cigarettes within this state. The legislation bases the five percent increase on the manufacturer's invoice price before discounts and deals. The person making the first sale within the state pays the tax.

With the additional assessed tax, the Department estimates an increase of $8.6 million per year to the Early Childhood Health and Education Trust Fund.

**Section 196.1003**
The amount of the excess escrow released must be for units sold during all years ending on or after December 31, 2017, zero percent.

**Section 210.102**
The section creates the Early Childhood Health and Education Act. Beginning in 2017, the Coordinating Board for Early Childhood becomes a body corporate and politic under the purview of the Department of Elementary & Secondary Education (DESE). Subsection 11 creates the Early Childhood Health and Education Trust Fund. The legislation deposits all moneys collected under sections 149.017 and 149.161, less any reductions allowed in section 149.021, into the trust fund.

**Administrative Impact:**
**Excise Tax:**
The Early Childhood Health and Education Trust Fund requires changes to SAGE 50 accounting system and cashiering records. The legislation also creates the requirement for a new form.

Officials from the **Department of Public Safety** indicated their department sees no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated no fiscal impact to their department.

Officials from the **Office of Administration** (OA) indicated the proposal amends Sections 210.102 and 196.1003, RSMo, and adds Sections 149.017 and 149.161, RSMo.

Section 210.102, RSMo, moves the Coordinating Board for Early Childhood from the Children's Services Commission to DESE, effective January 1, 2017, changes the board membership and provides further guidance on funding and operations for the Board.

Section 149.017, RSMo, increases cigarette tax by 40 mills per cigarette on 1/1/2017. Section 149.161, RSMo, levies an additional 5% tax on other tobacco products beginning 1/1/2017. These monies will go to the Early Childhood Health and Education Trust (ECHET) Fund established in Section 210.102, RSMo. DOR and DHSS must annually determine whether the new taxes have caused a reduction in consumption and therefore a reduction in the amount of money collected for the Fair Share Fund, the Health Initiatives Fund or the State School Moneys Fund and for local sales and tobacco taxes. If a reduction in consumption is found, then up to 4% of the new revenue collected is to be distributed to the various funds and political subdivisions from the ECHET Fund to hold them harmless.

Section 196.1003, RSMo, changes escrow requirements for the tobacco Master Settlement Agreement, with provisions to direct potential civil penalties to the ECHET Fund. Because this language changes what was previously approved as a "qualifying statute", it could adversely impact future Nonparticipating Manufacturer (NPM) adjustment arbitrations.

FISCAL IMPACT:

Cigarette Tax

In FY15, there was $81.7 million in cigarette excise taxes collected. OA assumes that the average pack of cigarettes retails for $4.50, translating to roughly 480.9 million packs sold in Missouri. OA further assumes that cigarette sales have a (0.8) elasticity. Therefore, OA estimates a tax increase of 40 mills per cigarette in January 2017 will increase the "Early Childhood Health and Education Fund" by $163.7 million in FY17 and $327.5 million once fully implemented in FY18.

There is no way to truly know what impact these tax increases will have on demand due to smoking cessation efforts, other state and federal regulations, and the increase in sales of e-cigarettes. However, OA estimates that the tax increase will decrease the Fair Share Fund by $1.2 million in FY17 and $2.4 million in FY18 and thereafter, the Health Initiatives fund by $1.2 million in FY17 and $2.4 million in FY18 and thereafter, and the State School Moneys Fund by $2.7 million in FY17 and $5.3 million in FY18 and thereafter.

Further, since cigarette sales will decrease slightly, General Revenue will be reduced by $7.7 million, the School District Trust Fund will be reduced by $2.6 million, and local sales tax will be reduced by $10.8 million once fully implemented in FY18, from the loss of sales tax.

Other Tobacco Products

In FY15, there was $17.7 million in other tobacco product excise taxes collected. OA assumes that the average unit retails for $4.09, translating to roughly $176.9 million in wholesales in Missouri. OA further assumes that other tobacco product sales have a (0.8) elasticity. Therefore, OA estimates this proposal will increase the "Early Childhood Health and Education Fund" by $4.0 million in FY17 and $7.9 million once fully implemented in FY18.

There is no way to truly know what impact this tax increase will have on demand due to cessation efforts, other state, federal, and local regulations, and the introduction of alternative products. However, OA estimates that this tax increase will decrease the Health Initiatives Fund by $0.3 million in FY17 and $0.6 million once fully implemented in FY18.

Further, since other tobacco product sales will decrease slightly, General Revenue will be reduced by $190,000, the School District Trust Fund will be reduced by $62,000, and local sales tax will be reduced by $260,000 once fully implemented in FY18, from the loss of sales tax.

Master Settlement Agreement

The escrow changes should not impact state revenues. When civil penalties are redirected to the ECHET Fund, it would be an unknown loss of potential general revenue to the state.

Total Impact

This proposal will increase the "Early Childhood Health and Education Fund" by $335.4 million once fully implemented in FY18. This proposal will also decrease the Fair Share Fund by $2.4 million, the Health Initiatives fund by $3.0 million, and the State School Moneys Fund by $5.3 million once fully implemented in FY18.

In addition, due to lost sales tax revenue General Revenue will be reduced by $7.9 million, the School District Trust Fund will be reduced by $2.7 million, and local sales tax will be reduced by $11.1 million once fully implemented in FY18.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated the initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated that there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **University of Missouri** indicated this initiative petition will have an undetermined fiscal impact on the university, to the extent the petition would affect any general revenue allocated to their university.

**Edward Greim** provided the following information as a proponent of this initiative petition.

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September 28, 2015

Missouri State Auditor's Office
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Jefferson City, Missouri 65102

Re: *Fiscal Note in Initiative Petitions 16-114 & 16-115*

To Whom It May Concern:

Based on the information contained in this letter and the attached letter from Tom Kruckemeyer, we propose the following fiscal note summary:

> Estimated additional revenue to state government is $331 million annually with limited estimated implementation costs or savings. The revenue will fund only programs and services allowed by the proposal. The proposal is estimated to result in no net costs or savings to local governmental entities.

**Introduction**

The initiative allows 460,000 children to receive the early health screenings they need to grow and thrive and the early childhood development experiences that will prepare them for long-term educational success. These programs have important trickle-down effects that result in increased revenue and decreased costs at the state and local level. The initiative is accomplished by funding grants across the state to improve early childhood health and education. Funding for grants is provided by a tobacco tax, conservatively resulting in $331 million in direct state revenue, while yielding important public health benefits.

**Early Childhood Delivers Big Benefits**

Missouri enrolls fewer children in its state preschool program than any neighboring state, and funding for programs like Parents as Teachers has been slashed in half. All Missourians benefit

from investments in early childhood education: children start school ready to succeed; parents are able to keep good jobs and earn higher incomes; and taxpayers save money because early childhood education lowers drop-out rates, reduces crime and cuts the cost of social services. Despite clear evidence showing investing in early learning is one of the smartest investments we can make, year after year we battle with the Missouri General Assembly to fund quality early childhood education. Missouri is the 38th worst state for public pre-K funding. In 2012, the General Assembly cut $13.2 million from early childhood programs, and Parents as Teachers remains $19 million behind its 2009 funding.

Traditional thought has long emphasized the relationship between early childhood education and academic success, but researchers now are finding that preschool does not have a substantial effect on increasing IQs but rather develops a child's "soft skills" and can have a profound effect on adult earning potential especially for disadvantaged kids.

Evidence shows that non-cognitive skills matter. Through activities like finger painting, playing with blocks, and interacting with other students, children learn how to control impulses, keep anger in check, stay on task, listen and follow curiosity. These soft skills are basic, but important tools needed to learn, find and keep a job and just manage everyday life. Most children gain these skills at home from their parents, but disadvantaged kids often miss the window of opportunity, which are the critical years before Kindergarten.

A literature of empirical evidence shows strong outcome effects for kids who attend pre-school. Using cost-benefit analyses, researchers have found a link between preschool attendance and reduced crime, fewer teen pregnancies, higher rates of college attendance and less need for public assistance. Cost-benefit studies show that pre-school provides the best value and produces more net benefits to society than increased classroom time or job training programs.

*Evidence from the Perry Preschool Program*

The most widely cited early childhood intervention occurred in Ypsilanti, Michigan during the 60s. Children with low IQ scores and a low socioeconomic index were invited to participate in the Perry Preschool Program. Using a coin toss, researchers divided students into two groups, a treatment group and a control group. Starting at age three the "treatment" kids got 2.5 hours of preschool a day and weekly home visits for two years. The "control" kids did not participate in either of the services. Researchers interviewed both groups at ages 15, 19, 27 and 40 and asked them questions about life events like school, work, marriage, parenting and incarceration. The following chart shows the major findings of the study.



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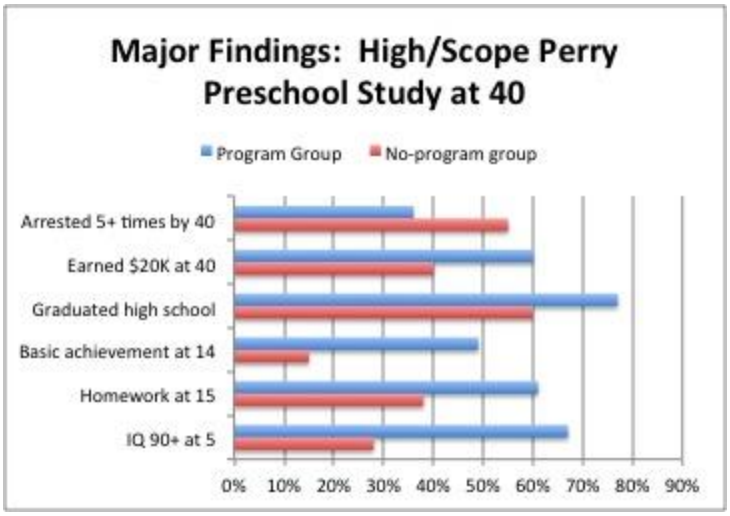


Source: Lifetime Effects: The HighScope Perry Preschool Study Through Age 40 (2005)

The pre-school girls went farther in school, earned higher GPAs, and received less special education than girls from the control group. Boys benefitted as well, but the boys who did not receive the preschool intervention were 2.3 times more likely to get arrested. The cost-savings alone from just the crime reduction demonstrated success.

With increased scrutiny over government spending, cost-benefit analysis gives policy analysts a tool to separate productive programs from ones that yield no social gains. A recent cost-benefit study that used a wider variety of assumptions and applied more rigorous accounting rules, estimated a return rate of about 7-10%. By monetizing social crime, the researchers were able to estimate that for every dollar invested in preschool, society earned back $30 to $300 dollars over the course of a lifetime (Heckman, Moon, Pinto, Savelyev, & Yavitz, 2010).

*Abecedarian and Chicago Studies*

Other studies confirmed the results of the Perry Preschool Project. The Carolina Abecedarian project in the 70s randomly assigned infants into intervention and control groups. The intervention group received full-day childcare from birth through Kindergarten. Intervention kids scored higher in reading and math, completed more education, were older when their first child was born and the mothers of intervention kids progressed farther in school and made more money than the control mothers. Intervention kids even smoked less.

A full-day five-year Pre-K program, while effective, would likely be cost-prohibitive for any state budget; however, the findings proved that early intervention does make a difference. And evidence suggests that a less expensive program could produce similar outcomes (Barnett & Masse, 2007).



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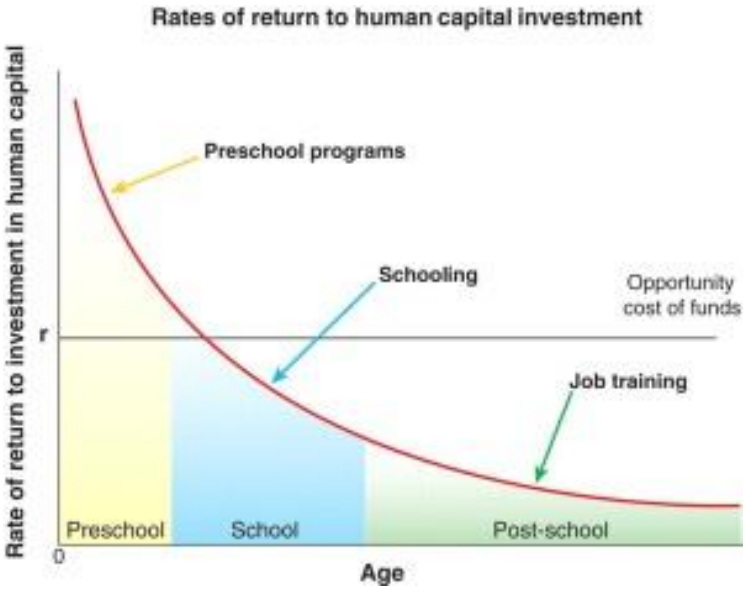
Just as Abecedarian kids earned higher wages than the control group, researchers found similar results from participants of the Chicago Child-Parent Program. The Chicago program targeted disadvantaged kids and provided a Headstart type intervention from ages three to nine. A cost-benefit analysis indicated for every dollar invested, the program produced seven in return. The largest impact was earning capacity, but Chicago kids were also less likely to need special education and less likely to commit crimes (Temple & Reynolds, 2007).

Much like with the Perry Program, the Chicago program demonstrated the relationship between early education, higher wages and crime reduction. Again it was the non-cognitive soft-skill development that made the difference. Second chance efforts like GED and job training provide fewer benefits and struggle to lift people out of poverty (Heckman & Masterov, 2007).




Source: Heckman, The Review of Agricultural Economics (2007)

What the Perry, Abecedarian and Chicago programs show is that pre-school helps kids develop soft-skills that make it easier to gain cognitive skills later and can lead to better jobs and a better quality of life. This in turn lessens the burden on government resources for remedial education, criminal justice and job-training programs.

Investing in human capital through access to finger-paints and story time may appear far-reaching, but multiple studies now point to early intervention as the cheapest, most effective way to prepare kids for the workforce and reduce crime. As labor force growth wanes and the demand for skilled workers increases, these studies suggest that a pipeline that begins at pre-school has great potential to produce big benefits to society in the long run.



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Table 1
Present value of Abecedarian benefits and costs per child (2002 dollars)

| | Discount rate (%) | | |
|---|---|---|---|
| | 3 | 5 | 7 |
| Program cost (net) | $35,864 | $34,599 | $33,421 |
| Program benefits | | | |
| Part. earnings | 37,531 | 16,460 | 6376 |
| Earnings of future generations | 5722 | 1586 | 479 |
| Maternal earnings | 68,728 | 48,496 | 35,560 |
| K-12 education | 8836 | 7375 | 6205 |
| Smoking/health | 17,781 | 4166 | 1008 |
| Higher education costs | −8128 | −5621 | −3920 |
| AFDC | 196 | 129 | 85 |
| Total benefits | $130,666 | $72,591 | $45,793 |
| Net present value | $94,802 | $37,992 | $12,372 |

**Reducing the Harmful Effects of Tobacco**

Tobacco tax increases offer a win-win-win solution for states as they work to balance budgets while preserving essential public services. Tobacco tax increases are one of the most effective ways to reduce smoking and other tobacco use, especially among kids. Every state that has significantly increased its cigarette tax has enjoyed substantial increases in revenue, even while reducing smoking. Higher tobacco taxes also save money by reducing tobacco-related health care costs, including Medicaid expenses. States can realize even greater health benefits and cost savings by allocating some of the revenue to programs that prevent children from smoking and help smokers quit.

National and state polls consistently have found overwhelming public support for tobacco tax increases. Polls also show that, when it comes to balancing budgets, voters prefer raising tobacco taxes to other tax increases or cutting crucial programs such as education and public safety.

Tobacco use causes approximately $3.03 billion in annual health care expenditures in Missouri. Smoking specifically causes over $500 million in annual costs for the Missouri Medicaid program. The initiative petition would increase the tax on cigarettes by $0.50 per pack and would increase the tax on other tobacco products by 5%. By conservative estimates, those tax increases would raise approximately $331 million in new state revenue to improve early childhood health



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and education programs. New state revenue is the amount of additional new revenue over the first full year after the effective date. The state will collect less new revenue to the extent that the rate increase does not apply to all cigarettes and other tobacco products held in wholesaler and retailer inventories on the effective date. This fiscal projection was derived using a price elasticity of demand for cigarettes of -0.8, even though the weight of credible academic literature suggests a conservative estimate for the price elasticity of demand for cigarettes is -0.4.

Tax increases of less than roughly 25 cents per pack or 10% of the average state pack price do not produce significant public health benefits or cost savings because the cigarette companies can easily offset the beneficial impact of such small increases with temporary price cuts, coupons, and other promotional discounting. Splitting a tax rate increase into separate, smaller increases in successive years will similarly diminish or eliminate the public health benefits and related cost savings (as well as reduce the amount of new revenues).

In addition to raising new revenue, the tax increase would have an immediate public health benefit. Each 10% cigarette price increase reduces youth smoking by 6.5%. Each 10% cigarette price increase reduces adult smoking by 2%. The total expected reduction in smoking consumption as a result of a 10% price increase is 4%. It is conservatively estimated that the initiative petition would decrease youth smoking by 6% in Missouri.

There would also be a fiscal benefit to the citizens of the state from the improved public health. As of 2014, the CDC estimated 11,000 annual average smoking-attributable deaths in Missouri. 127,500 Missouri Youth aged 0-17 are projected to die from smoking. Approximately 22.1% of Missouri adults smoke. Approximately 14.9% of Missouri high school students smoke. The average Missouri resident's state and federal tax burden from smoking-caused government expenditures is $588 per household. Approximately one of every six pregnant women smokes, a rate significantly higher than the national average. Smoking during pregnancy increases the risk for preterm delivery, stillbirth, low birth weight and Sudden Infant Death Syndrome.
In recent years, almost every state and the federal government have increased tobacco taxes. Missouri is a notable exception. The average state cigarette tax is currently $1.60 per pack, but rates vary widely from 17 cents in Missouri to $4.35 in New York. On April 1, 2009, the federal cigarette tax increased by 62 cents, to $1.01 per pack.

As of July 1, 2015, Missouri's cigarette tax was less than one-third of any of its border states: IL - $ 1.98; IA - $1.36; KS - $1.29; AR - $1.15; OK - $1.03; NE - $0.64; TN - $0.62; KY - $0.60. Moreover, Missouri's 17-cent per pack tax on cigarettes is the lowest in the country. The real value of the cigarette tax is decreasing. As a percentage of the overall Missouri State Budget, Missouri's tobacco taxes have decreased from 1.036% in 2000 to 0.464% in 2015. See MO Executive Budget Books & MO Office of Administration.

Every day 3,000 kids try their first cigarette and another 700 kids become regular smokers. There are more than 250 thousand new underage smokers each year. One third will eventually die from their addiction. Smoking has declined in every state where the tobacco tax has been increased.



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Ongoing reductions in state smoking levels will, over time, gradually erode state cigarette tax revenues (in the absence of any new rate increases). But those declines are more predictable and less volatile than many other state revenue sources, such as state income tax or corporate tax revenues (which can drop sharply during recessions). In addition, the smoking declines that reduce tobacco tax revenues will simultaneously produce much larger reductions in government and private sector smoking-caused costs. See the Campaign for Tobacco-Free Kids factsheet, *Tobacco Tax Increases are a Reliable Source of Substantial New State Revenue*, http://tobaccofreekids.org/research/factsheets/pdf/0303.pdf.

For other ways states can increase revenues (and promote public health) other than just raising its cigarette tax, see the Campaign factsheet, *The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

For more on sources and calculations, see http://www.tobaccofreekids.org/research/factsheets/pdf/0281.pdf

**Additional Information on Tobacco Product Tax Increases**

*Raising State Cigarette Taxes Always Increases State Revenues and Always Reduces Smoking*, http://tobaccofreekids.org/research/factsheets/pdf/0098.pdf.

*Responses to Misleading and Inaccurate Cigarette Company Arguments Against State Tobacco Tax Increases*, http://tobaccofreekids.org/research/factsheets/pdf/0227.pdf.

*State Cigarette Excise Tax Rates & Rankings*, http://tobaccofreekids.org/research/factsheets/pdf/0097.pdf.

*Top Combined State-Local Cigarette Tax Rates (State plus County plus City)*, http://tobaccofreekids.org/research/factsheets/pdf/0267.pdf.

*State Cigarette Tax Increases Benefit Lower-Income Smokers and Families*, http://tobaccofreekids.org/research/factsheets/pdf/0147.pdf.

*The Best Way to Tax Smokeless Tobacco*, http://tobaccofreekids.org/research/factsheets/pdf/0282.pdf.

*How to Make State Cigar Tax Rates Fair and Effective*, http://tobaccofreekids.org/research/factsheets/pdf/0335.pdf.

*State Benefits from Increasing Smokeless Tobacco Tax Rates*, http://tobaccofreekids.org/research/factsheets/pdf/0180.pdf.



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*The Case for High-Tech Cigarette Tax Stamps*, http://tobaccofreekids.org/research/factsheets/pdf/0310.pdf.

*State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion*, http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf.

*The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

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Sincerely,

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September 28, 2015

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To Whom It May Concern:

I currently work as the Director of Fiscal Policy and Chief Economist at the Missouri Budget Project, a nonprofit, objective, public policy analysis organization that provides independent research on complex state policy issues and how they impact the state budget. I hold a B.A. in Economics and History and an M.A. in Economics from the University of Missouri-St. Louis. I also hold an M.A. Political Science from the University of Missouri-Columbia. I worked in the Missouri Division of Budget from 1978 to 2004, where I served as the chief economist. In the course of both my positions at the Missouri Division of Budget as well as my current position, I have routinely projected the fiscal impact of tax changes.

In my experience, it is a conservative, generally accepted practice to project the revenue generated from a proposed cigarette tax by estimating an average price per cigarette (or price per pack), estimating a uniform price elasticity of demand, and to assume that the tax will result in a penny-for-penny increase in the cost of cigarettes.

Upon information and belief, the Office of Administration usually estimates the price elasticity of demand for cigarettes as -0.8. This estimate means that a 10% increase in the cost of cigarettes results in an 8% reduction in the quantity of cigarettes sold. A price elasticity of demand of -0.8 is a conservative but reasonable estimate for the price elasticity of demand of a product such as cigarettes. Notably, even with a 50 cent to one dollar increase in Missouri's cigarette tax, Missouri's cigarette tax will remain lower than many of its contiguous states, in particular the states that border major metropolitan areas, Illinois and Kansas.

Additionally, the Office of Administration's method for estimating cigarette tax revenue is conservative because it assumes a penny-for-penny price increase in the cost of cigarettes as a result of the tax. In practice, whether the entire tax increase will result in a 50 cent to one dollar increase in the prices of cigarettes is unknown because the market for cigarettes is competitive. Moreover, regardless of whether the Office of Administration estimates that the demand for cigarettes will remain flat or decrease due to societal trends, the overall fiscal impact is largely the same. An estimate of the decrease in future tax collections due to decreased smoking from societal trends is not essential to the findings in the fiscal note that this particular tax will result in a net increase to state revenue with no net cost to local governments.

If the Office of Administration decides to use the same assumptions in projecting the revenue for other tobacco products ("OTP") as it does for cigarettes, it is my opinion that the resulting collection estimate would be conservative but appropriate. Recent trends suggest that the revenue generated from the tax on other tobacco products is increasing.

Based on generally accepted methods for estimating the fiscal impact of a proposed tax, I estimate that a phased-in 50 cent cigarette tax increase will result in approximately 90 million dollars of revenue in calendar years 2017 and 2018. I estimate that the cigarette tax will result in approximately 150 million dollars of revenue in calendar years 2019 and 2020. I estimate that the cigarette tax will result in approximately 206 million dollars of revenue in calendar year 2021. In comparison, I estimate that an immediate 50 cent cigarette tax increase will result in approximately 214 million dollars of revenue in calendar year 2017. An immediate 63 cent cigarette tax increase will result in approximately 263 million dollars of revenue in calendar year 2017. An immediate 72 cent cigarette tax increase will result in approximately 295 million dollars of revenue in calendar year 2017. An immediate 80 cent cigarette tax increase will result in approximately 323 million dollars of revenue in calendar year 2017. An immediate one dollar cigarette tax increase will result in approximately 387 million dollars of revenue in calendar year 2017. These estimates assume a 1% yearly reduction in the state's smoking level. I estimate the 5% increase in the tax on non-cigarette tobacco products will result in approximately 8 million dollars of revenue annually. There may be a small decrease in revenue collection for each phase of the additional tax due to lags associated with the implementation and collection of taxes.

These taxes are expected to result in limited implementation costs to the state. The costs associated with administering the Early Childhood Education and Health Trust Fund will primarily be borne by the Trust Fund. Nonetheless it is proper and reasonable to consider additional costs of administering the cigarette tax increase, which may include fixed costs like salaries as well as additional marginal costs, such as costs associated with stamping cigarettes. All state government costs are estimated to be offset by additional revenue increases.

Local governments will receive revenue from the tax to offset any potential decrease in local tax revenue. Based on a price elasticity of demand of -0.8, local revenue may decrease, but any such decrease in cigarette taxes will be by an amount less than $1 million. By any reasonable estimate, 4% of the Early Childhood Education and Health Trust Fund will exceed the decrease in revenue associated with local tobacco taxes and local sales taxes. Accordingly, any such decrease will be offset as a result local revenue from the transfer of funds to localities with local tobacco taxes and local sales taxes. Additionally, while direct local revenue is zero, there are positive indirect effects the may result in additional revenue to local governments.

Sincerely,

/s/

Tom Kruckemeyer
Director of Fiscal Policy & Chief
Economist, Missouri Budget Project

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College**.

**Fiscal Note Summary**

Estimated additional revenue to state government is $303 million to $395 million annually, with limited estimated implementation costs. The revenue will fund only programs and services allowed by the proposal. The fiscal impact to local governmental entities is unknown.

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SEP 17 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-113

September 17, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Edward Greim regarding a proposed statutory amendment to Chapters 210 & 149, version 15 (2016-113)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Edward Greim on September 17, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-113

County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

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SECRETARY OF STATE

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
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| 6. | | | | | |
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| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do □ do not □ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Address of Affiant

_____
Printed Name of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My commission expires _____

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NOTICE: You are advised that the proposed law changes, repeals, or modifies by implication, or may be construed to change, repeal or modify by implication, the following provisions of the Missouri Revised Statutes — Sections 66.340, 66.350, 149.015, 149.021, 149.065, 149.160, 210.102, and 210.320. The proposed law enacts two new sections, to be known as sections 149.017 and 149.161.

*Be it enacted by the people of the State of Missouri:*

Section 210.102 of the Revised Statutes of Missouri is amended and sections 149.017 and 149.161 are enacted, to read as follows:

210.102. 1. Sections 149.017 and 149.161, and certain amendments to 210.102, shall be referred to as the Early Childhood Health and Education Act, with the purpose of supporting and improving early childhood health and education through regulation of tobacco sellers. This Act:

(1) Creates the Early Childhood Health and Education Trust Fund in order to support and improve early childhood health and education across the state;

(2) Reforms the Coordinating Board for Early Childhood to administer the Early Childhood Health and Education Trust Fund and provide grants that support and improve early childhood health and education; and

(3) Funds the Early Childhood Health and Education Trust Fund through revenue derived from the sale of tobacco products.

All of the provisions of this act are severable. If any provision of this act is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this act shall be and remain valid and in full force and effect.

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2. It shall be the duty of the Missouri children's services commission to:

(1) Make recommendations which will encourage greater interagency coordination, cooperation, more effective utilization of existing resources and less duplication of effort in activities of state agencies which affect the legal rights and well-being of children in Missouri;

(2) Develop an integrated state plan for the care provided to children in this state through state programs;

(3) Develop a plan to improve the quality of children's programs statewide. Such plan shall include, but not be limited to:

(a) Methods for promoting geographic availability and financial accessibility for all children and families in need of such services;

(b) Program recommendations for children's services which include child development, education, supervision, health and social services;

(4) Design and implement evaluation of the activities of the commission in fulfilling the duties as set out in this section;

(5) Report annually to the governor with five copies each to the house of representatives and senate about its activities including, but not limited to the following:

(a) A general description of the activities pertaining to children of each state agency having a member on the commission;

(b) A general description of the plans and goals, as they affect children, of each state agency having a member on the commission;

(c) Recommendations for statutory and appropriation initiatives to implement the integrated state plan;

(d) A report from the commission regarding the state of children in Missouri.

[2.]3. For years ending on or before December 31, 2016, [There is hereby established within the children's services commission] the "Coordinating Board for Early Childhood", which shall constitute a body corporate and politic, shall be established within the children's services commission, and shall include but not be limited to the following members:

(1) A representative from the governor's office;

(2) A representative from each of the following departments: health and senior services, mental health, social services, and elementary and secondary education;

(3) A representative of the judiciary;

(4) A representative of the family and community trust board (FACT);

(5) A representative from the head start program;

(6) Nine members appointed by the governor with the advice and consent of the senate who are representatives of the groups, such as business, philanthropy, civic groups, faith-based organizations, parent groups, advocacy organizations, early childhood service providers, and other stakeholders. The coordinating board may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers. The coordinating board shall elect from amongst its members a chairperson, vice chairperson, a secretary-reporter, and such other officers as it deems necessary. Members of the board shall serve without compensation but may be reimbursed for actual expenses necessary to the performance of their official duties for the board.

4. Beginning on January 1, 2017, the coordinating board for early childhood, which shall constitute a body corporate and politic, shall be established within the department of elementary and secondary education and shall include the following members:

(1) The director or the director's designee from each of the following departments: health and senior services, mental health, and social services;

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(2) The commissioner or the commissioner's designee from the department of elementary and secondary education;

(3) Two members of the Missouri general assembly. One member shall be the chairman of the joint committee on education. One member shall be a member of the joint committee on education, shall be from a different party and different legislative chamber than the chairman of the joint committee on education, and shall be appointed by the elected leader, either the speaker of the house of representatives or the president pro tempore of the senate, of the member's legislative chamber;

(4) The director of the Missouri head start-state collaborative office;

(5) Six citizens, representing each of the following areas: early childhood education and development providers, local head start agencies, higher education, business, faith, and medicine. The Governor shall appoint, with the advice and consent of the senate, the three citizens representing the areas of medicine, business, and higher education. The state board of education shall appoint the citizens representing the areas of early childhood education and development providers, local head start agencies, and faith.

Citizens appointed under subdivision (5) shall serve a term of three years. Such citizens shall be eligible to serve two terms. Such citizens that serve a partial term of less than eighteen months shall be eligible to serve the partial term and two full terms. Such citizens that serve a partial term of more than eighteen months shall be eligible to serve the partial term and one full term.

[3.]5. The coordinating board for early childhood shall have the power to:

(1) Develop a comprehensive statewide long-range strategic plan for a cohesive early childhood system. The board shall review the plan each year and make amendments to the plan as it deems necessary. The board shall submit the plan to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of 2018 and each year thereafter;

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(2) Confer with public and private entities for the purpose of promoting and improving the development of children from birth through age five of this state;

(3) Identify legislative recommendations to improve services for children from birth through age five;

(4)Promote coordination of existing services and programs across public and private entities;

(5) Promote research-based approaches to services and ongoing program evaluation;

(6) Identify service gaps and advise public and private entities on methods to close such gaps;

(7) Apply for and accept gifts, grants, appropriations, loans, or contributions to the coordinating board for early childhood fund from any source, public or private, and enter into contracts or other transactions with any federal or state agency, any private organizations, or any other source in furtherance of the purpose of subsections 3 through 15[2 and 3] of this section, and take any and all actions necessary to avail itself of such aid and cooperation;

(8) Direct disbursements and grants from the coordinating board for early childhood fund and the early childhood health and education trust fund as provided in this section;

(9) Administer the coordinating board for early childhood fund and the early childhood health and education trust fund [and invest any portion of the moneys not required for immediate disbursement in obligations of the United States or any agency or instrumentality of the United States, in obligations of the state of Missouri and its political subdivisions, in certificates of deposit and time deposits, or other obligations of banks and savings and loan associations, or in such other obligations as may be prescribed by the board];

(10) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal with real or personal property or any interests therein, wherever situated;

(11) Sell, convey, lease, exchange, transfer or otherwise dispose of all or any of its property or any interest therein, wherever situated;

(12) Employ and fix the compensation of an executive director and such other agents or employees as it considers necessary;

(13) Adopt, alter, or repeal by its own bylaws, rules, and regulations governing the manner in which its business may be transacted;

(14) Adopt and use an official seal;

(15) Assess or charge fees as the board determines to be reasonable to carry out its purposes;

(16) Make all expenditures which are incident and necessary to carry out its purposes;

(17) Sue and be sued in its official name;

(18) Take such action, enter into such agreements, and exercise all functions necessary or appropriate to carry out the duties and purposes set forth in this section;

(19) Contract with one or more not-for-profits to meet the requirements of this section;

(20) Provide technical assistance to grantees;

(21) Coordinate with parents, community leaders, local governments, and public and private entities to improve the quality of and increase access to early childhood development programs in communities throughout the state; and

(22) Pursue public and private partnership opportunities that are consistent with the objectives of subsection 6 of this section.

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6. Any grants awarded by the coordinating board for early childhood shall accomplish one or more of the following objectives:

(1) Increasing access to existing quality early childhood development programs;

(2) Improving the quality of early childhood development programs;

(3) Increasing access to preventive health care and health and developmental screenings for children ages birth through five;

(4) Offering parent and family support and education concerning prenatal development, early child development, numeracy, and literacy;

(5) Providing professional development and training for early childhood development providers;

(6) Increasing coordination of early childhood development programs and public information about the importance of early childhood development;

(7) Providing evidenced-based smoking cessation programs for pregnant mothers.

7. The coordinating board for early childhood shall consider the following nonexclusive factors when awarding grants as provided in this section:

(1) Whether the project or activities will improve outcomes for children ages birth through five, consistent with the objectives of this section;

(2) Whether the project or activity leverages matching dollars;

(3) Whether the project or activity addresses needs identified by the local community; and

(4) The sustainability of the project or activity.

8. The coordinating board for early childhood shall establish accountability and audit requirements for all grant recipients, including requirements that success be measured by outcomes for children and families.

9. It shall be the duty of the coordinating board for early childhood to:

(1) Establish and maintain a conflict of interest policy for its members and staff;

(2) Prepare an annual report describing the activities of the board and a description of outcomes for children and families achieved by the board and grant recipients, including a list of all grant recipients and the amount of any grants awarded to such recipients. The board shall submit the report to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of each year, beginning in 2019, and shall provide a copy of the report to the secretary of state; and

(3) Ensure a fair and equitable distribution of funds collected as provided under sections 149.017 and 149.161 based on the established residency population of children ages birth through five.

10. There is hereby created the "Coordinating Board for Early Childhood Fund" which shall consist of the following:

(1) Any moneys appropriated by the general assembly for use by the board in carrying out the powers set out in subsections 3 through 9[2 and 3] of this section;

(2) Any moneys received from grants or which are given, donated, or contributed to the fund from any source;

(3) Any moneys received as fees authorized under subsections 3 through 9[2 and 3] of this section;

(4) Any moneys received as interest on deposits or as income on approved investments of the fund;

(5) Any moneys obtained from any other available source. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the coordinating board for early childhood fund at the end of the biennium shall not revert to the credit of the general revenue fund.

11. There is hereby created the Early Childhood Health and Education Trust Fund which shall consist of all moneys collected as provided in sections 149.017 and 149.161, less any reduction allowed in section 149.021. Interest and moneys earned on the fund shall be credited to the fund.

12. No more than eight percent of the moneys received by the early childhood health and education trust fund shall be used for administrative expenses. Eligible administrative expenses shall include only those reasonable and necessary for:

(1) Salaries, fringe benefits, expenses, and equipment of staff employed by the coordinating board for early childhood;

(2) Expenses associated with cost sharing of salaries, fringe benefits, expenses, and equipment of staff employed or contracted by the coordinating board for early childhood from any other state department or agency of the state;

(3) Expenses of the coordinating board for early childhood associated with contracting with not-for-profit entities;

(4) Expenses of the coordinating board for early childhood associated with audits and outcome evaluations of programs and activities funded under this section;

(5) Expenses of grantees associated with meeting administrative requirements of grants established by the coordinating board for early childhood;

No more than 40% of administrative expenses shall be expended on items (1) through (4) of this subsection.

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13. Moneys in the funds may be invested by the state treasurer, and any income therefrom shall be deposited to the credit of the fund. Any moneys credited to and placed in the early childhood health and education trust fund shall be appropriated and used only for purposes which are authorized by this section and shall not be subject to the provisions of section 33.080.

14. The net proceeds from the moneys collected as provided in sections 149.017 and 149.161 shall constitute new and additional funding for the activities, initiatives, and programs funded by the coordinating board for early childhood and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

15. Beginning January 1, 2017, the department of elementary and secondary education and the coordinating board for early childhood may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This subsection and chapter 536 are nonseverable from one another, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017 shall be invalid and void.

RECEIVED SEP 12 AM 8:51 SECRETARY OF STATE

149.017. 1. In addition to the tax levied upon the sale of cigarettes in this state pursuant to section 149.015, a tax shall be levied upon the sale of cigarettes applied as follows:

(A) Beginning January 1, 2017, a tax at an amount equal to ten mills per cigarette;

(B) Beginning January 1, 2019, an additional tax at an amount equal to seven and one-half mills per cigarette; and,

(C) Beginning January 1, 2021, an additional tax at an amount equal to seven and one-half mills per cigarette.

2. The tax shall be evidenced by stamps in the same manner as cigarettes stamped pursuant to sections 149.015 and 149.021. Stamped cigarettes in the possession of a wholesaler or retailer before any phase of the additional tax under subsection 1 of this section is imposed, shall not be subject to such phase of the additional tax before retail sale.

3. The tax on any cigarettes contained in packages of four, ten, twenty or similar quantities to be used solely for distribution as samples shall be computed on a per cigarette basis at the rate set forth in this section, and payment of the tax shall be remitted to the director at such time and in such manner as he may prescribe.

4. The provisions of section 149.065 notwithstanding, all moneys collected as a result of the taxes imposed by this section and section 149.161 shall be credited to and placed in the early childhood health and education trust fund established by section 210.102 as said moneys are received. All of the moneys from the taxes imposed by this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the early childhood health and education trust fund.

5. The additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section and section 149.161 may be paid from moneys appropriated from the early childhood health and education trust fund for that purpose, not to exceed one and one half of one percent (1.5%) of the total moneys collected in that fiscal year. Collection and enforcement activities and initiatives that are paid for with moneys from the early childhood health and education trust fund shall be conducted in a fiscally responsible manner in order to maximize the net proceeds available for distribution pursuant to section 210.102. Moneys appropriated from the early childhood health and education trust fund pursuant to this subdivision shall not be used to pay costs that are not additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section;

6. The net proceeds from the taxes imposed by this section and section 149.161 shall constitute new and additional funding for the activities, initiatives, and programs described in section 210.102 and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

7. On an annual basis, the director of the department of revenue, in consultation with the director of health and senior services, shall determine whether the taxes imposed by this section and section 149.161 have resulted in a decrease in consumption of tobacco products and thereby directly caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320 or revenues to local governments under lawfully enacted sales taxes. If a reduction in the amount of moneys collected and deposited into any of those funds pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320, or revenues to local governments under lawfully enacted sales taxes has been directly caused by the taxes imposed by this section and section 149.161, an amount equal to the amount of moneys that were not collected and deposited into that fund or funds or were not generated by the local tobacco taxes authorized by sections 66.340, 210.320, and sections providing authority for local government sales taxes because of the taxes imposed by this section and section 149.161 shall be transferred from the early childhood health and education trust fund pursuant to section 210.102 as follows: first, to the appropriate political subdivisions, second, to local governments to account for any decrease in local sales tax collections, and third to the appropriate fund or funds. The aggregate amount transferred to such funds and political subdivisions from the early childhood health and education trust fund for any year shall not exceed four percent of the total moneys collected pursuant to this section and section 149.161 during that same year.

149.161. Beginning on January 1, 2017, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, a tax shall be levied upon the first sale of tobacco products other than cigarettes within this state in the amount of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. The tax on tobacco products shall be at the rate of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. Licensed persons making first sales shall be allowed credit in accordance with the provisions of section 149.160.1. The additional tax levied by this section shall not apply to inventories of tobacco products in the possession of the retailer or wholesaler on December 31, 2016.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-113)**

## Subject

Initiative petition from Edward Greim regarding a proposed amendment to Chapters 149 and 210 of the Revised Statutes of Missouri. (Received September 17, 2015)

## Date

October 7, 2015

## Description

This proposal would amend Chapters 149 and 210 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Edward Greim** provided information as a proponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated it does not appear that this proposal would have a direct fiscal impact on their department.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** (DOR) indicated this petition will have a fiscal impact of $75,006 for fiscal year (FY) 2017 on their department, creating additional expense for IT consultants. The proposal will increase revenues for the Early Childhood Health and Education Trust Fund by $105,400,000 for FY 2017, $178,000,000 for FY 2019, and $250,600,000 for FY 2021.

**Section 149.017**
Beginning January 1, 2017, the petition increases the tax on cigarettes by 10 mills per cigarette ($0.20 per pack of 20). Beginning January 1, 2019, the petition applies an additional tax of seven and one-half mills per cigarette ($0.15 per pack of 20). Finally, beginning on January 1, 2021, the legislation increases the tax an additional seven and one-half mills per cigarette ($0.15 per pack of 20). The resultant tax increase at the end of the phase-in period results in a 50 cents per pack of 20 cigarettes increase.

Stamped cigarettes in inventory prior to the effective dates of the increase and in possession of a retailer is not subject to the additional tax before retail sale. The petition also allows for up to one and one-half percent collection fee of the total moneys collected in a fiscal year.

The legislation requires the Department, in consultation with the Department of Health and Senior Services, to annually determine if the taxes result in a decrease in consumption of tobacco products. The Departments must further determine if there are reductions in moneys collected and deposited into the fair share fund, health initiatives fund, or the state school moneys fund or local tobacco taxes.

With the additional assessed tax, the Department estimates an increase of $96.8 million in FY 2017 and an additional $72.6 million in FY's 2019 and 2021 to the Early Childhood Health and Education Trust Fund.

**Section 149.161**
Beginning on January 1, 2017, this section, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, levies a five percent tax upon the first sale of tobacco products other than cigarettes within this state. The legislation bases the five percent increase on the manufacturer's invoice price before discounts and deals. The person making the first sale within the state pays the tax.

With the additional assessed tax, the Department estimates an increase of $8.6 million per year to the Early Childhood Health and Education Trust Fund.

**Section 210.102**
The section creates the Early Childhood Health and Education Act. Beginning in 2017, the Coordinating Board for Early Childhood becomes a body corporate and politic under the purview of the Department of Elementary & Secondary Education (DESE). Subsection 11 creates the Early Childhood Health & Education Trust Fund.

**Administrative Impact:**
**Excise Tax:**
The Early Childhood Health & Education Trust Fund requires changes to the SAGE 50 accounting system and cashiering records. The legislation also creates the requirement for a new form.

Officials from the **Department of Public Safety** indicated their department sees no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated no fiscal impact to their department.

Officials from the **Office of Administration** (OA) indicated the proposal amends Section 210.102, RSMo, and adds Sections 149.017 and 149.161, RSMo.

Section 210.102, RSMo, moves the Coordinating Board for Early Childhood from the Children's Services Commission to DESE, effective January 1, 2017, changes the board membership and provides further guidance on funding and operations for the Board.

Section 149.017, RSMo, increases the cigarette tax by 10 mills per cigarette on 1/1/2017, another 7 ½ mills on 1/1/2019 and another 7 ½ mills 1/1/2021. Section 149.161, RSMo, levies an additional 5% tax on other tobacco products beginning 1/1/2017. These monies will go to the Early Childhood Health and Education Trust (ECHET) Fund established in Section 210.102, RSMo. DOR and DHSS must annually determine whether the new taxes have caused a reduction in consumption and therefore a reduction in the amount of money collected for the Fair Share Fund, the Health Initiatives Fund or the State School Moneys Fund and for local tobacco taxes. If a reduction in consumption is found, then up to 4% of the new revenue collected is to be distributed to the various funds and political subdivisions from the ECHET Fund to hold them harmless.

FISCAL IMPACT:

Cigarette Tax (Section 149.017)

In fiscal year (FY) 15, there was $81.7 million in cigarette excise taxes collected. OA assumes that the average pack of cigarettes retails for $4.50, translating to roughly 480.9 million packs sold in Missouri. OA further assumes that cigarette sales have a (0.8) elasticity. Therefore, OA estimates:

- The first tax increase of 10 mills per cigarette in January 2017 will increase the "Early Childhood Health and Education Trust Fund" by $45.0 million in FY17 and $90.1 million in FY18.
- The second tax increase of an additional 7.5 mills per cigarette in January of 2019 will increase the "Early Childhood Health and Education Trust Fund" by $121.94 million in FY19 and $153.8 million in FY20.
- The third tax increase of an additional 7.5 mills per cigarette in January of 2021 will increase the "Early Childhood Health and Education Trust Fund" by $184.1 million in FY21 and $214.4 million in FY22 and thereafter.

There is no way to truly know what impact these tax increases will have on demand due to smoking cessation efforts, other state and federal regulations, and the increase in sales of e-cigarettes. However, OA estimates:

- The first tax increase will decrease the Fair Share Fund by $0.3 million in FY17 and $0.7 million in FY18, the Health Initiatives Fund by $0.3 million in FY17 and $0.7 million in FY18, and the State School Moneys Fund by $0.7 million in FY17 and $1.5 million in FY18.
- The second tax increase will decrease the Fair Share Fund by $0.9 million in FY19 and $1.1 million in FY20, the Health Initiatives Fund by $0.9 million in FY19 and $1.1 million in FY20, and the State School Moneys Fund by $2.0 million in FY19 and $2.5 million in FY20.
- The third tax increase will decrease the Fair Share Fund by $1.3 million in FY21 and $1.6 million in FY22 and thereafter, the Health Initiatives Fund by $1.3 million in FY21 and $1.6 million in FY22 and thereafter, and the State School Moneys Fund by $3.0 million in FY21 and $3.5 million in FY22 and thereafter.

Further, since cigarette sales will decrease slightly, General Revenue will be reduced by $5.1 million, the School District Trust Fund will be reduced by $1.7 million, and local sales tax will be reduced by $7.2 million once fully implemented in FY22, from the loss of sales tax.

Other Tobacco Products (Section 149.161)

In FY15, there was $17.7 million in other tobacco product excise taxes collected. OA assumes that the average unit retails for $4.09, translating to roughly $176.9 million in wholesales in Missouri. OA further assumes that other tobacco product sales have a (0.8) elasticity. Therefore, OA estimates this proposal will increase the "Early Childhood Health and Education Trust Fund" by $4.0 million in FY17 and $7.9 million once fully implemented in FY18.

There is no way to truly know what impact this tax increase will have on demand due to cessation efforts, other state, federal, and local regulations, and the introduction of alternative products. However, OA estimates that this tax increase will decrease the Health Initiatives Fund by $0.3 million in FY17 and $0.6 million once fully implemented in FY18.

Further, since other tobacco product sales will decrease slightly, General Revenue will be reduced by $190,000, the School District Trust Fund will be reduced by $62,000, and local sales tax will be reduced by $260,000 once fully implemented in FY18, from the loss of sales tax.

Total Impact

This proposal will increase the "Early Childhood Health and Education Trust Fund" by $222.3 million once fully implemented in FY22. This proposal will also decrease the Fair Share Fund by $1.6 million, the Health Initiatives Fund by $2.2 million, and the State School Moneys Fund by $3.5 million once fully implemented in FY22.

In addition, due to lost sales tax revenue, General Revenue will be reduced by $5.2 million, the School District Trust Fund will be reduced by $1.8 million, and local sales tax will be reduced by $7.5 million once fully implemented in FY22.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through fiscal year (FY) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated the initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated that there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **University of Missouri** indicated this initiative petition will have an undetermined fiscal impact on the university, to the extent the petition would affect any general revenue allocated to their university.

**Edward Greim** provided the following information as a proponent of this initiative petition.

Graves Garrett LLC

Edward D. Greim
Graves Garrett, LLC
1100 Main Street, Suite 2700
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Direct Dial: (816) 256-4144
edgreim@gravesgarrett.com

September 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: *Fiscal Note in Initiative Petition 113*

To Whom It May Concern:

Based on the information contained in this letter and the attached letter from Tom Kruckemeyer, we propose the following fiscal note summary:

> Estimated additional revenue to state government is $94 million to $207 million annually with limited estimated implementation costs or savings. The revenue will fund only programs and services allowed by the proposal. The proposal is estimated to result in no net costs or savings to local governmental entities.

**Introduction**

The initiative allows 460,000 children to receive the early health screenings they need to grow and thrive and the early childhood development experiences that will prepare them for long-term educational success. These programs have important trickle-down effects that result in increased revenue and decreased costs at the state and local level. The initiative is accomplished by funding grants across the state to improve early childhood health and education. Funding for grants is provided by a tobacco tax, conservatively resulting in $207 million in direct state revenue, while yielding important public health benefits.

**Early Childhood Delivers Big Benefits**

Missouri enrolls fewer children in its state preschool program than any neighboring state, and funding for programs like Parents as Teachers has been slashed in half. All Missourians benefit

from investments in early childhood education: children start school ready to succeed; parents are able to keep good jobs and earn higher incomes; and taxpayers save money because early childhood education lowers drop-out rates, reduces crime and cuts the cost of social services. Despite clear evidence showing investing in early learning is one of the smartest investments we can make, year after year we battle with the Missouri General Assembly to fund quality early childhood education. Missouri is the 38th worst state for public pre-K funding. In 2012, the General Assembly cut $13.2 million from early childhood programs, and Parents as Teachers remains $19 million behind its 2009 funding.

Traditional thought has long emphasized the relationship between early childhood education and academic success, but researchers now are finding that preschool does not have a substantial effect on increasing IQs but rather develops a child's "soft skills" and can have a profound effect on adult earning potential especially for disadvantaged kids.

Evidence shows that non-cognitive skills matter. Through activities like finger painting, playing with blocks, and interacting with other students, children learn how to control impulses, keep anger in check, stay on task, listen and follow curiosity. These soft skills are basic, but important tools needed to learn, find and keep a job and just manage everyday life. Most children gain these skills at home from their parents, but disadvantaged kids often miss the window of opportunity, which are the critical years before Kindergarten.

A literature of empirical evidence shows strong outcome effects for kids who attend pre-school. Using cost-benefit analyses, researchers have found a link between preschool attendance and reduced crime, fewer teen pregnancies, higher rates of college attendance and less need for public assistance. Cost-benefit studies show that pre-school provides the best value and produces more net benefits to society than increased classroom time or job training programs.

*Evidence from the Perry Preschool Program*

The most widely cited early childhood intervention occurred in Ypsilanti, Michigan during the 60s. Children with low IQ scores and a low socioeconomic index were invited to participate in the Perry Preschool Program. Using a coin toss, researchers divided students into two groups, a treatment group and a control group. Starting at age three the "treatment" kids got 2.5 hours of preschool a day and weekly home visits for two years. The "control" kids did not participate in either of the services. Researchers interviewed both groups at ages 15, 19, 27 and 40 and asked them questions about life events like school, work, marriage, parenting and incarceration. The following chart shows the major findings of the study.



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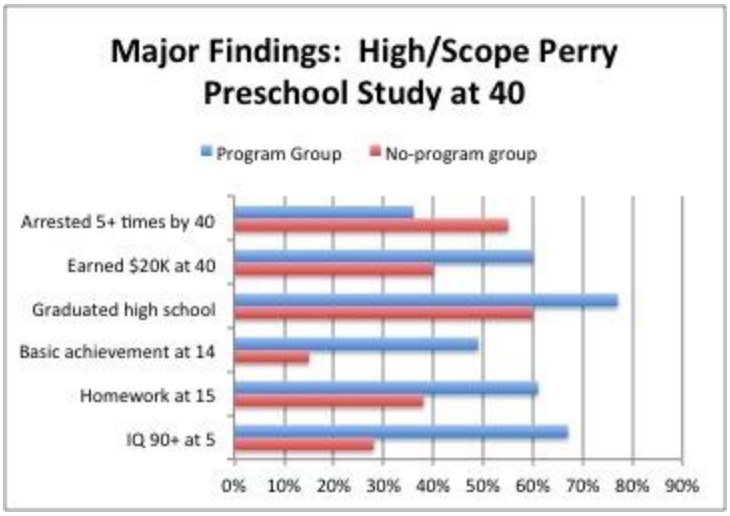


Source: Lifetime Effects: The HighScope Perry Preschool Study Through Age 40 (2005)

The pre-school girls went farther in school, earned higher GPAs, and received less special education than girls from the control group. Boys benefitted as well, but the boys who did not receive the preschool intervention were 2.3 times more likely to get arrested. The cost-savings alone from just the crime reduction demonstrated success.

With increased scrutiny over government spending, cost-benefit analysis gives policy analysts a tool to separate productive programs from ones that yield no social gains. A recent cost-benefit study that used a wider variety of assumptions and applied more rigorous accounting rules, estimated a return rate of about 7-10%. By monetizing social crime, the researchers were able to estimate that for every dollar invested in preschool, society earned back $30 to $300 dollars over the course of a lifetime (Heckman, Moon, Pinto, Savelyev, & Yavitz, 2010).

*Abecedarian and Chicago Studies*

Other studies confirmed the results of the Perry Preschool Project. The Carolina Abecedarian project in the 70s randomly assigned infants into intervention and control groups. The intervention group received full-day childcare from birth through Kindergarten. Intervention kids scored higher in reading and math, completed more education, were older when their first child was born and the mothers of intervention kids progressed farther in school and made more money than the control mothers. Intervention kids even smoked less.

A full-day five-year Pre-K program, while effective, would likely be cost-prohibitive for any state budget; however, the findings proved that early intervention does make a difference. And evidence suggests that a less expensive program could produce similar outcomes (Barnett & Masse, 2007).



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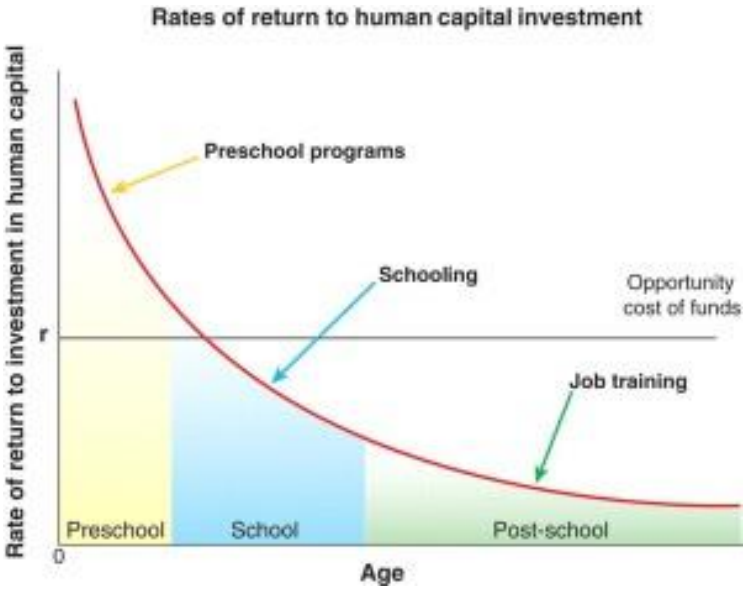
Just as Abecedarian kids earned higher wages than the control group, researchers found similar results from participants of the Chicago Child-Parent Program. The Chicago program targeted disadvantaged kids and provided a Headstart type intervention from ages three to nine. A cost-benefit analysis indicated for every dollar invested, the program produced seven in return. The largest impact was earning capacity, but Chicago kids were also less likely to need special education and less likely to commit crimes (Temple & Reynolds, 2007).

Much like with the Perry Program, the Chicago program demonstrated the relationship between early education, higher wages and crime reduction. Again it was the non-cognitive soft-skill development that made the difference. Second chance efforts like GED and job training provide fewer benefits and struggle to lift people out of poverty (Heckman & Masterov, 2007).




Source: Heckman, The Review of Agricultural Economics (2007)

What the Perry, Abecedarian and Chicago programs show is that pre-school helps kids develop soft-skills that make it easier to gain cognitive skills later and can lead to better jobs and a better quality of life. This in turn lessens the burden on government resources for remedial education, criminal justice and job-training programs.

Investing in human capital through access to finger-paints and story time may appear far-reaching, but multiple studies now point to early intervention as the cheapest, most effective way to prepare kids for the workforce and reduce crime. As labor force growth wanes and the demand for skilled workers increases, these studies suggest that a pipeline that begins at pre-school has great potential to produce big benefits to society in the long run.



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Table 1
Present value of Abecedarian benefits and costs per child (2002 dollars)

| | Discount rate (%) | | |
|---|---|---|---|
| | 3 | 5 | 7 |
| Program cost (net) | $35,864 | $34,599 | $33,421 |
| Program benefits | | | |
| Part. earnings | 37,531 | 16,460 | 6376 |
| Earnings of future generations | 5722 | 1586 | 479 |
| Maternal earnings | 68,728 | 48,496 | 35,560 |
| K-12 education | 8836 | 7375 | 6205 |
| Smoking/health | 17,781 | 4166 | 1008 |
| Higher education costs | −8128 | −5621 | −3920 |
| AFDC | 196 | 129 | 85 |
| Total benefits | $130,666 | $72,591 | $45,793 |
| Net present value | $94,802 | $37,992 | $12,372 |

**Reducing the Harmful Effects of Tobacco**

Tobacco tax increases offer a win-win-win solution for states as they work to balance budgets while preserving essential public services. Tobacco tax increases are one of the most effective ways to reduce smoking and other tobacco use, especially among kids. Every state that has significantly increased its cigarette tax has enjoyed substantial increases in revenue, even while reducing smoking. Higher tobacco taxes also save money by reducing tobacco-related health care costs, including Medicaid expenses. States can realize even greater health benefits and cost savings by allocating some of the revenue to programs that prevent children from smoking and help smokers quit.

National and state polls consistently have found overwhelming public support for tobacco tax increases. Polls also show that, when it comes to balancing budgets, voters prefer raising tobacco taxes to other tax increases or cutting crucial programs such as education and public safety.

Tobacco use causes approximately $3.03 billion in annual health care expenditures in Missouri. Smoking specifically causes over $500 million in annual costs for the Missouri Medicaid



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program. The initiative petition would increase the tax on cigarettes by $0.50 per pack and would increase the tax on other tobacco products by 5%. By conservative estimates, those tax increases would raise approximately $207 million in new state revenue to improve early childhood health and education programs. New state annual revenue is the amount of additional new revenue over the first full year after the effective date of all phases of the additional tax. The state will collect less new revenue to the extent that the rate increase does not apply to all cigarettes and other tobacco products held in wholesaler and retailer inventories on the effective date. This fiscal projection was derived using a price elasticity of demand for cigarettes of -0.8, even though the weight of credible academic literature suggests a conservative estimate for the price elasticity of demand for cigarettes is -0.4.

Tax increases of less than roughly 25 cents per pack or 10% of the average state pack price do not produce significant public health benefits or cost savings because the cigarette companies can easily offset the beneficial impact of such small increases with temporary price cuts, coupons, and other promotional discounting. Splitting a tax rate increase into separate, smaller increases in successive years will similarly diminish or eliminate the public health benefits and related cost savings (as well as reduce the amount of new revenues).

In addition to raising new revenue, the tax increase would have an immediate public health benefit. Each 10% cigarette price increase reduces youth smoking by 6.5%. Each 10% cigarette price increase reduces adult smoking by 2%. The total expected reduction in smoking consumption as a result of a 10% price increase is 4%. It is conservatively estimated that the initiative petition would decrease youth smoking by 6% in Missouri.

There would also be a fiscal benefit to the citizens of the state from the improved public health. As of 2014, the CDC estimated 11,000 annual average smoking-attributable deaths in Missouri. 127,500 Missouri Youth aged 0-17 are projected to die from smoking. Approximately 22.1% of Missouri adults smoke. Approximately 14.9% of Missouri high school students smoke. The average Missouri resident's state and federal tax burden from smoking-caused government expenditures is $588 per household. Approximately one of every six pregnant women smokes, a rate significantly higher than the national average. Smoking during pregnancy increases the risk for preterm delivery, stillbirth, low birth weight and Sudden Infant Death Syndrome.
In recent years, almost every state and the federal government have increased tobacco taxes. Missouri is a notable exception. The average state cigarette tax is currently $1.60 per pack, but rates vary widely from 17 cents in Missouri to $4.35 in New York. On April 1, 2009, the federal cigarette tax increased by 62 cents, to $1.01 per pack.

As of July 1, 2015, Missouri's cigarette tax was less than one-third of any of its border states: IL - $ 1.98; IA - $1.36; KS - $1.29; AR - $1.15; OK - $1.03; NE - $0.64; TN - $0.62; KY - $0.60. Moreover, Missouri's 17-cent per pack tax on cigarettes is the lowest in the country. The real value of the cigarette tax is decreasing. As a percentage of the overall Missouri State Budget, Missouri's tobacco taxes have decreased from 1.036% in 2000 to 0.464% in 2015. See MO Executive Budget Books & MO Office of Administration.



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Every day 3,000 kids try their first cigarette and another 700 kids become regular smokers. There are more than 250 thousand new underage smokers each year. One third will eventually die from their addiction. Smoking has declined in every state where the tobacco tax has been increased.

Ongoing reductions in state smoking levels will, over time, gradually erode state cigarette tax revenues (in the absence of any new rate increases). But those declines are more predictable and less volatile than many other state revenue sources, such as state income tax or corporate tax revenues (which can drop sharply during recessions). In addition, the smoking declines that reduce tobacco tax revenues will simultaneously produce much larger reductions in government and private sector smoking-caused costs. See the Campaign for Tobacco-Free Kids factsheet, *Tobacco Tax Increases are a Reliable Source of Substantial New State Revenue*, http://tobaccofreekids.org/research/factsheets/pdf/0303.pdf.

For other ways states can increase revenues (and promote public health) other than just raising its cigarette tax, see the Campaign factsheet, *The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

For more on sources and calculations, see http://www.tobaccofreekids.org/research/factsheets/pdf/0281.pdf

**Additional Information on Tobacco Product Tax Increases**

*Raising State Cigarette Taxes Always Increases State Revenues and Always Reduces Smoking*, http://tobaccofreekids.org/research/factsheets/pdf/0098.pdf.

*Responses to Misleading and Inaccurate Cigarette Company Arguments Against State Tobacco Tax Increases*, http://tobaccofreekids.org/research/factsheets/pdf/0227.pdf.

*State Cigarette Excise Tax Rates & Rankings*, http://tobaccofreekids.org/research/factsheets/pdf/0097.pdf.

*Top Combined State-Local Cigarette Tax Rates (State plus County plus City)*, http://tobaccofreekids.org/research/factsheets/pdf/0267.pdf.

*State Cigarette Tax Increases Benefit Lower-Income Smokers and Families*, http://tobaccofreekids.org/research/factsheets/pdf/0147.pdf.

*The Best Way to Tax Smokeless Tobacco*, http://tobaccofreekids.org/research/factsheets/pdf/0282.pdf.



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*How to Make State Cigar Tax Rates Fair and Effective*, http://tobaccofreekids.org/research/factsheets/pdf/0335.pdf.

*State Benefits from Increasing Smokeless Tobacco Tax Rates*, http://tobaccofreekids.org/research/factsheets/pdf/0180.pdf.

*The Case for High-Tech Cigarette Tax Stamps*, http://tobaccofreekids.org/research/factsheets/pdf/0310.pdf.

*State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion*, http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf.

*The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

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Sincerely,

Edward D. Greim
Partner, Graves Garrett, LLC



1100 Main Street, Suite 2700 Kansas City, MO 64105 ph 816.256.3181 www.gravesgarrett.com

Tom Kruckemeyer
Missouri Budget Project
3534 Washington Ave
St. Louis, Missouri 63103

September 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

To Whom It May Concern:

I currently work as the Director of Fiscal Policy and Chief Economist at the Missouri Budget Project, a nonprofit, objective, public policy analysis organization that provides independent research on complex state policy issues and how they impact the state budget. I hold a B.A. in Economics and History and an M.A. in Economics from the University of Missouri-St. Louis. I also hold an M.A. Political Science from the University of Missouri-Columbia. I worked in the Missouri Division of Budget from 1978 to 2004, where I served as the chief economist. In the course of both my positions at the Missouri Division of Budget as well as my current position, I have routinely projected the fiscal impact of tax changes.

In my experience, it is a conservative, generally accepted practice to project the revenue generated from a proposed cigarette tax by estimating an average price per cigarette (or price per pack), estimating a uniform price elasticity of demand, and to assume that the tax will result in a penny-for-penny increase in the cost of cigarettes.

Upon information and belief, the Office of Administration usually estimates the price elasticity of demand for cigarettes as -0.8. This estimate means that a 10% increase in the cost of cigarettes results in an 8% reduction in the quantity of cigarettes sold. A price elasticity of demand of -0.8 is a conservative but reasonable estimate for the price elasticity of demand of a product such as cigarettes. Notably, even with a 50 cent to one dollar increase in Missouri's cigarette tax, Missouri's cigarette tax will remain lower than many of its contiguous states, in particular the states that border major metropolitan areas, Illinois and Kansas.

Additionally, the Office of Administration's method for estimating cigarette tax revenue is conservative because it assumes a penny-for-penny price increase in the cost of cigarettes as a result of the tax. In practice, whether the entire tax increase will result in a 50 cent to one dollar increase in the prices of cigarettes is unknown because the market for cigarettes is competitive. Moreover, regardless of whether the Office of Administration estimates that the demand for cigarettes will remain flat or decrease due to societal trends, the overall fiscal impact is largely the same. An estimate of the decrease in future tax collections due to decreased smoking from societal trends is not essential to the findings in the fiscal note that this particular tax will result in a net increase to state revenue with no net cost to local governments.

If the Office of Administration decides to use the same assumptions in projecting the revenue for other tobacco products ("OTP") as it does for cigarettes, it is my opinion that the resulting collection estimate would be conservative but appropriate. Recent trends suggest that the revenue generated from the tax on other tobacco products is increasing.

Based on generally accepted methods for estimating the fiscal impact of a proposed tax, I estimate that a phased-in 50 cent cigarette tax increase will result in approximately 90 million dollars of revenue in calendar years 2017 and 2018. I estimate that the cigarette tax will result in approximately 150 million dollars of revenue in calendar years 2019 and 2020. I estimate that the cigarette tax will result in approximately 206 million dollars of revenue in calendar year 2021. In comparison, I estimate that an immediate 50 cent cigarette tax increase will result in approximately 214 million dollars of revenue in calendar year 2017. An immediate 63 cent cigarette tax increase will result in approximately 263 million dollars of revenue in calendar year 2017. An immediate 72 cent cigarette tax increase will result in approximately 295 million dollars of revenue in calendar year 2017. An immediate 80 cent cigarette tax increase will result in approximately 323 million dollars of revenue in calendar year 2017. An immediate one dollar cigarette tax increase will result in approximately 387 million dollars of revenue in calendar year 2017. These estimates assume a 1% yearly reduction in the state's smoking level. I estimate the 5% increase in the tax on non-cigarette tobacco products will result in approximately 8 million dollars of revenue annually. There may be a small decrease in revenue collection for each phase of the additional tax due to lags associated with the implementation and collection of taxes.

These taxes are expected to result in limited implementation costs to the state. The costs associated with administering the Early Childhood Education and Health Trust Fund will primarily be borne by the Trust Fund. Nonetheless it is proper and reasonable to consider additional costs of administering the cigarette tax increase, which may include fixed costs like salaries as well as additional marginal costs, such as costs associated with stamping cigarettes. All state government costs are estimated to be offset by additional revenue increases.

Local governments will receive revenue from the tax to offset any potential decrease in local tax revenue. Based on a price elasticity of demand of -0.8, local revenue may decrease, but any such decrease in cigarette taxes will be by an amount less than $1 million. By any reasonable estimate, 4% of the Early Childhood Education and Health Trust Fund will exceed the decrease in revenue associated with local tobacco taxes and local sales taxes. Accordingly, any such decrease will be offset as a result local revenue from the transfer of funds to localities with local tobacco taxes and local sales taxes. Additionally, while direct local revenue is zero, there are positive indirect effects the may result in additional revenue to local governments.

Sincerely,

/s/

Tom Kruckemeyer
Director of Fiscal Policy & Chief
Economist, Missouri Budget Project

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College**.

**Fiscal Note Summary**

When cigarette and tobacco tax increases are fully implemented, estimated additional revenue to state government is $200 million to $250 million annually, with limited estimated implementation costs. The revenue will fund only programs and services allowed by the proposal. The fiscal impact to local governmental entities is unknown.

RECEIVED
SEP 17 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-112

September 17, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Edward Greim regarding a proposed statutory amendment to Chapters 210, 196, & 149, version 14 (2016-112)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Edward Greim on September 17, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-112 County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

RECEIVED
2015 SEP 1 AM 8:50

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do □ do not □ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Address of Affiant

_____
Printed Name of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My commission expires _____

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NOTICE: You are advised that the proposed law changes, repeals, or modifies by implication, or may be construed to change, repeal or modify by implication, the following provisions of the Missouri Revised Statutes — Sections 66.340, 66.350, 149.015, 149.021, 149.065, 149.160, 196.1003, 210.102, and 210.320. The proposed law enacts two new sections, to be known as sections 149.017 and 149.161.

*Be it enacted by the people of the State of Missouri:*

Sections 210.102 and 196.1003 of the Revised Statutes of Missouri are amended and sections 149.017 and 149.161 are enacted, to read as follows:

210.102. 1. Sections 149.017 and 149.161, and certain amendments to 196.1003 and 210.102, shall be referred to as the Early Childhood Health and Education Act, with the purpose of supporting and improving early childhood health and education through regulation of tobacco manufacturers and sellers. This Act:

(1) Creates the Early Childhood Health and Education Trust Fund in order to support and improve early childhood health and education across the state;

(2) Reforms the Coordinating Board for Early Childhood to administer the Early Childhood Health and Education Trust Fund and provide grants that support and improve early childhood health and education; and

(3) Funds the Early Childhood Health and Education Trust Fund through increased regulations on tobacco manufacturers and sellers.

All of the provisions of this act are severable. If any provision of this act is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this act shall be and remain valid and in full force and effect.

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2. It shall be the duty of the Missouri children's services commission to:

(1) Make recommendations which will encourage greater interagency coordination, cooperation, more effective utilization of existing resources and less duplication of effort in activities of state agencies which affect the legal rights and well-being of children in Missouri;

(2) Develop an integrated state plan for the care provided to children in this state through state programs;

(3) Develop a plan to improve the quality of children's programs statewide. Such plan shall include, but not be limited to:

(a) Methods for promoting geographic availability and financial accessibility for all children and families in need of such services;

(b) Program recommendations for children's services which include child development, education, supervision, health and social services;

(4) Design and implement evaluation of the activities of the commission in fulfilling the duties as set out in this section;

(5) Report annually to the governor with five copies each to the house of representatives and senate about its activities including, but not limited to the following:

(a) A general description of the activities pertaining to children of each state agency having a member on the commission;

(b) A general description of the plans and goals, as they affect children, of each state agency having a member on the commission;

(c) Recommendations for statutory and appropriation initiatives to implement the integrated state plan;

(d) A report from the commission regarding the state of children in Missouri.

[2.]3. For years ending on or before December 31, 2016, [There is hereby established within the children's services commission] the "Coordinating Board for Early Childhood", which shall constitute a body corporate and politic, shall be established within the children's services commission, and shall include but not be limited to the following members:

(1) A representative from the governor's office;

(2) A representative from each of the following departments: health and senior services, mental health, social services, and elementary and secondary education;

(3) A representative of the judiciary;

(4) A representative of the family and community trust board (FACT);

(5) A representative from the head start program;

(6) Nine members appointed by the governor with the advice and consent of the senate who are representatives of the groups, such as business, philanthropy, civic groups, faith-based organizations, parent groups, advocacy organizations, early childhood service providers, and other stakeholders. The coordinating board may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers. The coordinating board shall elect from amongst its members a chairperson, vice chairperson, a secretary-reporter, and such other officers as it deems necessary. Members of the board shall serve without compensation but may be reimbursed for actual expenses necessary to the performance of their official duties for the board.

4. Beginning on January 1, 2017, the coordinating board for early childhood, which shall constitute a body corporate and politic, shall be established within the department of elementary and secondary education and shall include the following members:

(1) The director or the director's designee from each of the following departments: health and senior services, mental health, and

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social services;

(2) The commissioner or the commissioner's designee from the department of elementary and secondary education;

(3) Two members of the Missouri general assembly. One member shall be the chairman of the joint committee on education. One member shall be a member of the joint committee on education, shall be from a different party and different legislative chamber than the chairman of the joint committee on education, and shall be appointed by the elected leader, either the speaker of the house of representatives or the president pro tempore of the senate, of the member's legislative chamber;

(4) The director of the Missouri head start-state collaborative office;

(5) Six citizens, representing each of the following areas: early childhood education and development providers, local Head Start agencies, higher education, business, faith, and medicine. The Governor shall appoint, with the advice and consent of the senate, the three citizens representing the areas of medicine, business, and higher education. The state board of education shall appoint the citizens representing the areas of early childhood education and development providers, local Head Start agencies, and faith.

Citizens appointed under subdivision (5) shall serve a term of three years. Such citizens shall be eligible to serve two terms. Such citizens that serve a partial term of less than eighteen months shall be eligible to serve the partial term and two full terms. Such citizens that serve a partial term of more than eighteen months shall be eligible to serve the partial term and one full term.

[3.]5. The coordinating board for early childhood shall have the power to:

(1) Develop a comprehensive statewide long-range strategic plan for a cohesive early childhood system. The board shall review the plan each year and make amendments to the plan as it deems necessary. The board shall submit the plan to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of 2018 and each year thereafter;

(2) Confer with public and private entities for the purpose of promoting and improving the development of children from birth through age five of this state;

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(3) Identify legislative recommendations to improve services for children from birth through age five;

(4)Promote coordination of existing services and programs across public and private entities;

(5) Promote research-based approaches to services and ongoing program evaluation;

(6) Identify service gaps and advise public and private entities on methods to close such gaps;

(7) Apply for and accept gifts, grants, appropriations, loans, or contributions to the coordinating board for early childhood fund from any source, public or private, and enter into contracts or other transactions with any federal or state agency, any private organizations, or any other source in furtherance of the purpose of subsections 3 through 15[2 and 3] of this section, and take any and all actions necessary to avail itself of such aid and cooperation;

(8) Direct disbursements and grants from the coordinating board for early childhood fund and the early childhood health and education trust fund as provided in this section;

(9) Administer the coordinating board for early childhood fund and the early childhood health and education trust fund [and invest any portion of the moneys not required for immediate disbursement in obligations of the United States or any agency or instrumentality of the United States, in obligations of the state of Missouri and its political subdivisions, in certificates of deposit and time deposits, or other obligations of banks and savings and loan associations, or in such other obligations as may be prescribed by the board];

(10) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal with real or personal property or any interests therein, wherever situated;

(11) Sell, convey, lease, exchange, transfer or otherwise dispose of all or any of its property or any interest therein, wherever situated;

(12) Employ and fix the compensation of an executive director and such other agents or employees as it considers necessary;

(13) Adopt, alter, or repeal by its own bylaws, rules, and regulations governing the manner in which its business may be transacted;

(14) Adopt and use an official seal;

(15) Assess or charge fees as the board determines to be reasonable to carry out its purposes;

(16) Make all expenditures which are incident and necessary to carry out its purposes;

(17) Sue and be sued in its official name;

(18) Take such action, enter into such agreements, and exercise all functions necessary or appropriate to carry out the duties and purposes set forth in this section;

(19) Contract with one or more not-for-profits to meet the requirements of this section;

(20) Provide technical assistance to grantees;

(21) Coordinate with parents, community leaders, local governments, and public and private entities to improve the quality of and increase access to early childhood development programs in communities throughout the state; and

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(22) Pursue public and private partnership opportunities that are consistent with the objectives of subsection 6 of this section.

6. Any grants awarded by the coordinating board for early childhood shall accomplish one or more of the following objectives:

(1) Increasing access to existing quality early childhood development programs;

(2) Improving the quality of early childhood development programs;

(3) Increasing access to preventive health care and health and developmental screenings for children ages birth through five;

(4) Offering parent and family support and education concerning prenatal development, early child development, numeracy, and literacy;

(5) Providing professional development and training for early childhood development providers;

(6) Increasing coordination of early childhood development programs and public information about the importance of early childhood development;

(7) Providing evidenced-based smoking cessation programs for pregnant mothers.

7. The coordinating board for early childhood shall consider the following nonexclusive factors when awarding grants as provided in this section:

(1) Whether the project or activities will improve outcomes for children ages birth through five, consistent with the objectives of this section;

(2) Whether the project or activity leverages matching dollars;

(3) Whether the project or activity addresses needs identified by the local community; and

(4) The sustainability of the project or activity.

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8. The coordinating board for early childhood shall establish accountability and audit requirements for all grant recipients, including requirements that success be measured by outcomes for children and families.

9. It shall be the duty of the coordinating board for early childhood to:

(1) Establish and maintain a conflict of interest policy for its members and staff;

(2) Prepare an annual report describing the activities of the board and a description of outcomes for children and families achieved by the board and grant recipients, including a list of all grant recipients and the amount of any grants awarded to such recipients. The board shall submit the report to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of each year, beginning in 2019, and shall provide a copy of the report to the secretary of state; and

(3) Ensure a fair and equitable distribution of funds collected as provided under sections 149.017 and 149.161 based on the established residency population of children ages birth through five.

10. There is hereby created the "Coordinating Board for Early Childhood Fund" which shall consist of the following:

(1) Any moneys appropriated by the general assembly for use by the board in carrying out the powers set out in subsections 3 through 9[2 and 3] of this section;

(2) Any moneys received from grants or which are given, donated, or contributed to the fund from any source;

(3) Any moneys received as fees authorized under subsections 3 through 9[2 and 3] of this section;

(4) Any moneys received as interest on deposits or as income on approved investments of the fund;

(5) Any moneys obtained from any other available source. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the coordinating board for early childhood fund at the end of the biennium shall not revert to the credit of the general revenue fund.

11. There is hereby created the Early Childhood Health and Education Trust Fund which shall consist of all moneys collected as provided in sections 149.017 and 149.161, less any reduction allowed in section 149.021. Interest and moneys earned on the fund shall be credited to the fund.

12. No more than eight percent of the moneys received by the early childhood health and education trust fund shall be used for administrative expenses. Eligible administrative expenses shall include only those reasonable and necessary for:

(1) Salaries, fringe benefits, expenses, and equipment of staff employed by the coordinating board for early childhood;

(2) Expenses associated with cost sharing of salaries, fringe benefits, expenses, and equipment of staff employed or contracted by the coordinating board for early childhood from any other state department or agency of the state;

(3) Expenses of the coordinating board for early childhood associated with contracting with not-for-profit entities;

(4) Expenses of the coordinating board for early childhood associated with audits and outcome evaluations of programs and activities funded under this section;

(5) Expenses of grantees associated with meeting administrative requirements of grants established by the coordinating board for early childhood;

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No more than 40% of administrative expenses shall be expended on items (1) through (4) of this subsection.

13. Moneys in the funds may be invested by the state treasurer, and any income therefrom shall be deposited to the credit of the fund. Any moneys credited to and placed in the early childhood health and education trust fund shall be appropriated and used only for purposes which are authorized by this section and shall not be subject to the provisions of section 33.080.

14. The net proceeds from the moneys collected as provided in sections 149.017 and 149.161 shall constitute new and additional funding for the activities, initiatives, and programs funded by the coordinating board for early childhood and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

15. Beginning January 1, 2017, the department of elementary and secondary education and the coordinating board for early childhood may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This subsection and chapter 536 are nonseverable from one another, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017 shall be invalid and void.

16. Notwithstanding the provisions of this section, section 149.017, or section 149.065, five percent, to be collected annually, of the net proceeds from the moneys collected as provided in sections 149.017 and 149.161 shall constitute new and additional funding for the Missouri Department of Health and Senior Services for the purpose of establishing, maintaining, and enhancing activities, programs, and initiatives to promote tobacco use quit assistance and prevention, including a comprehensive statewide tobacco control program, and public health for tobacco-related diseases. The comprehensive statewide tobacco control program shall be consistent with the United States Centers for Disease Control and Prevention's, or its successor agency's, best practices and guidelines for tobacco control programs, if any, and shall be designed to be effective to prevent and reduce tobacco use, reduce the public's exposure to secondhand smoke, and identify and eliminate disparities related to tobacco use and its effects among different population groups. The components of the comprehensive statewide tobacco control program shall include, but not be limited to: state and community based interventions, health communication interventions, cessation interventions, surveillance and evaluation, and administration and management. No more than fifteen percent of the moneys in this subsection may be expended by the Missouri Department of Health and Senior Services for activities, programs, and initiatives that promote public health for tobacco-related diseases, such as programs to provide student loan forgiveness or scholarships for medical professionals who work in underserved areas of the state, but that are not part of the comprehensive statewide tobacco control program. Moneys pursuant to this subsection expended by the Missouri Department of Health and Senior Services for the purpose of promoting public health for tobacco-related diseases shall be used solely for that purpose and shall not be used directly or indirectly for research activities.

149.017. 1. Beginning January 1, 2017, in addition to the tax levied upon the sale of cigarettes in this state pursuant to section 149.015, a tax shall be levied upon the sale of cigarettes applied a tax at an amount equal to fifty mills per cigarette.

2. The tax shall be evidenced by stamps in the same manner as cigarettes stamped pursuant to sections 149.015 and 149.021. Stamped cigarettes in the possession of a wholesaler or retailer before any phase of the additional tax under subsection 1 of this section is imposed, shall not be subject to such phase of the additional tax before retail sale.

3. The tax on any cigarettes contained in packages of four, ten, twenty or similar quantities to be used solely for distribution as samples shall be computed on a per cigarette basis at the rate set forth in this section, and payment of the tax shall be remitted to the director at such time and in such manner as he may prescribe.

4. The provisions of section 149.065 notwithstanding, all moneys collected as a result of the taxes imposed by this section and section 149.161 shall be credited to and placed in the early childhood health and education trust fund established by section 210.102 as said moneys are received. All of the moneys from the taxes imposed by this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the early childhood health and education trust fund.

5. The additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section and section 149.161 may be paid from moneys appropriated from the early childhood health and education trust fund for that purpose, not to exceed one and one half of one percent (1.5%) of the total moneys collected in that fiscal year. Collection and enforcement activities and initiatives that are paid for with moneys from the early childhood health and education trust fund shall be conducted in a fiscally responsible manner in order to maximize the net proceeds available for distribution pursuant to section 210.102. Moneys appropriated from the early childhood health and education trust fund pursuant to this subdivision shall not be used to pay costs that are not additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section;

6. The net proceeds from the taxes imposed by this section and section 149.161 shall constitute new and additional funding for the activities, initiatives, and programs described in section 210.102 and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

7. On an annual basis, the director of the department of revenue, in consultation with the director of health and senior services, shall determine whether the taxes imposed by this section and section 149.161 have resulted in a decrease in consumption of tobacco products and thereby directly caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320 or revenues to local governments under lawfully enacted sales taxes. If a reduction in the amount of moneys collected and deposited into any of those funds pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320, or revenues to local governments under lawfully enacted sales taxes has been directly caused by the taxes imposed by this section and section 149.161, an amount equal to the amount of moneys that were not collected and deposited into that fund or funds or were not generated by the local tobacco taxes authorized by sections 66.340, 210.320, and sections providing authority for local government sales taxes because of the taxes imposed by this section and section 149.161 shall be transferred from the early childhood health and education trust fund pursuant to section 210.102 as follows: first, to the appropriate political subdivisions, second, to local governments to account for any decrease in local sales tax collections, and third to the appropriate fund or funds. The aggregate amount

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transferred to such funds and political subdivisions from the early childhood health and education trust fund for any year shall not exceed four percent of the total moneys collected pursuant to this section and section 149.161 during that same year.

149.161. Beginning on January 1, 2017, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, a tax shall be levied upon the first sale of tobacco products other than cigarettes within this state in the amount of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. The tax on tobacco products shall be at the rate of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. Licensed persons making first sales shall be allowed credit in accordance with the provisions of section 149.160.1. The additional tax levied by this section shall not apply to inventories of tobacco products in the possession of the retailer or wholesaler on December 31, 2016.

196.1003. Requirements.

Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this Act shall do one of the following:

(a) become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

(b) (1) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts, (as such amounts are adjusted for inflation) —
1999: $.0094241 per unit sold after the date of enactment of this Act;
2000: $.0104712 per unit sold;
for each of 2001 and 2002: $.0136125 per unit sold;
for each of 2003 through 2006: $.0167539 per unit sold;
for each of 2007 and each year thereafter: $.0188482 per unit sold.

(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances —

(A) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (i) in the order in which they were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment) had it been a participating manufacturer, the percentage determined in subdivision (D) of the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(C) to the extent not released from escrow under subparagraphs (A) or (B), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

(D) The amount in subdivision (B) of the excess released from escrow shall be: for units sold during all years ending on or after December 31, 2017, zero percent.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails [in any year] to place into escrow the funds required under this section shall

(A) be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;

(B) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

(C) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years.

Each failure to make an annual deposit required under this section shall constitute a separate violation. Any tobacco product manufacturer that violates the provisions of this section shall pay the State's cost and attorney's fees incurred during a successful prosecution under this section.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-112)**

**Subject**

Initiative petition from Edward Greim regarding a proposed amendment to Chapters 149, 196, and 210 of the Revised Statutes of Missouri. (Received September 17, 2015)

**Date**

October 7, 2015

**Description**

This proposal would amend Chapters 149, 196, and 210 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Edward Greim** provided information as a proponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated the petition provides funds for a comprehensive tobacco control program, which is already administered by the Department. However the current funding appropriated is only 3 percent of the total funding the Centers for Disease Control and Prevention (CDC) recommends for the state of Missouri to have a fully funded comprehensive tobacco control program. The additional funds in this proposal would be used to enhance and expand the existing program and would bring the total funding available to 32 percent of CDC's recommendation (CDC recommendation is $73 million). While Missouri currently has one of the lowest tax rates for tobacco products, it has one of the highest tobacco use rates.

Rental space for five staff located in Jefferson City, one staff in Kansas City, and one staff in St. Louis would be required: 7 full-time employees (FTE) x 230 sq ft/FTE x $16.75/sq ft = $26,967.50.

There is a potential to affect small businesses that sell cigarettes and other tobacco products. Research has shown that interventions that increase the price of tobacco products reduce consumption.

The petition requires that 5 percent of the net proceeds collected by the tax increases be allocated to the Missouri Department of Health and Senior Services for the purpose of establishing, maintaining, and enhancing activities, programs, and initiatives to promote tobacco use quit assistance and prevention, including a comprehensive statewide tobacco control program, and public health for tobacco-related diseases. The comprehensive statewide tobacco control program shall be consistent with the United States Centers for Disease Control and Prevention's (CDC) guidelines for tobacco control programs, and shall be designed to be effective to prevent and reduce tobacco use, reduce the public's exposure to secondhand smoke, and identify and eliminate disparities related to tobacco use and its effects among different population groups. The components of the comprehensive statewide tobacco control program shall include, but not be limited to: state and community based interventions, health communication interventions, cessation interventions, surveillance and evaluation, and administration and management.

**Revenue**:
Section 149.017, raises the tax on cigarettes to 50 mills per cigarette beginning January 1, 2017. The Office of Administration Budget and Planning estimates the total cigarette tax revenue as a result of this increase to be $397,500,000.

Section 149.061 levies an additional 5 percent tax on the first sales of tobacco products other than cigarettes beginning January 1, 2017. The Office of Administration Budget and Planning estimates the total additional tax collected on other tobacco products to be $7,900,000.

Section 149.017.2 requires the additional tax on cigarettes to be stamped in accordance with the provisions of existing sections 149.015 and 149.021. This creates an allowance of 3 percent of the cigarette taxes to the wholesaler for the compensation for the time required to affix the stamps.

Section 149.017.5 allows for up to 1.5 percent of the total funds collected to be appropriated from the fund to the state for the purposes of collecting and enforcing the taxes of this section. This estimate assumes that 1.5 percent will be appropriated for this use.

Section 210.102.16 allocates 5 percent of the net proceeds of money collected as provided in sections 149.017 and 149.161 to the Missouri Department of Health and Senior Services for the purpose of funding a comprehensive tobacco control program.

The estimated revenues for calendar year 2017 are calculated as follows:

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| Cigarette tax | $397,500,000 |
| Other tobacco products tax | $7,900,000 |
| Less 3% of cigarette tax for stamps | ($11,925,000) |
| Total tax collected | $393,475,000 |
| Less 1.5% administrative fee | (5,902,125) |
| Net Proceeds | $387,572,875 |
| **5% of net proceeds for DHSS** | **$19,378,644** |

Since the additional tax would not start until January 1, 2017, it is assumed the first appropriation of funds for the expanded comprehensive tobacco control program would start in the 2018 fiscal year.

**Costs**
The assumptions used for calculating the cost to the Department are as follows:

**Personnel needs**:

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| One Planner III (Range A48, Step B): | $45,156 |
| Two Health Educator III (Range A25, Step B): | $80,760 |
| One Health Program Representative III (Range A24, Step B): | $38,928 |

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| One Health Program Representative I/II (Range A18, Step B): | $30,984 |
| One Sr. Off. Support Assistant, Keyboard (Range A09, Step F): | $25,824 |
| One Public Health Epidemiologist (Range A32, Step A) | $55,416 |

The Planner III would work with multiple partners across the state to identify, plan, and implement evidence-based programs in comprehensive tobacco control. Duties would include preparing, reviewing and approving applications for funding; supervising assigned staff; and assuring an evaluation plan consistent with Department goals for comprehensive tobacco control and chronic disease prevention is executed.

The two Health Educator IIIs would be stationed in Kansas City and St. Louis to work directly with contractors in the major metropolitan areas and surrounding counties providing technical assistance on implementing community based interventions. Duties would include technical assistance, training and education in comprehensive tobacco control issues.

The Health Program Representative III would work with the Program Coordinator, the Planner III, and the Office of Public Information to assure a media plan consistent with Department goals for comprehensive tobacco control and chronic disease prevention is executed.

The Health Program Representative I/II would be responsible for contract management, contract monitoring, invoice tracking, etc.

The Senior Office Support Assistant (Keyboard) would provide support to the staff located in field offices, including the four employees currently in the field. Duties would include such activities as making arrangements for training and travel, preparing expense reports, assembling training packets, routing and tracking program documents, and answering the phone for the program.

The Public Health Epidemiologist will oversee the surveillance and evaluation activities of the program, developing evaluation plans, assuring all interventions are appropriately evaluated, preparing evaluation reports, and coordinating collection of data on tobacco control measures.

Standards costs for equipment and expenses of staff are included in the cost estimation.

**Program Services Costs**
Remaining funds of $18,752,455 would be allocated in contracts for Quitline assistance, media, and local community evidence-based initiatives.

A well-funded Quitline is needed to provide on-going support in quitting tobacco use to any Missourian. The Quitline would provide cessation coaching, texting support, on-line support, and quitting medications – over-the counter and prescription to those without prescription drug benefits – as approved by the U.S. Food and Drug Administration.

A comprehensive tobacco control program must include paid media to promote health messages to adults, youth and communities on issues of not using tobacco and eliminating exposure to secondhand smoke.

Finally, contracts would be offered to local entities to implement evidence-based, community-based interventions in cessation, youth initiation, and secondhand smoke exposure. Contractors would include local public health agencies, faith-based organizations, non-profit organizations, educational institutions. These would be sought through requests for proposals (to be developed by the Planner III).

Evidence-based interventions conducted by contractors would include those supporting the goals of comprehensive tobacco control:

- Reducing tobacco use through local tobacco cessation – for example, one-on-one interventions with individuals needing face-to-face coaching or in culturally sensitive settings for those with a disproportionate burden of tobacco use.
- Reducing youth initiation through prevention – for example, youth leadership in educating their communities on why tobacco use and secondhand smoke are harmful to health, developing local-focused media.
- Exposure to secondhand smoke – for example, local coalitions educating their communities on why tobacco use and secondhand smoke are harmful to health, developing local-focused media.

Contracts could also be funded to support state and local surveillance and evaluation efforts to demonstrate the effectiveness of the funded interventions.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated it does not appear that this proposal would have a direct fiscal impact on their department.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** (DOR) indicated this petition will have a fiscal impact of $75,006 for fiscal year (FY) 2017 on their department, creating additional expense for IT consultants, and will increase revenues for the Early Childhood Health and Education Trust Fund by $492,700,000 annually.

If approved by voters, this petition increases the revenue stream for the Early Childhood Health and Education Trust Fund, but creates a negative impact to general revenue.

**Section 149.017**
Beginning January 1, 2017, the legislation increases the tax on cigarettes to 50 mills per cigarette ($1.00 per pack of 20).

Stamped cigarettes in inventory prior to the effective dates of the increase and in possession of a retailer are not subject to the additional tax before retail sale. The petition also allows for up to one and one-half percent collection fee of the total moneys collected in a fiscal year.

The legislation requires the Department, in consultation with the Department of Health and Senior Services (DHSS), to annually determine if the taxes result in a decrease in consumption of tobacco products. The Departments must further determine if there are reductions in moneys collected and deposited into the fair share fund, health initiatives fund, or the state school moneys fund or local tobacco taxes.

With the additional assessed tax, the Department estimates an increase of $459.9 million per year to the Early Childhood Health and Education Trust Fund.

**Section 149.161**
Beginning on January 1, 2017, this section, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, levies a five percent tax upon the first sale of tobacco products other than cigarettes within this state. The legislation bases the five percent increase on the manufacturer's invoice price before discounts and deals. The person making the first sale within the state pays the tax.

With the additional assessed tax, the Department estimates an increase of $8.2 million per year to the Early Childhood Health and Education Trust Fund.

**Section 196.1003**
The amount of the excess escrow released must be for units sold during all years ending on or after December 31, 2017, zero percent.

**Section 210.102**
The section creates the Early Childhood Health and Education Act. Beginning in 2017, the Coordinating Board for Early Childhood becomes a body corporate and politic under the purview of the Department of Elementary & Secondary Education (DESE). Subsection 11 creates the Early Childhood Health and Education Trust Fund. The legislation deposits all moneys collected under sections 149.017 and 149.161, less any reductions allowed in section 149.021, into the trust fund. The legislation authorizes the collection of five percent annually of the net proceeds from the moneys collected under sections 149.017 and 149.161 to be additional funding for the Missouri Department of Health and Senior Services.

The Department estimates $24.6 million of additional funding for the Missouri Department of Health and Senior Services as a result of this section.

**Administrative Impact:**

**Excise Tax:**

The Early Childhood Health and Education Trust Fund requires changes to SAGE 50 accounting system and cashiering records. The legislation also creates the requirement for a new form.

Officials from the **Department of Public Safety** indicated their department sees no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated no fiscal impact to their department.

Officials from the **Office of Administration** (OA) indicated the proposal amends Sections 210.102 and 196.1003, RSMo, and adds Sections 149.017 and 149.161, RSMo.

Section 210.102, RSMo, moves the Coordinating Board for Early Childhood from the Children's Services Commission to DESE, effective January 1, 2017, changes the board membership and provides further guidance on funding and operations for the Board. Five percent of the new revenue collected is to be used by the MO Department of Health and Senior Services to establish, maintain and enhance activities, programs and initiatives to promote tobacco use quit assistance and prevention, including a comprehensive statewide tobacco control program, and public health for tobacco-related diseases. No more than 15% of these moneys may be used by DHSS to promote public health for tobacco-related diseases, such as student loan forgiveness or scholarships for medical professionals.

Section 149.017, RSMo, increases cigarette tax by 50 mills per cigarette on 1/1/2017. Section 149.161, RSMo, levies an additional 5% tax on other tobacco products beginning 1/1/2017. These monies will go to the Early Childhood Health and Education Trust (ECHET) Fund established in Section 210.102, RSMo. DOR and DHSS must annually determine whether the new taxes have caused a reduction in consumption and therefore a reduction in the amount of money collected for the Fair Share Fund, the Health Initiatives

Fund or the State School Moneys Fund and for local sales and tobacco taxes. If a reduction in consumption is found, then up to 4% of the new revenue collected is to be distributed to the various funds and political subdivisions from the ECHET Fund to hold them harmless.

Section 196.1003, RSMo, changes escrow requirements for the tobacco Master Settlement Agreement, with provisions to direct potential civil penalties to the ECHET Fund. Because this language changes what was previously approved as a "qualifying statute", it could adversely impact future Nonparticipating Manufacturer (NPM) adjustment arbitrations.

FISCAL IMPACT:

Cigarette Tax

In FY15, there was $81.7 million in cigarette excise taxes collected. OA assumes that the average pack of cigarettes retails for $4.50, translating to roughly 480.9 million packs sold in Missouri. OA further assumes that cigarette sales have a (0.8) elasticity. Therefore, OA estimates a tax increase of 50 mills per cigarette in January 2017 will increase the "Early Childhood Health and Education Fund" by $198.6 million in FY17 and $397.5 million once fully implemented in FY18.

There is no way to truly know what impact these tax increases will have on demand due to smoking cessation efforts, other state and federal regulations, and the increase in sales of e-cigarettes. However, OA estimates that the tax increase will decrease the Fair Share Fund by $1.4 million in FY17 and $2.8 million in FY18 and thereafter, the Health Initiatives fund by $1.4 million in FY17 and $2.8 million in FY18 and thereafter, and the State School Moneys Fund by $3.2 million in FY17 and $6.4 million in FY18 and thereafter.

Further, since cigarette sales will decrease slightly, General Revenue will be reduced by $9.3 million, the School District Trust Fund will be reduced by $3.1 million, and local sales tax will be reduced by $13 million once fully implemented in FY18, from the loss of sales tax.

Other Tobacco Products

In FY15, there was $17.7 million in other tobacco product excise taxes collected. OA assumes that the average unit retails for $4.09, translating to roughly $176.9 million in wholesales in Missouri. OA further assumes that other tobacco product sales have a (0.8) elasticity. Therefore, OA estimates this proposal will increase the "Early Childhood Health and Education Fund" by $4.0 million in FY17 and $7.9 million once fully implemented in FY18.

There is no way to truly know what impact this tax increase will have on demand due to cessation efforts, other state, federal, and local regulations, and the introduction of alternative products. However, OA estimates that this tax increase will decrease the

Health Initiatives Fund by $0.3 million in FY17 and $0.6 million once fully implemented in FY18.

Further, since other tobacco product sales will decrease slightly, General Revenue will be reduced by $190,000, the School District Trust Fund will be reduced by $62,000, and local sales tax will be reduced by $260,000 once fully implemented in FY18, from the loss of sales tax.

Master Settlement Agreement

The escrow changes should not impact state revenues. When civil penalties are redirected to the ECHET Fund, it would be an unknown loss of potential general revenue to the state.

Total Impact

This proposal will increase the "Early Childhood Health and Education Fund" by $405.4 million once fully implemented in FY18. This proposal will also decrease the Fair Share Fund by $2.8 million, the Health Initiatives fund by $3.1 million, and the State School Moneys Fund by $6.4 million once fully implemented in FY18.

In addition, due to lost sales tax revenue General Revenue will be reduced by $9.5 million, the School District Trust Fund will be reduced by $3.2 million, and local sales tax will be reduced by $13.3 million once fully implemented in FY18.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of

$122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated the initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated that there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated this initiative petition will have an undetermined fiscal impact on the university, to the extent the petition would affect any general revenue allocated to their university.

**Edward Greim** provided the following information as a proponent of this initiative petition.

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September 28, 2015

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Re: *Fiscal Note in Initiative Petitions 16-108 & 16-112*

To Whom It May Concern:

Based on the information contained in this letter and the attached letter from Tom Kruckemeyer, we propose the following fiscal note summary:

> Estimated additional revenue to state government is $395 million annually with limited estimated implementation costs or savings. The revenue will fund only programs and services allowed by the proposal. The proposal is estimated to result in no net costs or savings to local governmental entities.

**Introduction**

The initiative allows 460,000 children to receive the early health screenings they need to grow and thrive and the early childhood development experiences that will prepare them for long-term educational success. These programs have important trickle-down effects that result in increased revenue and decreased costs at the state and local level. The initiative is accomplished by funding grants across the state to improve early childhood health and education. Funding for grants is provided by a tobacco tax, conservatively resulting in $395 million in direct state revenue, while yielding important public health benefits.

**Early Childhood Delivers Big Benefits**

Missouri enrolls fewer children in its state preschool program than any neighboring state, and funding for programs like Parents as Teachers has been slashed in half. All Missourians benefit

from investments in early childhood education: children start school ready to succeed; parents are able to keep good jobs and earn higher incomes; and taxpayers save money because early childhood education lowers drop-out rates, reduces crime and cuts the cost of social services. Despite clear evidence showing investing in early learning is one of the smartest investments we can make, year after year we battle with the Missouri General Assembly to fund quality early childhood education. Missouri is the 38th worst state for public pre-K funding. In 2012, the General Assembly cut $13.2 million from early childhood programs, and Parents as Teachers remains $19 million behind its 2009 funding.

Traditional thought has long emphasized the relationship between early childhood education and academic success, but researchers now are finding that preschool does not have a substantial effect on increasing IQs but rather develops a child's "soft skills" and can have a profound effect on adult earning potential especially for disadvantaged kids.

Evidence shows that non-cognitive skills matter. Through activities like finger painting, playing with blocks, and interacting with other students, children learn how to control impulses, keep anger in check, stay on task, listen and follow curiosity. These soft skills are basic, but important tools needed to learn, find and keep a job and just manage everyday life. Most children gain these skills at home from their parents, but disadvantaged kids often miss the window of opportunity, which are the critical years before Kindergarten.

A literature of empirical evidence shows strong outcome effects for kids who attend pre-school. Using cost-benefit analyses, researchers have found a link between preschool attendance and reduced crime, fewer teen pregnancies, higher rates of college attendance and less need for public assistance. Cost-benefit studies show that pre-school provides the best value and produces more net benefits to society than increased classroom time or job training programs.

*Evidence from the Perry Preschool Program*

The most widely cited early childhood intervention occurred in Ypsilanti, Michigan during the 60s. Children with low IQ scores and a low socioeconomic index were invited to participate in the Perry Preschool Program. Using a coin toss, researchers divided students into two groups, a treatment group and a control group. Starting at age three the "treatment" kids got 2.5 hours of preschool a day and weekly home visits for two years. The "control" kids did not participate in either of the services. Researchers interviewed both groups at ages 15, 19, 27 and 40 and asked them questions about life events like school, work, marriage, parenting and incarceration. The following chart shows the major findings of the study.



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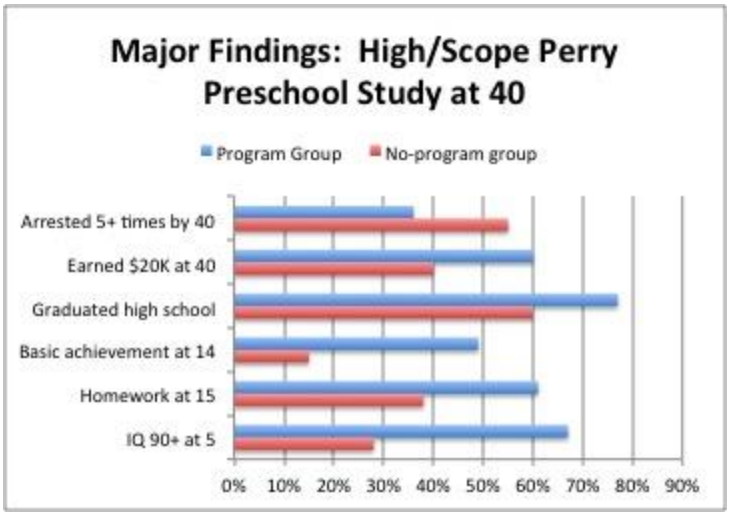


Source: Lifetime Effects: The HighScope Perry Preschool Study Through Age 40 (2005)

The pre-school girls went farther in school, earned higher GPAs, and received less special education than girls from the control group. Boys benefitted as well, but the boys who did not receive the preschool intervention were 2.3 times more likely to get arrested. The cost-savings alone from just the crime reduction demonstrated success.

With increased scrutiny over government spending, cost-benefit analysis gives policy analysts a tool to separate productive programs from ones that yield no social gains. A recent cost-benefit study that used a wider variety of assumptions and applied more rigorous accounting rules, estimated a return rate of about 7-10%. By monetizing social crime, the researchers were able to estimate that for every dollar invested in preschool, society earned back $30 to $300 dollars over the course of a lifetime (Heckman, Moon, Pinto, Savelyev, & Yavitz, 2010).

*Abecedarian and Chicago Studies*

Other studies confirmed the results of the Perry Preschool Project. The Carolina Abecedarian project in the 70s randomly assigned infants into intervention and control groups. The intervention group received full-day childcare from birth through Kindergarten. Intervention kids scored higher in reading and math, completed more education, were older when their first child was born and the mothers of intervention kids progressed farther in school and made more money than the control mothers. Intervention kids even smoked less.

A full-day five-year Pre-K program, while effective, would likely be cost-prohibitive for any state budget; however, the findings proved that early intervention does make a difference. And evidence suggests that a less expensive program could produce similar outcomes (Barnett & Masse, 2007).



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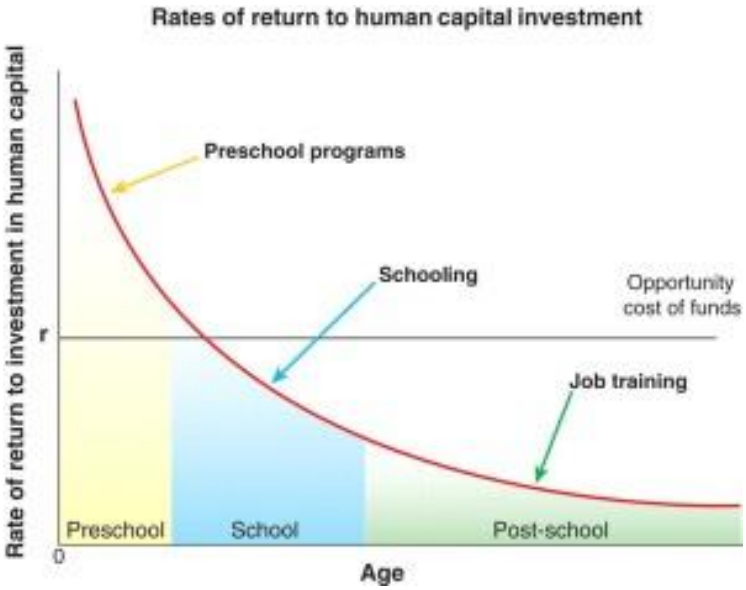
Just as Abecedarian kids earned higher wages than the control group, researchers found similar results from participants of the Chicago Child-Parent Program. The Chicago program targeted disadvantaged kids and provided a Headstart type intervention from ages three to nine. A cost-benefit analysis indicated for every dollar invested, the program produced seven in return. The largest impact was earning capacity, but Chicago kids were also less likely to need special education and less likely to commit crimes (Temple & Reynolds, 2007).

Much like with the Perry Program, the Chicago program demonstrated the relationship between early education, higher wages and crime reduction. Again it was the non-cognitive soft-skill development that made the difference. Second chance efforts like GED and job training provide fewer benefits and struggle to lift people out of poverty (Heckman & Masterov, 2007).




Source: Heckman, The Review of Agricultural Economics (2007)

What the Perry, Abecedarian and Chicago programs show is that pre-school helps kids develop soft-skills that make it easier to gain cognitive skills later and can lead to better jobs and a better quality of life. This in turn lessens the burden on government resources for remedial education, criminal justice and job-training programs.

Investing in human capital through access to finger-paints and story time may appear far-reaching, but multiple studies now point to early intervention as the cheapest, most effective way to prepare kids for the workforce and reduce crime. As labor force growth wanes and the demand for skilled workers increases, these studies suggest that a pipeline that begins at pre-school has great potential to produce big benefits to society in the long run.



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Table 1
Present value of Abecedarian benefits and costs per child (2002 dollars)

| | Discount rate (%) | | |
|---|---|---|---|
| | 3 | 5 | 7 |
| Program cost (net) | $35,864 | $34,599 | $33,421 |
| Program benefits | | | |
| Part. earnings | 37,531 | 16,460 | 6376 |
| Earnings of future generations | 5722 | 1586 | 479 |
| Maternal earnings | 68,728 | 48,496 | 35,560 |
| K-12 education | 8836 | 7375 | 6205 |
| Smoking/health | 17,781 | 4166 | 1008 |
| Higher education costs | −8128 | −5621 | −3920 |
| AFDC | 196 | 129 | 85 |
| Total benefits | $130,666 | $72,591 | $45,793 |
| Net present value | $94,802 | $37,992 | $12,372 |

**Reducing the Harmful Effects of Tobacco**

Tobacco tax increases offer a win-win-win solution for states as they work to balance budgets while preserving essential public services. Tobacco tax increases are one of the most effective ways to reduce smoking and other tobacco use, especially among kids. Every state that has significantly increased its cigarette tax has enjoyed substantial increases in revenue, even while reducing smoking. Higher tobacco taxes also save money by reducing tobacco-related health care costs, including Medicaid expenses. States can realize even greater health benefits and cost savings by allocating some of the revenue to programs that prevent children from smoking and help smokers quit.

National and state polls consistently have found overwhelming public support for tobacco tax increases. Polls also show that, when it comes to balancing budgets, voters prefer raising tobacco taxes to other tax increases or cutting crucial programs such as education and public safety.

Tobacco use causes approximately $3.03 billion in annual health care expenditures in Missouri. Smoking specifically causes over $500 million in annual costs for the Missouri Medicaid program. The initiative petition would increase the tax on cigarettes by $0.72 per pack and would increase the tax on other tobacco products by 5%. By conservative estimates, those tax increases would raise approximately $395 million in new state revenue to improve early childhood health



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and education programs. New state revenue is the amount of additional new revenue over the first full year after the effective date. The state will collect less new revenue to the extent that the rate increase does not apply to all cigarettes and other tobacco products held in wholesaler and retailer inventories on the effective date. This fiscal projection was derived using a price elasticity of demand for cigarettes of -0.8, even though the weight of credible academic literature suggests a conservative estimate for the price elasticity of demand for cigarettes is -0.4.

Tax increases of less than roughly 25 cents per pack or 10% of the average state pack price do not produce significant public health benefits or cost savings because the cigarette companies can easily offset the beneficial impact of such small increases with temporary price cuts, coupons, and other promotional discounting. Splitting a tax rate increase into separate, smaller increases in successive years will similarly diminish or eliminate the public health benefits and related cost savings (as well as reduce the amount of new revenues).

In addition to raising new revenue, the tax increase would have an immediate public health benefit. Each 10% cigarette price increase reduces youth smoking by 6.5%. Each 10% cigarette price increase reduces adult smoking by 2%. The total expected reduction in smoking consumption as a result of a 10% price increase is 4%. It is conservatively estimated that the initiative petition would decrease youth smoking by 6% in Missouri.

There would also be a fiscal benefit to the citizens of the state from the improved public health. As of 2014, the CDC estimated 11,000 annual average smoking-attributable deaths in Missouri. 127,500 Missouri Youth aged 0-17 are projected to die from smoking. Approximately 22.1% of Missouri adults smoke. Approximately 14.9% of Missouri high school students smoke. The average Missouri resident's state and federal tax burden from smoking-caused government expenditures is $588 per household. Approximately one of every six pregnant women smokes, a rate significantly higher than the national average. Smoking during pregnancy increases the risk for preterm delivery, stillbirth, low birth weight and Sudden Infant Death Syndrome.
In recent years, almost every state and the federal government have increased tobacco taxes. Missouri is a notable exception. The average state cigarette tax is currently $1.60 per pack, but rates vary widely from 17 cents in Missouri to $4.35 in New York. On April 1, 2009, the federal cigarette tax increased by 62 cents, to $1.01 per pack.

As of July 1, 2015, Missouri's cigarette tax was less than one-third of any of its border states: IL - $ 1.98; IA - $1.36; KS - $1.29; AR - $1.15; OK - $1.03; NE - $0.64; TN - $0.62; KY - $0.60. Moreover, Missouri's 17-cent per pack tax on cigarettes is the lowest in the country. The real value of the cigarette tax is decreasing. As a percentage of the overall Missouri State Budget, Missouri's tobacco taxes have decreased from 1.036% in 2000 to 0.464% in 2015. See MO Executive Budget Books & MO Office of Administration.

Every day 3,000 kids try their first cigarette and another 700 kids become regular smokers. There are more than 250 thousand new underage smokers each year. One third will eventually die from their addiction. Smoking has declined in every state where the tobacco tax has been increased.



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Ongoing reductions in state smoking levels will, over time, gradually erode state cigarette tax revenues (in the absence of any new rate increases). But those declines are more predictable and less volatile than many other state revenue sources, such as state income tax or corporate tax revenues (which can drop sharply during recessions). In addition, the smoking declines that reduce tobacco tax revenues will simultaneously produce much larger reductions in government and private sector smoking-caused costs. See the Campaign for Tobacco-Free Kids factsheet, *Tobacco Tax Increases are a Reliable Source of Substantial New State Revenue*, http://tobaccofreekids.org/research/factsheets/pdf/0303.pdf.

For other ways states can increase revenues (and promote public health) other than just raising its cigarette tax, see the Campaign factsheet, *The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

For more on sources and calculations, see http://www.tobaccofreekids.org/research/factsheets/pdf/0281.pdf

**Additional Information on Tobacco Product Tax Increases**

*Raising State Cigarette Taxes Always Increases State Revenues and Always Reduces Smoking*, http://tobaccofreekids.org/research/factsheets/pdf/0098.pdf.

*Responses to Misleading and Inaccurate Cigarette Company Arguments Against State Tobacco Tax Increases*, http://tobaccofreekids.org/research/factsheets/pdf/0227.pdf.

*State Cigarette Excise Tax Rates & Rankings*, http://tobaccofreekids.org/research/factsheets/pdf/0097.pdf.

*Top Combined State-Local Cigarette Tax Rates (State plus County plus City)*, http://tobaccofreekids.org/research/factsheets/pdf/0267.pdf.

*State Cigarette Tax Increases Benefit Lower-Income Smokers and Families*, http://tobaccofreekids.org/research/factsheets/pdf/0147.pdf.

*The Best Way to Tax Smokeless Tobacco*, http://tobaccofreekids.org/research/factsheets/pdf/0282.pdf.

*How to Make State Cigar Tax Rates Fair and Effective*, http://tobaccofreekids.org/research/factsheets/pdf/0335.pdf.

*State Benefits from Increasing Smokeless Tobacco Tax Rates*, http://tobaccofreekids.org/research/factsheets/pdf/0180.pdf.



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*The Case for High-Tech Cigarette Tax Stamps*, http://tobaccofreekids.org/research/factsheets/pdf/0310.pdf.

*State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion*, http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf.

*The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

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Sincerely,

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September 28, 2015

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Jefferson City, Missouri 65102

To Whom It May Concern:

I currently work as the Director of Fiscal Policy and Chief Economist at the Missouri Budget Project, a nonprofit, objective, public policy analysis organization that provides independent research on complex state policy issues and how they impact the state budget. I hold a B.A. in Economics and History and an M.A. in Economics from the University of Missouri-St. Louis. I also hold an M.A. Political Science from the University of Missouri-Columbia. I worked in the Missouri Division of Budget from 1978 to 2004, where I served as the chief economist. In the course of both my positions at the Missouri Division of Budget as well as my current position, I have routinely projected the fiscal impact of tax changes.

In my experience, it is a conservative, generally accepted practice to project the revenue generated from a proposed cigarette tax by estimating an average price per cigarette (or price per pack), estimating a uniform price elasticity of demand, and to assume that the tax will result in a penny-for-penny increase in the cost of cigarettes.

Upon information and belief, the Office of Administration usually estimates the price elasticity of demand for cigarettes as -0.8. This estimate means that a 10% increase in the cost of cigarettes results in an 8% reduction in the quantity of cigarettes sold. A price elasticity of demand of -0.8 is a conservative but reasonable estimate for the price elasticity of demand of a product such as cigarettes. Notably, even with a 50 cent to one dollar increase in Missouri's cigarette tax, Missouri's cigarette tax will remain lower than many of its contiguous states, in particular the states that border major metropolitan areas, Illinois and Kansas.

Additionally, the Office of Administration's method for estimating cigarette tax revenue is conservative because it assumes a penny-for-penny price increase in the cost of cigarettes as a result of the tax. In practice, whether the entire tax increase will result in a 50 cent to one dollar increase in the prices of cigarettes is unknown because the market for cigarettes is competitive. Moreover, regardless of whether the Office of Administration estimates that the demand for cigarettes will remain flat or decrease due to societal trends, the overall fiscal impact is largely the same. An estimate of the decrease in future tax collections due to decreased smoking from societal trends is not essential to the findings in the fiscal note that this particular tax will result in a net increase to state revenue with no net cost to local governments.

If the Office of Administration decides to use the same assumptions in projecting the revenue for other tobacco products ("OTP") as it does for cigarettes, it is my opinion that the resulting collection estimate would be conservative but appropriate. Recent trends suggest that the revenue generated from the tax on other tobacco products is increasing.

Based on generally accepted methods for estimating the fiscal impact of a proposed tax, I estimate that a phased-in 50 cent cigarette tax increase will result in approximately 90 million dollars of revenue in calendar years 2017 and 2018. I estimate that the cigarette tax will result in approximately 150 million dollars of revenue in calendar years 2019 and 2020. I estimate that the cigarette tax will result in approximately 206 million dollars of revenue in calendar year 2021. In comparison, I estimate that an immediate 50 cent cigarette tax increase will result in approximately 214 million dollars of revenue in calendar year 2017. An immediate 63 cent cigarette tax increase will result in approximately 263 million dollars of revenue in calendar year 2017. An immediate 72 cent cigarette tax increase will result in approximately 295 million dollars of revenue in calendar year 2017. An immediate 80 cent cigarette tax increase will result in approximately 323 million dollars of revenue in calendar year 2017. An immediate one dollar cigarette tax increase will result in approximately 387 million dollars of revenue in calendar year 2017. These estimates assume a 1% yearly reduction in the state's smoking level. I estimate the 5% increase in the tax on non-cigarette tobacco products will result in approximately 8 million dollars of revenue annually. There may be a small decrease in revenue collection for each phase of the additional tax due to lags associated with the implementation and collection of taxes.

These taxes are expected to result in limited implementation costs to the state. The costs associated with administering the Early Childhood Education and Health Trust Fund will primarily be borne by the Trust Fund. Nonetheless it is proper and reasonable to consider additional costs of administering the cigarette tax increase, which may include fixed costs like salaries as well as additional marginal costs, such as costs associated with stamping cigarettes. All state government costs are estimated to be offset by additional revenue increases.

Local governments will receive revenue from the tax to offset any potential decrease in local tax revenue. Based on a price elasticity of demand of -0.8, local revenue may decrease, but any such decrease in cigarette taxes will be by an amount less than $1 million. By any reasonable estimate, 4% of the Early Childhood Education and Health Trust Fund will exceed the decrease in revenue associated with local tobacco taxes and local sales taxes. Accordingly, any such decrease will be offset as a result local revenue from the transfer of funds to localities with local tobacco taxes and local sales taxes. Additionally, while direct local revenue is zero, there are positive indirect effects the may result in additional revenue to local governments.

Sincerely,

/s/

Tom Kruckemeyer
Director of Fiscal Policy & Chief
Economist, Missouri Budget Project

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College**.

**Fiscal Note Summary**

Estimated additional revenue to state government is $367 million to $492 million annually, with limited estimated implementation costs. The revenue will fund only programs and services allowed by the proposal. The fiscal impact to local governmental entities is unknown.

RECEIVED
SEP 17 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-111

September 17, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Edward Greim regarding a proposed statutory amendment to Chapters 210, 196 & 149, version 13 (2016-111)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Edward Greim on September 17, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-111

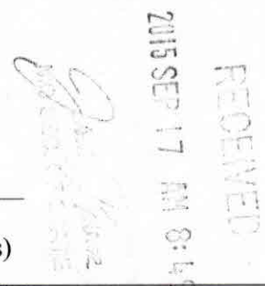
County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.




(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
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| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do □ do not □ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Address of Affiant

_____
Printed Name of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My commission expires _____

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NOTICE: You are advised that the proposed law changes, repeals, or modifies by implication, or may be construed to change, repeal or modify by implication, the following provisions of the Missouri Revised Statutes — Sections 66.340, 66.350, 149.015, 149.021, 149.065, 149.160, 196.1003, 210.102, and 210.320. The proposed law enacts two new sections, to be known as sections 149.017 and 149.161.

*Be it enacted by the people of the State of Missouri:*

Sections 210.102 and 196.1003 of the Revised Statutes of Missouri are amended and sections 149.017 and 149.161 are enacted, to read as follows:

210.102. 1. Sections 149.017 and 149.161, and certain amendments to 196.1003 and 210.102, shall be referred to as the Early Childhood Health and Education Act, with the purpose of supporting and improving early childhood health and education through regulation of tobacco manufacturers and sellers. This Act:

(1) Creates the Early Childhood Health and Education Trust Fund in order to support and improve early childhood health and education across the state;

(2) Reforms the Coordinating Board for Early Childhood to administer the Early Childhood Health and Education Trust Fund and provide grants that support and improve early childhood health and education; and

(3) Funds the Early Childhood Health and Education Trust Fund through increased regulations on tobacco manufacturers and sellers.

All of the provisions of this act are severable. If any provision of this act is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this act shall be and remain valid and in full force and effect.

2. It shall be the duty of the Missouri children's services commission to:

(1) Make recommendations which will encourage greater interagency coordination, cooperation, more effective utilization of existing resources and less duplication of effort in activities of state agencies which affect the legal rights and well-being of children in Missouri;

(2) Develop an integrated state plan for the care provided to children in this state through state programs;

(3) Develop a plan to improve the quality of children's programs statewide. Such plan shall include, but not be limited to:

(a) Methods for promoting geographic availability and financial accessibility for all children and families in need of such services;

(b) Program recommendations for children's services which include child development, education, supervision, health and social services;

(4) Design and implement evaluation of the activities of the commission in fulfilling the duties as set out in this section;

(5) Report annually to the governor with five copies each to the house of representatives and senate about its activities including, but not limited to the following:

(a) A general description of the activities pertaining to children of each state agency having a member on the commission;

(b) A general description of the plans and goals, as they affect children, of each state agency having a member on the commission;

(c) Recommendations for statutory and appropriation initiatives to implement the integrated state plan;

(d) A report from the commission regarding the state of children in Missouri.

[2.]3. For years ending on or before December 31, 2016, [There is hereby established within the children's services commission] the "Coordinating Board for Early Childhood", which shall constitute a body corporate and politic, shall be established within the children's services commission, and shall include but not be limited to the following members:

(1) A representative from the governor's office;

(2) A representative from each of the following departments: health and senior services, mental health, social services, and elementary and secondary education;

(3) A representative of the judiciary;

(4) A representative of the family and community trust board (FACT);

(5) A representative from the head start program;

(6) Nine members appointed by the governor with the advice and consent of the senate who are representatives of the groups, such as business, philanthropy, civic groups, faith-based organizations, parent groups, advocacy organizations, early childhood service providers, and other stakeholders. The coordinating board may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers. The coordinating board shall elect from amongst its members a chairperson, vice chairperson, a secretary-reporter, and such other officers as it deems necessary. Members of the board shall serve without compensation but may be reimbursed for actual expenses necessary to the performance of their official duties for the board.

4. Beginning on January 1, 2017, the coordinating board for early childhood, which shall constitute a body corporate and politic, shall be established within the department of elementary and secondary education and shall include the following members:

(1) The director or the director's designee from each of the following departments: health and senior services, mental health, and

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social services;

(2) The commissioner or the commissioner's designee from the department of elementary and secondary education;

(3) Two members of the Missouri general assembly. One member shall be the chairman of the joint committee on education. One member shall be a member of the joint committee on education, shall be from a different party and different legislative chamber than the chairman of the joint committee on education, and shall be appointed by the elected leader, either the speaker of the house of representatives or the president pro tempore of the senate, of the member's legislative chamber;

(4) The director of the Missouri head start-state collaborative office;

(5) Six citizens, representing each of the following areas: early childhood education and development providers, local Head Start agencies, higher education, business, faith, and medicine. The Governor shall appoint, with the advice and consent of the senate, the three citizens representing the areas of medicine, business, and higher education. The state board of education shall appoint the citizens representing the areas of early childhood education and development providers, local Head Start agencies, and faith.

Citizens appointed under subdivision (5) shall serve a term of three years. Such citizens shall be eligible to serve two terms. Such citizens that serve a partial term of less than eighteen months shall be eligible to serve the partial term and two full terms. Such citizens that serve a partial term of more than eighteen months shall be eligible to serve the partial term and one full term.

[3.]5. The coordinating board for early childhood shall have the power to:

(1) Develop a comprehensive statewide long-range strategic plan for a cohesive early childhood system. The board shall review the plan each year and make amendments to the plan as it deems necessary. The board shall submit the plan to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of 2018 and each year thereafter;

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(2) Confer with public and private entities for the purpose of promoting and improving the development of children from birth through age five of this state;

(3) Identify legislative recommendations to improve services for children from birth through age five;

(4)Promote coordination of existing services and programs across public and private entities;

(5) Promote research-based approaches to services and ongoing program evaluation;

(6) Identify service gaps and advise public and private entities on methods to close such gaps;

(7) Apply for and accept gifts, grants, appropriations, loans, or contributions to the coordinating board for early childhood fund from any source, public or private, and enter into contracts or other transactions with any federal or state agency, any private organizations, or any other source in furtherance of the purpose of subsections 3 through 15[2 and 3] of this section, and take any and all actions necessary to avail itself of such aid and cooperation;

(8) Direct disbursements and grants from the coordinating board for early childhood fund and the early childhood health and education trust fund as provided in this section;

(9) Administer the coordinating board for early childhood fund and the early childhood health and education trust fund [and invest any portion of the moneys not required for immediate disbursement in obligations of the United States or any agency or instrumentality of the United States, in obligations of the state of Missouri and its political subdivisions, in certificates of deposit and time deposits, or other obligations of banks and savings and loan associations, or in such other obligations as may be prescribed by the board];

(10) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal with real or personal property or any interests therein, wherever situated;

(11) Sell, convey, lease, exchange, transfer or otherwise dispose of all or any of its property or any interest therein, wherever situated;

(12) Employ and fix the compensation of an executive director and such other agents or employees as it considers necessary;

(13) Adopt, alter, or repeal by its own bylaws, rules, and regulations governing the manner in which its business may be transacted;

(14) Adopt and use an official seal;

(15) Assess or charge fees as the board determines to be reasonable to carry out its purposes;

(16) Make all expenditures which are incident and necessary to carry out its purposes;

(17) Sue and be sued in its official name;

(18) Take such action, enter into such agreements, and exercise all functions necessary or appropriate to carry out the duties and purposes set forth in this section;

(19) Contract with one or more not-for-profits to meet the requirements of this section;

(20) Provide technical assistance to grantees;

(21) Coordinate with parents, community leaders, local governments, and public and private entities to improve the quality of and increase access to early childhood development programs in communities throughout the state; and

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(22) Pursue public and private partnership opportunities that are consistent with the objectives of subsection 6 of this section.

6. Any grants awarded by the coordinating board for early childhood shall accomplish one or more of the following objectives:

(1) Increasing access to existing quality early childhood development programs;

(2) Improving the quality of early childhood development programs;

(3) Increasing access to preventive health care and health and developmental screenings for children ages birth through five;

(4) Offering parent and family support and education concerning prenatal development, early child development, numeracy, and literacy;

(5) Providing professional development and training for early childhood development providers;

(6) Increasing coordination of early childhood development programs and public information about the importance of early childhood development;

(7) Providing evidenced-based smoking cessation programs for pregnant mothers.

7. The coordinating board for early childhood shall consider the following nonexclusive factors when awarding grants as provided in this section:

(1) Whether the project or activities will improve outcomes for children ages birth through five, consistent with the objectives of this section;

(2) Whether the project or activity leverages matching dollars;

(3) Whether the project or activity addresses needs identified by the local community; and

(4) The sustainability of the project or activity.

8. The coordinating board for early childhood shall establish accountability and audit requirements for all grant recipients, including requirements that success be measured by outcomes for children and families.

9. It shall be the duty of the coordinating board for early childhood to:

(1) Establish and maintain a conflict of interest policy for its members and staff;

(2) Prepare an annual report describing the activities of the board and a description of outcomes for children and families achieved by the board and grant recipients, including a list of all grant recipients and the amount of any grants awarded to such recipients. The board shall submit the report to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of each year, beginning in 2019, and shall provide a copy of the report to the secretary of state; and

(3) Ensure a fair and equitable distribution of funds collected as provided under sections 149.017 and 149.161 based on the established residency population of children ages birth through five.

10. There is hereby created the "Coordinating Board for Early Childhood Fund" which shall consist of the following:

(1) Any moneys appropriated by the general assembly for use by the board in carrying out the powers set out in subsections 3 through 9[2 and 3] of this section;

(2) Any moneys received from grants or which are given, donated, or contributed to the fund from any source;

(3) Any moneys received as fees authorized under subsections 3 through 9[2 and 3] of this section;

(4) Any moneys received as interest on deposits or as income on approved investments of the fund;

(5) Any moneys obtained from any other available source. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the coordinating board for early childhood fund at the end of the biennium shall not revert to the credit of the general revenue fund.

11. There is hereby created the Early Childhood Health and Education Trust Fund which shall consist of all moneys collected as provided in sections 149.017 and 149.161, less any reduction allowed in section 149.021. Interest and moneys earned on the fund shall be credited to the fund.

12. No more than eight percent of the moneys received by the early childhood health and education trust fund shall be used for administrative expenses. Eligible administrative expenses shall include only those reasonable and necessary for:

(1) Salaries, fringe benefits, expenses, and equipment of staff employed by the coordinating board for early childhood;

(2) Expenses associated with cost sharing of salaries, fringe benefits, expenses, and equipment of staff employed or contracted by the coordinating board for early childhood from any other state department or agency of the state;

(3) Expenses of the coordinating board for early childhood associated with contracting with not-for-profit entities;

(4) Expenses of the coordinating board for early childhood associated with audits and outcome evaluations of programs and activities funded under this section;

(5) Expenses of grantees associated with meeting administrative requirements of grants established by the coordinating board for early childhood;

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No more than 40% of administrative expenses shall be expended on items (1) through (4) of this subsection.

13. Moneys in the funds may be invested by the state treasurer, and any income therefrom shall be deposited to the credit of the fund. Any moneys credited to and placed in the early childhood health and education trust fund shall be appropriated and used only for purposes which are authorized by this section and shall not be subject to the provisions of section 33.080.

14. The net proceeds from the moneys collected as provided in sections 149.017 and 149.161 shall constitute new and additional funding for the activities, initiatives, and programs funded by the coordinating board for early childhood and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

15. Beginning January 1, 2017, the department of elementary and secondary education and the coordinating board for early childhood may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This subsection and chapter 536 are nonseverable from one another, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017 shall be invalid and void.

16. Notwithstanding the provisions of this section, section 149.017, or section 149.065, five percent, to be collected annually, of the net proceeds from the moneys collected as provided in sections 149.017 and 149.161 shall constitute new and additional funding for the Missouri Department of Health and Senior Services for the purpose of establishing, maintaining, and enhancing activities, programs, and initiatives to promote tobacco use quit assistance and prevention, including a comprehensive statewide tobacco control program, and public health for tobacco-related diseases. The comprehensive statewide tobacco control program shall be consistent with the United States Centers for Disease Control and Prevention's, or its successor agency's, best practices and guidelines for tobacco control programs, if any, and shall be designed to be effective to prevent and reduce tobacco use, reduce the public's exposure to secondhand smoke, and identify and eliminate disparities related to tobacco use and its effects among different population groups. The components of the comprehensive statewide tobacco control program shall include, but not be limited to: state and community based interventions, health communication interventions, cessation interventions, surveillance and evaluation, and administration and management. No more than fifteen percent of the moneys in this subsection may be expended by the Missouri Department of Health and Senior Services for activities, programs, and initiatives that promote public health for tobacco-related diseases, such as programs to provide student loan forgiveness or scholarships for medical professionals who work in underserved areas of the state, but that are not part of the comprehensive statewide tobacco control program. Moneys pursuant to this subsection expended by the Missouri Department of Health and Senior Services for the purpose of promoting public health for tobacco-related diseases shall be used solely for that purpose and shall not be used directly or indirectly for research activities.

149.017. 1. Beginning January 1, 2017, in addition to the tax levied upon the sale of cigarettes in this state pursuant to section 149.015, a tax shall be levied upon the sale of cigarettes applied a tax at an amount equal to thirty-six mills per cigarette.

2. The tax shall be evidenced by stamps in the same manner as cigarettes stamped pursuant to sections 149.015 and 149.021. Stamped cigarettes in the possession of a wholesaler or retailer before any phase of the additional tax under subsection 1 of this section is imposed, shall not be subject to such phase of the additional tax before retail sale.

3. The tax on any cigarettes contained in packages of four, ten, twenty or similar quantities to be used solely for distribution as samples shall be computed on a per cigarette basis at the rate set forth in this section, and payment of the tax shall be remitted to the director at such time and in such manner as he may prescribe.

4. The provisions of section 149.065 notwithstanding, all moneys collected as a result of the taxes imposed by this section and section 149.161 shall be credited to and placed in the early childhood health and education trust fund established by section 210.102 as said moneys are received. All of the moneys from the taxes imposed by this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the early childhood health and education trust fund.

5. The additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section and section 149.161 may be paid from moneys appropriated from the early childhood health and education trust fund for that purpose, not to exceed one and one half of one percent (1.5%) of the total moneys collected in that fiscal year. Collection and enforcement activities and initiatives that are paid for with moneys from the early childhood health and education trust fund shall be conducted in a fiscally responsible manner in order to maximize the net proceeds available for distribution pursuant to section 210.102. Moneys appropriated from the early childhood health and education trust fund pursuant to this subdivision shall not be used to pay costs that are not additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section;

6. The net proceeds from the taxes imposed by this section and section 149.161 shall constitute new and additional funding for the activities, initiatives, and programs described in section 210.102 and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

7. On an annual basis, the director of the department of revenue, in consultation with the director of health and senior services, shall determine whether the taxes imposed by this section and section 149.161 have resulted in a decrease in consumption of tobacco products and thereby directly caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320 or revenues to local governments under lawfully enacted sales taxes. If a reduction in the amount of moneys collected and deposited into any of those funds pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320, or revenues to local governments under lawfully enacted sales taxes has been directly caused by the taxes imposed by this section and section 149.161, an amount equal to the amount of moneys that were not collected and deposited into that fund or funds or were not generated by the local tobacco taxes authorized by sections 66.340, 210.320, and sections providing authority for local government sales taxes because of the taxes imposed by this section and section 149.161 shall be transferred from the early childhood health and education trust fund pursuant to section 210.102 as follows: first, to the appropriate political subdivisions, second, to local governments to account for any decrease in local sales tax collections, and third to the appropriate fund or funds. The aggregate amount

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transferred to such funds and political subdivisions from the early childhood health and education trust fund for any year shall not exceed four percent of the total moneys collected pursuant to this section and section 149.161 during that same year.

149.161. Beginning on January 1, 2017, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, a tax shall be levied upon the first sale of tobacco products other than cigarettes within this state in the amount of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. The tax on tobacco products shall be at the rate of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. Licensed persons making first sales shall be allowed credit in accordance with the provisions of section 149.160.1. The additional tax levied by this section shall not apply to inventories of tobacco products in the possession of the retailer or wholesaler on December 31, 2016.

196.1003. Requirements.

Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this Act shall do one of the following:

(a) become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

(b) (1) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts, (as such amounts are adjusted for inflation) —
1999: $.0094241 per unit sold after the date of enactment of this Act;
2000: $.0104712 per unit sold;
for each of 2001 and 2002: $.0136125 per unit sold;
for each of 2003 through 2006: $.0167539 per unit sold;
for each of 2007 and each year thereafter: $.0188482 per unit sold.

(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances —

(A) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (i) in the order in which they were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment) had it been a participating manufacturer, the percentage determined in subdivision (D) of the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(C) to the extent not released from escrow under subparagraphs (A) or (B), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

(D) The amount in subdivision (B) of the excess released from escrow shall be: for units sold during all years ending on or after December 31, 2017, zero percent.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails [in any year] to place into escrow the funds required under this section shall

(A) be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;

(B) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

(C) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years.

Each failure to make an annual deposit required under this section shall constitute a separate violation. Any tobacco product manufacturer that violates the provisions of this section shall pay the State's cost and attorney's fees incurred during a successful prosecution under this section.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-111)**

**Subject**

Initiative petition from Edward Greim regarding a proposed amendment to Chapters 149, 196, and 210 of the Revised Statutes of Missouri. (Received September 17, 2015)

**Date**

October 7, 2015

**Description**

This proposal would amend Chapters 149, 196, and 210 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Edward Greim** provided information as a proponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated the petition provides funds for a comprehensive tobacco control program, which is already administered by the Department. However the current funding appropriated is only 3 percent of the total funding the Centers for Disease Control and Prevention (CDC) recommends for the state of Missouri to have a fully funded comprehensive tobacco control program. The additional funds in this proposal would be used to enhance and expand the existing program and would bring the total funding available to 23 percent of CDC's recommendation (CDC recommendation is $73 million). While Missouri currently has one of the lowest tax rates for tobacco products, it has one of the highest tobacco use rates.

Rental space for five staff located in Jefferson City, one staff in Kansas City, and one staff in St. Louis would be required: 7 full-time employees (FTE) x 230 sq ft/FTE x $16.75/sq ft = $26,967.50.

There is a potential to affect small businesses that sell cigarettes and other tobacco products. Research has shown that interventions that increase the price of tobacco products reduce consumption.

The petition requires that 5 percent of the net proceeds collected by the tax increases be allocated to the Missouri Department of Health and Senior Services for the purpose of establishing, maintaining, and enhancing activities, programs, and initiatives to promote tobacco use quit assistance and prevention, including a comprehensive statewide tobacco control program, and public health for tobacco-related diseases. The comprehensive statewide tobacco control program shall be consistent with the United States Centers for Disease Control and Prevention's (CDC) guidelines for tobacco control programs, and shall be designed to be effective to prevent and reduce tobacco use, reduce the public's exposure to secondhand smoke, and identify and eliminate disparities related to tobacco use and its effects among different population groups. The components of the comprehensive statewide tobacco control program shall include, but not be limited to: state and community based interventions, health communication interventions, cessation interventions, surveillance and evaluation, and administration and management.

**Revenue**:
Section 149.017, raises the tax on cigarettes to 36 mills per cigarette beginning January 1, 2017. The Office of Administration Budget and Planning estimates the total cigarette tax revenue as a result of this increase to be $298,300,000.

Section 149.061 levies an additional 5 percent tax on the first sales of tobacco products other than cigarettes beginning January 1, 2017. The Office of Administration Budget and Planning estimates the total additional tax collected on other tobacco products to be $7,900,000.

Section 149.017.2 requires the additional tax on cigarettes to be stamped in accordance with the provisions of existing sections 149.015 and 149.021. This creates an allowance of 3 percent of the cigarette taxes to the wholesaler for the compensation for the time required to affix the stamps.

Section 149.017.5 allows for up to 1.5 percent of the total funds collected to be appropriated from the fund to the state for the purposes of collecting and enforcing the taxes of this section. This estimate assumes that 1.5 percent will be appropriated for this use.

Section 210.102.16 allocates 5 percent of the net proceeds of money collected as provided in sections 149.017 and 149.161 to the Missouri Department of Health and Senior Services for the purpose of funding a comprehensive tobacco control program.

The estimated revenues for calendar year 2017 are calculated as follows:

| | |
|---|---|
| Cigarette tax | $298,300,000 |
| Other tobacco products tax | $7,900,000 |
| Less 3% of cigarette tax for stamps | ($8,949,000) |
| Total tax collected | $297,251,000 |
| Less 1.5% administrative fee | (4,458,765) |
| Net Proceeds | $292,792,235 |
| **5% of net proceeds for DHSS** | **$14,639,612** |

Since the additional tax would not start until January 1, 2017, it is assumed the first appropriation of funds for the expanded comprehensive tobacco control program would start in the 2018 fiscal year.

**Costs**
The assumptions used for calculating the cost to the Department are as follows:

**Personnel needs**:

| | |
|---|---|
| One Planner III (Range A48, Step B): | $45,156 |
| Two Health Educator III (Range A25, Step B): | $80,760 |
| One Health Program Representative III (Range A24, Step B): | $38,928 |

| | |
|---|---|
| One Health Program Representative I/II (Range A18, Step B): | $30,984 |
| One Sr. Off. Support Assistant, Keyboard (Range A09, Step F): | $25,824 |
| One Public Health Epidemiologist (Range A32, Step A) | $55,416 |

The Planner III would work with multiple partners across the state to identify, plan, and implement evidence-based programs in comprehensive tobacco control. Duties would include preparing, reviewing and approving applications for funding; supervising assigned staff; and assuring an evaluation plan consistent with Department goals for comprehensive tobacco control and chronic disease prevention is executed.

The two Health Educator IIIs would be stationed in Kansas City and St. Louis to work directly with contractors in the major metropolitan areas and surrounding counties providing technical assistance on implementing community based interventions. Duties would include technical assistance, training and education in comprehensive tobacco control issues.

The Health Program Representative III would work with the Program Coordinator, the Planner III, and the Office of Public Information to assure a media plan consistent with Department goals for comprehensive tobacco control and chronic disease prevention is executed.

The Health Program Representative I/II would be responsible for contract management, contract monitoring, invoice tracking, etc.

The Senior Office Support Assistant (Keyboard) would provide support to the staff located in field offices, including the four employees currently in the field. Duties would include such activities as making arrangements for training and travel, preparing expense reports, assembling training packets, routing and tracking program documents, and answering the phone for the program.

The Public Health Epidemiologist will oversee the surveillance and evaluation activities of the program, developing evaluation plans, assuring all interventions are appropriately evaluated, preparing evaluation reports, and coordinating collection of data on tobacco control measures.

Standards costs for equipment and expenses of staff are included in the cost estimation.

**Program Services Costs**
Remaining funds of $14,013,423 would be allocated in contracts for Quitline assistance, media, and local community evidence-based initiatives.

A well-funded Quitline is needed to provide on-going support in quitting tobacco use to any Missourian. The Quitline would provide cessation coaching, texting support, on-line support, and quitting medications – over-the counter and prescription to those without prescription drug benefits – as approved by the U.S. Food and Drug Administration.

A comprehensive tobacco control program must include paid media to promote health messages to adults, youth and communities on issues of not using tobacco and eliminating exposure to secondhand smoke.

Finally, contracts would be offered to local entities to implement evidence-based, community-based interventions in cessation, youth initiation, and secondhand smoke exposure. Contractors would include local public health agencies, faith-based organizations, non-profit organizations, educational institutions. These would be sought through requests for proposals (to be developed by the Planner III).

Evidence-based interventions conducted by contractors would include those supporting the goals of comprehensive tobacco control:

- Reducing tobacco use through local tobacco cessation – for example, one-on-one interventions with individuals needing face-to-face coaching or in culturally sensitive settings for those with a disproportionate burden of tobacco use.
- Reducing youth initiation through prevention – for example, youth leadership in educating their communities on why tobacco use and secondhand smoke are harmful to health, developing local-focused media.
- Exposure to secondhand smoke – for example, local coalitions educating their communities on why tobacco use and secondhand smoke are harmful to health, developing local-focused media.

Contracts could also be funded to support state and local surveillance and evaluation efforts to demonstrate the effectiveness of the funded interventions.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated it does not appear that this proposal would have a direct fiscal impact on their department.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** (DOR) indicated this petition will have a fiscal impact of $75,006 for fiscal year (FY) 2017 on their department, creating additional expense for IT consultants, and will increase revenues for the Early Childhood Health and Education Trust Fund by $357,200,000 annually.

If approved by voters, this petition increases the revenue stream for the Early Childhood Health and Education Trust Fund, but creates a negative impact to general revenue.

**Section 149.017**
Beginning January 1, 2017, the legislation increases the tax on cigarettes to 36 mills per cigarette ($0.72 per pack of 20).

Stamped cigarettes in inventory prior to the effective dates of the increase and in possession of a retailer are not subject to the additional tax before retail sale. The petition also allows for up to one and one-half percent collection fee of the total moneys collected in a fiscal year.

The legislation requires the Department, in consultation with the Department of Health and Senior Services (DHSS), to annually determine if the taxes result in a decrease in consumption of tobacco products. The Departments must further determine if there are reductions in moneys collected and deposited into the fair share fund, health initiatives fund, or the state school moneys fund or local tobacco taxes.

With the additional assessed tax, the Department estimates an increase of $331.1 million per year to the Early Childhood Health and Education Trust Fund.

**Section 149.161**
Beginning on January 1, 2017, this section, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, levies a five percent tax upon the first sale of tobacco products other than cigarettes within this state. The legislation bases the five percent increase on the manufacturer's invoice price before discounts and deals. The person making the first sale within the state pays the tax.

With the additional assessed tax, the Department estimates an increase of $8.2 million per year to the Early Childhood Health and Education Trust Fund.

**Section 196.1003**
The amount of the excess escrow released must be for units sold during all years ending on or after December 31, 2017, zero percent.

**Section 210.102**
The section creates the Early Childhood Health and Education Act. Beginning in 2017, the Coordinating Board for Early Childhood becomes a body corporate and politic under the purview of the Department of Elementary & Secondary Education (DESE). Subsection 11 creates the Early Childhood Health and Education Trust Fund. The legislation deposits all moneys collected under sections 149.017 and 149.161, less any reductions allowed in section 149.021, into the trust fund. The legislation authorizes the collection of five percent annually of the net proceeds from the moneys collected under sections 149.017 and 149.161 to be additional funding for the Missouri Department of Health and Senior Services.

The Department estimates $17.9 million of additional funding for the Missouri Department of Health and Senior Services as a result of this section.

**Administrative Impact:**

**Excise Tax:**

The Early Childhood Health and Education Trust Fund requires changes to SAGE 50 accounting system and cashiering records. The legislation also creates the requirement for a new form.

Officials from the **Department of Public Safety** indicated their department sees no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated no fiscal impact to their department.

Officials from the **Office of Administration** (OA) indicated the proposal amends Sections 210.102 and 196.1003, RSMo, and adds Sections 149.017 and 149.161, RSMo.

Section 210.102, RSMo, moves the Coordinating Board for Early Childhood from the Children's Services Commission to DESE, effective January 1, 2017, changes the board membership and provides further guidance on funding and operations for the Board. Five percent of the new revenue collected is to be used by the MO Department of Health and Senior Services to establish, maintain and enhance activities, programs and initiatives to promote tobacco use quit assistance and prevention, including a comprehensive statewide tobacco control program, and public health for tobacco-related diseases. No more than 15% of these moneys may be used by DHSS to promote public health for tobacco-related diseases, such as student loan forgiveness or scholarships for medical professionals.

Section 149.017, RSMo, increases cigarette tax by 36 mills per cigarette on 1/1/2017. Section 149.161, RSMo, levies an additional 5% tax on other tobacco products beginning 1/1/2017. These monies will go to the Early Childhood Health and Education Trust (ECHET) Fund established in Section 210.102, RSMo. DOR and DHSS must annually determine whether the new taxes have caused a reduction in consumption and therefore a reduction in the amount of money collected for the Fair Share Fund, the Health Initiatives

Fund or the State School Moneys Fund and for local sales and tobacco taxes. If a reduction in consumption is found, then up to 4% of the new revenue collected is to be distributed to the various funds and political subdivisions from the ECHET Fund to hold them harmless.

Section 196.1003, RSMo, changes escrow requirements for the tobacco Master Settlement Agreement, with provisions to direct potential civil penalties to the ECHET Fund. Because this language changes what was previously approved as a "qualifying statute", it could adversely impact future Nonparticipating Manufacturer (NPM) adjustment arbitrations.

FISCAL IMPACT:

Cigarette Tax

In FY15, there was $81.7 million in cigarette excise taxes collected. OA assumes that the average pack of cigarettes retails for $4.50, translating to roughly 480.9 million packs sold in Missouri. OA further assumes that cigarette sales have a (0.8) elasticity. Therefore, OA estimates a tax increase of 36 mills per cigarette in January 2017 will increase the "Early Childhood Health and Education Fund" by $149.2 million in FY17 and $298.3 million once fully implemented in FY18.

There is no way to truly know what impact these tax increases will have on demand due to smoking cessation efforts, other state and federal regulations, and the increase in sales of e-cigarettes. However, OA estimates that the tax increase will decrease the Fair Share Fund by $1.1 million in FY17 and $2.2 million in FY18 and thereafter, the Health Initiatives fund by $1.1 million in FY17 and $2.2 million in FY18 and thereafter, and the State School Moneys Fund by $2.4 million in FY17 and $4.8 million in FY18 and thereafter.

Further, since cigarette sales will decrease slightly, General Revenue will be reduced by $6.9 million, the School District Trust Fund will be reduced by $2.2 million, and local sales tax will be reduced by $9.8 million once fully implemented in FY18, from the loss of sales tax.

Other Tobacco Products

In FY15, there was $17.7 million in other tobacco product excise taxes collected. OA assumes that the average unit retails for $4.09, translating to roughly $176.9 million in wholesales in Missouri. OA further assumes that other tobacco product sales have a (0.8) elasticity. Therefore, OA estimates this proposal will increase the "Early Childhood Health and Education Fund" by $4.0 million in FY17 and $7.9 million once fully implemented in FY18.

There is no way to truly know what impact this tax increase will have on demand due to cessation efforts, other state, federal, and local regulations, and the introduction of alternative products. However, OA estimates that this tax increase will decrease the

Health Initiatives Fund by $0.3 million in FY17 and $0.6 million once fully implemented in FY18.

Further, since other tobacco product sales will decrease slightly, General Revenue will be reduced by $190,000, the School District Trust Fund will be reduced by $62,000, and local sales tax will be reduced by $260,000 once fully implemented in FY18, from the loss of sales tax.

Master Settlement Agreement

The escrow changes should not impact state revenues. When civil penalties are redirected to the ECHET Fund, it would be an unknown loss of potential general revenue to the state.

Total Impact

This proposal will increase the "Early Childhood Health and Education Fund" by $306.2 million once fully implemented in FY18. This proposal will also decrease the Fair Share Fund by $2.2 million, the Health Initiatives fund by $2.8 million, and the State School Moneys Fund by $4.8 million once fully implemented in FY18.

In addition, due to lost sales tax revenue General Revenue will be reduced by $7.1 million, the School District Trust Fund will be reduced by $2.4 million, and local sales tax will be reduced by $10.1 million once fully implemented in FY18.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of

$122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated the initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated that there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated this initiative petition will have an undetermined fiscal impact on the university, to the extent the petition would affect any general revenue allocated to their university.

**Edward Greim** provided the following information as a proponent of this initiative petition.

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September 28, 2015

Missouri State Auditor's Office
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Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: *Fiscal Note in Initiative Petitions 16-107 & 16-111*

To Whom It May Concern:

Based on the information contained in this letter and the attached letter from Tom Kruckemeyer, we propose the following fiscal note summary:

> Estimated additional revenue to state government is $303 million annually with limited estimated implementation costs or savings. The revenue will fund only programs and services allowed by the proposal. The proposal is estimated to result in no net costs or savings to local governmental entities.

**Introduction**

The initiative allows 460,000 children to receive the early health screenings they need to grow and thrive and the early childhood development experiences that will prepare them for long-term educational success. These programs have important trickle-down effects that result in increased revenue and decreased costs at the state and local level. The initiative is accomplished by funding grants across the state to improve early childhood health and education. Funding for grants is provided by a tobacco tax, conservatively resulting in $303 million in direct state revenue, while yielding important public health benefits.

**Early Childhood Delivers Big Benefits**

Missouri enrolls fewer children in its state preschool program than any neighboring state, and funding for programs like Parents as Teachers has been slashed in half. All Missourians benefit

from investments in early childhood education: children start school ready to succeed; parents are able to keep good jobs and earn higher incomes; and taxpayers save money because early childhood education lowers drop-out rates, reduces crime and cuts the cost of social services. Despite clear evidence showing investing in early learning is one of the smartest investments we can make, year after year we battle with the Missouri General Assembly to fund quality early childhood education. Missouri is the 38th worst state for public pre-K funding. In 2012, the General Assembly cut $13.2 million from early childhood programs, and Parents as Teachers remains $19 million behind its 2009 funding.

Traditional thought has long emphasized the relationship between early childhood education and academic success, but researchers now are finding that preschool does not have a substantial effect on increasing IQs but rather develops a child's "soft skills" and can have a profound effect on adult earning potential especially for disadvantaged kids.

Evidence shows that non-cognitive skills matter. Through activities like finger painting, playing with blocks, and interacting with other students, children learn how to control impulses, keep anger in check, stay on task, listen and follow curiosity. These soft skills are basic, but important tools needed to learn, find and keep a job and just manage everyday life. Most children gain these skills at home from their parents, but disadvantaged kids often miss the window of opportunity, which are the critical years before Kindergarten.

A literature of empirical evidence shows strong outcome effects for kids who attend pre-school. Using cost-benefit analyses, researchers have found a link between preschool attendance and reduced crime, fewer teen pregnancies, higher rates of college attendance and less need for public assistance. Cost-benefit studies show that pre-school provides the best value and produces more net benefits to society than increased classroom time or job training programs.

*Evidence from the Perry Preschool Program*

The most widely cited early childhood intervention occurred in Ypsilanti, Michigan during the 60s. Children with low IQ scores and a low socioeconomic index were invited to participate in the Perry Preschool Program. Using a coin toss, researchers divided students into two groups, a treatment group and a control group. Starting at age three the "treatment" kids got 2.5 hours of preschool a day and weekly home visits for two years. The "control" kids did not participate in either of the services. Researchers interviewed both groups at ages 15, 19, 27 and 40 and asked them questions about life events like school, work, marriage, parenting and incarceration. The following chart shows the major findings of the study.



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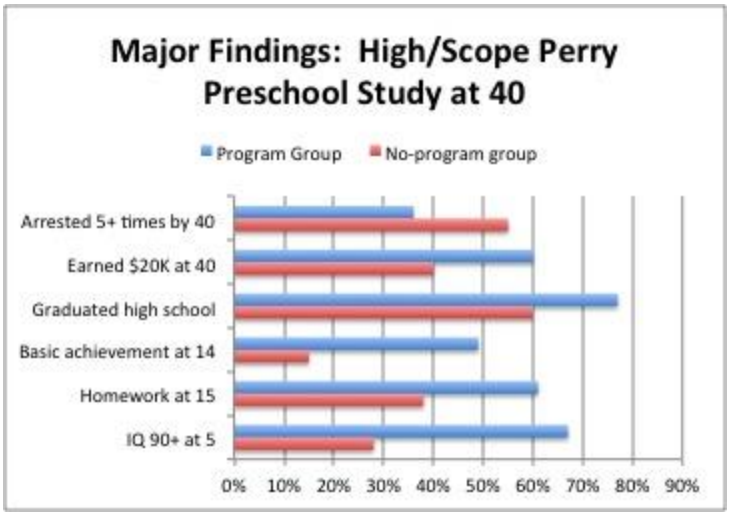


Source: Lifetime Effects: The HighScope Perry Preschool Study Through Age 40 (2005)

The pre-school girls went farther in school, earned higher GPAs, and received less special education than girls from the control group. Boys benefitted as well, but the boys who did not receive the preschool intervention were 2.3 times more likely to get arrested. The cost-savings alone from just the crime reduction demonstrated success.

With increased scrutiny over government spending, cost-benefit analysis gives policy analysts a tool to separate productive programs from ones that yield no social gains. A recent cost-benefit study that used a wider variety of assumptions and applied more rigorous accounting rules, estimated a return rate of about 7-10%. By monetizing social crime, the researchers were able to estimate that for every dollar invested in preschool, society earned back $30 to $300 dollars over the course of a lifetime (Heckman, Moon, Pinto, Savelyev, & Yavitz, 2010).

*Abecedarian and Chicago Studies*

Other studies confirmed the results of the Perry Preschool Project. The Carolina Abecedarian project in the 70s randomly assigned infants into intervention and control groups. The intervention group received full-day childcare from birth through Kindergarten. Intervention kids scored higher in reading and math, completed more education, were older when their first child was born and the mothers of intervention kids progressed farther in school and made more money than the control mothers. Intervention kids even smoked less.

A full-day five-year Pre-K program, while effective, would likely be cost-prohibitive for any state budget; however, the findings proved that early intervention does make a difference. And evidence suggests that a less expensive program could produce similar outcomes (Barnett & Masse, 2007).



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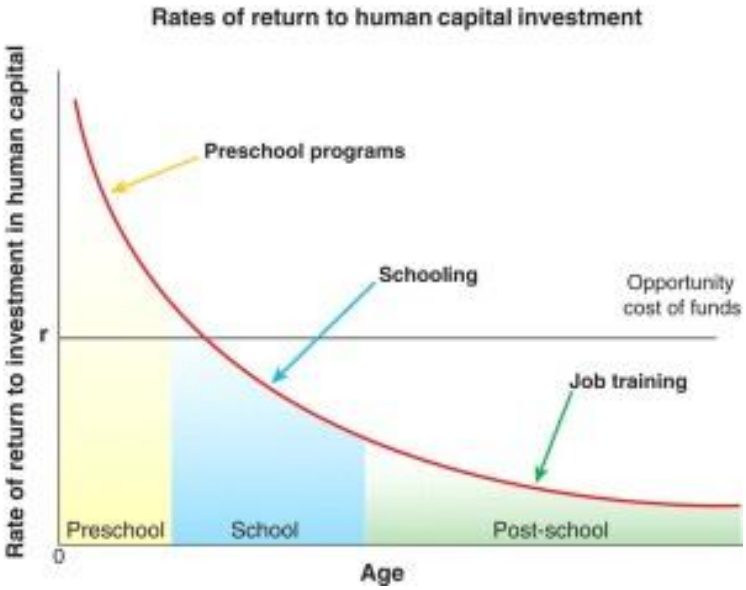
Just as Abecedarian kids earned higher wages than the control group, researchers found similar results from participants of the Chicago Child-Parent Program. The Chicago program targeted disadvantaged kids and provided a Headstart type intervention from ages three to nine. A cost-benefit analysis indicated for every dollar invested, the program produced seven in return. The largest impact was earning capacity, but Chicago kids were also less likely to need special education and less likely to commit crimes (Temple & Reynolds, 2007).

Much like with the Perry Program, the Chicago program demonstrated the relationship between early education, higher wages and crime reduction. Again it was the non-cognitive soft-skill development that made the difference. Second chance efforts like GED and job training provide fewer benefits and struggle to lift people out of poverty (Heckman & Masterov, 2007).




Source: Heckman, The Review of Agricultural Economics (2007)

What the Perry, Abecedarian and Chicago programs show is that pre-school helps kids develop soft-skills that make it easier to gain cognitive skills later and can lead to better jobs and a better quality of life. This in turn lessens the burden on government resources for remedial education, criminal justice and job-training programs.

Investing in human capital through access to finger-paints and story time may appear far-reaching, but multiple studies now point to early intervention as the cheapest, most effective way to prepare kids for the workforce and reduce crime. As labor force growth wanes and the demand for skilled workers increases, these studies suggest that a pipeline that begins at pre-school has great potential to produce big benefits to society in the long run.



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Table 1
Present value of Abecedarian benefits and costs per child (2002 dollars)

| | Discount rate (%) | | |
|---|---|---|---|
| | 3 | 5 | 7 |
| Program cost (net) | $35,864 | $34,599 | $33,421 |
| Program benefits | | | |
| Part. earnings | 37,531 | 16,460 | 6376 |
| Earnings of future generations | 5722 | 1586 | 479 |
| Maternal earnings | 68,728 | 48,496 | 35,560 |
| K-12 education | 8836 | 7375 | 6205 |
| Smoking/health | 17,781 | 4166 | 1008 |
| Higher education costs | −8128 | −5621 | −3920 |
| AFDC | 196 | 129 | 85 |
| Total benefits | $130,666 | $72,591 | $45,793 |
| Net present value | $94,802 | $37,992 | $12,372 |

**Reducing the Harmful Effects of Tobacco**

Tobacco tax increases offer a win-win-win solution for states as they work to balance budgets while preserving essential public services. Tobacco tax increases are one of the most effective ways to reduce smoking and other tobacco use, especially among kids. Every state that has significantly increased its cigarette tax has enjoyed substantial increases in revenue, even while reducing smoking. Higher tobacco taxes also save money by reducing tobacco-related health care costs, including Medicaid expenses. States can realize even greater health benefits and cost savings by allocating some of the revenue to programs that prevent children from smoking and help smokers quit.

National and state polls consistently have found overwhelming public support for tobacco tax increases. Polls also show that, when it comes to balancing budgets, voters prefer raising tobacco taxes to other tax increases or cutting crucial programs such as education and public safety.

Tobacco use causes approximately $3.03 billion in annual health care expenditures in Missouri. Smoking specifically causes over $500 million in annual costs for the Missouri Medicaid program. The initiative petition would increase the tax on cigarettes by $0.72 per pack and would increase the tax on other tobacco products by 5%. By conservative estimates, those tax increases would raise approximately $303 million in new state revenue to improve early childhood health



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and education programs. New state revenue is the amount of additional new revenue over the first full year after the effective date. The state will collect less new revenue to the extent that the rate increase does not apply to all cigarettes and other tobacco products held in wholesaler and retailer inventories on the effective date. This fiscal projection was derived using a price elasticity of demand for cigarettes of -0.8, even though the weight of credible academic literature suggests a conservative estimate for the price elasticity of demand for cigarettes is -0.4.

Tax increases of less than roughly 25 cents per pack or 10% of the average state pack price do not produce significant public health benefits or cost savings because the cigarette companies can easily offset the beneficial impact of such small increases with temporary price cuts, coupons, and other promotional discounting. Splitting a tax rate increase into separate, smaller increases in successive years will similarly diminish or eliminate the public health benefits and related cost savings (as well as reduce the amount of new revenues).

In addition to raising new revenue, the tax increase would have an immediate public health benefit. Each 10% cigarette price increase reduces youth smoking by 6.5%. Each 10% cigarette price increase reduces adult smoking by 2%. The total expected reduction in smoking consumption as a result of a 10% price increase is 4%. It is conservatively estimated that the initiative petition would decrease youth smoking by 6% in Missouri.

There would also be a fiscal benefit to the citizens of the state from the improved public health. As of 2014, the CDC estimated 11,000 annual average smoking-attributable deaths in Missouri. 127,500 Missouri Youth aged 0-17 are projected to die from smoking. Approximately 22.1% of Missouri adults smoke. Approximately 14.9% of Missouri high school students smoke. The average Missouri resident's state and federal tax burden from smoking-caused government expenditures is $588 per household. Approximately one of every six pregnant women smokes, a rate significantly higher than the national average. Smoking during pregnancy increases the risk for preterm delivery, stillbirth, low birth weight and Sudden Infant Death Syndrome.
In recent years, almost every state and the federal government have increased tobacco taxes. Missouri is a notable exception. The average state cigarette tax is currently $1.60 per pack, but rates vary widely from 17 cents in Missouri to $4.35 in New York. On April 1, 2009, the federal cigarette tax increased by 62 cents, to $1.01 per pack.

As of July 1, 2015, Missouri's cigarette tax was less than one-third of any of its border states: IL - $ 1.98; IA - $1.36; KS - $1.29; AR - $1.15; OK - $1.03; NE - $0.64; TN - $0.62; KY - $0.60. Moreover, Missouri's 17-cent per pack tax on cigarettes is the lowest in the country. The real value of the cigarette tax is decreasing. As a percentage of the overall Missouri State Budget, Missouri's tobacco taxes have decreased from 1.036% in 2000 to 0.464% in 2015. See MO Executive Budget Books & MO Office of Administration.

Every day 3,000 kids try their first cigarette and another 700 kids become regular smokers. There are more than 250 thousand new underage smokers each year. One third will eventually die from their addiction. Smoking has declined in every state where the tobacco tax has been increased.



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Ongoing reductions in state smoking levels will, over time, gradually erode state cigarette tax revenues (in the absence of any new rate increases). But those declines are more predictable and less volatile than many other state revenue sources, such as state income tax or corporate tax revenues (which can drop sharply during recessions). In addition, the smoking declines that reduce tobacco tax revenues will simultaneously produce much larger reductions in government and private sector smoking-caused costs. See the Campaign for Tobacco-Free Kids factsheet, *Tobacco Tax Increases are a Reliable Source of Substantial New State Revenue*, http://tobaccofreekids.org/research/factsheets/pdf/0303.pdf.

For other ways states can increase revenues (and promote public health) other than just raising its cigarette tax, see the Campaign factsheet, *The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

For more on sources and calculations, see http://www.tobaccofreekids.org/research/factsheets/pdf/0281.pdf

**Additional Information on Tobacco Product Tax Increases**

*Raising State Cigarette Taxes Always Increases State Revenues and Always Reduces Smoking*, http://tobaccofreekids.org/research/factsheets/pdf/0098.pdf.

*Responses to Misleading and Inaccurate Cigarette Company Arguments Against State Tobacco Tax Increases*, http://tobaccofreekids.org/research/factsheets/pdf/0227.pdf.

*State Cigarette Excise Tax Rates & Rankings*, http://tobaccofreekids.org/research/factsheets/pdf/0097.pdf.

*Top Combined State-Local Cigarette Tax Rates (State plus County plus City)*, http://tobaccofreekids.org/research/factsheets/pdf/0267.pdf.

*State Cigarette Tax Increases Benefit Lower-Income Smokers and Families*, http://tobaccofreekids.org/research/factsheets/pdf/0147.pdf.

*The Best Way to Tax Smokeless Tobacco*, http://tobaccofreekids.org/research/factsheets/pdf/0282.pdf.

*How to Make State Cigar Tax Rates Fair and Effective*, http://tobaccofreekids.org/research/factsheets/pdf/0335.pdf.

*State Benefits from Increasing Smokeless Tobacco Tax Rates*, http://tobaccofreekids.org/research/factsheets/pdf/0180.pdf.



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*The Case for High-Tech Cigarette Tax Stamps*, http://tobaccofreekids.org/research/factsheets/pdf/0310.pdf.

*State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion*, http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf.

*The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

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Sincerely,

Edward D. Greim
Partner, Graves Garrett, LLC



1100 Main Street, Suite 2700 Kansas City, MO 64105 ph 816.256.3181 www.gravesgarrett.com

Tom Kruckemeyer
Missouri Budget Project
3534 Washington Ave
St. Louis, Missouri 63103

September 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

To Whom It May Concern:

I currently work as the Director of Fiscal Policy and Chief Economist at the Missouri Budget Project, a nonprofit, objective, public policy analysis organization that provides independent research on complex state policy issues and how they impact the state budget. I hold a B.A. in Economics and History and an M.A. in Economics from the University of Missouri-St. Louis. I also hold an M.A. Political Science from the University of Missouri-Columbia. I worked in the Missouri Division of Budget from 1978 to 2004, where I served as the chief economist. In the course of both my positions at the Missouri Division of Budget as well as my current position, I have routinely projected the fiscal impact of tax changes.

In my experience, it is a conservative, generally accepted practice to project the revenue generated from a proposed cigarette tax by estimating an average price per cigarette (or price per pack), estimating a uniform price elasticity of demand, and to assume that the tax will result in a penny-for-penny increase in the cost of cigarettes.

Upon information and belief, the Office of Administration usually estimates the price elasticity of demand for cigarettes as -0.8. This estimate means that a 10% increase in the cost of cigarettes results in an 8% reduction in the quantity of cigarettes sold. A price elasticity of demand of -0.8 is a conservative but reasonable estimate for the price elasticity of demand of a product such as cigarettes. Notably, even with a 50 cent to one dollar increase in Missouri's cigarette tax, Missouri's cigarette tax will remain lower than many of its contiguous states, in particular the states that border major metropolitan areas, Illinois and Kansas.

Additionally, the Office of Administration's method for estimating cigarette tax revenue is conservative because it assumes a penny-for-penny price increase in the cost of cigarettes as a result of the tax. In practice, whether the entire tax increase will result in a 50 cent to one dollar increase in the prices of cigarettes is unknown because the market for cigarettes is competitive. Moreover, regardless of whether the Office of Administration estimates that the demand for cigarettes will remain flat or decrease due to societal trends, the overall fiscal impact is largely the same. An estimate of the decrease in future tax collections due to decreased smoking from societal trends is not essential to the findings in the fiscal note that this particular tax will result in a net increase to state revenue with no net cost to local governments.

If the Office of Administration decides to use the same assumptions in projecting the revenue for other tobacco products ("OTP") as it does for cigarettes, it is my opinion that the resulting collection estimate would be conservative but appropriate. Recent trends suggest that the revenue generated from the tax on other tobacco products is increasing.

Based on generally accepted methods for estimating the fiscal impact of a proposed tax, I estimate that a phased-in 50 cent cigarette tax increase will result in approximately 90 million dollars of revenue in calendar years 2017 and 2018. I estimate that the cigarette tax will result in approximately 150 million dollars of revenue in calendar years 2019 and 2020. I estimate that the cigarette tax will result in approximately 206 million dollars of revenue in calendar year 2021. In comparison, I estimate that an immediate 50 cent cigarette tax increase will result in approximately 214 million dollars of revenue in calendar year 2017. An immediate 63 cent cigarette tax increase will result in approximately 263 million dollars of revenue in calendar year 2017. An immediate 72 cent cigarette tax increase will result in approximately 295 million dollars of revenue in calendar year 2017. An immediate 80 cent cigarette tax increase will result in approximately 323 million dollars of revenue in calendar year 2017. An immediate one dollar cigarette tax increase will result in approximately 387 million dollars of revenue in calendar year 2017. These estimates assume a 1% yearly reduction in the state's smoking level. I estimate the 5% increase in the tax on non-cigarette tobacco products will result in approximately 8 million dollars of revenue annually. There may be a small decrease in revenue collection for each phase of the additional tax due to lags associated with the implementation and collection of taxes.

These taxes are expected to result in limited implementation costs to the state. The costs associated with administering the Early Childhood Education and Health Trust Fund will primarily be borne by the Trust Fund. Nonetheless it is proper and reasonable to consider additional costs of administering the cigarette tax increase, which may include fixed costs like salaries as well as additional marginal costs, such as costs associated with stamping cigarettes. All state government costs are estimated to be offset by additional revenue increases.

Local governments will receive revenue from the tax to offset any potential decrease in local tax revenue. Based on a price elasticity of demand of -0.8, local revenue may decrease, but any such decrease in cigarette taxes will be by an amount less than $1 million. By any reasonable estimate, 4% of the Early Childhood Education and Health Trust Fund will exceed the decrease in revenue associated with local tobacco taxes and local sales taxes. Accordingly, any such decrease will be offset as a result local revenue from the transfer of funds to localities with local tobacco taxes and local sales taxes. Additionally, while direct local revenue is zero, there are positive indirect effects the may result in additional revenue to local governments.

Sincerely,

/s/

Tom Kruckemeyer
Director of Fiscal Policy & Chief
Economist, Missouri Budget Project

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College**.

**Fiscal Note Summary**

Estimated additional revenue to state government is $276 million to $357 million annually, with limited estimated implementation costs. The revenue will fund only programs and services allowed by the proposal. The fiscal impact to local governmental entities is unknown.

RECEIVED
SEP 17 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-110

September 17, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Edward Greim regarding a proposed statutory amendment to Chapters 210, 196 & 149, version 12 (2016-110)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Edward Greim on September 17, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-110 County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

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(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
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| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do □ do not □ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Address of Affiant

_____
Printed Name of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My commission expires _____

16-110

NOTICE: You are advised that the proposed law changes, repeals, or modifies by implication, or may be construed to change, repeal or modify by implication, the following provisions of the Missouri Revised Statutes — Sections 66.340, 66.350, 149.015, 149.021, 149.065, 149.160, 196.1003, 210.102, and 210.320. The proposed law enacts two new sections, to be known as sections 149.017 and 149.161.

*Be it enacted by the people of the State of Missouri:*

Sections 210.102 and 196.1003 of the Revised Statutes of Missouri are amended and sections 149.017 and 149.161 are enacted, to read as follows:

210.102. 1. Sections 149.017 and 149.161, and certain amendments to 196.1003 and 210.102, shall be referred to as the Early Childhood Health and Education Act, with the purpose of supporting and improving early childhood health and education through regulation of tobacco manufacturers and sellers. This Act:

(1) Creates the Early Childhood Health and Education Trust Fund in order to support and improve early childhood health and education across the state;

(2) Reforms the Coordinating Board for Early Childhood to administer the Early Childhood Health and Education Trust Fund and provide grants that support and improve early childhood health and education; and

(3) Funds the Early Childhood Health and Education Trust Fund through increased regulations on tobacco manufacturers and sellers.

All of the provisions of this act are severable. If any provision of this act is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this act shall be and remain valid and in full force and effect.

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2. It shall be the duty of the Missouri children's services commission to:

(1) Make recommendations which will encourage greater interagency coordination, cooperation, more effective utilization of existing resources and less duplication of effort in activities of state agencies which affect the legal rights and well-being of children in Missouri;

(2) Develop an integrated state plan for the care provided to children in this state through state programs;

(3) Develop a plan to improve the quality of children's programs statewide. Such plan shall include, but not be limited to:

(a) Methods for promoting geographic availability and financial accessibility for all children and families in need of such services;

(b) Program recommendations for children's services which include child development, education, supervision, health and social services;

(4) Design and implement evaluation of the activities of the commission in fulfilling the duties as set out in this section;

(5) Report annually to the governor with five copies each to the house of representatives and senate about its activities including, but not limited to the following:

(a) A general description of the activities pertaining to children of each state agency having a member on the commission;

(b) A general description of the plans and goals, as they affect children, of each state agency having a member on the commission;

(c) Recommendations for statutory and appropriation initiatives to implement the integrated state plan;

(d) A report from the commission regarding the state of children in Missouri.

[2.]3. For years ending on or before December 31, 2016, [There is hereby established within the children's services commission] the "Coordinating Board for Early Childhood", which shall constitute a body corporate and politic, shall be established within the children's services commission, and shall include but not be limited to the following members:

(1) A representative from the governor's office;

(2) A representative from each of the following departments: health and senior services, mental health, social services, and elementary and secondary education;

(3) A representative of the judiciary;

(4) A representative of the family and community trust board (FACT);

(5) A representative from the head start program;

(6) Nine members appointed by the governor with the advice and consent of the senate who are representatives of the groups, such as business, philanthropy, civic groups, faith-based organizations, parent groups, advocacy organizations, early childhood service providers, and other stakeholders. The coordinating board may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers. The coordinating board shall elect from amongst its members a chairperson, vice chairperson, a secretary-reporter, and such other officers as it deems necessary. Members of the board shall serve without compensation but may be reimbursed for actual expenses necessary to the performance of their official duties for the board.

4. Beginning on January 1, 2017, the coordinating board for early childhood, which shall constitute a body corporate and politic, shall be established within the department of elementary and secondary education and shall include the following members:

(1) The director or the director's designee from each of the following departments: health and senior services, mental health, and

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social services;

(2) The commissioner or the commissioner's designee from the department of elementary and secondary education;

(3) Two members of the Missouri general assembly. One member shall be the chairman of the joint committee on education. One member shall be a member of the joint committee on education, shall be from a different party and different legislative chamber than the chairman of the joint committee on education, and shall be appointed by the elected leader, either the speaker of the house of representatives or the president pro tempore of the senate, of the member's legislative chamber;

(4) The director of the Missouri head start-state collaborative office;

(5) Six citizens, representing each of the following areas: early childhood education and development providers, local Head Start agencies, higher education, business, faith, and medicine. The Governor shall appoint, with the advice and consent of the senate, the three citizens representing the areas of medicine, business, and higher education. The state board of education shall appoint the citizens representing the areas of early childhood education and development providers, local Head Start agencies, and faith.

Citizens appointed under subdivision (5) shall serve a term of three years. Such citizens shall be eligible to serve two terms. Such citizens that serve a partial term of less than eighteen months shall be eligible to serve the partial term and two full terms. Such citizens that serve a partial term of more than eighteen months shall be eligible to serve the partial term and one full term.

[3.]5. The coordinating board for early childhood shall have the power to:

(1) Develop a comprehensive statewide long-range strategic plan for a cohesive early childhood system. The board shall review the plan each year and make amendments to the plan as it deems necessary. The board shall submit the plan to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of 2018 and each year thereafter;

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(2) Confer with public and private entities for the purpose of promoting and improving the development of children from birth through age five of this state;

(3) Identify legislative recommendations to improve services for children from birth through age five;

(4)Promote coordination of existing services and programs across public and private entities;

(5) Promote research-based approaches to services and ongoing program evaluation;

(6) Identify service gaps and advise public and private entities on methods to close such gaps;

(7) Apply for and accept gifts, grants, appropriations, loans, or contributions to the coordinating board for early childhood fund from any source, public or private, and enter into contracts or other transactions with any federal or state agency, any private organizations, or any other source in furtherance of the purpose of subsections 3 through 15[2 and 3] of this section, and take any and all actions necessary to avail itself of such aid and cooperation;

(8) Direct disbursements and grants from the coordinating board for early childhood fund and the early childhood health and education trust fund as provided in this section;

(9) Administer the coordinating board for early childhood fund and the early childhood health and education trust fund [and invest any portion of the moneys not required for immediate disbursement in obligations of the United States or any agency or instrumentality of the United States, in obligations of the state of Missouri and its political subdivisions, in certificates of deposit and time deposits, or other obligations of banks and savings and loan associations, or in such other obligations as may be prescribed by the board];

(10) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal with real or personal property or any interests therein, wherever situated;

(11) Sell, convey, lease, exchange, transfer or otherwise dispose of all or any of its property or any interest therein, wherever situated;

(12) Employ and fix the compensation of an executive director and such other agents or employees as it considers necessary;

(13) Adopt, alter, or repeal by its own bylaws, rules, and regulations governing the manner in which its business may be transacted;

(14) Adopt and use an official seal;

(15) Assess or charge fees as the board determines to be reasonable to carry out its purposes;

(16) Make all expenditures which are incident and necessary to carry out its purposes;

(17) Sue and be sued in its official name;

(18) Take such action, enter into such agreements, and exercise all functions necessary or appropriate to carry out the duties and purposes set forth in this section;

(19) Contract with one or more not-for-profits to meet the requirements of this section;

(20) Provide technical assistance to grantees;

(21) Coordinate with parents, community leaders, local governments, and public and private entities to improve the quality of and increase access to early childhood development programs in communities throughout the state; and

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(22) Pursue public and private partnership opportunities that are consistent with the objectives of subsection 6 of this section.

6. Any grants awarded by the coordinating board for early childhood shall accomplish one or more of the following objectives:

(1) Increasing access to existing quality early childhood development programs;

(2) Improving the quality of early childhood development programs;

(3) Increasing access to preventive health care and health and developmental screenings for children ages birth through five;

(4) Offering parent and family support and education concerning prenatal development, early child development, numeracy, and literacy;

(5) Providing professional development and training for early childhood development providers;

(6) Increasing coordination of early childhood development programs and public information about the importance of early childhood development;

(7) Providing evidenced-based smoking cessation programs for pregnant mothers.

7. The coordinating board for early childhood shall consider the following nonexclusive factors when awarding grants as provided in this section:

(1) Whether the project or activities will improve outcomes for children ages birth through five, consistent with the objectives of this section;

(2) Whether the project or activity leverages matching dollars;

(3) Whether the project or activity addresses needs identified by the local community; and

(4) The sustainability of the project or activity.

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8. The coordinating board for early childhood shall establish accountability and audit requirements for all grant recipients, including requirements that success be measured by outcomes for children and families.

9. It shall be the duty of the coordinating board for early childhood to:

(1) Establish and maintain a conflict of interest policy for its members and staff;

(2) Prepare an annual report describing the activities of the board and a description of outcomes for children and families achieved by the board and grant recipients, including a list of all grant recipients and the amount of any grants awarded to such recipients. The board shall submit the report to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of each year, beginning in 2019, and shall provide a copy of the report to the secretary of state; and

(3) Ensure a fair and equitable distribution of funds collected as provided under sections 149.017 and 149.161 based on the established residency population of children ages birth through five.

10. There is hereby created the "Coordinating Board for Early Childhood Fund" which shall consist of the following:

(1) Any moneys appropriated by the general assembly for use by the board in carrying out the powers set out in subsections 3 through 9[2 and 3] of this section;

(2) Any moneys received from grants or which are given, donated, or contributed to the fund from any source;

(3) Any moneys received as fees authorized under subsections 3 through 9[2 and 3] of this section;

(4) Any moneys received as interest on deposits or as income on approved investments of the fund;

(5) Any moneys obtained from any other available source. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the coordinating board for early childhood fund at the end of the biennium shall not revert to the credit of the general revenue fund.

11. There is hereby created the Early Childhood Health and Education Trust Fund which shall consist of all moneys collected as provided in sections 149.017 and 149.161, less any reduction allowed in section 149.021. Interest and moneys earned on the fund shall be credited to the fund.

12. No more than eight percent of the moneys received by the early childhood health and education trust fund shall be used for administrative expenses. Eligible administrative expenses shall include only those reasonable and necessary for:

(1) Salaries, fringe benefits, expenses, and equipment of staff employed by the coordinating board for early childhood;

(2) Expenses associated with cost sharing of salaries, fringe benefits, expenses, and equipment of staff employed or contracted by the coordinating board for early childhood from any other state department or agency of the state;

(3) Expenses of the coordinating board for early childhood associated with contracting with not-for-profit entities;

(4) Expenses of the coordinating board for early childhood associated with audits and outcome evaluations of programs and activities funded under this section;

(5) Expenses of grantees associated with meeting administrative requirements of grants established by the coordinating board for early childhood;

No more than 40% of administrative expenses shall be expended on items (1) through (4) of this subsection.

13. Moneys in the funds may be invested by the state treasurer, and any income therefrom shall be deposited to the credit of the fund. Any moneys credited to and placed in the early childhood health and education trust fund shall be appropriated and used only for purposes which are authorized by this section and shall not be subject to the provisions of section 33.080.

14. The net proceeds from the moneys collected as provided in sections 149.017 and 149.161 shall constitute new and additional funding for the activities, initiatives, and programs funded by the coordinating board for early childhood and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

15. Beginning January 1, 2017, the department of elementary and secondary education and the coordinating board for early childhood may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This subsection and chapter 536 are nonseverable from one another, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017 shall be invalid and void.

16. Notwithstanding the provisions of this section, section 149.017, or section 149.065, five percent, to be collected annually, of the net proceeds from the moneys collected as provided in sections 149.017 and 149.161 shall constitute new and additional funding for the Missouri Department of Health and Senior Services for the purpose of establishing, maintaining, and enhancing activities, programs, and initiatives to promote tobacco use quit assistance and prevention, including a comprehensive statewide tobacco control program, and public health for tobacco-related diseases. The comprehensive statewide tobacco control program shall be consistent with the United States Centers for Disease Control and Prevention's, or its successor agency's, best practices and guidelines for tobacco control programs, if any, and shall be designed to be effective to prevent and reduce tobacco use, reduce the public's exposure to secondhand smoke, and identify and eliminate disparities related to tobacco use and its effects among different population groups. The components of the comprehensive statewide tobacco control program shall include, but not be limited to: state and community based interventions, health communication interventions, cessation interventions, surveillance and evaluation, and administration and management. No more than fifteen percent of the moneys in this subsection may be expended by the Missouri Department of Health and Senior Services for activities, programs, and initiatives that promote public health for tobacco-related diseases, such as programs to provide student loan forgiveness or scholarships for medical professionals who work in underserved areas of the state, but that are not part of the comprehensive statewide tobacco control program. Moneys pursuant to this subsection expended by the Missouri Department of Health and Senior Services for the purpose of promoting public health for tobacco-related diseases shall be used solely for that purpose and shall not be used directly or indirectly for research activities.

149.017. 1. Beginning January 1, 2017, in addition to the tax levied upon the sale of cigarettes in this state pursuant to section 149.015, a tax shall be levied upon the sale of cigarettes applied a tax at an amount equal to thirty-one and one half mills per cigarette.

2. The tax shall be evidenced by stamps in the same manner as cigarettes stamped pursuant to sections 149.015 and 149.021. Stamped cigarettes in the possession of a wholesaler or retailer before any phase of the additional tax under subsection 1 of this section is imposed, shall not be subject to such phase of the additional tax before retail sale.

3. The tax on any cigarettes contained in packages of four, ten, twenty or similar quantities to be used solely for distribution as samples shall be computed on a per cigarette basis at the rate set forth in this section, and payment of the tax shall be remitted to the director at such time and in such manner as he may prescribe.

4. The provisions of section 149.065 notwithstanding, all moneys collected as a result of the taxes imposed by this section and section 149.161 shall be credited to and placed in the early childhood health and education trust fund established by section 210.102 as said moneys are received. All of the moneys from the taxes imposed by this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the early childhood health and education trust fund.

5. The additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section and section 149.161 may be paid from moneys appropriated from the early childhood health and education trust fund for that purpose, not to exceed one and one half of one percent (1.5%) of the total moneys collected in that fiscal year. Collection and enforcement activities and initiatives that are paid for with moneys from the early childhood health and education trust fund shall be conducted in a fiscally responsible manner in order to maximize the net proceeds available for distribution pursuant to section 210.102. Moneys appropriated from the early childhood health and education trust fund pursuant to this subdivision shall not be used to pay costs that are not additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section;

6. The net proceeds from the taxes imposed by this section and section 149.161 shall constitute new and additional funding for the activities, initiatives, and programs described in section 210.102 and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

7. On an annual basis, the director of the department of revenue, in consultation with the director of health and senior services, shall determine whether the taxes imposed by this section and section 149.161 have resulted in a decrease in consumption of tobacco products and thereby directly caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320 or revenues to local governments under lawfully enacted sales taxes. If a reduction in the amount of moneys collected and deposited into any of those funds pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320,or revenues to local governments under lawfully enacted sales taxes has been directly caused by the taxes imposed by this section and section 149.161, an amount equal to the amount of moneys that were not collected and deposited into that fund or funds or were not generated by the local tobacco taxes authorized by sections 66.340, 210.320, and sections providing authority for local government sales taxes because of the taxes imposed by this section and section 149.161 shall be transferred from the early childhood health and education trust fund pursuant to section 210.102 as follows: first, to the appropriate political subdivisions, second, to local governments to account for any decrease in local sales tax collections, and third to the appropriate fund or funds. The aggregate amount

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transferred to such funds and political subdivisions from the early childhood health and education trust fund for any year shall not exceed four percent of the total moneys collected pursuant to this section and section 149.161 during that same year.

149.161. Beginning on January 1, 2017, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, a tax shall be levied upon the first sale of tobacco products other than cigarettes within this state in the amount of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. The tax on tobacco products shall be at the rate of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. Licensed persons making first sales shall be allowed credit in accordance with the provisions of section 149.160.1. The additional tax levied by this section shall not apply to inventories of tobacco products in the possession of the retailer or wholesaler on December 31, 2016.

196.1003. Requirements.

Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this Act shall do one of the following:

(a) become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

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(b) (1) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts, (as such amounts are adjusted for inflation) —
1999: $.0094241 per unit sold after the date of enactment of this Act;
2000: $.0104712 per unit sold;
for each of 2001 and 2002: $.0136125 per unit sold;
for each of 2003 through 2006: $.0167539 per unit sold;
for each of 2007 and each year thereafter: $.0188482 per unit sold.

(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances —

(A) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (i) in the order in which they were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment) had it been a participating manufacturer, the percentage determined in subdivision (D) of the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(C) to the extent not released from escrow under subparagraphs (A) or (B), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

(D) The amount in subdivision (B) of the excess released from escrow shall be: for units sold during all years ending on or after December 31, 2017, zero percent.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails [in any year] to place into escrow the funds required under this section shall

(A) be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;

(B) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

(C) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years.

Each failure to make an annual deposit required under this section shall constitute a separate violation. Any tobacco product manufacturer that violates the provisions of this section shall pay the State's cost and attorney's fees incurred during a successful prosecution under this section.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-110)**

**Subject**

Initiative petition from Edward Greim regarding a proposed amendment to Chapters 149, 196, and 210 of the Revised Statutes of Missouri. (Received September 17, 2015)

**Date**

October 7, 2015

**Description**

This proposal would amend Chapters 149, 196, and 210 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Edward Greim** provided information as a proponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated the petition provides funds for a comprehensive tobacco control program, which is already administered by the Department. However the current funding appropriated is only 3 percent of the total funding the Centers for Disease Control and Prevention (CDC) recommends for the state of Missouri to have a fully funded comprehensive tobacco control program. The additional funds in this proposal would be used to enhance and expand the existing program and would bring the total funding available to 20 percent of CDC's recommendation (CDC recommendation is $73 million). While Missouri currently has one of the lowest tax rates for tobacco products, it has one of the highest tobacco use rates.

Rental space for five staff located in Jefferson City, one staff in Kansas City, and one staff in St. Louis would be required: 7 full-time employees (FTE) x 230 sq ft/FTE x $16.75/sq ft = $26,967.50.

There is a potential to affect small businesses that sell cigarettes and other tobacco products. Research has shown that interventions that increase the price of tobacco products reduce consumption.

The petition requires that 5 percent of the net proceeds collected by the tax increases be allocated to the Missouri Department of Health and Senior Services for the purpose of establishing, maintaining, and enhancing activities, programs, and initiatives to promote tobacco use quit assistance and prevention, including a comprehensive statewide tobacco control program, and public health for tobacco-related diseases. The comprehensive statewide tobacco control program shall be consistent with the United States Centers for Disease Control and Prevention's (CDC) guidelines for tobacco control programs, and shall be designed to be effective to prevent and reduce tobacco use, reduce the public's exposure to secondhand smoke, and identify and eliminate disparities related to tobacco use and its effects among different population groups. The components of the comprehensive statewide tobacco control program shall include, but not be limited to: state and community based interventions, health communication interventions, cessation interventions, surveillance and evaluation, and administration and management.

**Revenue**:
Section 149.017, raises the tax on cigarettes to 31.5 mills per cigarette beginning January 1, 2017. The Office of Administration Budget and Planning estimates the total cigarette tax revenue as a result of this increase to be $264,700,000.

Section 149.061 levies an additional 5 percent tax on the first sales of tobacco products other than cigarettes beginning January 1, 2017. The Office of Administration Budget and Planning estimates the total additional tax collected on other tobacco products to be $7,900,000.

Section 149.017.2 requires the additional tax on cigarettes to be stamped in accordance with the provisions of existing sections 149.015 and 149.021. This creates an allowance of 3 percent of the cigarette taxes to the wholesaler for the compensation for the time required to affix the stamps.

Section 149.017.5 allows for up to 1.5 percent of the total funds collected to be appropriated from the fund to the state for the purposes of collecting and enforcing the taxes of this section. This estimate assumes that 1.5 percent will be appropriated for this use.

Section 210.102.16 allocates 5 percent of the net proceeds of money collected as provided in sections 149.017 and 149.161 to the Missouri Department of Health and Senior Services for the purpose of funding a comprehensive tobacco control program.

The estimated revenues for calendar year 2017 are calculated as follows:

| | |
|---|---|
| Cigarette tax | $264,700,000 |
| Other tobacco products tax | $7,900,000 |
| Less 3% of cigarette tax for stamps | ($7,941,000) |
| Total tax collected | $264,659,000 |
| Less 1.5% administrative fee | (3,969,885) |
| Net Proceeds | $260,689,115 |
| **5% of net proceeds for DHSS** | **$13,034,456** |

Since the additional tax would not start until January 1, 2017, it is assumed the first appropriation of funds for the expanded comprehensive tobacco control program would start in the 2018 fiscal year.

**Costs**
The assumptions used for calculating the cost to the Department are as follows:

**Personnel needs**:

| | |
|---|---|
| One Planner III (Range A48, Step B): | $45,156 |
| Two Health Educator III (Range A25, Step B): | $80,760 |
| One Health Program Representative III (Range A24, Step B): | $38,928 |

| | |
|---|---|
| One Health Program Representative I/II (Range A18, Step B): | $30,984 |
| One Sr. Off. Support Assistant, Keyboard (Range A09, Step F): | $25,824 |
| One Public Health Epidemiologist (Range A32, Step A) | $55,416 |

The Planner III would work with multiple partners across the state to identify, plan, and implement evidence-based programs in comprehensive tobacco control. Duties would include preparing, reviewing and approving applications for funding; supervising assigned staff; and assuring an evaluation plan consistent with Department goals for comprehensive tobacco control and chronic disease prevention is executed.

The two Health Educator IIIs would be stationed in Kansas City and St. Louis to work directly with contractors in the major metropolitan areas and surrounding counties providing technical assistance on implementing community based interventions. Duties would include technical assistance, training and education in comprehensive tobacco control issues.

The Health Program Representative III would work with the Program Coordinator, the Planner III, and the Office of Public Information to assure a media plan consistent with Department goals for comprehensive tobacco control and chronic disease prevention is executed.

The Health Program Representative I/II would be responsible for contract management, contract monitoring, invoice tracking, etc.

The Senior Office Support Assistant (Keyboard) would provide support to the staff located in field offices, including the four employees currently in the field. Duties would include such activities as making arrangements for training and travel, preparing expense reports, assembling training packets, routing and tracking program documents, and answering the phone for the program.

The Public Health Epidemiologist will oversee the surveillance and evaluation activities of the program, developing evaluation plans, assuring all interventions are appropriately evaluated, preparing evaluation reports, and coordinating collection of data on tobacco control measures.

Standards costs for equipment and expenses of staff are included in the cost estimation.

**Program Services Costs**
Remaining funds of $12,408,267 would be allocated in contracts for Quitline assistance, media, and local community evidence-based initiatives.

A well-funded Quitline is needed to provide on-going support in quitting tobacco use to any Missourian. The Quitline would provide cessation coaching, texting support, on-line support, and quitting medications – over-the counter and prescription to those without prescription drug benefits – as approved by the U.S. Food and Drug Administration.

A comprehensive tobacco control program must include paid media to promote health messages to adults, youth and communities on issues of not using tobacco and eliminating exposure to secondhand smoke.

Finally, contracts would be offered to local entities to implement evidence-based, community-based interventions in cessation, youth initiation, and secondhand smoke exposure. Contractors would include local public health agencies, faith-based organizations, non-profit organizations, educational institutions. These would be sought through requests for proposals (to be developed by the Planner III).

Evidence-based interventions conducted by contractors would include those supporting the goals of comprehensive tobacco control:

- Reducing tobacco use through local tobacco cessation – for example, one-on-one interventions with individuals needing face-to-face coaching or in culturally sensitive settings for those with a disproportionate burden of tobacco use.
- Reducing youth initiation through prevention – for example, youth leadership in educating their communities on why tobacco use and secondhand smoke are harmful to health, developing local-focused media.
- Exposure to secondhand smoke – for example, local coalitions educating their communities on why tobacco use and secondhand smoke are harmful to health, developing local-focused media.

Contracts could also be funded to support state and local surveillance and evaluation efforts to demonstrate the effectiveness of the funded interventions.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated it does not appear that this proposal would have a direct fiscal impact on their department.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** (DOR) indicated this petition will have a fiscal impact of $75,006 for fiscal year (FY) 2017 on their department, creating additional expense for IT consultants, and will increase revenues for the Early Childhood Health and Education Trust Fund by $313,700,000 annually.

If approved by voters, this petition increases the revenue stream for the Early Childhood Health and Education Trust Fund, but creates a negative impact to general revenue.

**Section 149.017**
Beginning January 1, 2017, the legislation increases the tax on cigarettes to 31.5 mills per cigarette ($0.63 per pack of 20).

Stamped cigarettes in inventory prior to the effective dates of the increase and in possession of a retailer are not subject to the additional tax before retail sale. The petition also allows for up to one and one-half percent collection fee of the total moneys collected in a fiscal year.

The legislation requires the Department, in consultation with the Department of Health and Senior Services (DHSS), to annually determine if the taxes result in a decrease in consumption of tobacco products. The Departments must further determine if there are reductions in moneys collected and deposited into the fair share fund, health initiatives fund, or the state school moneys fund or local tobacco taxes.

With the additional assessed tax, the Department estimates an increase of $289.8 million per year to the Early Childhood Health and Education Trust Fund.

**Section 149.161**
Beginning on January 1, 2017, this section, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, levies a five percent tax upon the first sale of tobacco products other than cigarettes within this state. The legislation bases the five percent increase on the manufacturer's invoice price before discounts and deals. The person making the first sale within the state pays the tax.

With the additional assessed tax, the Department estimates an increase of $8.2 million per year to the Early Childhood Health and Education Trust Fund.

**Section 196.1003**
The amount of the excess escrow released must be for units sold during all years ending on or after December 31, 2017, zero percent.

**Section 210.102**
The section creates the Early Childhood Health and Education Act. Beginning in 2017, the Coordinating Board for Early Childhood becomes a body corporate and politic under the purview of the Department of Elementary & Secondary Education (DESE). Subsection 11 creates the Early Childhood Health and Education Trust Fund. The legislation deposits all moneys collected under sections 149.017 and 149.161, less any reductions allowed in section 149.021, into the trust fund. The legislation authorizes the collection of five percent annually of the net proceeds from the moneys collected under sections 149.017 and 149.161 to be additional funding for the Missouri Department of Health and Senior Services.

The Department estimates $15.7 million of additional funding for the Missouri Department of Health and Senior Services as a result of this section.

**Administrative Impact:**

**Excise Tax:**

The Early Childhood Health and Education Trust Fund requires changes to SAGE 50 accounting system and cashiering records. The legislation also creates the requirement for a new form.

Officials from the **Department of Public Safety** indicated their department sees no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated no fiscal impact to their department.

Officials from the **Office of Administration** (OA) indicated the proposal amends Sections 210.102 and 196.1003, RSMo, and adds Sections 149.017 and 149.161, RSMo.

Section 210.102, RSMo, moves the Coordinating Board for Early Childhood from the Children's Services Commission to DESE, effective January 1, 2017, changes the board membership and provides further guidance on funding and operations for the Board. Five percent of the new revenue collected is to be used by the MO Department of Health and Senior Services to establish, maintain and enhance activities, programs and initiatives to promote tobacco use quit assistance and prevention, including a comprehensive statewide tobacco control program, and public health for tobacco-related diseases. No more than 15% of these moneys may be used by DHSS to promote public health for tobacco-related diseases, such as student loan forgiveness or scholarships for medical professionals.

Section 149.017, RSMo, increases cigarette tax by 31½ mills per cigarette on 1/1/2017. Section 149.161, RSMo, levies an additional 5% tax on other tobacco products beginning 1/1/2017. These monies will go to the Early Childhood Health and Education Trust (ECHET) Fund established in Section 210.102, RSMo. DOR and DHSS must annually determine whether the new taxes have caused a reduction in consumption and therefore a reduction in the amount of money collected for the Fair Share Fund, the Health Initiatives

Fund or the State School Moneys Fund and for local sales and tobacco taxes. If a reduction in consumption is found, then up to 4% of the new revenue collected is to be distributed to the various funds and political subdivisions from the ECHET Fund to hold them harmless.

Section 196.1003, RSMo, changes escrow requirements for the tobacco Master Settlement Agreement, with provisions to direct potential civil penalties to the ECHET Fund. Because this language changes what was previously approved as a "qualifying statute", it could adversely impact future Nonparticipating Manufacturer (NPM) adjustment arbitrations.

FISCAL IMPACT:

Cigarette Tax

In FY15, there was $81.7 million in cigarette excise taxes collected. OA assumes that the average pack of cigarettes retails for $4.50, translating to roughly 480.9 million packs sold in Missouri. OA further assumes that cigarette sales have a (0.8) elasticity. Therefore, OA estimates a tax increase of 31½ mills per cigarette in January 2017 will increase the "Early Childhood Health and Education Fund" by $132.3 million in FY17 and $264.7 million once fully implemented in FY18.

There is no way to truly know what impact these tax increases will have on demand due to smoking cessation efforts, other state and federal regulations, and the increase in sales of e-cigarettes. However, OA estimates that the tax increase will decrease the Fair Share Fund by $1.0 million in FY17 and $1.9 million in FY18 and thereafter, the Health Initiatives fund by $1.0 million in FY17 and $1.9 million in FY18 and thereafter, and the State School Moneys Fund by $2.2 million in FY17 and $4.3 million in FY18 and thereafter.

Further, since cigarette sales will decrease slightly, General Revenue will be reduced by $6.2 million, the School District Trust Fund will be reduced by $2.1 million, and local sales tax will be reduced by $8.8 million once fully implemented in FY18, from the loss of sales tax.

Other Tobacco Products

In FY15, there was $17.7 million in other tobacco product excise taxes collected. OA assumes that the average unit retails for $4.09, translating to roughly $176.9 million in wholesales in Missouri. OA further assumes that other tobacco product sales have a (0.8) elasticity. Therefore, OA estimates this proposal will increase the "Early Childhood Health and Education Fund" by $4.0 million in FY17 and $7.9 million once fully implemented in FY18.

There is no way to truly know what impact this tax increase will have on demand due to cessation efforts, other state, federal, and local regulations, and the introduction of alternative products. However, OA estimates that this tax increase will decrease the

Health Initiatives Fund by $0.3 million in FY17 and $0.6 million once fully implemented in FY18.

Further, since other tobacco product sales will decrease slightly, General Revenue will be reduced by $190,000, the School District Trust Fund will be reduced by $62,000, and local sales tax will be reduced by $260,000 once fully implemented in FY18, from the loss of sales tax.

Master Settlement Agreement

The escrow changes should not impact state revenues. When civil penalties are redirected to the ECHET Fund, it would be an unknown loss of potential general revenue to the state.

Total Impact

This proposal will increase the "Early Childhood Health and Education Fund" by $272.6 million once fully implemented in FY18. This proposal will also decrease the Fair Share Fund by $1.9 million, the Health Initiatives fund by $2.5 million, and the State School Moneys Fund by $4.3 million once fully implemented in FY18.

In addition, due to lost sales tax revenue General Revenue will be reduced by $6.4 million, the School District Trust Fund will be reduced by $2.2 million, and local sales tax will be reduced by $9.1 million once fully implemented in FY18.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of

$122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated the initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated that there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated this initiative petition will have an undetermined fiscal impact on the university, to the extent the petition would affect any general revenue allocated to their university.

**Edward Greim** provided the following information as a proponent of this initiative petition.

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September 28, 2015

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P.O. Box 869
Jefferson City, Missouri 65102

Re: *Fiscal Note in Initiative Petitions 16-106 & 16-110*

To Whom It May Concern:

Based on the information contained in this letter and the attached letter from Tom Kruckemeyer, we propose the following fiscal note summary:

> Estimated additional revenue to state government is $271 million annually with limited estimated implementation costs or savings. The revenue will fund only programs and services allowed by the proposal. The proposal is estimated to result in no net costs or savings to local governmental entities.

**Introduction**

The initiative allows 460,000 children to receive the early health screenings they need to grow and thrive and the early childhood development experiences that will prepare them for long-term educational success. These programs have important trickle-down effects that result in increased revenue and decreased costs at the state and local level. The initiative is accomplished by funding grants across the state to improve early childhood health and education. Funding for grants is provided by a tobacco tax, conservatively resulting in $271 million in direct state revenue, while yielding important public health benefits.

**Early Childhood Delivers Big Benefits**

Missouri enrolls fewer children in its state preschool program than any neighboring state, and funding for programs like Parents as Teachers has been slashed in half. All Missourians benefit

from investments in early childhood education: children start school ready to succeed; parents are able to keep good jobs and earn higher incomes; and taxpayers save money because early childhood education lowers drop-out rates, reduces crime and cuts the cost of social services. Despite clear evidence showing investing in early learning is one of the smartest investments we can make, year after year we battle with the Missouri General Assembly to fund quality early childhood education. Missouri is the 38th worst state for public pre-K funding. In 2012, the General Assembly cut $13.2 million from early childhood programs, and Parents as Teachers remains $19 million behind its 2009 funding.

Traditional thought has long emphasized the relationship between early childhood education and academic success, but researchers now are finding that preschool does not have a substantial effect on increasing IQs but rather develops a child's "soft skills" and can have a profound effect on adult earning potential especially for disadvantaged kids.

Evidence shows that non-cognitive skills matter. Through activities like finger painting, playing with blocks, and interacting with other students, children learn how to control impulses, keep anger in check, stay on task, listen and follow curiosity. These soft skills are basic, but important tools needed to learn, find and keep a job and just manage everyday life. Most children gain these skills at home from their parents, but disadvantaged kids often miss the window of opportunity, which are the critical years before Kindergarten.

A literature of empirical evidence shows strong outcome effects for kids who attend pre-school. Using cost-benefit analyses, researchers have found a link between preschool attendance and reduced crime, fewer teen pregnancies, higher rates of college attendance and less need for public assistance. Cost-benefit studies show that pre-school provides the best value and produces more net benefits to society than increased classroom time or job training programs.

*Evidence from the Perry Preschool Program*

The most widely cited early childhood intervention occurred in Ypsilanti, Michigan during the 60s. Children with low IQ scores and a low socioeconomic index were invited to participate in the Perry Preschool Program. Using a coin toss, researchers divided students into two groups, a treatment group and a control group. Starting at age three the "treatment" kids got 2.5 hours of preschool a day and weekly home visits for two years. The "control" kids did not participate in either of the services. Researchers interviewed both groups at ages 15, 19, 27 and 40 and asked them questions about life events like school, work, marriage, parenting and incarceration. The following chart shows the major findings of the study.



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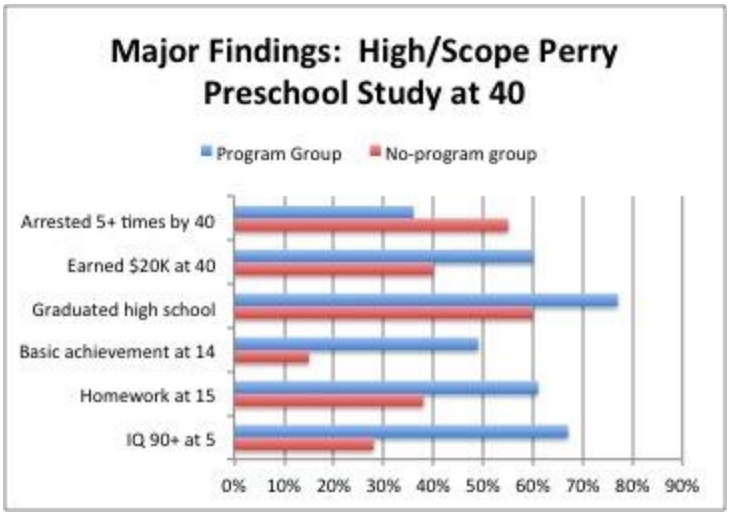


Source: Lifetime Effects: The HighScope Perry Preschool Study Through Age 40 (2005)

The pre-school girls went farther in school, earned higher GPAs, and received less special education than girls from the control group. Boys benefitted as well, but the boys who did not receive the preschool intervention were 2.3 times more likely to get arrested. The cost-savings alone from just the crime reduction demonstrated success.

With increased scrutiny over government spending, cost-benefit analysis gives policy analysts a tool to separate productive programs from ones that yield no social gains. A recent cost-benefit study that used a wider variety of assumptions and applied more rigorous accounting rules, estimated a return rate of about 7-10%. By monetizing social crime, the researchers were able to estimate that for every dollar invested in preschool, society earned back $30 to $300 dollars over the course of a lifetime (Heckman, Moon, Pinto, Savelyev, & Yavitz, 2010).

*Abecedarian and Chicago Studies*

Other studies confirmed the results of the Perry Preschool Project. The Carolina Abecedarian project in the 70s randomly assigned infants into intervention and control groups. The intervention group received full-day childcare from birth through Kindergarten. Intervention kids scored higher in reading and math, completed more education, were older when their first child was born and the mothers of intervention kids progressed farther in school and made more money than the control mothers. Intervention kids even smoked less.

A full-day five-year Pre-K program, while effective, would likely be cost-prohibitive for any state budget; however, the findings proved that early intervention does make a difference. And evidence suggests that a less expensive program could produce similar outcomes (Barnett & Masse, 2007).



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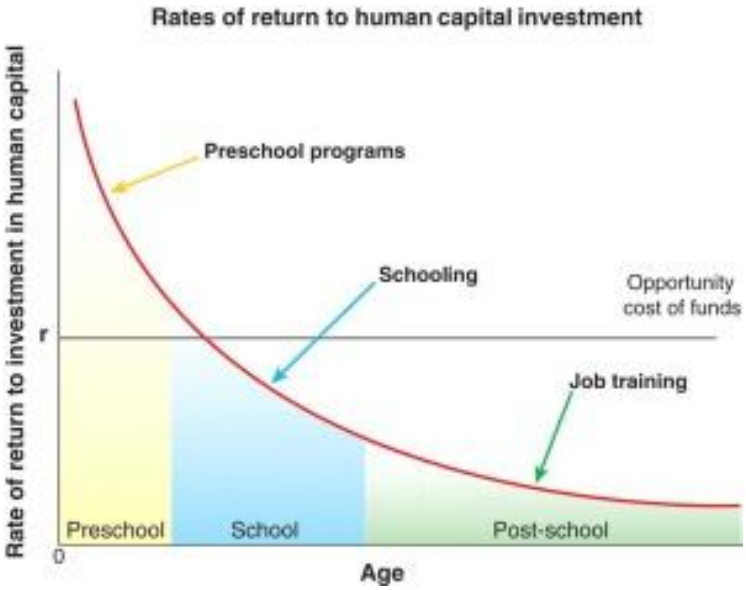
Just as Abecedarian kids earned higher wages than the control group, researchers found similar results from participants of the Chicago Child-Parent Program. The Chicago program targeted disadvantaged kids and provided a Headstart type intervention from ages three to nine. A cost-benefit analysis indicated for every dollar invested, the program produced seven in return. The largest impact was earning capacity, but Chicago kids were also less likely to need special education and less likely to commit crimes (Temple & Reynolds, 2007).

Much like with the Perry Program, the Chicago program demonstrated the relationship between early education, higher wages and crime reduction. Again it was the non-cognitive soft-skill development that made the difference. Second chance efforts like GED and job training provide fewer benefits and struggle to lift people out of poverty (Heckman & Masterov, 2007).




Source: Heckman, The Review of Agricultural Economics (2007)

What the Perry, Abecedarian and Chicago programs show is that pre-school helps kids develop soft-skills that make it easier to gain cognitive skills later and can lead to better jobs and a better quality of life. This in turn lessens the burden on government resources for remedial education, criminal justice and job-training programs.

Investing in human capital through access to finger-paints and story time may appear far-reaching, but multiple studies now point to early intervention as the cheapest, most effective way to prepare kids for the workforce and reduce crime. As labor force growth wanes and the demand for skilled workers increases, these studies suggest that a pipeline that begins at pre-school has great potential to produce big benefits to society in the long run.



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Table 1
Present value of Abecedarian benefits and costs per child (2002 dollars)

| | Discount rate (%) | | |
|---|---|---|---|
| | 3 | 5 | 7 |
| Program cost (net) | $35,864 | $34,599 | $33,421 |
| Program benefits | | | |
| Part. earnings | 37,531 | 16,460 | 6376 |
| Earnings of future generations | 5722 | 1586 | 479 |
| Maternal earnings | 68,728 | 48,496 | 35,560 |
| K-12 education | 8836 | 7375 | 6205 |
| Smoking/health | 17,781 | 4166 | 1008 |
| Higher education costs | −8128 | −5621 | −3920 |
| AFDC | 196 | 129 | 85 |
| Total benefits | $130,666 | $72,591 | $45,793 |
| Net present value | $94,802 | $37,992 | $12,372 |

**Reducing the Harmful Effects of Tobacco**

Tobacco tax increases offer a win-win-win solution for states as they work to balance budgets while preserving essential public services. Tobacco tax increases are one of the most effective ways to reduce smoking and other tobacco use, especially among kids. Every state that has significantly increased its cigarette tax has enjoyed substantial increases in revenue, even while reducing smoking. Higher tobacco taxes also save money by reducing tobacco-related health care costs, including Medicaid expenses. States can realize even greater health benefits and cost savings by allocating some of the revenue to programs that prevent children from smoking and help smokers quit.

National and state polls consistently have found overwhelming public support for tobacco tax increases. Polls also show that, when it comes to balancing budgets, voters prefer raising tobacco taxes to other tax increases or cutting crucial programs such as education and public safety.

Tobacco use causes approximately $3.03 billion in annual health care expenditures in Missouri. Smoking specifically causes over $500 million in annual costs for the Missouri Medicaid program. The initiative petition would increase the tax on cigarettes by $0.50 per pack and would increase the tax on other tobacco products by 5%. By conservative estimates, those tax increases would raise approximately $271 million in new state revenue to improve early childhood health



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and education programs. New state revenue is the amount of additional new revenue over the first full year after the effective date. The state will collect less new revenue to the extent that the rate increase does not apply to all cigarettes and other tobacco products held in wholesaler and retailer inventories on the effective date. This fiscal projection was derived using a price elasticity of demand for cigarettes of -0.8, even though the weight of credible academic literature suggests a conservative estimate for the price elasticity of demand for cigarettes is -0.4.

Tax increases of less than roughly 25 cents per pack or 10% of the average state pack price do not produce significant public health benefits or cost savings because the cigarette companies can easily offset the beneficial impact of such small increases with temporary price cuts, coupons, and other promotional discounting. Splitting a tax rate increase into separate, smaller increases in successive years will similarly diminish or eliminate the public health benefits and related cost savings (as well as reduce the amount of new revenues).

In addition to raising new revenue, the tax increase would have an immediate public health benefit. Each 10% cigarette price increase reduces youth smoking by 6.5%. Each 10% cigarette price increase reduces adult smoking by 2%. The total expected reduction in smoking consumption as a result of a 10% price increase is 4%. It is conservatively estimated that the initiative petition would decrease youth smoking by 6% in Missouri.

There would also be a fiscal benefit to the citizens of the state from the improved public health. As of 2014, the CDC estimated 11,000 annual average smoking-attributable deaths in Missouri. 127,500 Missouri Youth aged 0-17 are projected to die from smoking. Approximately 22.1% of Missouri adults smoke. Approximately 14.9% of Missouri high school students smoke. The average Missouri resident's state and federal tax burden from smoking-caused government expenditures is $588 per household. Approximately one of every six pregnant women smokes, a rate significantly higher than the national average. Smoking during pregnancy increases the risk for preterm delivery, stillbirth, low birth weight and Sudden Infant Death Syndrome.
In recent years, almost every state and the federal government have increased tobacco taxes. Missouri is a notable exception. The average state cigarette tax is currently $1.60 per pack, but rates vary widely from 17 cents in Missouri to $4.35 in New York. On April 1, 2009, the federal cigarette tax increased by 62 cents, to $1.01 per pack.

As of July 1, 2015, Missouri's cigarette tax was less than one-third of any of its border states: IL - $ 1.98; IA - $1.36; KS - $1.29; AR - $1.15; OK - $1.03; NE - $0.64; TN - $0.62; KY - $0.60. Moreover, Missouri's 17-cent per pack tax on cigarettes is the lowest in the country. The real value of the cigarette tax is decreasing. As a percentage of the overall Missouri State Budget, Missouri's tobacco taxes have decreased from 1.036% in 2000 to 0.464% in 2015. See MO Executive Budget Books & MO Office of Administration.

Every day 3,000 kids try their first cigarette and another 700 kids become regular smokers. There are more than 250 thousand new underage smokers each year. One third will eventually die from their addiction. Smoking has declined in every state where the tobacco tax has been increased.



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Ongoing reductions in state smoking levels will, over time, gradually erode state cigarette tax revenues (in the absence of any new rate increases). But those declines are more predictable and less volatile than many other state revenue sources, such as state income tax or corporate tax revenues (which can drop sharply during recessions). In addition, the smoking declines that reduce tobacco tax revenues will simultaneously produce much larger reductions in government and private sector smoking-caused costs. See the Campaign for Tobacco-Free Kids factsheet, *Tobacco Tax Increases are a Reliable Source of Substantial New State Revenue*, http://tobaccofreekids.org/research/factsheets/pdf/0303.pdf.

For other ways states can increase revenues (and promote public health) other than just raising its cigarette tax, see the Campaign factsheet, *The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

For more on sources and calculations, see http://www.tobaccofreekids.org/research/factsheets/pdf/0281.pdf

**Additional Information on Tobacco Product Tax Increases**

*Raising State Cigarette Taxes Always Increases State Revenues and Always Reduces Smoking*, http://tobaccofreekids.org/research/factsheets/pdf/0098.pdf.

*Responses to Misleading and Inaccurate Cigarette Company Arguments Against State Tobacco Tax Increases*, http://tobaccofreekids.org/research/factsheets/pdf/0227.pdf.

*State Cigarette Excise Tax Rates & Rankings*, http://tobaccofreekids.org/research/factsheets/pdf/0097.pdf.

*Top Combined State-Local Cigarette Tax Rates (State plus County plus City)*, http://tobaccofreekids.org/research/factsheets/pdf/0267.pdf.

*State Cigarette Tax Increases Benefit Lower-Income Smokers and Families*, http://tobaccofreekids.org/research/factsheets/pdf/0147.pdf.

*The Best Way to Tax Smokeless Tobacco*, http://tobaccofreekids.org/research/factsheets/pdf/0282.pdf.

*How to Make State Cigar Tax Rates Fair and Effective*, http://tobaccofreekids.org/research/factsheets/pdf/0335.pdf.

*State Benefits from Increasing Smokeless Tobacco Tax Rates*, http://tobaccofreekids.org/research/factsheets/pdf/0180.pdf.



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*The Case for High-Tech Cigarette Tax Stamps*, http://tobaccofreekids.org/research/factsheets/pdf/0310.pdf.

*State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion*, http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf.

*The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

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Sincerely,

Edward D. Greim
Partner, Graves Garrett, LLC



1100 Main Street, Suite 2700 Kansas City, MO 64105 ph 816.256.3181 www.gravesgarrett.com

Tom Kruckemeyer
Missouri Budget Project
3534 Washington Ave
St. Louis, Missouri 63103

September 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

To Whom It May Concern:

I currently work as the Director of Fiscal Policy and Chief Economist at the Missouri Budget Project, a nonprofit, objective, public policy analysis organization that provides independent research on complex state policy issues and how they impact the state budget. I hold a B.A. in Economics and History and an M.A. in Economics from the University of Missouri-St. Louis. I also hold an M.A. Political Science from the University of Missouri-Columbia. I worked in the Missouri Division of Budget from 1978 to 2004, where I served as the chief economist. In the course of both my positions at the Missouri Division of Budget as well as my current position, I have routinely projected the fiscal impact of tax changes.

In my experience, it is a conservative, generally accepted practice to project the revenue generated from a proposed cigarette tax by estimating an average price per cigarette (or price per pack), estimating a uniform price elasticity of demand, and to assume that the tax will result in a penny-for-penny increase in the cost of cigarettes.

Upon information and belief, the Office of Administration usually estimates the price elasticity of demand for cigarettes as -0.8. This estimate means that a 10% increase in the cost of cigarettes results in an 8% reduction in the quantity of cigarettes sold. A price elasticity of demand of -0.8 is a conservative but reasonable estimate for the price elasticity of demand of a product such as cigarettes. Notably, even with a 50 cent to one dollar increase in Missouri's cigarette tax, Missouri's cigarette tax will remain lower than many of its contiguous states, in particular the states that border major metropolitan areas, Illinois and Kansas.

Additionally, the Office of Administration's method for estimating cigarette tax revenue is conservative because it assumes a penny-for-penny price increase in the cost of cigarettes as a result of the tax. In practice, whether the entire tax increase will result in a 50 cent to one dollar increase in the prices of cigarettes is unknown because the market for cigarettes is competitive. Moreover, regardless of whether the Office of Administration estimates that the demand for cigarettes will remain flat or decrease due to societal trends, the overall fiscal impact is largely the same. An estimate of the decrease in future tax collections due to decreased smoking from societal trends is not essential to the findings in the fiscal note that this particular tax will result in a net increase to state revenue with no net cost to local governments.

If the Office of Administration decides to use the same assumptions in projecting the revenue for other tobacco products ("OTP") as it does for cigarettes, it is my opinion that the resulting collection estimate would be conservative but appropriate. Recent trends suggest that the revenue generated from the tax on other tobacco products is increasing.

Based on generally accepted methods for estimating the fiscal impact of a proposed tax, I estimate that a phased-in 50 cent cigarette tax increase will result in approximately 90 million dollars of revenue in calendar years 2017 and 2018. I estimate that the cigarette tax will result in approximately 150 million dollars of revenue in calendar years 2019 and 2020. I estimate that the cigarette tax will result in approximately 206 million dollars of revenue in calendar year 2021. In comparison, I estimate that an immediate 50 cent cigarette tax increase will result in approximately 214 million dollars of revenue in calendar year 2017. An immediate 63 cent cigarette tax increase will result in approximately 263 million dollars of revenue in calendar year 2017. An immediate 72 cent cigarette tax increase will result in approximately 295 million dollars of revenue in calendar year 2017. An immediate 80 cent cigarette tax increase will result in approximately 323 million dollars of revenue in calendar year 2017. An immediate one dollar cigarette tax increase will result in approximately 387 million dollars of revenue in calendar year 2017. These estimates assume a 1% yearly reduction in the state's smoking level. I estimate the 5% increase in the tax on non-cigarette tobacco products will result in approximately 8 million dollars of revenue annually. There may be a small decrease in revenue collection for each phase of the additional tax due to lags associated with the implementation and collection of taxes.

These taxes are expected to result in limited implementation costs to the state. The costs associated with administering the Early Childhood Education and Health Trust Fund will primarily be borne by the Trust Fund. Nonetheless it is proper and reasonable to consider additional costs of administering the cigarette tax increase, which may include fixed costs like salaries as well as additional marginal costs, such as costs associated with stamping cigarettes. All state government costs are estimated to be offset by additional revenue increases.

Local governments will receive revenue from the tax to offset any potential decrease in local tax revenue. Based on a price elasticity of demand of -0.8, local revenue may decrease, but any such decrease in cigarette taxes will be by an amount less than $1 million. By any reasonable estimate, 4% of the Early Childhood Education and Health Trust Fund will exceed the decrease in revenue associated with local tobacco taxes and local sales taxes. Accordingly, any such decrease will be offset as a result local revenue from the transfer of funds to localities with local tobacco taxes and local sales taxes. Additionally, while direct local revenue is zero, there are positive indirect effects the may result in additional revenue to local governments.

Sincerely,

/s/

Tom Kruckemeyer
Director of Fiscal Policy & Chief
Economist, Missouri Budget Project

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College**.

**Fiscal Note Summary**

Estimated additional revenue to state government is $246 million to $313 million annually, with limited estimated implementation costs. The revenue will fund only programs and services allowed by the proposal. The fiscal impact to local governmental entities is unknown.

RECEIVED
SEP 17 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-109

September 17, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Edward Greim regarding a proposed statutory amendment to Chapters 210, 196 & 149, version 11 (2016-109)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Edward Greim on September 17, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-109

County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

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2015 SEP 17 AM 8:47

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
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| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do □ do not □ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Address of Affiant

_____
Printed Name of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My commission expires _____

16-109

NOTICE: You are advised that the proposed law changes, repeals, or modifies by implication, or may be construed to change, repeal or modify by implication, the following provisions of the Missouri Revised Statutes — Sections 66.340, 66.350, 149.015, 149.021, 149.065, 149.160, 196.1003, 210.102, and 210.320. The proposed law enacts two new sections, to be known as sections 149.017 and 149.161.

*Be it enacted by the people of the State of Missouri:*

Sections 210.102 and 196.1003 of the Revised Statutes of Missouri are amended and sections 149.017 and 149.161 are enacted, to read as follows:

210.102. 1. Sections 149.017 and 149.161, and certain amendments to 196.1003 and 210.102, shall be referred to as the Early Childhood Health and Education Act, with the purpose of supporting and improving early childhood health and education through regulation of tobacco manufacturers and sellers. This Act:

(1) Creates the Early Childhood Health and Education Trust Fund in order to support and improve early childhood health and education across the state;

(2) Reforms the Coordinating Board for Early Childhood to administer the Early Childhood Health and Education Trust Fund and provide grants that support and improve early childhood health and education; and

(3) Funds the Early Childhood Health and Education Trust Fund through increased regulations on tobacco manufacturers and sellers.

All of the provisions of this act are severable. If any provision of this act is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this act shall be and remain valid and in full force and effect.

RECEIVED
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2. It shall be the duty of the Missouri children's services commission to:

(1) Make recommendations which will encourage greater interagency coordination, cooperation, more effective utilization of existing resources and less duplication of effort in activities of state agencies which affect the legal rights and well-being of children in Missouri;

(2) Develop an integrated state plan for the care provided to children in this state through state programs;

(3) Develop a plan to improve the quality of children's programs statewide. Such plan shall include, but not be limited to:

(a) Methods for promoting geographic availability and financial accessibility for all children and families in need of such services;

(b) Program recommendations for children's services which include child development, education, supervision, health and social services;

(4) Design and implement evaluation of the activities of the commission in fulfilling the duties as set out in this section;

(5) Report annually to the governor with five copies each to the house of representatives and senate about its activities including, but not limited to the following:

(a) A general description of the activities pertaining to children of each state agency having a member on the commission;

(b) A general description of the plans and goals, as they affect children, of each state agency having a member on the commission;

(c) Recommendations for statutory and appropriation initiatives to implement the integrated state plan;

(d) A report from the commission regarding the state of children in Missouri.

[2.]3. For years ending on or before December 31, 2016, [There is hereby established within the children's services commission] the "Coordinating Board for Early Childhood", which shall constitute a body corporate and politic, shall be established within the children's services commission, and shall include but not be limited to the following members:

(1) A representative from the governor's office;

(2) A representative from each of the following departments: health and senior services, mental health, social services, and elementary and secondary education;

(3) A representative of the judiciary;

(4) A representative of the family and community trust board (FACT);

(5) A representative from the head start program;

(6) Nine members appointed by the governor with the advice and consent of the senate who are representatives of the groups, such as business, philanthropy, civic groups, faith-based organizations, parent groups, advocacy organizations, early childhood service providers, and other stakeholders. The coordinating board may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers. The coordinating board shall elect from amongst its members a chairperson, vice chairperson, a secretary-reporter, and such other officers as it deems necessary. Members of the board shall serve without compensation but may be reimbursed for actual expenses necessary to the performance of their official duties for the board.

4. Beginning on January 1, 2017, the coordinating board for early childhood, which shall constitute a body corporate and politic, shall be established within the department of elementary and secondary education and shall include the following members:

(1) The director or the director's designee from each of the following departments: health and senior services, mental health, and

16-109

social services;

(2) The commissioner or the commissioner's designee from the department of elementary and secondary education;

(3) Two members of the Missouri general assembly. One member shall be the chairman of the joint committee on education. One member shall be a member of the joint committee on education, shall be from a different party and different legislative chamber than the chairman of the joint committee on education, and shall be appointed by the elected leader, either the speaker of the house of representatives or the president pro tempore of the senate, of the member's legislative chamber;

(4) The director of the Missouri head start-state collaborative office;

(5) Six citizens, representing each of the following areas: early childhood education and development providers, local Head Start agencies, higher education, business, faith, and medicine. The Governor shall appoint, with the advice and consent of the senate, the three citizens representing the areas of medicine, business, and higher education. The state board of education shall appoint the citizens representing the areas of early childhood education and development providers, local Head Start agencies, and faith.

Citizens appointed under subdivision (5) shall serve a term of three years. Such citizens shall be eligible to serve two terms. Such citizens that serve a partial term of less than eighteen months shall be eligible to serve the partial term and two full terms. Such citizens that serve a partial term of more than eighteen months shall be eligible to serve the partial term and one full term.

[3.]5. The coordinating board for early childhood shall have the power to:

(1) Develop a comprehensive statewide long-range strategic plan for a cohesive early childhood system. The board shall review the plan each year and make amendments to the plan as it deems necessary. The board shall submit the plan to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of 2018 and each year thereafter;

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(2) Confer with public and private entities for the purpose of promoting and improving the development of children from birth through age five of this state;

(3) Identify legislative recommendations to improve services for children from birth through age five;

(4)Promote coordination of existing services and programs across public and private entities;

(5) Promote research-based approaches to services and ongoing program evaluation;

(6) Identify service gaps and advise public and private entities on methods to close such gaps;

(7) Apply for and accept gifts, grants, appropriations, loans, or contributions to the coordinating board for early childhood fund from any source, public or private, and enter into contracts or other transactions with any federal or state agency, any private organizations, or any other source in furtherance of the purpose of subsections 3 through 15[2 and 3] of this section, and take any and all actions necessary to avail itself of such aid and cooperation;

(8) Direct disbursements and grants from the coordinating board for early childhood fund and the early childhood health and education trust fund as provided in this section;

(9) Administer the coordinating board for early childhood fund and the early childhood health and education trust fund [and invest any portion of the moneys not required for immediate disbursement in obligations of the United States or any agency or instrumentality of the United States, in obligations of the state of Missouri and its political subdivisions, in certificates of deposit and time deposits, or other obligations of banks and savings and loan associations, or in such other obligations as may be prescribed by the board];

(10) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal with real or personal property or any interests therein, wherever situated;

(11) Sell, convey, lease, exchange, transfer or otherwise dispose of all or any of its property or any interest therein, wherever situated;

(12) Employ and fix the compensation of an executive director and such other agents or employees as it considers necessary;

(13) Adopt, alter, or repeal by its own bylaws, rules, and regulations governing the manner in which its business may be transacted;

(14) Adopt and use an official seal;

(15) Assess or charge fees as the board determines to be reasonable to carry out its purposes;

(16) Make all expenditures which are incident and necessary to carry out its purposes;

(17) Sue and be sued in its official name;

(18) Take such action, enter into such agreements, and exercise all functions necessary or appropriate to carry out the duties and purposes set forth in this section;

(19) Contract with one or more not-for-profits to meet the requirements of this section;

(20) Provide technical assistance to grantees;

(21) Coordinate with parents, community leaders, local governments, and public and private entities to improve the quality of and increase access to early childhood development programs in communities throughout the state; and

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(22) Pursue public and private partnership opportunities that are consistent with the objectives of subsection 6 of this section.

6. Any grants awarded by the coordinating board for early childhood shall accomplish one or more of the following objectives:

(1) Increasing access to existing quality early childhood development programs;

(2) Improving the quality of early childhood development programs;

(3) Increasing access to preventive health care and health and developmental screenings for children ages birth through five;

(4) Offering parent and family support and education concerning prenatal development, early child development, numeracy, and literacy;

(5) Providing professional development and training for early childhood development providers;

(6) Increasing coordination of early childhood development programs and public information about the importance of early childhood development;

(7) Providing evidenced-based smoking cessation programs for pregnant mothers.

7. The coordinating board for early childhood shall consider the following nonexclusive factors when awarding grants as provided in this section:

(1) Whether the project or activities will improve outcomes for children ages birth through five, consistent with the objectives of this section;

(2) Whether the project or activity leverages matching dollars;

(3) Whether the project or activity addresses needs identified by the local community; and

(4) The sustainability of the project or activity.

8. The coordinating board for early childhood shall establish accountability and audit requirements for all grant recipients, including requirements that success be measured by outcomes for children and families.

9. It shall be the duty of the coordinating board for early childhood to:

(1) Establish and maintain a conflict of interest policy for its members and staff;

(2) Prepare an annual report describing the activities of the board and a description of outcomes for children and families achieved by the board and grant recipients, including a list of all grant recipients and the amount of any grants awarded to such recipients. The board shall submit the report to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of each year, beginning in 2019, and shall provide a copy of the report to the secretary of state; and

(3) Ensure a fair and equitable distribution of funds collected as provided under sections 149.017 and 149.161 based on the established residency population of children ages birth through five.

10. There is hereby created the "Coordinating Board for Early Childhood Fund" which shall consist of the following:

(1) Any moneys appropriated by the general assembly for use by the board in carrying out the powers set out in subsections 3 through 9[2 and 3] of this section;

(2) Any moneys received from grants or which are given, donated, or contributed to the fund from any source;

(3) Any moneys received as fees authorized under subsections 3 through 9[2 and 3] of this section;

(4) Any moneys received as interest on deposits or as income on approved investments of the fund;

(5) Any moneys obtained from any other available source. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the coordinating board for early childhood fund at the end of the biennium shall not revert to the credit of the general revenue fund.

11. There is hereby created the Early Childhood Health and Education Trust Fund which shall consist of all moneys collected as provided in sections 149.017 and 149.161, less any reduction allowed in section 149.021. Interest and moneys earned on the fund shall be credited to the fund.

12. No more than eight percent of the moneys received by the early childhood health and education trust fund shall be used for administrative expenses. Eligible administrative expenses shall include only those reasonable and necessary for:

(1) Salaries, fringe benefits, expenses, and equipment of staff employed by the coordinating board for early childhood;

(2) Expenses associated with cost sharing of salaries, fringe benefits, expenses, and equipment of staff employed or contracted by the coordinating board for early childhood from any other state department or agency of the state;

(3) Expenses of the coordinating board for early childhood associated with contracting with not-for-profit entities;

(4) Expenses of the coordinating board for early childhood associated with audits and outcome evaluations of programs and activities funded under this section;

(5) Expenses of grantees associated with meeting administrative requirements of grants established by the coordinating board for early childhood;

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No more than 40% of administrative expenses shall be expended on items (1) through (4) of this subsection.

13. Moneys in the funds may be invested by the state treasurer, and any income therefrom shall be deposited to the credit of the fund. Any moneys credited to and placed in the early childhood health and education trust fund shall be appropriated and used only for purposes which are authorized by this section and shall not be subject to the provisions of section 33.080.

14. The net proceeds from the moneys collected as provided in sections 149.017 and 149.161 shall constitute new and additional funding for the activities, initiatives, and programs funded by the coordinating board for early childhood and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

15. Beginning January 1, 2017, the department of elementary and secondary education and the coordinating board for early childhood may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This subsection and chapter 536 are nonseverable from one another, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017 shall be invalid and void.

16. Notwithstanding the provisions of this section, section 149.017, or section 149.065, five percent, to be collected annually, of the net proceeds from the moneys collected as provided in sections 149.017 and 149.161 shall constitute new and additional funding for the Missouri Department of Health and Senior Services for the purpose of establishing, maintaining, and enhancing activities, programs, and initiatives to promote tobacco use quit assistance and prevention, including a comprehensive statewide tobacco control program, and public health for tobacco-related diseases. The comprehensive statewide tobacco control program shall be consistent with the United States Centers for Disease Control and Prevention's, or its successor agency's, best practices and guidelines for tobacco control programs, if any, and shall be designed to be effective to prevent and reduce tobacco use, reduce the public's exposure to secondhand smoke, and identify and eliminate disparities related to tobacco use and its effects among different population groups. The components of the comprehensive statewide tobacco control program shall include, but not be limited to: state and community based interventions, health communication interventions, cessation interventions, surveillance and evaluation, and administration and management. No more than fifteen percent of the moneys in this subsection may be expended by the Missouri Department of Health and Senior Services for activities, programs, and initiatives that promote public health for tobacco-related diseases, such as programs to provide student loan forgiveness or scholarships for medical professionals who work in underserved areas of the state, but that are not part of the comprehensive statewide tobacco control program. Moneys pursuant to this subsection expended by the Missouri Department of Health and Senior Services for the purpose of promoting public health for tobacco-related diseases shall be used solely for that purpose and shall not be used directly or indirectly for research activities.

149.017. 1. Beginning January 1, 2017, in addition to the tax levied upon the sale of cigarettes in this state pursuant to section 149.015, a tax shall be levied upon the sale of cigarettes applied a tax at an amount equal to twenty-five mills per cigarette.

2. The tax shall be evidenced by stamps in the same manner as cigarettes stamped pursuant to sections 149.015 and 149.021. Stamped cigarettes in the possession of a wholesaler or retailer before any phase of the additional tax under subsection 1 of this section is imposed, shall not be subject to such phase of the additional tax before retail sale.

3. The tax on any cigarettes contained in packages of four, ten, twenty or similar quantities to be used solely for distribution as samples shall be computed on a per cigarette basis at the rate set forth in this section, and payment of the tax shall be remitted to the director at such time and in such manner as he may prescribe.

4. The provisions of section 149.065 notwithstanding, all moneys collected as a result of the taxes imposed by this section and section 149.161 shall be credited to and placed in the early childhood health and education trust fund established by section 210.102 as said moneys are received. All of the moneys from the taxes imposed by this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the early childhood health and education trust fund.

5. The additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section and section 149.161 may be paid from moneys appropriated from the early childhood health and education trust fund for that purpose, not to exceed one and one half of one percent (1.5%) of the total moneys collected in that fiscal year. Collection and enforcement activities and initiatives that are paid for with moneys from the early childhood health and education trust fund shall be conducted in a fiscally responsible manner in order to maximize the net proceeds available for distribution pursuant to section 210.102. Moneys appropriated from the early childhood health and education trust fund pursuant to this subdivision shall not be used to pay costs that are not additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section;

6. The net proceeds from the taxes imposed by this section and section 149.161 shall constitute new and additional funding for the activities, initiatives, and programs described in section 210.102 and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

7. On an annual basis, the director of the department of revenue, in consultation with the director of health and senior services, shall determine whether the taxes imposed by this section and section 149.161 have resulted in a decrease in consumption of tobacco products and thereby directly caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320 or revenues to local governments under lawfully enacted sales taxes. If a reduction in the amount of moneys collected and deposited into any of those funds pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320, or revenues to local governments under lawfully enacted sales taxes has been directly caused by the taxes imposed by this section and section 149.161, an amount equal to the amount of moneys that were not collected and deposited into that fund or funds or were not generated by the local tobacco taxes authorized by sections 66.340, 210.320, and sections providing authority for local government sales taxes because of the taxes imposed by this section and section 149.161 shall be transferred from the early childhood health and education trust fund pursuant to section 210.102 as follows: first, to the appropriate political subdivisions, second, to local governments to account for any decrease in local sales tax collections, and third to the appropriate fund or funds. The aggregate amount

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transferred to such funds and political subdivisions from the early childhood health and education trust fund for any year shall not exceed four percent of the total moneys collected pursuant to this section and section 149.161 during that same year.

149.161. Beginning on January 1, 2017, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, a tax shall be levied upon the first sale of tobacco products other than cigarettes within this state in the amount of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. The tax on tobacco products shall be at the rate of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. Licensed persons making first sales shall be allowed credit in accordance with the provisions of section 149.160.1. The additional tax levied by this section shall not apply to inventories of tobacco products in the possession of the retailer or wholesaler on December 31, 2016.

196.1003. Requirements.

Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this Act shall do one of the following:

(a) become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

(b) (1) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts, (as such amounts are adjusted for inflation) —
1999: $.0094241 per unit sold after the date of enactment of this Act;
2000: $.0104712 per unit sold;
for each of 2001 and 2002: $.0136125 per unit sold;
for each of 2003 through 2006: $.0167539 per unit sold;
for each of 2007 and each year thereafter: $.0188482 per unit sold.

(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances —

(A) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (i) in the order in which they were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment) had it been a participating manufacturer, the percentage determined in subdivision (D) of the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(C) to the extent not released from escrow under subparagraphs (A) or (B), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

(D) The amount in subdivision (B) of the excess released from escrow shall be: for units sold during all years ending on or after December 31, 2017, zero percent.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails [in any year] to place into escrow the funds required under this section shall

(A) be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;

(B) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

(C) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years.

Each failure to make an annual deposit required under this section shall constitute a separate violation. Any tobacco product manufacturer that violates the provisions of this section shall pay the State's cost and attorney's fees incurred during a successful prosecution under this section.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-109)**

**Subject**

Initiative petition from Edward Greim regarding a proposed amendment to Chapters 149, 196, and 210 of the Revised Statutes of Missouri. (Received September 17, 2015)

**Date**

October 7, 2015

**Description**

This proposal would amend Chapters 149, 196, and 210 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Edward Greim** provided information as a proponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated the petition provides funds for a comprehensive tobacco control program, which is already administered by the Department. However the current funding appropriated is only 3 percent of the total funding the Centers for Disease Control and Prevention (CDC) recommends for the state of Missouri to have a fully funded comprehensive tobacco control program. The additional funds in this proposal would be used to enhance and expand the existing program and would bring the total funding available to 16 percent of CDC's recommendation (CDC recommendation is $73 million). While Missouri currently has one of the lowest tax rates for tobacco products, it has one of the highest tobacco use rates.

Rental space for five staff located in Jefferson City, one staff in Kansas City, and one staff in St. Louis would be required: 7 full-time employees (FTE) x 230 sq ft/FTE x $16.75/sq ft = $26,967.50.

There is a potential to affect small businesses that sell cigarettes and other tobacco products. Research has shown that interventions that increase the price of tobacco products reduce consumption.

The petition requires that 5 percent of the net proceeds collected by the tax increases be allocated to the Missouri Department of Health and Senior Services for the purpose of establishing, maintaining, and enhancing activities, programs, and initiatives to promote tobacco use quit assistance and prevention, including a comprehensive statewide tobacco control program, and public health for tobacco-related diseases. The comprehensive statewide tobacco control program shall be consistent with the United States Centers for Disease Control and Prevention's (CDC) guidelines for tobacco control programs, and shall be designed to be effective to prevent and reduce tobacco use, reduce the public's exposure to secondhand smoke, and identify and eliminate disparities related to tobacco use and its effects among different population groups. The components of the comprehensive statewide tobacco control program shall include, but not be limited to: state and community based interventions, health communication interventions, cessation interventions, surveillance and evaluation, and administration and management.

**Revenue**:
Section 149.017, raises the tax on cigarettes to 25 mills per cigarette beginning January 1, 2017. The Office of Administration Budget and Planning estimates the total cigarette tax revenue as a result of this increase to be $214,400,000.

Section 149.061 levies an additional 5 percent tax on the first sales of tobacco products other than cigarettes beginning January 1, 2017. The Office of Administration Budget and Planning estimates the total additional tax collected on other tobacco products to be $7,900,000.

Section 149.017.2 requires the additional tax on cigarettes to be stamped in accordance with the provisions of existing sections 149.015 and 149.021. This creates an allowance of 3 percent of the cigarette taxes to the wholesaler for the compensation for the time required to affix the stamps.

Section 149.017.5 allows for up to 1.5 percent of the total funds collected to be appropriated from the fund to the state for the purposes of collecting and enforcing the taxes of this section. This estimate assumes that 1.5 percent will be appropriated for this use.

Section 210.102.16 allocates 5 percent of the net proceeds of money collected as provided in sections 149.017 and 149.161 to the Missouri Department of Health and Senior Services for the purpose of funding a comprehensive tobacco control program.

The estimated revenues for calendar year 2017 are calculated as follows:

| | |
|---|---|
| Cigarette tax | $214,400,000 |
| Other tobacco products tax | $7,900,000 |
| Less 3% of cigarette tax for stamps | ($6,432,000) |
| Total tax collected | $215,868,000 |
| Less 1.5% administrative fee | (3,238,020) |
| Net Proceeds | $212,629,980 |
| **5% of net proceeds for DHSS** | **$10,631,499** |

Since the additional tax would not start until January 1, 2017, it is assumed the first appropriation of funds for the expanded comprehensive tobacco control program would start in the 2018 fiscal year.

**Costs**
The assumptions used for calculating the cost to the Department are as follows:

**Personnel needs**:

| | |
|---|---|
| One Planner III (Range A48, Step B): | $45,156 |
| Two Health Educator III (Range A25, Step B): | $80,760 |
| One Health Program Representative III (Range A24, Step B): | $38,928 |

| | |
|---|---|
| One Health Program Representative I/II (Range A18, Step B): | $30,984 |
| One Sr. Off. Support Assistant, Keyboard (Range A09, Step F): | $25,824 |
| One Public Health Epidemiologist (Range A32, Step A) | $55,416 |

The Planner III would work with multiple partners across the state to identify, plan, and implement evidence-based programs in comprehensive tobacco control. Duties would include preparing, reviewing and approving applications for funding; supervising assigned staff; and assuring an evaluation plan consistent with Department goals for comprehensive tobacco control and chronic disease prevention is executed.

The two Health Educator IIIs would be stationed in Kansas City and St. Louis to work directly with contractors in the major metropolitan areas and surrounding counties providing technical assistance on implementing community based interventions. Duties would include technical assistance, training and education in comprehensive tobacco control issues.

The Health Program Representative III would work with the Program Coordinator, the Planner III, and the Office of Public Information to assure a media plan consistent with Department goals for comprehensive tobacco control and chronic disease prevention is executed.

The Health Program Representative I/II would be responsible for contract management, contract monitoring, invoice tracking, etc.

The Senior Office Support Assistant (Keyboard) would provide support to the staff located in field offices, including the four employees currently in the field. Duties would include such activities as making arrangements for training and travel, preparing expense reports, assembling training packets, routing and tracking program documents, and answering the phone for the program.

The Public Health Epidemiologist will oversee the surveillance and evaluation activities of the program, developing evaluation plans, assuring all interventions are appropriately evaluated, preparing evaluation reports, and coordinating collection of data on tobacco control measures.

Standards costs for equipment and expenses of staff are included in the cost estimation.

**Program Services Costs**
Remaining funds of $10,005,310 would be allocated in contracts for Quitline assistance, media, and local community evidence-based initiatives.

A well-funded Quitline is needed to provide on-going support in quitting tobacco use to any Missourian. The Quitline would provide cessation coaching, texting support, on-line support, and quitting medications – over-the counter and prescription to those without prescription drug benefits – as approved by the U.S. Food and Drug Administration.

A comprehensive tobacco control program must include paid media to promote health messages to adults, youth and communities on issues of not using tobacco and eliminating exposure to secondhand smoke.

Finally, contracts would be offered to local entities to implement evidence-based, community-based interventions in cessation, youth initiation, and secondhand smoke exposure. Contractors would include local public health agencies, faith-based organizations, non-profit organizations, educational institutions. These would be sought through requests for proposals (to be developed by the Planner III).

Evidence-based interventions conducted by contractors would include those supporting the goals of comprehensive tobacco control:

- Reducing tobacco use through local tobacco cessation – for example, one-on-one interventions with individuals needing face-to-face coaching or in culturally sensitive settings for those with a disproportionate burden of tobacco use.
- Reducing youth initiation through prevention – for example, youth leadership in educating their communities on why tobacco use and secondhand smoke are harmful to health, developing local-focused media.
- Exposure to secondhand smoke – for example, local coalitions educating their communities on why tobacco use and secondhand smoke are harmful to health, developing local-focused media.

Contracts could also be funded to support state and local surveillance and evaluation efforts to demonstrate the effectiveness of the funded interventions.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated it does not appear that this proposal would have a direct fiscal impact on their department.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** (DOR) indicated this petition will have a fiscal impact of $75,006 for fiscal year (FY) 2017 on their department, creating additional expense for IT consultants, and will increase revenues for the Early Childhood Health and Education Trust Fund by $250,700,000 annually.

If approved by voters, this petition increases the revenue stream for the Early Childhood Health and Education Trust Fund, but creates a negative impact to general revenue.

**Section 149.017**
Beginning January 1, 2017, the legislation increases the tax on cigarettes to twenty-five mills per cigarette ($0.50 per pack of 20).

Stamped cigarettes in inventory prior to the effective dates of the increase and in possession of a retailer are not subject to the additional tax before retail sale. The petition also allows for up to one and one-half percent collection fee of the total moneys collected in a fiscal year.

The legislation requires the Department, in consultation with the Department of Health and Senior Services (DHSS), to annually determine if the taxes result in a decrease in consumption of tobacco products. The Departments must further determine if there are reductions in moneys collected and deposited into the fair share fund, health initiatives fund, or the state school moneys fund or local tobacco taxes.

With the additional assessed tax, the Department estimates an increase of $230 million per year to the Early Childhood Health and Education Trust Fund.

**Section 149.161**
Beginning on January 1, 2017, this section, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, levies a five percent tax upon the first sale of tobacco products other than cigarettes within this state. The legislation bases the five percent increase on the manufacturer's invoice price before discounts and deals. The person making the first sale within the state pays the tax.

With the additional assessed tax, the Department estimates an increase of $8.2 million per year to the Early Childhood Health and Education Trust Fund.

**Section 196.1003**
The amount of the excess escrow released must be for units sold during all years ending on or after December 31, 2017, zero percent.

**Section 210.102**
The section creates the Early Childhood Health and Education Act. Beginning in 2017, the Coordinating Board for Early Childhood becomes a body corporate and politic under the purview of the Department of Elementary & Secondary Education (DESE). Subsection 11 creates the Early Childhood Health and Education Trust Fund. The legislation deposits all moneys collected under sections 149.017 and 149.161, less any reductions allowed in section 149.021, into the trust fund. The legislation authorizes the collection of five percent annually of the net proceeds from the moneys collected under sections 149.017 and 149.161 to be additional funding for the Missouri Department of Health and Senior Services.

The Department estimates $12.5 million of additional funding for the Missouri Department of Health and Senior Services as a result of this section.

**Administrative Impact:**

**Excise Tax:**

The Early Childhood Health and Education Trust Fund requires changes to SAGE 50 accounting system and cashiering records. The legislation also creates the requirement for a new form.

Officials from the **Department of Public Safety** indicated their department sees no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated no fiscal impact to their department.

Officials from the **Office of Administration** (OA) indicated the proposal amends Sections 210.102 and 196.1003, RSMo, and adds Sections 149.017 and 149.161, RSMo.

Section 210.102, RSMo, moves the Coordinating Board for Early Childhood from the Children's Services Commission to DESE, effective January 1, 2017, changes the board membership and provides further guidance on funding and operations for the Board. Finally, five percent of the net proceeds from the additional tobacco taxes are to be used for the Department of Health and Senior Services for establishing, maintaining, and enhancing activities, programs, and initiatives to promote tobacco use quit assistance and prevention, including a comprehensive statewide tobacco control program, and public health for tobacco-related diseases. No more than 15% of these moneys may be used by DHSS to promote public health for tobacco-related diseases, such as student loan forgiveness or scholarships for medical professionals.

Section 149.017, RSMo, increases cigarette tax by 25 mills per cigarette on 1/1/2017. Section 149.161, RSMo, levies an additional 5% tax on other tobacco products beginning 1/1/2017. These monies will go to the Early Childhood Health and Education Trust (ECHET) Fund established in Section 210.102, RSMo. DOR and DHSS must annually determine whether the new taxes have caused a reduction in consumption and therefore a

reduction in the amount of money collected for the Fair Share Fund, the Health Initiatives Fund or the State School Moneys Fund, local tobacco taxes and for local sales taxes. If a reduction in consumption is found, then up to 4% of the new revenue collected is to be distributed to the various funds and political subdivisions from the ECHET Fund to hold them harmless.

Section 196.1003, RSMo, changes escrow requirements for the tobacco Master Settlement Agreement, with provisions to direct potential civil penalties to the ECHET Fund. Because this language changes what was previously approved as a "qualifying statute", it could adversely impact future Nonparticipating Manufacturer (NPM) adjustment arbitrations.

FISCAL IMPACT:

Cigarette Tax

In FY15, there was $81.7 million in cigarette excise taxes collected. OA assumes that the average pack of cigarettes retails for $4.50, translating to roughly 480.9 million packs sold in Missouri. OA further assumes that cigarette sales have a (0.8) elasticity. Therefore, OA estimates a tax increase of 25 mills per cigarette in January 2017 will increase the "Early Childhood Health and Education Fund" by $107.2 million in FY17 and $214.4 million once fully implemented in FY18.

There is no way to truly know what impact these tax increases will have on demand due to smoking cessation efforts, other state and federal regulations, and the increase in sales of e-cigarettes. However, OA estimates that the tax increase will decrease the Fair Share Fund by $0.8 million in FY17 and $1.6 million in FY18 and thereafter, the Health Initiatives fund by $0.8 million in FY17 and $1.6 million in FY18 and thereafter, and the State School Moneys Fund by $1.7 million in FY17 and $3.5 million in FY18 and thereafter.

Further, since cigarette sales will decrease slightly, General Revenue will be reduced by $5.0 million, the School District Trust Fund will be reduced by $1.7 million, and local sales tax will be reduced by $7.1 million once fully implemented in FY18, from the loss of sales tax.

Other Tobacco Products

In FY15, there was $17.7 million in other tobacco product excise taxes collected. OA assumes that the average unit retails for $4.09, translating to roughly $176.9 million in wholesales in Missouri. OA further assumes that other tobacco product sales have a (0.8) elasticity. Therefore, OA estimates this proposal will increase the "Early Childhood Health and Education Fund" by $4.0 million in FY17 and $7.9 million once fully implemented in FY18.

There is no way to truly know what impact this tax increase will have on demand due to cessation efforts, other state, federal, and local regulations, and the introduction of alternative products. However, OA estimates that this tax increase will decrease the

Health Initiatives Fund by $0.3 million in FY17 and $0.6 million once fully implemented in FY18.

Further, since other tobacco product sales will decrease slightly, General Revenue will be reduced by $190,000, the School District Trust Fund will be reduced by $62,000, and local sales tax will be reduced by $260,000 once fully implemented in FY18, from the loss of sales tax.

Master Settlement Agreement

The escrow changes should not impact state revenues. When civil penalties are redirected to the ECHET Fund, it would be an unknown loss of potential general revenue to the state.

Total Impact

This proposal will increase the "Early Childhood Health and Education Fund" by $222.3 million once fully implemented in FY18. This proposal will also decrease the Fair Share Fund by $1.6 million, the Health Initiatives fund by $2.2 million, and the State School Moneys Fund by $3.5 million once fully implemented in FY18.

In addition, due to lost sales tax revenue General Revenue will be reduced by $5.2 million, the School District Trust Fund will be reduced by $1.8 million, and local sales tax will be reduced by $7.4 million once fully implemented in FY18.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of

$122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated the initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated that there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated this initiative petition will have an undetermined fiscal impact on the university, to the extent the petition would affect any general revenue allocated to their university.

**Edward Greim** provided the following information as a proponent of this initiative petition.

Graves Garrett LLC

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edgreim@gravesgarrett.com

September 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: *Fiscal Note in Initiative Petitions 16-105 & 16-109*

To Whom It May Concern:

Based on the information contained in this letter and the attached letter from Tom Kruckemeyer, we propose the following fiscal note summary:

> Estimated additional revenue to state government is $222 million annually with limited estimated implementation costs or savings. The revenue will fund only programs and services allowed by the proposal. The proposal is estimated to result in no net costs or savings to local governmental entities.

**Introduction**

The initiative allows 460,000 children to receive the early health screenings they need to grow and thrive and the early childhood development experiences that will prepare them for long-term educational success. These programs have important trickle-down effects that result in increased revenue and decreased costs at the state and local level. The initiative is accomplished by funding grants across the state to improve early childhood health and education. Funding for grants is provided by a tobacco tax, conservatively resulting in $222 million in direct state revenue, while yielding important public health benefits.

**Early Childhood Delivers Big Benefits**

Missouri enrolls fewer children in its state preschool program than any neighboring state, and funding for programs like Parents as Teachers has been slashed in half. All Missourians benefit

from investments in early childhood education: children start school ready to succeed; parents are able to keep good jobs and earn higher incomes; and taxpayers save money because early childhood education lowers drop-out rates, reduces crime and cuts the cost of social services. Despite clear evidence showing investing in early learning is one of the smartest investments we can make, year after year we battle with the Missouri General Assembly to fund quality early childhood education. Missouri is the 38th worst state for public pre-K funding. In 2012, the General Assembly cut $13.2 million from early childhood programs, and Parents as Teachers remains $19 million behind its 2009 funding.

Traditional thought has long emphasized the relationship between early childhood education and academic success, but researchers now are finding that preschool does not have a substantial effect on increasing IQs but rather develops a child's "soft skills" and can have a profound effect on adult earning potential especially for disadvantaged kids.

Evidence shows that non-cognitive skills matter. Through activities like finger painting, playing with blocks, and interacting with other students, children learn how to control impulses, keep anger in check, stay on task, listen and follow curiosity. These soft skills are basic, but important tools needed to learn, find and keep a job and just manage everyday life. Most children gain these skills at home from their parents, but disadvantaged kids often miss the window of opportunity, which are the critical years before Kindergarten.

A literature of empirical evidence shows strong outcome effects for kids who attend pre-school. Using cost-benefit analyses, researchers have found a link between preschool attendance and reduced crime, fewer teen pregnancies, higher rates of college attendance and less need for public assistance. Cost-benefit studies show that pre-school provides the best value and produces more net benefits to society than increased classroom time or job training programs.

*Evidence from the Perry Preschool Program*

The most widely cited early childhood intervention occurred in Ypsilanti, Michigan during the 60s. Children with low IQ scores and a low socioeconomic index were invited to participate in the Perry Preschool Program. Using a coin toss, researchers divided students into two groups, a treatment group and a control group. Starting at age three the "treatment" kids got 2.5 hours of preschool a day and weekly home visits for two years. The "control" kids did not participate in either of the services. Researchers interviewed both groups at ages 15, 19, 27 and 40 and asked them questions about life events like school, work, marriage, parenting and incarceration. The following chart shows the major findings of the study.



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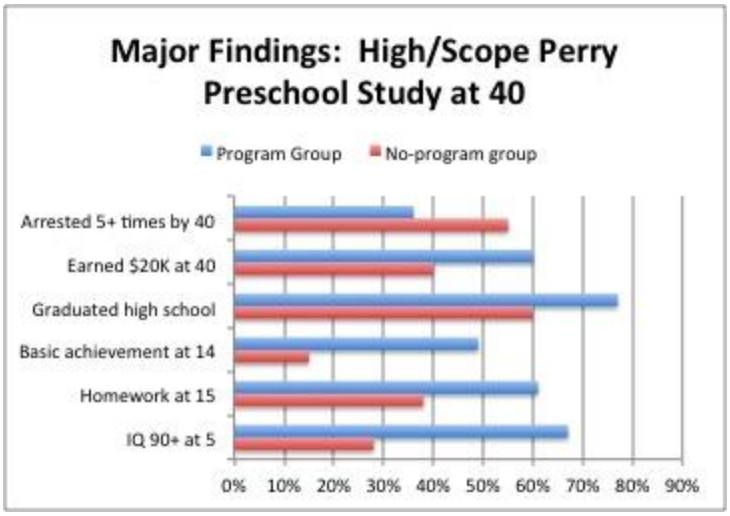


Source: Lifetime Effects: The HighScope Perry Preschool Study Through Age 40 (2005)

The pre-school girls went farther in school, earned higher GPAs, and received less special education than girls from the control group. Boys benefitted as well, but the boys who did not receive the preschool intervention were 2.3 times more likely to get arrested. The cost-savings alone from just the crime reduction demonstrated success.

With increased scrutiny over government spending, cost-benefit analysis gives policy analysts a tool to separate productive programs from ones that yield no social gains. A recent cost-benefit study that used a wider variety of assumptions and applied more rigorous accounting rules, estimated a return rate of about 7-10%. By monetizing social crime, the researchers were able to estimate that for every dollar invested in preschool, society earned back $30 to $300 dollars over the course of a lifetime (Heckman, Moon, Pinto, Savelyev, & Yavitz, 2010).

*Abecedarian and Chicago Studies*

Other studies confirmed the results of the Perry Preschool Project. The Carolina Abecedarian project in the 70s randomly assigned infants into intervention and control groups. The intervention group received full-day childcare from birth through Kindergarten. Intervention kids scored higher in reading and math, completed more education, were older when their first child was born and the mothers of intervention kids progressed farther in school and made more money than the control mothers. Intervention kids even smoked less.

A full-day five-year Pre-K program, while effective, would likely be cost-prohibitive for any state budget; however, the findings proved that early intervention does make a difference. And evidence suggests that a less expensive program could produce similar outcomes (Barnett & Masse, 2007).



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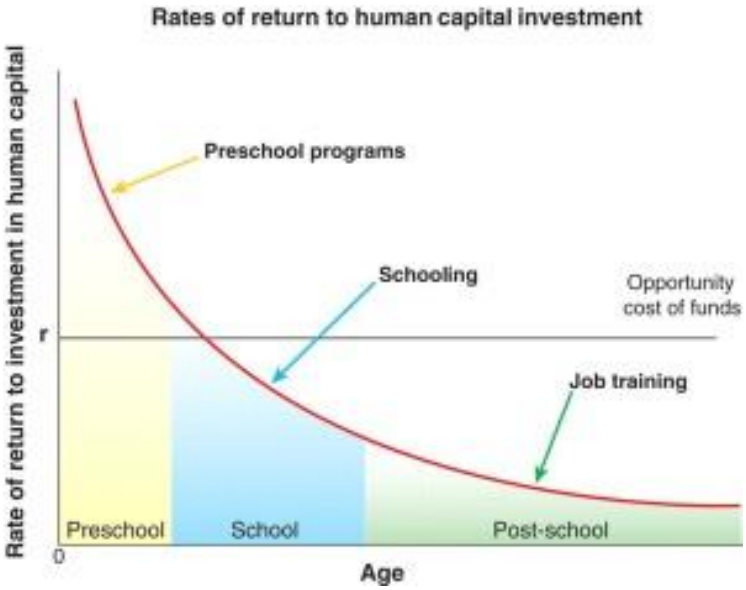
Just as Abecedarian kids earned higher wages than the control group, researchers found similar results from participants of the Chicago Child-Parent Program. The Chicago program targeted disadvantaged kids and provided a Headstart type intervention from ages three to nine. A cost-benefit analysis indicated for every dollar invested, the program produced seven in return. The largest impact was earning capacity, but Chicago kids were also less likely to need special education and less likely to commit crimes (Temple & Reynolds, 2007).

Much like with the Perry Program, the Chicago program demonstrated the relationship between early education, higher wages and crime reduction. Again it was the non-cognitive soft-skill development that made the difference. Second chance efforts like GED and job training provide fewer benefits and struggle to lift people out of poverty (Heckman & Masterov, 2007).




Source: Heckman, The Review of Agricultural Economics (2007)

What the Perry, Abecedarian and Chicago programs show is that pre-school helps kids develop soft-skills that make it easier to gain cognitive skills later and can lead to better jobs and a better quality of life. This in turn lessens the burden on government resources for remedial education, criminal justice and job-training programs.

Investing in human capital through access to finger-paints and story time may appear far-reaching, but multiple studies now point to early intervention as the cheapest, most effective way to prepare kids for the workforce and reduce crime. As labor force growth wanes and the demand for skilled workers increases, these studies suggest that a pipeline that begins at pre-school has great potential to produce big benefits to society in the long run.



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Table 1
Present value of Abecedarian benefits and costs per child (2002 dollars)

| | Discount rate (%) | | |
|---|---|---|---|
| | 3 | 5 | 7 |
| Program cost (net) | $35,864 | $34,599 | $33,421 |
| Program benefits | | | |
| Part. earnings | 37,531 | 16,460 | 6376 |
| Earnings of future generations | 5722 | 1586 | 479 |
| Maternal earnings | 68,728 | 48,496 | 35,560 |
| K-12 education | 8836 | 7375 | 6205 |
| Smoking/health | 17,781 | 4166 | 1008 |
| Higher education costs | −8128 | −5621 | −3920 |
| AFDC | 196 | 129 | 85 |
| Total benefits | $130,666 | $72,591 | $45,793 |
| Net present value | $94,802 | $37,992 | $12,372 |

**Reducing the Harmful Effects of Tobacco**

Tobacco tax increases offer a win-win-win solution for states as they work to balance budgets while preserving essential public services. Tobacco tax increases are one of the most effective ways to reduce smoking and other tobacco use, especially among kids. Every state that has significantly increased its cigarette tax has enjoyed substantial increases in revenue, even while reducing smoking. Higher tobacco taxes also save money by reducing tobacco-related health care costs, including Medicaid expenses. States can realize even greater health benefits and cost savings by allocating some of the revenue to programs that prevent children from smoking and help smokers quit.

National and state polls consistently have found overwhelming public support for tobacco tax increases. Polls also show that, when it comes to balancing budgets, voters prefer raising tobacco taxes to other tax increases or cutting crucial programs such as education and public safety.

Tobacco use causes approximately $3.03 billion in annual health care expenditures in Missouri. Smoking specifically causes over $500 million in annual costs for the Missouri Medicaid program. The initiative petition would increase the tax on cigarettes by $0.50 per pack and would increase the tax on other tobacco products by 5%. By conservative estimates, those tax increases would raise approximately $222 million in new state revenue to improve early childhood health



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and education programs. New state revenue is the amount of additional new revenue over the first full year after the effective date. The state will collect less new revenue to the extent that the rate increase does not apply to all cigarettes and other tobacco products held in wholesaler and retailer inventories on the effective date. This fiscal projection was derived using a price elasticity of demand for cigarettes of -0.8, even though the weight of credible academic literature suggests a conservative estimate for the price elasticity of demand for cigarettes is -0.4.

Tax increases of less than roughly 25 cents per pack or 10% of the average state pack price do not produce significant public health benefits or cost savings because the cigarette companies can easily offset the beneficial impact of such small increases with temporary price cuts, coupons, and other promotional discounting. Splitting a tax rate increase into separate, smaller increases in successive years will similarly diminish or eliminate the public health benefits and related cost savings (as well as reduce the amount of new revenues).

In addition to raising new revenue, the tax increase would have an immediate public health benefit. Each 10% cigarette price increase reduces youth smoking by 6.5%. Each 10% cigarette price increase reduces adult smoking by 2%. The total expected reduction in smoking consumption as a result of a 10% price increase is 4%. It is conservatively estimated that the initiative petition would decrease youth smoking by 6% in Missouri.

There would also be a fiscal benefit to the citizens of the state from the improved public health. As of 2014, the CDC estimated 11,000 annual average smoking-attributable deaths in Missouri. 127,500 Missouri Youth aged 0-17 are projected to die from smoking. Approximately 22.1% of Missouri adults smoke. Approximately 14.9% of Missouri high school students smoke. The average Missouri resident's state and federal tax burden from smoking-caused government expenditures is $588 per household. Approximately one of every six pregnant women smokes, a rate significantly higher than the national average. Smoking during pregnancy increases the risk for preterm delivery, stillbirth, low birth weight and Sudden Infant Death Syndrome.
In recent years, almost every state and the federal government have increased tobacco taxes. Missouri is a notable exception. The average state cigarette tax is currently $1.60 per pack, but rates vary widely from 17 cents in Missouri to $4.35 in New York. On April 1, 2009, the federal cigarette tax increased by 62 cents, to $1.01 per pack.

As of July 1, 2015, Missouri's cigarette tax was less than one-third of any of its border states: IL - $ 1.98; IA - $1.36; KS - $1.29; AR - $1.15; OK - $1.03; NE - $0.64; TN - $0.62; KY - $0.60. Moreover, Missouri's 17-cent per pack tax on cigarettes is the lowest in the country. The real value of the cigarette tax is decreasing. As a percentage of the overall Missouri State Budget, Missouri's tobacco taxes have decreased from 1.036% in 2000 to 0.464% in 2015. See MO Executive Budget Books & MO Office of Administration.

Every day 3,000 kids try their first cigarette and another 700 kids become regular smokers. There are more than 250 thousand new underage smokers each year. One third will eventually die from their addiction. Smoking has declined in every state where the tobacco tax has been increased.



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Ongoing reductions in state smoking levels will, over time, gradually erode state cigarette tax revenues (in the absence of any new rate increases). But those declines are more predictable and less volatile than many other state revenue sources, such as state income tax or corporate tax revenues (which can drop sharply during recessions). In addition, the smoking declines that reduce tobacco tax revenues will simultaneously produce much larger reductions in government and private sector smoking-caused costs. See the Campaign for Tobacco-Free Kids factsheet, *Tobacco Tax Increases are a Reliable Source of Substantial New State Revenue*, http://tobaccofreekids.org/research/factsheets/pdf/0303.pdf.

For other ways states can increase revenues (and promote public health) other than just raising its cigarette tax, see the Campaign factsheet, *The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

For more on sources and calculations, see http://www.tobaccofreekids.org/research/factsheets/pdf/0281.pdf

**Additional Information on Tobacco Product Tax Increases**

*Raising State Cigarette Taxes Always Increases State Revenues and Always Reduces Smoking*, http://tobaccofreekids.org/research/factsheets/pdf/0098.pdf.

*Responses to Misleading and Inaccurate Cigarette Company Arguments Against State Tobacco Tax Increases*, http://tobaccofreekids.org/research/factsheets/pdf/0227.pdf.

*State Cigarette Excise Tax Rates & Rankings*, http://tobaccofreekids.org/research/factsheets/pdf/0097.pdf.

*Top Combined State-Local Cigarette Tax Rates (State plus County plus City)*, http://tobaccofreekids.org/research/factsheets/pdf/0267.pdf.

*State Cigarette Tax Increases Benefit Lower-Income Smokers and Families*, http://tobaccofreekids.org/research/factsheets/pdf/0147.pdf.

*The Best Way to Tax Smokeless Tobacco*, http://tobaccofreekids.org/research/factsheets/pdf/0282.pdf.

*How to Make State Cigar Tax Rates Fair and Effective*, http://tobaccofreekids.org/research/factsheets/pdf/0335.pdf.

*State Benefits from Increasing Smokeless Tobacco Tax Rates*, http://tobaccofreekids.org/research/factsheets/pdf/0180.pdf.



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*The Case for High-Tech Cigarette Tax Stamps*, http://tobaccofreekids.org/research/factsheets/pdf/0310.pdf.

*State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion*, http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf.

*The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

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Sincerely,

Edward D. Greim
Partner, Graves Garrett, LLC



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Tom Kruckemeyer
Missouri Budget Project
3534 Washington Ave
St. Louis, Missouri 63103

September 28, 2015

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Jefferson City, Missouri 65102

To Whom It May Concern:

I currently work as the Director of Fiscal Policy and Chief Economist at the Missouri Budget Project, a nonprofit, objective, public policy analysis organization that provides independent research on complex state policy issues and how they impact the state budget. I hold a B.A. in Economics and History and an M.A. in Economics from the University of Missouri-St. Louis. I also hold an M.A. Political Science from the University of Missouri-Columbia. I worked in the Missouri Division of Budget from 1978 to 2004, where I served as the chief economist. In the course of both my positions at the Missouri Division of Budget as well as my current position, I have routinely projected the fiscal impact of tax changes.

In my experience, it is a conservative, generally accepted practice to project the revenue generated from a proposed cigarette tax by estimating an average price per cigarette (or price per pack), estimating a uniform price elasticity of demand, and to assume that the tax will result in a penny-for-penny increase in the cost of cigarettes.

Upon information and belief, the Office of Administration usually estimates the price elasticity of demand for cigarettes as -0.8. This estimate means that a 10% increase in the cost of cigarettes results in an 8% reduction in the quantity of cigarettes sold. A price elasticity of demand of -0.8 is a conservative but reasonable estimate for the price elasticity of demand of a product such as cigarettes. Notably, even with a 50 cent to one dollar increase in Missouri's cigarette tax, Missouri's cigarette tax will remain lower than many of its contiguous states, in particular the states that border major metropolitan areas, Illinois and Kansas.

Additionally, the Office of Administration's method for estimating cigarette tax revenue is conservative because it assumes a penny-for-penny price increase in the cost of cigarettes as a result of the tax. In practice, whether the entire tax increase will result in a 50 cent to one dollar increase in the prices of cigarettes is unknown because the market for cigarettes is competitive. Moreover, regardless of whether the Office of Administration estimates that the demand for cigarettes will remain flat or decrease due to societal trends, the overall fiscal impact is largely the same. An estimate of the decrease in future tax collections due to decreased smoking from societal trends is not essential to the findings in the fiscal note that this particular tax will result in a net increase to state revenue with no net cost to local governments.

If the Office of Administration decides to use the same assumptions in projecting the revenue for other tobacco products ("OTP") as it does for cigarettes, it is my opinion that the resulting collection estimate would be conservative but appropriate. Recent trends suggest that the revenue generated from the tax on other tobacco products is increasing.

Based on generally accepted methods for estimating the fiscal impact of a proposed tax, I estimate that a phased-in 50 cent cigarette tax increase will result in approximately 90 million dollars of revenue in calendar years 2017 and 2018. I estimate that the cigarette tax will result in approximately 150 million dollars of revenue in calendar years 2019 and 2020. I estimate that the cigarette tax will result in approximately 206 million dollars of revenue in calendar year 2021. In comparison, I estimate that an immediate 50 cent cigarette tax increase will result in approximately 214 million dollars of revenue in calendar year 2017. An immediate 63 cent cigarette tax increase will result in approximately 263 million dollars of revenue in calendar year 2017. An immediate 72 cent cigarette tax increase will result in approximately 295 million dollars of revenue in calendar year 2017. An immediate 80 cent cigarette tax increase will result in approximately 323 million dollars of revenue in calendar year 2017. An immediate one dollar cigarette tax increase will result in approximately 387 million dollars of revenue in calendar year 2017. These estimates assume a 1% yearly reduction in the state's smoking level. I estimate the 5% increase in the tax on non-cigarette tobacco products will result in approximately 8 million dollars of revenue annually. There may be a small decrease in revenue collection for each phase of the additional tax due to lags associated with the implementation and collection of taxes.

These taxes are expected to result in limited implementation costs to the state. The costs associated with administering the Early Childhood Education and Health Trust Fund will primarily be borne by the Trust Fund. Nonetheless it is proper and reasonable to consider additional costs of administering the cigarette tax increase, which may include fixed costs like salaries as well as additional marginal costs, such as costs associated with stamping cigarettes. All state government costs are estimated to be offset by additional revenue increases.

Local governments will receive revenue from the tax to offset any potential decrease in local tax revenue. Based on a price elasticity of demand of -0.8, local revenue may decrease, but any such decrease in cigarette taxes will be by an amount less than $1 million. By any reasonable estimate, 4% of the Early Childhood Education and Health Trust Fund will exceed the decrease in revenue associated with local tobacco taxes and local sales taxes. Accordingly, any such decrease will be offset as a result local revenue from the transfer of funds to localities with local tobacco taxes and local sales taxes. Additionally, while direct local revenue is zero, there are positive indirect effects the may result in additional revenue to local governments.

Sincerely,

/s/

Tom Kruckemeyer
Director of Fiscal Policy & Chief
Economist, Missouri Budget Project

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College**.

**Fiscal Note Summary**

Estimated additional revenue to state government is $200 million to $250 million annually, with limited estimated implementation costs. The revenue will fund only programs and services allowed by the proposal. The fiscal impact to local governmental entities is unknown.

RECEIVED
SEP 17 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
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(573) 751-4936

ELECTIONS DIVISION
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16-108

September 17, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Edward Greim regarding a proposed statutory amendment to Chapters 210, 196 & 149, version 10 (2016-108)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Edward Greim on September 17, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

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County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

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(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do □ do not □ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Address of Affiant

_____
Printed Name of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My commission expires _____

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NOTICE: You are advised that the proposed law changes, repeals, or modifies by implication, or may be construed to change, repeal or modify by implication, the following provisions of the Missouri Revised Statutes — Sections 66.340, 66.350, 149.015, 149.021, 149.065, 149.160, 196.1003, 210.102, and 210.320. The proposed law enacts two new sections, to be known as sections 149.017 and 149.161.

*Be it enacted by the people of the State of Missouri:*

Sections 210.102 and 196.1003 of the Revised Statutes of Missouri are amended and sections 149.017 and 149.161 are enacted, to read as follows:

210.102. 1. Sections 149.017 and 149.161, and certain amendments to 196.1003 and 210.102, shall be referred to as the Early Childhood Health and Education Act, with the purpose of supporting and improving early childhood health and education through regulation of tobacco manufacturers and sellers. This Act:

(1) Creates the Early Childhood Health and Education Trust Fund in order to support and improve early childhood health and education across the state;

(2) Reforms the Coordinating Board for Early Childhood to administer the Early Childhood Health and Education Trust Fund and provide grants that support and improve early childhood health and education; and

(3) Funds the Early Childhood Health and Education Trust Fund through increased regulations on tobacco manufacturers and sellers.

All of the provisions of this act are severable. If any provision of this act is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this act shall be and remain valid and in full force and effect.

2. It shall be the duty of the Missouri children's services commission to:

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(1) Make recommendations which will encourage greater interagency coordination, cooperation, more effective utilization of existing resources and less duplication of effort in activities of state agencies which affect the legal rights and well-being of children in Missouri;

(2) Develop an integrated state plan for the care provided to children in this state through state programs;

(3) Develop a plan to improve the quality of children's programs statewide. Such plan shall include, but not be limited to:

(a) Methods for promoting geographic availability and financial accessibility for all children and families in need of such services;

(b) Program recommendations for children's services which include child development, education, supervision, health and social services;

(4) Design and implement evaluation of the activities of the commission in fulfilling the duties as set out in this section;

(5) Report annually to the governor with five copies each to the house of representatives and senate about its activities including, but not limited to the following:

(a) A general description of the activities pertaining to children of each state agency having a member on the commission;

(b) A general description of the plans and goals, as they affect children, of each state agency having a member on the commission;

(c) Recommendations for statutory and appropriation initiatives to implement the integrated state plan;

(d) A report from the commission regarding the state of children in Missouri.

[2.]3. For years ending on or before December 31, 2016, [There is hereby established within the children's services commission] the "Coordinating Board for Early Childhood", which shall constitute a body corporate and politic, shall be established within the children's services commission, and shall include but not be limited to the following members:

(1) A representative from the governor's office;

(2) A representative from each of the following departments: health and senior services, mental health, social services, and elementary and secondary education;

(3) A representative of the judiciary;

(4) A representative of the family and community trust board (FACT);

(5) A representative from the head start program;

(6) Nine members appointed by the governor with the advice and consent of the senate who are representatives of the groups, such as business, philanthropy, civic groups, faith-based organizations, parent groups, advocacy organizations, early childhood service providers, and other stakeholders. The coordinating board may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers. The coordinating board shall elect from amongst its members a chairperson, vice chairperson, a secretary-reporter, and such other officers as it deems necessary. Members of the board shall serve without compensation but may be reimbursed for actual expenses necessary to the performance of their official duties for the board.

4. Beginning on January 1, 2017, the coordinating board for early childhood, which shall constitute a body corporate and politic, shall be established within the department of elementary and secondary education and shall include the following members:

(1) The director or the director's designee from each of the following departments: health and senior services, mental health, and

social services;

(2) The commissioner or the commissioner's designee from the department of elementary and secondary education;

(3) Two members of the Missouri general assembly. One member shall be the chairman of the joint committee on education. One member shall be a member of the joint committee on education, shall be from a different party and different legislative chamber than the chairman of the joint committee on education, and shall be appointed by the elected leader, either the speaker of the house of representatives or the president pro tempore of the senate, of the member's legislative chamber;

(4) The director of the Missouri head start-state collaborative office;

(5) Six citizens, representing each of the following areas: early childhood education and development providers, local Head Start agencies, higher education, business, faith, and medicine. The Governor shall appoint, with the advice and consent of the senate, the three citizens representing the areas of medicine, business, and higher education. The state board of education shall appoint the citizens representing the areas of early childhood education and development providers, local Head Start agencies, and faith.

Citizens appointed under subdivision (5) shall serve a term of three years. Such citizens shall be eligible to serve two terms. Such citizens that serve a partial term of less than eighteen months shall be eligible to serve the partial term and two full terms. Such citizens that serve a partial term of more than eighteen months shall be eligible to serve the partial term and one full term.

[3.]5. The coordinating board for early childhood shall have the power to:

(1) Develop a comprehensive statewide long-range strategic plan for a cohesive early childhood system. The board shall review the plan each year and make amendments to the plan as it deems necessary. The board shall submit the plan to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of 2018 and each year thereafter;

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(2) Confer with public and private entities for the purpose of promoting and improving the development of children from birth through age five of this state;

(3) Identify legislative recommendations to improve services for children from birth through age five;

(4)Promote coordination of existing services and programs across public and private entities;

(5) Promote research-based approaches to services and ongoing program evaluation;

(6) Identify service gaps and advise public and private entities on methods to close such gaps;

(7) Apply for and accept gifts, grants, appropriations, loans, or contributions to the coordinating board for early childhood fund from any source, public or private, and enter into contracts or other transactions with any federal or state agency, any private organizations, or any other source in furtherance of the purpose of subsections 3 through 15[2 and 3] of this section, and take any and all actions necessary to avail itself of such aid and cooperation;

(8) Direct disbursements and grants from the coordinating board for early childhood fund and the early childhood health and education trust fund as provided in this section;

(9) Administer the coordinating board for early childhood fund and the early childhood health and education trust fund [and invest any portion of the moneys not required for immediate disbursement in obligations of the United States or any agency or instrumentality of the United States, in obligations of the state of Missouri and its political subdivisions, in certificates of deposit and time deposits, or other obligations of banks and savings and loan associations, or in such other obligations as may be prescribed by the board];

(10) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal with real or personal property or any interests therein, wherever situated;

(11) Sell, convey, lease, exchange, transfer or otherwise dispose of all or any of its property or any interest therein, wherever situated;

(12) Employ and fix the compensation of an executive director and such other agents or employees as it considers necessary;

(13) Adopt, alter, or repeal by its own bylaws, rules, and regulations governing the manner in which its business may be transacted;

(14) Adopt and use an official seal;

(15) Assess or charge fees as the board determines to be reasonable to carry out its purposes;

(16) Make all expenditures which are incident and necessary to carry out its purposes;

(17) Sue and be sued in its official name;

(18) Take such action, enter into such agreements, and exercise all functions necessary or appropriate to carry out the duties and purposes set forth in this section;

(19) Contract with one or more not-for-profits to meet the requirements of this section;

(20) Provide technical assistance to grantees;

(21) Coordinate with parents, community leaders, local governments, and public and private entities to improve the quality of and increase access to early childhood development programs in communities throughout the state; and

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(22) Pursue public and private partnership opportunities that are consistent with the objectives of subsection 6 of this section.

6. Any grants awarded by the coordinating board for early childhood shall accomplish one or more of the following objectives:

(1) Increasing access to existing quality early childhood development programs;

(2) Improving the quality of early childhood development programs;

(3) Increasing access to preventive health care and health and developmental screenings for children ages birth through five;

(4) Offering parent and family support and education concerning prenatal development, early child development, numeracy, and literacy;

(5) Providing professional development and training for early childhood development providers;

(6) Increasing coordination of early childhood development programs and public information about the importance of early childhood development;

(7) Providing evidenced-based smoking cessation programs for pregnant mothers.

7. The coordinating board for early childhood shall consider the following nonexclusive factors when awarding grants as provided in this section:

(1) Whether the project or activities will improve outcomes for children ages birth through five, consistent with the objectives of this section;

(2) Whether the project or activity leverages matching dollars;

(3) Whether the project or activity addresses needs identified by the local community; and

(4) The sustainability of the project or activity.

8. The coordinating board for early childhood shall establish accountability and audit requirements for all grant recipients, including requirements that success be measured by outcomes for children and families.

9. It shall be the duty of the coordinating board for early childhood to:

(1) Establish and maintain a conflict of interest policy for its members and staff;

(2) Prepare an annual report describing the activities of the board and a description of outcomes for children and families achieved by the board and grant recipients, including a list of all grant recipients and the amount of any grants awarded to such recipients. The board shall submit the report to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of each year, beginning in 2019, and shall provide a copy of the report to the secretary of state; and

(3) Ensure a fair and equitable distribution of funds collected as provided under sections 149.017 and 149.161 based on the established residency population of children ages birth through five.

10. There is hereby created the "Coordinating Board for Early Childhood Fund" which shall consist of the following:

(1) Any moneys appropriated by the general assembly for use by the board in carrying out the powers set out in subsections 3 through 9[2 and 3] of this section;

(2) Any moneys received from grants or which are given, donated, or contributed to the fund from any source;

(3) Any moneys received as fees authorized under subsections 3 through 9[2 and 3] of this section;

(4) Any moneys received as interest on deposits or as income on approved investments of the fund;

(5) Any moneys obtained from any other available source. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the coordinating board for early childhood fund at the end of the biennium shall not revert to the credit of the general revenue fund.

11. There is hereby created the Early Childhood Health and Education Trust Fund which shall consist of all moneys collected as provided in sections 149.017 and 149.161, less any reduction allowed in section 149.021. Interest and moneys earned on the fund shall be credited to the fund.

12. No more than eight percent of the moneys received by the early childhood health and education trust fund shall be used for administrative expenses. Eligible administrative expenses shall include only those reasonable and necessary for:

(1) Salaries, fringe benefits, expenses, and equipment of staff employed by the coordinating board for early childhood;

(2) Expenses associated with cost sharing of salaries, fringe benefits, expenses, and equipment of staff employed or contracted by the coordinating board for early childhood from any other state department or agency of the state;

(3) Expenses of the coordinating board for early childhood associated with contracting with not-for-profit entities;

(4) Expenses of the coordinating board for early childhood associated with audits and outcome evaluations of programs and activities funded under this section;

(5) Expenses of grantees associated with meeting administrative requirements of grants established by the coordinating board for early childhood;

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No more than 40% of administrative expenses shall be expended on items (1) through (4) of this subsection.

13. Moneys in the funds may be invested by the state treasurer, and any income therefrom shall be deposited to the credit of the fund. Any moneys credited to and placed in the early childhood health and education trust fund shall be appropriated and used only for purposes which are authorized by this section and shall not be subject to the provisions of section 33.080.

14. The net proceeds from the moneys collected as provided in sections 149.017 and 149.161 shall constitute new and additional funding for the activities, initiatives, and programs funded by the coordinating board for early childhood and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

15. Beginning January 1, 2017, the department of elementary and secondary education and the coordinating board for early childhood may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This subsection and chapter 536 are nonseverable from one another, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017 shall be invalid and void.

149.017. 1. Beginning January 1, 2017, in addition to the tax levied upon the sale of cigarettes in this state pursuant to section 149.015, a tax shall be levied upon the sale of cigarettes applied a tax at an amount equal to fifty mills per cigarette.

2. The tax shall be evidenced by stamps in the same manner as cigarettes stamped pursuant to sections 149.015 and 149.021. Stamped cigarettes in the possession of a wholesaler or retailer before any phase of the additional tax under subsection 1 of this section is imposed, shall not be subject to such phase of the additional tax before retail sale.

3. The tax on any cigarettes contained in packages of four, ten, twenty or similar quantities to be used solely for distribution as samples shall be computed on a per cigarette basis at the rate set forth in this section, and payment of the tax shall be remitted to the director at such time and in such manner as he may prescribe.

4. The provisions of section 149.065 notwithstanding, all moneys collected as a result of the taxes imposed by this section and section 149.161 shall be credited to and placed in the early childhood health and education trust fund established by section 210.102 as said moneys are received. All of the moneys from the taxes imposed by this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the early childhood health and education trust fund.

5. The additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section and section 149.161 may be paid from moneys appropriated from the early childhood health and education trust fund for that purpose, not to exceed one and one half of one percent (1.5%) of the total moneys collected in that fiscal year. Collection and enforcement activities and initiatives that are paid for with moneys from the early childhood health and education trust fund shall be conducted in a fiscally responsible manner in order to maximize the net proceeds available for distribution pursuant to section 210.102. Moneys appropriated from the early childhood health and education trust fund pursuant to this subdivision shall not be used to pay costs that are not additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section;

6. The net proceeds from the taxes imposed by this section and section 149.161 shall constitute new and additional funding for the activities, initiatives, and programs described in section 210.102 and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

7. On an annual basis, the director of the department of revenue, in consultation with the director of health and senior services, shall determine whether the taxes imposed by this section and section 149.161 have resulted in a decrease in consumption of tobacco products and thereby directly caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320 or revenues to local governments under lawfully enacted sales taxes. If a reduction in the amount of moneys collected and deposited into any of those funds pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320,or revenues to local governments under lawfully enacted sales taxes has been directly caused by the taxes imposed by this section and section 149.161, an amount equal to the amount of moneys that were not collected and deposited into that fund or funds or were not generated by the local tobacco taxes authorized by sections 66.340, 210.320, and sections providing authority for local government sales taxes because of the taxes imposed by this section and section 149.161 shall be transferred from the early childhood health and education trust fund pursuant to section 210.102 as follows: first, to the appropriate political subdivisions, second, to local governments to account for any decrease in local sales tax collections, and third to the appropriate fund or funds. The aggregate amount transferred to such funds and political subdivisions from the early childhood health and education trust fund for any year shall not exceed four percent of the total moneys collected pursuant to this section and section 149.161 during that same year.

149.161. Beginning on January 1, 2017, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, a tax shall be levied upon the first sale of tobacco products other than cigarettes within this state in the amount of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. The tax on tobacco products shall be at the rate of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. Licensed persons making first sales shall be allowed credit in accordance with the provisions of section 149.160.1. The additional tax levied by this section shall not apply to inventories of tobacco products in the possession of the retailer or wholesaler on December 31, 2016.

196.1003. Requirements.

Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this Act shall do one of the following:

(a) become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

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(b) (1) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts, (as such amounts are adjusted for inflation) —
1999: $.0094241 per unit sold after the date of enactment of this Act;
2000: $.0104712 per unit sold;
for each of 2001 and 2002: $.0136125 per unit sold;
for each of 2003 through 2006: $.0167539 per unit sold;
for each of 2007 and each year thereafter: $.0188482 per unit sold.

(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances —

(A) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (i) in the order in which they were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment) had it been a participating manufacturer, the percentage determined in subdivision (D) of the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(C) to the extent not released from escrow under subparagraphs (A) or (B), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

(D) The amount in subdivision (B) of the excess released from escrow shall be: for units sold during all years ending on or after December 31, 2017, zero percent.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails [in any year] to place into escrow the funds required under this section shall

(A) be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;

(B) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

(C) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years.

Each failure to make an annual deposit required under this section shall constitute a separate violation. Any tobacco product manufacturer that violates the provisions of this section shall pay the State's cost and attorney's fees incurred during a successful prosecution under this section.

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**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-108)**

**Subject**

Initiative petition from Edward Greim regarding a proposed amendment to Chapters 149, 196, and 210 of the Revised Statutes of Missouri. (Received September 17, 2015)

**Date**

October 7, 2015

**Description**

This proposal would amend Chapters 149, 196, and 210 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Edward Greim** provided information as a proponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated it does not appear that this proposal would have a direct fiscal impact on their department.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** (DOR) indicated this petition will have a fiscal impact of $75,006 for fiscal year (FY) 2017 on their department, creating additional expense for IT consultants, and will increase revenues for the Early Childhood Health and Education Trust Fund by $492,700,000 annually.

If approved by voters, this petition increases the revenue stream for the Early Childhood Health and Education Trust Fund, but creates a negative impact to general revenue.

**Section 149.017**
Beginning January 1, 2017, the legislation increases the tax on cigarettes to 50 mills per cigarette ($1.00 per pack of 20).

Stamped cigarettes in inventory prior to the effective dates of the increase and in possession of a retailer are not subject to the additional tax before retail sale. The petition

also allows for up to one and one-half percent collection fee of the total moneys collected in a fiscal year.

The legislation requires the Department, in consultation with the Department of Health and Senior Services (DHSS), to annually determine if the taxes result in a decrease in consumption of tobacco products. The Departments must further determine if there are reductions in moneys collected and deposited into the fair share fund, health initiatives fund, or the state school moneys fund or local tobacco taxes.

With the additional assessed tax, the Department estimates an increase of $484.1 million per year to the Early Childhood Health and Education Trust Fund.

**Section 149.161**
Beginning on January 1, 2017, this section, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, levies a five percent tax upon the first sale of tobacco products other than cigarettes within this state. The legislation bases the five percent increase on the manufacturer's invoice price before discounts and deals. The person making the first sale within the state pays the tax.

With the additional assessed tax, the Department estimates an increase of $8.6 million per year to the Early Childhood Health and Education Trust Fund.

**Section 196.1003**
The amount of the excess escrow released must be for units sold during all years ending on or after December 31, 2017, zero percent.

**Section 210.102**
The section creates the Early Childhood Health and Education Act. Beginning in 2017, the Coordinating Board for Early Childhood becomes a body corporate and politic under the purview of the Department of Elementary & Secondary Education (DESE). Subsection 11 creates the Early Childhood Health and Education Trust Fund. The legislation deposits all moneys collected under sections 149.017 and 149.161, less any reductions allowed in section 149.021, into the trust fund.

**Administrative Impact:**
**Excise Tax:**
The Early Childhood Health and Education Trust Fund requires changes to SAGE 50 accounting system and cashiering records. The legislation also creates the requirement for a new form.

Officials from the **Department of Public Safety** indicated their department sees no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated no fiscal impact to their department.

Officials from the **Office of Administration** (OA) indicated the proposal amends Sections 210.102 and 196.1003, RSMo, and adds Sections 149.017 and 149.161, RSMo.

Section 210.102, RSMo, moves the Coordinating Board for Early Childhood from the Children's Services Commission to DESE, effective January 1, 2017, changes the board membership and provides further guidance on funding and operations for the Board.

Section 149.017, RSMo, increases cigarette tax by 50 mills per cigarette on 1/1/2017. Section 149.161, RSMo, levies an additional 5% tax on other tobacco products beginning 1/1/2017. These monies will go to the Early Childhood Health and Education Trust (ECHET) Fund established in Section 210.102, RSMo. DOR and DHSS must annually determine whether the new taxes have caused a reduction in consumption and therefore a reduction in the amount of money collected for the Fair Share Fund, the Health Initiatives Fund or the State School Moneys Fund and for local sales and tobacco taxes. If a reduction in consumption is found, then up to 4% of the new revenue collected is to be distributed to the various funds and political subdivisions from the ECHET Fund to hold them harmless.

Section 196.1003, RSMo, changes escrow requirements for the tobacco Master Settlement Agreement, with provisions to direct potential civil penalties to the ECHET Fund. Because this language changes what was previously approved as a "qualifying statute", it could adversely impact future Nonparticipating Manufacturer (NPM) adjustment arbitrations.

FISCAL IMPACT:

Cigarette Tax

In FY15, there was $81.7 million in cigarette excise taxes collected. OA assumes that the average pack of cigarettes retails for $4.50, translating to roughly 480.9 million packs sold in Missouri. OA further assumes that cigarette sales have a (0.8) elasticity. Therefore, OA estimates a tax increase of 50 mills per cigarette in January 2017 will increase the "Early Childhood Health and Education Fund" by $198.6 million in FY17 and $397.5 million once fully implemented in FY18.

There is no way to truly know what impact these tax increases will have on demand due to smoking cessation efforts, other state and federal regulations, and the increase in sales of e-cigarettes. However, OA estimates that the tax increase will decrease the Fair Share Fund by $1.4 million in FY17 and $2.8 million in FY18 and thereafter, the Health Initiatives fund by $1.4 million in FY17 and $2.8 million in FY18 and thereafter, and the State School Moneys Fund by $3.2 million in FY17 and $6.4 million in FY18 and thereafter.

Further, since cigarette sales will decrease slightly, General Revenue will be reduced by $9.3 million, the School District Trust Fund will be reduced by $3.1 million, and local sales tax will be reduced by $13 million once fully implemented in FY18, from the loss of sales tax.

Other Tobacco Products

In FY15, there was $17.7 million in other tobacco product excise taxes collected. OA assumes that the average unit retails for $4.09, translating to roughly $176.9 million in wholesales in Missouri. OA further assumes that other tobacco product sales have a (0.8) elasticity. Therefore, OA estimates this proposal will increase the "Early Childhood Health and Education Fund" by $4.0 million in FY17 and $7.9 million once fully implemented in FY18.

There is no way to truly know what impact this tax increase will have on demand due to cessation efforts, other state, federal, and local regulations, and the introduction of alternative products. However, OA estimates that this tax increase will decrease the Health Initiatives Fund by $0.3 million in FY17 and $0.6 million once fully implemented in FY18.

Further, since other tobacco product sales will decrease slightly, General Revenue will be reduced by $190,000, the School District Trust Fund will be reduced by $62,000, and local sales tax will be reduced by $260,000 once fully implemented in FY18, from the loss of sales tax.

Master Settlement Agreement

The escrow changes should not impact state revenues. When civil penalties are redirected to the ECHET Fund, it would be an unknown loss of potential general revenue to the state.

Total Impact

This proposal will increase the "Early Childhood Health and Education Fund" by $405.4 million once fully implemented in FY18. This proposal will also decrease the Fair Share Fund by $2.8 million, the Health Initiatives fund by $3.4 million, and the State School Moneys Fund by $6.4 million once fully implemented in FY18.

In addition, due to lost sales tax revenue General Revenue will be reduced by $9.5 million, the School District Trust Fund will be reduced by $3.2 million, and local sales tax will be reduced by $13.3 million once fully implemented in FY18.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated the initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated that there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **University of Missouri** indicated this initiative petition will have an undetermined fiscal impact on the university, to the extent the petition would affect any general revenue allocated to their university.

**Edward Greim** provided the following information as a proponent of this initiative petition.

Graves Garrett LLC

Edward D. Greim
Graves Garrett, LLC
1100 Main Street, Suite 2700
Kansas City, Missouri 64105
Direct Dial: (816) 256-4144
edgreim@gravesgarrett.com

September 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: *Fiscal Note in Initiative Petitions 16-108 & 16-112*

To Whom It May Concern:

Based on the information contained in this letter and the attached letter from Tom Kruckemeyer, we propose the following fiscal note summary:

> Estimated additional revenue to state government is $395 million annually with limited estimated implementation costs or savings. The revenue will fund only programs and services allowed by the proposal. The proposal is estimated to result in no net costs or savings to local governmental entities.

**Introduction**

The initiative allows 460,000 children to receive the early health screenings they need to grow and thrive and the early childhood development experiences that will prepare them for long-term educational success. These programs have important trickle-down effects that result in increased revenue and decreased costs at the state and local level. The initiative is accomplished by funding grants across the state to improve early childhood health and education. Funding for grants is provided by a tobacco tax, conservatively resulting in $395 million in direct state revenue, while yielding important public health benefits.

**Early Childhood Delivers Big Benefits**

Missouri enrolls fewer children in its state preschool program than any neighboring state, and funding for programs like Parents as Teachers has been slashed in half. All Missourians benefit

from investments in early childhood education: children start school ready to succeed; parents are able to keep good jobs and earn higher incomes; and taxpayers save money because early childhood education lowers drop-out rates, reduces crime and cuts the cost of social services. Despite clear evidence showing investing in early learning is one of the smartest investments we can make, year after year we battle with the Missouri General Assembly to fund quality early childhood education. Missouri is the 38th worst state for public pre-K funding. In 2012, the General Assembly cut $13.2 million from early childhood programs, and Parents as Teachers remains $19 million behind its 2009 funding.

Traditional thought has long emphasized the relationship between early childhood education and academic success, but researchers now are finding that preschool does not have a substantial effect on increasing IQs but rather develops a child's "soft skills" and can have a profound effect on adult earning potential especially for disadvantaged kids.

Evidence shows that non-cognitive skills matter. Through activities like finger painting, playing with blocks, and interacting with other students, children learn how to control impulses, keep anger in check, stay on task, listen and follow curiosity. These soft skills are basic, but important tools needed to learn, find and keep a job and just manage everyday life. Most children gain these skills at home from their parents, but disadvantaged kids often miss the window of opportunity, which are the critical years before Kindergarten.

A literature of empirical evidence shows strong outcome effects for kids who attend pre-school. Using cost-benefit analyses, researchers have found a link between preschool attendance and reduced crime, fewer teen pregnancies, higher rates of college attendance and less need for public assistance. Cost-benefit studies show that pre-school provides the best value and produces more net benefits to society than increased classroom time or job training programs.

*Evidence from the Perry Preschool Program*

The most widely cited early childhood intervention occurred in Ypsilanti, Michigan during the 60s. Children with low IQ scores and a low socioeconomic index were invited to participate in the Perry Preschool Program. Using a coin toss, researchers divided students into two groups, a treatment group and a control group. Starting at age three the "treatment" kids got 2.5 hours of preschool a day and weekly home visits for two years. The "control" kids did not participate in either of the services. Researchers interviewed both groups at ages 15, 19, 27 and 40 and asked them questions about life events like school, work, marriage, parenting and incarceration. The following chart shows the major findings of the study.



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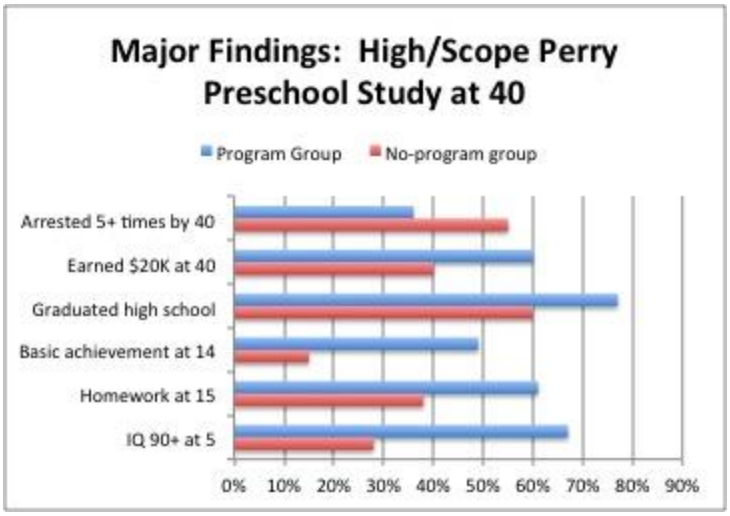


Source: Lifetime Effects: The HighScope Perry Preschool Study Through Age 40 (2005)

The pre-school girls went farther in school, earned higher GPAs, and received less special education than girls from the control group. Boys benefitted as well, but the boys who did not receive the preschool intervention were 2.3 times more likely to get arrested. The cost-savings alone from just the crime reduction demonstrated success.

With increased scrutiny over government spending, cost-benefit analysis gives policy analysts a tool to separate productive programs from ones that yield no social gains. A recent cost-benefit study that used a wider variety of assumptions and applied more rigorous accounting rules, estimated a return rate of about 7-10%. By monetizing social crime, the researchers were able to estimate that for every dollar invested in preschool, society earned back $30 to $300 dollars over the course of a lifetime (Heckman, Moon, Pinto, Savelyev, & Yavitz, 2010).

*Abecedarian and Chicago Studies*

Other studies confirmed the results of the Perry Preschool Project. The Carolina Abecedarian project in the 70s randomly assigned infants into intervention and control groups. The intervention group received full-day childcare from birth through Kindergarten. Intervention kids scored higher in reading and math, completed more education, were older when their first child was born and the mothers of intervention kids progressed farther in school and made more money than the control mothers. Intervention kids even smoked less.

A full-day five-year Pre-K program, while effective, would likely be cost-prohibitive for any state budget; however, the findings proved that early intervention does make a difference. And evidence suggests that a less expensive program could produce similar outcomes (Barnett & Masse, 2007).



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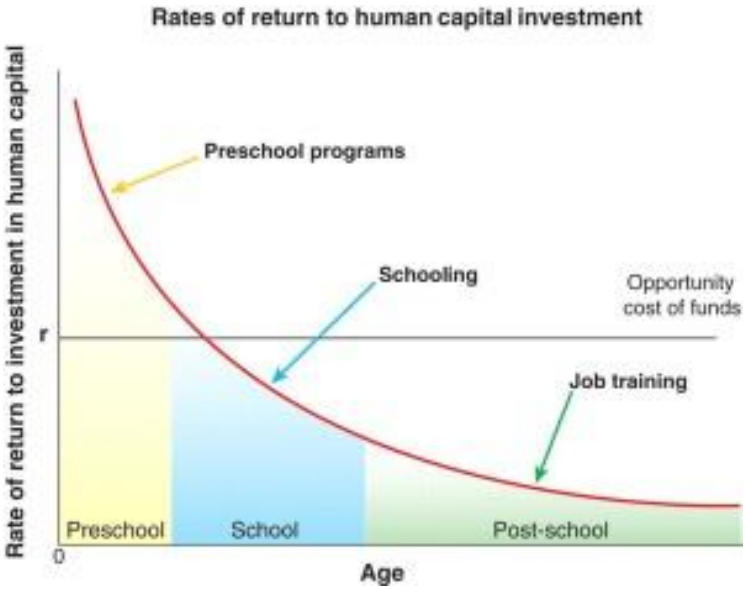
Just as Abecedarian kids earned higher wages than the control group, researchers found similar results from participants of the Chicago Child-Parent Program. The Chicago program targeted disadvantaged kids and provided a Headstart type intervention from ages three to nine. A cost-benefit analysis indicated for every dollar invested, the program produced seven in return. The largest impact was earning capacity, but Chicago kids were also less likely to need special education and less likely to commit crimes (Temple & Reynolds, 2007).

Much like with the Perry Program, the Chicago program demonstrated the relationship between early education, higher wages and crime reduction. Again it was the non-cognitive soft-skill development that made the difference. Second chance efforts like GED and job training provide fewer benefits and struggle to lift people out of poverty (Heckman & Masterov, 2007).




Source: Heckman, The Review of Agricultural Economics (2007)

What the Perry, Abecedarian and Chicago programs show is that pre-school helps kids develop soft-skills that make it easier to gain cognitive skills later and can lead to better jobs and a better quality of life. This in turn lessens the burden on government resources for remedial education, criminal justice and job-training programs.

Investing in human capital through access to finger-paints and story time may appear far-reaching, but multiple studies now point to early intervention as the cheapest, most effective way to prepare kids for the workforce and reduce crime. As labor force growth wanes and the demand for skilled workers increases, these studies suggest that a pipeline that begins at pre-school has great potential to produce big benefits to society in the long run.



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Table 1
Present value of Abecedarian benefits and costs per child (2002 dollars)

| | Discount rate (%) | | |
|---|---|---|---|
| | 3 | 5 | 7 |
| Program cost (net) | $35,864 | $34,599 | $33,421 |
| Program benefits | | | |
| Part. earnings | 37,531 | 16,460 | 6376 |
| Earnings of future generations | 5722 | 1586 | 479 |
| Maternal earnings | 68,728 | 48,496 | 35,560 |
| K-12 education | 8836 | 7375 | 6205 |
| Smoking/health | 17,781 | 4166 | 1008 |
| Higher education costs | −8128 | −5621 | −3920 |
| AFDC | 196 | 129 | 85 |
| Total benefits | $130,666 | $72,591 | $45,793 |
| Net present value | $94,802 | $37,992 | $12,372 |

**Reducing the Harmful Effects of Tobacco**

Tobacco tax increases offer a win-win-win solution for states as they work to balance budgets while preserving essential public services. Tobacco tax increases are one of the most effective ways to reduce smoking and other tobacco use, especially among kids. Every state that has significantly increased its cigarette tax has enjoyed substantial increases in revenue, even while reducing smoking. Higher tobacco taxes also save money by reducing tobacco-related health care costs, including Medicaid expenses. States can realize even greater health benefits and cost savings by allocating some of the revenue to programs that prevent children from smoking and help smokers quit.

National and state polls consistently have found overwhelming public support for tobacco tax increases. Polls also show that, when it comes to balancing budgets, voters prefer raising tobacco taxes to other tax increases or cutting crucial programs such as education and public safety.

Tobacco use causes approximately $3.03 billion in annual health care expenditures in Missouri. Smoking specifically causes over $500 million in annual costs for the Missouri Medicaid program. The initiative petition would increase the tax on cigarettes by $0.72 per pack and would increase the tax on other tobacco products by 5%. By conservative estimates, those tax increases would raise approximately $395 million in new state revenue to improve early childhood health



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and education programs. New state revenue is the amount of additional new revenue over the first full year after the effective date. The state will collect less new revenue to the extent that the rate increase does not apply to all cigarettes and other tobacco products held in wholesaler and retailer inventories on the effective date. This fiscal projection was derived using a price elasticity of demand for cigarettes of -0.8, even though the weight of credible academic literature suggests a conservative estimate for the price elasticity of demand for cigarettes is -0.4.

Tax increases of less than roughly 25 cents per pack or 10% of the average state pack price do not produce significant public health benefits or cost savings because the cigarette companies can easily offset the beneficial impact of such small increases with temporary price cuts, coupons, and other promotional discounting. Splitting a tax rate increase into separate, smaller increases in successive years will similarly diminish or eliminate the public health benefits and related cost savings (as well as reduce the amount of new revenues).

In addition to raising new revenue, the tax increase would have an immediate public health benefit. Each 10% cigarette price increase reduces youth smoking by 6.5%. Each 10% cigarette price increase reduces adult smoking by 2%. The total expected reduction in smoking consumption as a result of a 10% price increase is 4%. It is conservatively estimated that the initiative petition would decrease youth smoking by 6% in Missouri.

There would also be a fiscal benefit to the citizens of the state from the improved public health. As of 2014, the CDC estimated 11,000 annual average smoking-attributable deaths in Missouri. 127,500 Missouri Youth aged 0-17 are projected to die from smoking. Approximately 22.1% of Missouri adults smoke. Approximately 14.9% of Missouri high school students smoke. The average Missouri resident's state and federal tax burden from smoking-caused government expenditures is $588 per household. Approximately one of every six pregnant women smokes, a rate significantly higher than the national average. Smoking during pregnancy increases the risk for preterm delivery, stillbirth, low birth weight and Sudden Infant Death Syndrome.
In recent years, almost every state and the federal government have increased tobacco taxes. Missouri is a notable exception. The average state cigarette tax is currently $1.60 per pack, but rates vary widely from 17 cents in Missouri to $4.35 in New York. On April 1, 2009, the federal cigarette tax increased by 62 cents, to $1.01 per pack.

As of July 1, 2015, Missouri's cigarette tax was less than one-third of any of its border states: IL - $ 1.98; IA - $1.36; KS - $1.29; AR - $1.15; OK - $1.03; NE - $0.64; TN - $0.62; KY - $0.60. Moreover, Missouri's 17-cent per pack tax on cigarettes is the lowest in the country. The real value of the cigarette tax is decreasing. As a percentage of the overall Missouri State Budget, Missouri's tobacco taxes have decreased from 1.036% in 2000 to 0.464% in 2015. See MO Executive Budget Books & MO Office of Administration.

Every day 3,000 kids try their first cigarette and another 700 kids become regular smokers. There are more than 250 thousand new underage smokers each year. One third will eventually die from their addiction. Smoking has declined in every state where the tobacco tax has been increased.



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Ongoing reductions in state smoking levels will, over time, gradually erode state cigarette tax revenues (in the absence of any new rate increases). But those declines are more predictable and less volatile than many other state revenue sources, such as state income tax or corporate tax revenues (which can drop sharply during recessions). In addition, the smoking declines that reduce tobacco tax revenues will simultaneously produce much larger reductions in government and private sector smoking-caused costs. See the Campaign for Tobacco-Free Kids factsheet, *Tobacco Tax Increases are a Reliable Source of Substantial New State Revenue*, http://tobaccofreekids.org/research/factsheets/pdf/0303.pdf.

For other ways states can increase revenues (and promote public health) other than just raising its cigarette tax, see the Campaign factsheet, *The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

For more on sources and calculations, see http://www.tobaccofreekids.org/research/factsheets/pdf/0281.pdf

**Additional Information on Tobacco Product Tax Increases**

*Raising State Cigarette Taxes Always Increases State Revenues and Always Reduces Smoking*, http://tobaccofreekids.org/research/factsheets/pdf/0098.pdf.

*Responses to Misleading and Inaccurate Cigarette Company Arguments Against State Tobacco Tax Increases*, http://tobaccofreekids.org/research/factsheets/pdf/0227.pdf.

*State Cigarette Excise Tax Rates & Rankings*, http://tobaccofreekids.org/research/factsheets/pdf/0097.pdf.

*Top Combined State-Local Cigarette Tax Rates (State plus County plus City)*, http://tobaccofreekids.org/research/factsheets/pdf/0267.pdf.

*State Cigarette Tax Increases Benefit Lower-Income Smokers and Families*, http://tobaccofreekids.org/research/factsheets/pdf/0147.pdf.

*The Best Way to Tax Smokeless Tobacco*, http://tobaccofreekids.org/research/factsheets/pdf/0282.pdf.

*How to Make State Cigar Tax Rates Fair and Effective*, http://tobaccofreekids.org/research/factsheets/pdf/0335.pdf.

*State Benefits from Increasing Smokeless Tobacco Tax Rates*, http://tobaccofreekids.org/research/factsheets/pdf/0180.pdf.



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*The Case for High-Tech Cigarette Tax Stamps*, http://tobaccofreekids.org/research/factsheets/pdf/0310.pdf.

*State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion*, http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf.

*The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

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Sincerely,

Edward D. Greim
Partner, Graves Garrett, LLC



1100 Main Street, Suite 2700 Kansas City, MO 64105 ph 816.256.3181 www.gravesgarrett.com

Tom Kruckemeyer
Missouri Budget Project
3534 Washington Ave
St. Louis, Missouri 63103

September 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

To Whom It May Concern:

I currently work as the Director of Fiscal Policy and Chief Economist at the Missouri Budget Project, a nonprofit, objective, public policy analysis organization that provides independent research on complex state policy issues and how they impact the state budget. I hold a B.A. in Economics and History and an M.A. in Economics from the University of Missouri-St. Louis. I also hold an M.A. Political Science from the University of Missouri-Columbia. I worked in the Missouri Division of Budget from 1978 to 2004, where I served as the chief economist. In the course of both my positions at the Missouri Division of Budget as well as my current position, I have routinely projected the fiscal impact of tax changes.

In my experience, it is a conservative, generally accepted practice to project the revenue generated from a proposed cigarette tax by estimating an average price per cigarette (or price per pack), estimating a uniform price elasticity of demand, and to assume that the tax will result in a penny-for-penny increase in the cost of cigarettes.

Upon information and belief, the Office of Administration usually estimates the price elasticity of demand for cigarettes as -0.8. This estimate means that a 10% increase in the cost of cigarettes results in an 8% reduction in the quantity of cigarettes sold. A price elasticity of demand of -0.8 is a conservative but reasonable estimate for the price elasticity of demand of a product such as cigarettes. Notably, even with a 50 cent to one dollar increase in Missouri's cigarette tax, Missouri's cigarette tax will remain lower than many of its contiguous states, in particular the states that border major metropolitan areas, Illinois and Kansas.

Additionally, the Office of Administration's method for estimating cigarette tax revenue is conservative because it assumes a penny-for-penny price increase in the cost of cigarettes as a result of the tax. In practice, whether the entire tax increase will result in a 50 cent to one dollar increase in the prices of cigarettes is unknown because the market for cigarettes is competitive. Moreover, regardless of whether the Office of Administration estimates that the demand for cigarettes will remain flat or decrease due to societal trends, the overall fiscal impact is largely the same. An estimate of the decrease in future tax collections due to decreased smoking from societal trends is not essential to the findings in the fiscal note that this particular tax will result in a net increase to state revenue with no net cost to local governments.

If the Office of Administration decides to use the same assumptions in projecting the revenue for other tobacco products ("OTP") as it does for cigarettes, it is my opinion that the resulting collection estimate would be conservative but appropriate. Recent trends suggest that the revenue generated from the tax on other tobacco products is increasing.

Based on generally accepted methods for estimating the fiscal impact of a proposed tax, I estimate that a phased-in 50 cent cigarette tax increase will result in approximately 90 million dollars of revenue in calendar years 2017 and 2018. I estimate that the cigarette tax will result in approximately 150 million dollars of revenue in calendar years 2019 and 2020. I estimate that the cigarette tax will result in approximately 206 million dollars of revenue in calendar year 2021. In comparison, I estimate that an immediate 50 cent cigarette tax increase will result in approximately 214 million dollars of revenue in calendar year 2017. An immediate 63 cent cigarette tax increase will result in approximately 263 million dollars of revenue in calendar year 2017. An immediate 72 cent cigarette tax increase will result in approximately 295 million dollars of revenue in calendar year 2017. An immediate 80 cent cigarette tax increase will result in approximately 323 million dollars of revenue in calendar year 2017. An immediate one dollar cigarette tax increase will result in approximately 387 million dollars of revenue in calendar year 2017. These estimates assume a 1% yearly reduction in the state's smoking level. I estimate the 5% increase in the tax on non-cigarette tobacco products will result in approximately 8 million dollars of revenue annually. There may be a small decrease in revenue collection for each phase of the additional tax due to lags associated with the implementation and collection of taxes.

These taxes are expected to result in limited implementation costs to the state. The costs associated with administering the Early Childhood Education and Health Trust Fund will primarily be borne by the Trust Fund. Nonetheless it is proper and reasonable to consider additional costs of administering the cigarette tax increase, which may include fixed costs like salaries as well as additional marginal costs, such as costs associated with stamping cigarettes. All state government costs are estimated to be offset by additional revenue increases.

Local governments will receive revenue from the tax to offset any potential decrease in local tax revenue. Based on a price elasticity of demand of -0.8, local revenue may decrease, but any such decrease in cigarette taxes will be by an amount less than $1 million. By any reasonable estimate, 4% of the Early Childhood Education and Health Trust Fund will exceed the decrease in revenue associated with local tobacco taxes and local sales taxes. Accordingly, any such decrease will be offset as a result local revenue from the transfer of funds to localities with local tobacco taxes and local sales taxes. Additionally, while direct local revenue is zero, there are positive indirect effects the may result in additional revenue to local governments.

Sincerely,

/s/

Tom Kruckemeyer
Director of Fiscal Policy & Chief
Economist, Missouri Budget Project

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College**.

**Fiscal Note Summary**

Estimated additional revenue to state government is $367 million to $492 million annually, with limited estimated implementation costs. The revenue will fund only programs and services allowed by the proposal. The fiscal impact to local governmental entities is unknown.

RECEIVED
SEP 17 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-107

September 17, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Edward Greim regarding a proposed statutory amendment to Chapters 210, 196 & 149, version 9 (2016-107)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Edward Greim on September 17, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-107

County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

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2015 SEP 17 AM 8:45

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do □ do not □ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Address of Affiant

_____
Printed Name of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My commission expires _____

16-107

NOTICE: You are advised that the proposed law changes, repeals, or modifies by implication, or may be construed to change, repeal or modify by implication, the following provisions of the Missouri Revised Statutes — Sections 66.340, 66.350, 149.015, 149.021, 149.065, 149.160, 196.1003, 210.102, and 210.320. The proposed law enacts two new sections, to be known as sections 149.017 and 149.161.

*Be it enacted by the people of the State of Missouri:*

Sections 210.102 and 196.1003 of the Revised Statutes of Missouri are amended and sections 149.017 and 149.161 are enacted, to read as follows:

210.102. 1. Sections 149.017 and 149.161, and certain amendments to 196.1003 and 210.102, shall be referred to as the Early Childhood Health and Education Act, with the purpose of supporting and improving early childhood health and education through regulation of tobacco manufacturers and sellers. This Act:

(1) Creates the Early Childhood Health and Education Trust Fund in order to support and improve early childhood health and education across the state;

(2) Reforms the Coordinating Board for Early Childhood to administer the Early Childhood Health and Education Trust Fund and provide grants that support and improve early childhood health and education; and

(3) Funds the Early Childhood Health and Education Trust Fund through increased regulations on tobacco manufacturers and sellers.

All of the provisions of this act are severable. If any provision of this act is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this act shall be and remain valid and in full force and effect.

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2. It shall be the duty of the Missouri children's services commission to:

(1) Make recommendations which will encourage greater interagency coordination, cooperation, more effective utilization of existing resources and less duplication of effort in activities of state agencies which affect the legal rights and well-being of children in Missouri;

(2) Develop an integrated state plan for the care provided to children in this state through state programs;

(3) Develop a plan to improve the quality of children's programs statewide. Such plan shall include, but not be limited to:

(a) Methods for promoting geographic availability and financial accessibility for all children and families in need of such services;

(b) Program recommendations for children's services which include child development, education, supervision, health and social services;

(4) Design and implement evaluation of the activities of the commission in fulfilling the duties as set out in this section;

(5) Report annually to the governor with five copies each to the house of representatives and senate about its activities including, but not limited to the following:

(a) A general description of the activities pertaining to children of each state agency having a member on the commission;

(b) A general description of the plans and goals, as they affect children, of each state agency having a member on the commission;

(c) Recommendations for statutory and appropriation initiatives to implement the integrated state plan;

(d) A report from the commission regarding the state of children in Missouri.

[2.]3. For years ending on or before December 31, 2016, [There is hereby established within the children's services commission] the "Coordinating Board for Early Childhood", which shall constitute a body corporate and politic, shall be established within the children's services commission, and shall include but not be limited to the following members:

(1) A representative from the governor's office;

(2) A representative from each of the following departments: health and senior services, mental health, social services, and elementary and secondary education;

(3) A representative of the judiciary;

(4) A representative of the family and community trust board (FACT);

(5) A representative from the head start program;

(6) Nine members appointed by the governor with the advice and consent of the senate who are representatives of the groups, such as business, philanthropy, civic groups, faith-based organizations, parent groups, advocacy organizations, early childhood service providers, and other stakeholders. The coordinating board may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers. The coordinating board shall elect from amongst its members a chairperson, vice chairperson, a secretary-reporter, and such other officers as it deems necessary. Members of the board shall serve without compensation but may be reimbursed for actual expenses necessary to the performance of their official duties for the board.

4. Beginning on January 1, 2017, the coordinating board for early childhood, which shall constitute a body corporate and politic, shall be established within the department of elementary and secondary education and shall include the following members:

(1) The director or the director's designee from each of the following departments: health and senior services, mental health, and

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social services;

(2) The commissioner or the commissioner's designee from the department of elementary and secondary education;

(3) Two members of the Missouri general assembly. One member shall be the chairman of the joint committee on education. One member shall be a member of the joint committee on education, shall be from a different party and different legislative chamber than the chairman of the joint committee on education, and shall be appointed by the elected leader, either the speaker of the house of representatives or the president pro tempore of the senate, of the member's legislative chamber;

(4) The director of the Missouri head start-state collaborative office;

(5) Six citizens, representing each of the following areas: early childhood education and development providers, local Head Start agencies, higher education, business, faith, and medicine. The Governor shall appoint, with the advice and consent of the senate, the three citizens representing the areas of medicine, business, and higher education. The state board of education shall appoint the citizens representing the areas of early childhood education and development providers, local Head Start agencies, and faith.

Citizens appointed under subdivision (5) shall serve a term of three years. Such citizens shall be eligible to serve two terms. Such citizens that serve a partial term of less than eighteen months shall be eligible to serve the partial term and two full terms. Such citizens that serve a partial term of more than eighteen months shall be eligible to serve the partial term and one full term.

[3.]5. The coordinating board for early childhood shall have the power to:

(1) Develop a comprehensive statewide long-range strategic plan for a cohesive early childhood system. The board shall review the plan each year and make amendments to the plan as it deems necessary. The board shall submit the plan to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of 2018 and each year thereafter;

(2) Confer with public and private entities for the purpose of promoting and improving the development of children from birth through age five of this state;

(3) Identify legislative recommendations to improve services for children from birth through age five;

(4)Promote coordination of existing services and programs across public and private entities;

(5) Promote research-based approaches to services and ongoing program evaluation;

(6) Identify service gaps and advise public and private entities on methods to close such gaps;

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(7) Apply for and accept gifts, grants, appropriations, loans, or contributions to the coordinating board for early childhood fund from any source, public or private, and enter into contracts or other transactions with any federal or state agency, any private organizations, or any other source in furtherance of the purpose of subsections 3 through 15[2 and 3] of this section, and take any and all actions necessary to avail itself of such aid and cooperation;

(8) Direct disbursements and grants from the coordinating board for early childhood fund and the early childhood health and education trust fund as provided in this section;

(9) Administer the coordinating board for early childhood fund and the early childhood health and education trust fund [and invest any portion of the moneys not required for immediate disbursement in obligations of the United States or any agency or instrumentality of the United States, in obligations of the state of Missouri and its political subdivisions, in certificates of deposit and time deposits, or other obligations of banks and savings and loan associations, or in such other obligations as may be prescribed by the board];

(10) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal with real or personal property or any interests therein, wherever situated;

(11) Sell, convey, lease, exchange, transfer or otherwise dispose of all or any of its property or any interest therein, wherever situated;

(12) Employ and fix the compensation of an executive director and such other agents or employees as it considers necessary;

(13) Adopt, alter, or repeal by its own bylaws, rules, and regulations governing the manner in which its business may be transacted;

(14) Adopt and use an official seal;

(15) Assess or charge fees as the board determines to be reasonable to carry out its purposes;

(16) Make all expenditures which are incident and necessary to carry out its purposes;

(17) Sue and be sued in its official name;

(18) Take such action, enter into such agreements, and exercise all functions necessary or appropriate to carry out the duties and purposes set forth in this section;

(19) Contract with one or more not-for-profits to meet the requirements of this section;

(20) Provide technical assistance to grantees;

(21) Coordinate with parents, community leaders, local governments, and public and private entities to improve the quality of and increase access to early childhood development programs in communities throughout the state; and

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(22) Pursue public and private partnership opportunities that are consistent with the objectives of subsection 6 of this section.

6. Any grants awarded by the coordinating board for early childhood shall accomplish one or more of the following objectives:

(1) Increasing access to existing quality early childhood development programs;

(2) Improving the quality of early childhood development programs;

(3) Increasing access to preventive health care and health and developmental screenings for children ages birth through five;

(4) Offering parent and family support and education concerning prenatal development, early child development, numeracy, and literacy;

(5) Providing professional development and training for early childhood development providers;

(6) Increasing coordination of early childhood development programs and public information about the importance of early childhood development;

(7) Providing evidenced-based smoking cessation programs for pregnant mothers.

7. The coordinating board for early childhood shall consider the following nonexclusive factors when awarding grants as provided in this section:

(1) Whether the project or activities will improve outcomes for children ages birth through five, consistent with the objectives of this section;

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(2) Whether the project or activity leverages matching dollars;

(3) Whether the project or activity addresses needs identified by the local community; and

(4) The sustainability of the project or activity.

8. The coordinating board for early childhood shall establish accountability and audit requirements for all grant recipients, including requirements that success be measured by outcomes for children and families.

9. It shall be the duty of the coordinating board for early childhood to:

(1) Establish and maintain a conflict of interest policy for its members and staff;

(2) Prepare an annual report describing the activities of the board and a description of outcomes for children and families achieved by the board and grant recipients, including a list of all grant recipients and the amount of any grants awarded to such recipients. The board shall submit the report to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of each year, beginning in 2019, and shall provide a copy of the report to the secretary of state; and

(3) Ensure a fair and equitable distribution of funds collected as provided under sections 149.017 and 149.161 based on the established residency population of children ages birth through five.

10. There is hereby created the "Coordinating Board for Early Childhood Fund" which shall consist of the following:

(1) Any moneys appropriated by the general assembly for use by the board in carrying out the powers set out in subsections 3 through 9[2 and 3] of this section;

(2) Any moneys received from grants or which are given, donated, or contributed to the fund from any source;

(3) Any moneys received as fees authorized under subsections 3 through 9[2 and 3] of this section;

(4) Any moneys received as interest on deposits or as income on approved investments of the fund;

(5) Any moneys obtained from any other available source. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the coordinating board for early childhood fund at the end of the biennium shall not revert to the credit of the general revenue fund.

11. There is hereby created the Early Childhood Health and Education Trust Fund which shall consist of all moneys collected as provided in sections 149.017 and 149.161, less any reduction allowed in section 149.021. Interest and moneys earned on the fund shall be credited to the fund.

12. No more than eight percent of the moneys received by the early childhood health and education trust fund shall be used for administrative expenses. Eligible administrative expenses shall include only those reasonable and necessary for:

(1) Salaries, fringe benefits, expenses, and equipment of staff employed by the coordinating board for early childhood;

(2) Expenses associated with cost sharing of salaries, fringe benefits, expenses, and equipment of staff employed or contracted by the coordinating board for early childhood from any other state department or agency of the state;

(3) Expenses of the coordinating board for early childhood associated with contracting with not-for-profit entities;

(4) Expenses of the coordinating board for early childhood associated with audits and outcome evaluations of programs and activities funded under this section;

(5) Expenses of grantees associated with meeting administrative requirements of grants established by the coordinating board for early childhood;

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No more than 40% of administrative expenses shall be expended on items (1) through (4) of this subsection.

13. Moneys in the funds may be invested by the state treasurer, and any income therefrom shall be deposited to the credit of the fund. Any moneys credited to and placed in the early childhood health and education trust fund shall be appropriated and used only for purposes which are authorized by this section and shall not be subject to the provisions of section 33.080.

14. The net proceeds from the moneys collected as provided in sections 149.017 and 149.161 shall constitute new and additional funding for the activities, initiatives, and programs funded by the coordinating board for early childhood and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

15. Beginning January 1, 2017, the department of elementary and secondary education and the coordinating board for early childhood may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This subsection and chapter 536 are nonseverable from one another, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017 shall be invalid and void.

149.017. 1. Beginning January 1, 2017, in addition to the tax levied upon the sale of cigarettes in this state pursuant to section 149.015, a tax shall be levied upon the sale of cigarettes applied a tax at an amount equal to thirty-six mills per cigarette.

2. The tax shall be evidenced by stamps in the same manner as cigarettes stamped pursuant to sections 149.015 and 149.021. Stamped cigarettes in the possession of a wholesaler or retailer before any phase of the additional tax under subsection 1 of this section is imposed, shall not be subject to such phase of the additional tax before retail sale.

3. The tax on any cigarettes contained in packages of four, ten, twenty or similar quantities to be used solely for distribution as samples shall be computed on a per cigarette basis at the rate set forth in this section, and payment of the tax shall be remitted to the director at such time and in such manner as he may prescribe.

4. The provisions of section 149.065 notwithstanding, all moneys collected as a result of the taxes imposed by this section and section 149.161 shall be credited to and placed in the early childhood health and education trust fund established by section 210.102 as said moneys are received. All of the moneys from the taxes imposed by this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the early childhood health and education trust fund.

5. The additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section and section 149.161 may be paid from moneys appropriated from the early childhood health and education trust fund for that purpose, not to exceed one and one half of one percent (1.5%) of the total moneys collected in that fiscal year. Collection and enforcement activities and initiatives that are paid for with moneys from the early childhood health and education trust fund shall be conducted in a fiscally responsible manner in order to maximize the net proceeds available for distribution pursuant to section 210.102. Moneys appropriated from the early childhood health and education trust fund pursuant to this subdivision shall not be used to pay costs that are not additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section;

6. The net proceeds from the taxes imposed by this section and section 149.161 shall constitute new and additional funding for the activities, initiatives, and programs described in section 210.102 and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

7. On an annual basis, the director of the department of revenue, in consultation with the director of health and senior services, shall determine whether the taxes imposed by this section and section 149.161 have resulted in a decrease in consumption of tobacco products and thereby directly caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320 or revenues to local governments under lawfully enacted sales taxes. If a reduction in the amount of moneys collected and deposited into any of those funds pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320, or revenues to local governments under lawfully enacted sales taxes has been directly caused by the taxes imposed by this section and section 149.161, an amount equal to the amount of moneys that were not collected and deposited into that fund or funds or were not generated by the local tobacco taxes authorized by sections 66.340, 210.320, and sections providing authority for local government sales taxes because of the taxes imposed by this section and section 149.161 shall be transferred from the early childhood health and education trust fund pursuant to section 210.102 as follows: first, to the appropriate political subdivisions, second, to local governments to account for any decrease in local sales tax collections, and third to the appropriate fund or funds. The aggregate amount transferred to such funds and political subdivisions from the early childhood health and education trust fund for any year shall not exceed four percent of the total moneys collected pursuant to this section and section 149.161 during that same year.

149.161. Beginning on January 1, 2017, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, a tax shall be levied upon the first sale of tobacco products other than cigarettes within this state in the amount of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. The tax on tobacco products shall be at the rate of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. Licensed persons making first sales shall be allowed credit in accordance with the provisions of section 149.160.1. The additional tax levied by this section shall not apply to inventories of tobacco products in the possession of the retailer or wholesaler on December 31, 2016.

196.1003. Requirements.

Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this Act shall do one of the following:

(a) become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

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(b) (1) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts, (as such amounts are adjusted for inflation) —
1999: $.0094241 per unit sold after the date of enactment of this Act;
2000: $.0104712 per unit sold;
for each of 2001 and 2002: $.0136125 per unit sold;
for each of 2003 through 2006: $.0167539 per unit sold;
for each of 2007 and each year thereafter: $.0188482 per unit sold.

(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances —

(A) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (i) in the order in which they were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment) had it been a participating manufacturer, the percentage determined in subdivision (D) of the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(C) to the extent not released from escrow under subparagraphs (A) or (B), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

(D) The amount in subdivision (B) of the excess released from escrow shall be: for units sold during all years ending on or after December 31, 2017, zero percent.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails [in any year] to place into escrow the funds required under this section shall

(A) be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;

(B) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

(C) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years.

Each failure to make an annual deposit required under this section shall constitute a separate violation. Any tobacco product manufacturer that violates the provisions of this section shall pay the State's cost and attorney's fees incurred during a successful prosecution under this section.

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**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-107)**

**Subject**

Initiative petition from Edward Greim regarding a proposed amendment to Chapters 149, 196, and 210 of the Revised Statutes of Missouri. (Received September 17, 2015)

**Date**

October 7, 2015

**Description**

This proposal would amend Chapters 149, 196, and 210 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Edward Greim** provided information as a proponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated it does not appear that this proposal would have a direct fiscal impact on their department.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** (DOR) indicated this petition will have a fiscal impact of $75,006 for fiscal year (FY) 2017 on their department, creating additional expense for IT consultants, and will increase revenues for the Early Childhood Health and Education Trust Fund by $357,200,000 annually.

If approved by voters, this petition increases the revenue stream for the Early Childhood Health and Education Trust Fund, but creates a negative impact to general revenue.

**Section 149.017**
Beginning January 1, 2017, the legislation increases the tax on cigarettes to thirty-six mills per cigarette ($0.72 per pack of 20).

Stamped cigarettes in inventory prior to the effective dates of the increase and in possession of a retailer are not subject to the additional tax before retail sale. The petition

also allows for up to one and one-half percent collection fee of the total moneys collected in a fiscal year.

The legislation requires the Department, in consultation with the Department of Health and Senior Services (DHSS), to annually determine if the taxes result in a decrease in consumption of tobacco products. The Departments must further determine if there are reductions in moneys collected and deposited into the fair share fund, health initiatives fund, or the state school moneys fund or local tobacco taxes.

With the additional assessed tax, the Department estimates an increase of $348.6 million per year to the Early Childhood Health and Education Trust Fund.

**Section 149.161**
Beginning on January 1, 2017, this section, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, levies a five percent tax upon the first sale of tobacco products other than cigarettes within this state. The legislation bases the five percent increase on the manufacturer's invoice price before discounts and deals. The person making the first sale within the state pays the tax.

With the additional assessed tax, the Department estimates an increase of $8.6 million per year to the Early Childhood Health and Education Trust Fund.

**Section 196.1003**
The amount of the excess escrow released must be for units sold during all years ending on or after December 31, 2017, zero percent.

**Section 210.102**
The section creates the Early Childhood Health and Education Act. Beginning in 2017, the Coordinating Board for Early Childhood becomes a body corporate and politic under the purview of the Department of Elementary & Secondary Education (DESE). Subsection 11 creates the Early Childhood Health and Education Trust Fund. The legislation deposits all moneys collected under sections 149.017 and 149.161, less any reductions allowed in section 149.021, into the trust fund.

**Administrative Impact:**
**Excise Tax:**
The Early Childhood Health and Education Trust Fund requires changes to SAGE 50 accounting system and cashiering records. The legislation also creates the requirement for a new form.

Officials from the **Department of Public Safety** indicated their department sees no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated no fiscal impact to their department.

Officials from the **Office of Administration** (OA) indicated the proposal amends Sections 210.102 and 196.1003, RSMo, and adds Sections 149.017 and 149.161, RSMo.

Section 210.102, RSMo, moves the Coordinating Board for Early Childhood from the Children's Services Commission to DESE, effective January 1, 2017, changes the board membership and provides further guidance on funding and operations for the Board.

Section 149.017, RSMo, increases cigarette tax by 36 mills per cigarette on 1/1/2017. Section 149.161, RSMo, levies an additional 5% tax on other tobacco products beginning 1/1/2017. These monies will go to the Early Childhood Health and Education Trust (ECHET) Fund established in Section 210.102, RSMo. DOR and DHSS must annually determine whether the new taxes have caused a reduction in consumption and therefore a reduction in the amount of money collected for the Fair Share Fund, the Health Initiatives Fund or the State School Moneys Fund and for local sales and tobacco taxes. If a reduction in consumption is found, then up to 4% of the new revenue collected is to be distributed to the various funds and political subdivisions from the ECHET Fund to hold them harmless.

Section 196.1003, RSMo, changes escrow requirements for the tobacco Master Settlement Agreement, with provisions to direct potential civil penalties to the ECHET Fund. Because this language changes what was previously approved as a "qualifying statute", it could adversely impact future Nonparticipating Manufacturer (NPM) adjustment arbitrations.

FISCAL IMPACT:

Cigarette Tax

In FY15, there was $81.7 million in cigarette excise taxes collected. OA assumes that the average pack of cigarettes retails for $4.50, translating to roughly 480.9 million packs sold in Missouri. OA further assumes that cigarette sales have a (0.8) elasticity. Therefore, OA estimates a tax increase of 36 mills per cigarette in January 2017 will increase the "Early Childhood Health and Education Fund" by $149.2 million in FY17 and $298.3 million once fully implemented in FY18.

There is no way to truly know what impact these tax increases will have on demand due to smoking cessation efforts, other state and federal regulations, and the increase in sales of e-cigarettes. However, OA estimates that the tax increase will decrease the Fair Share Fund by $1.1 million in FY17 and $2.2 million in FY18 and thereafter, the Health Initiatives fund by $1.1 million in FY17 and $2.2 million in FY18 and thereafter, and the State School Moneys Fund by $2.4 million in FY17 and $4.8 million in FY18 and thereafter.

Further, since cigarette sales will decrease slightly, General Revenue will be reduced by $6.9 million, the School District Trust Fund will be reduced by $2.2 million, and local sales tax will be reduced by $9.8 million once fully implemented in FY18, from the loss of sales tax.

Other Tobacco Products

In FY15, there was $17.7 million in other tobacco product excise taxes collected. OA assumes that the average unit retails for $4.09, translating to roughly $176.9 million in wholesales in Missouri. OA further assumes that other tobacco product sales have a (0.8) elasticity. Therefore, OA estimates this proposal will increase the "Early Childhood Health and Education Fund" by $4.0 million in FY17 and $7.9 million once fully implemented in FY18.

There is no way to truly know what impact this tax increase will have on demand due to cessation efforts, other state, federal, and local regulations, and the introduction of alternative products. However, OA estimates that this tax increase will decrease the Health Initiatives Fund by $0.3 million in FY17 and $0.6 million once fully implemented in FY18.

Further, since other tobacco product sales will decrease slightly, General Revenue will be reduced by $190,000, the School District Trust Fund will be reduced by $62,000, and local sales tax will be reduced by $260,000 once fully implemented in FY18, from the loss of sales tax.

Master Settlement Agreement

The escrow changes should not impact state revenues. When civil penalties are redirected to the ECHET Fund, it would be an unknown loss of potential general revenue to the state.

Total Impact

This proposal will increase the "Early Childhood Health and Education Fund" by $306.2 million once fully implemented in FY18. This proposal will also decrease the Fair Share Fund by $2.2 million, the Health Initiatives fund by $2.8 million, and the State School Moneys Fund by $4.8 million once fully implemented in FY18.

In addition, due to lost sales tax revenue General Revenue will be reduced by $7.1 million, the School District Trust Fund will be reduced by $2.4 million, and local sales tax will be reduced by $10.1 million once fully implemented in FY18.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated the initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated that there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated this initiative petition will have an undetermined fiscal impact on the university, to the extent the petition would affect any general revenue allocated to their university.

**Edward Greim** provided the following information as a proponent of this initiative petition.

Graves Garrett LLC

Edward D. Greim
Graves Garrett, LLC
1100 Main Street, Suite 2700
Kansas City, Missouri 64105
Direct Dial: (816) 256-4144
edgreim@gravesgarrett.com

September 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: *Fiscal Note in Initiative Petitions 16-107 & 16-111*

To Whom It May Concern:

Based on the information contained in this letter and the attached letter from Tom Kruckemeyer, we propose the following fiscal note summary:

> Estimated additional revenue to state government is $303 million annually with limited estimated implementation costs or savings. The revenue will fund only programs and services allowed by the proposal. The proposal is estimated to result in no net costs or savings to local governmental entities.

**Introduction**

The initiative allows 460,000 children to receive the early health screenings they need to grow and thrive and the early childhood development experiences that will prepare them for long-term educational success. These programs have important trickle-down effects that result in increased revenue and decreased costs at the state and local level. The initiative is accomplished by funding grants across the state to improve early childhood health and education. Funding for grants is provided by a tobacco tax, conservatively resulting in $303 million in direct state revenue, while yielding important public health benefits.

**Early Childhood Delivers Big Benefits**

Missouri enrolls fewer children in its state preschool program than any neighboring state, and funding for programs like Parents as Teachers has been slashed in half. All Missourians benefit

from investments in early childhood education: children start school ready to succeed; parents are able to keep good jobs and earn higher incomes; and taxpayers save money because early childhood education lowers drop-out rates, reduces crime and cuts the cost of social services. Despite clear evidence showing investing in early learning is one of the smartest investments we can make, year after year we battle with the Missouri General Assembly to fund quality early childhood education. Missouri is the 38th worst state for public pre-K funding. In 2012, the General Assembly cut $13.2 million from early childhood programs, and Parents as Teachers remains $19 million behind its 2009 funding.

Traditional thought has long emphasized the relationship between early childhood education and academic success, but researchers now are finding that preschool does not have a substantial effect on increasing IQs but rather develops a child's "soft skills" and can have a profound effect on adult earning potential especially for disadvantaged kids.

Evidence shows that non-cognitive skills matter. Through activities like finger painting, playing with blocks, and interacting with other students, children learn how to control impulses, keep anger in check, stay on task, listen and follow curiosity. These soft skills are basic, but important tools needed to learn, find and keep a job and just manage everyday life. Most children gain these skills at home from their parents, but disadvantaged kids often miss the window of opportunity, which are the critical years before Kindergarten.

A literature of empirical evidence shows strong outcome effects for kids who attend pre-school. Using cost-benefit analyses, researchers have found a link between preschool attendance and reduced crime, fewer teen pregnancies, higher rates of college attendance and less need for public assistance. Cost-benefit studies show that pre-school provides the best value and produces more net benefits to society than increased classroom time or job training programs.

*Evidence from the Perry Preschool Program*

The most widely cited early childhood intervention occurred in Ypsilanti, Michigan during the 60s. Children with low IQ scores and a low socioeconomic index were invited to participate in the Perry Preschool Program. Using a coin toss, researchers divided students into two groups, a treatment group and a control group. Starting at age three the "treatment" kids got 2.5 hours of preschool a day and weekly home visits for two years. The "control" kids did not participate in either of the services. Researchers interviewed both groups at ages 15, 19, 27 and 40 and asked them questions about life events like school, work, marriage, parenting and incarceration. The following chart shows the major findings of the study.



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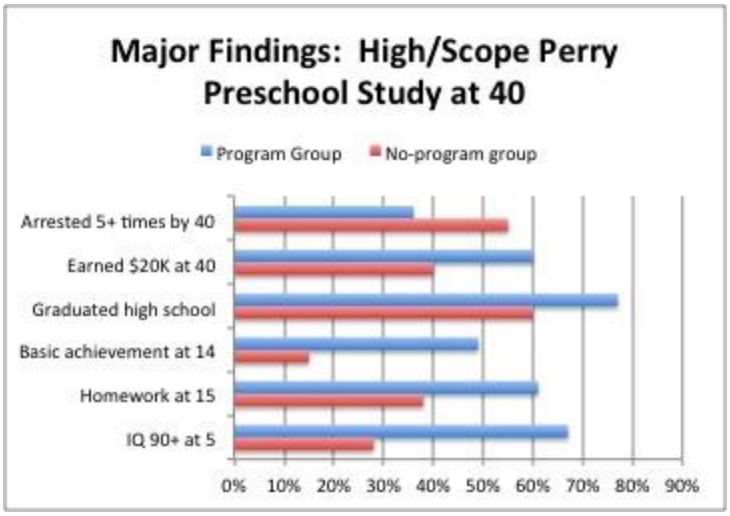


Source: Lifetime Effects: The HighScope Perry Preschool Study Through Age 40 (2005)

The pre-school girls went farther in school, earned higher GPAs, and received less special education than girls from the control group. Boys benefitted as well, but the boys who did not receive the preschool intervention were 2.3 times more likely to get arrested. The cost-savings alone from just the crime reduction demonstrated success.

With increased scrutiny over government spending, cost-benefit analysis gives policy analysts a tool to separate productive programs from ones that yield no social gains. A recent cost-benefit study that used a wider variety of assumptions and applied more rigorous accounting rules, estimated a return rate of about 7-10%. By monetizing social crime, the researchers were able to estimate that for every dollar invested in preschool, society earned back $30 to $300 dollars over the course of a lifetime (Heckman, Moon, Pinto, Savelyev, & Yavitz, 2010).

*Abecedarian and Chicago Studies*

Other studies confirmed the results of the Perry Preschool Project. The Carolina Abecedarian project in the 70s randomly assigned infants into intervention and control groups. The intervention group received full-day childcare from birth through Kindergarten. Intervention kids scored higher in reading and math, completed more education, were older when their first child was born and the mothers of intervention kids progressed farther in school and made more money than the control mothers. Intervention kids even smoked less.

A full-day five-year Pre-K program, while effective, would likely be cost-prohibitive for any state budget; however, the findings proved that early intervention does make a difference. And evidence suggests that a less expensive program could produce similar outcomes (Barnett & Masse, 2007).



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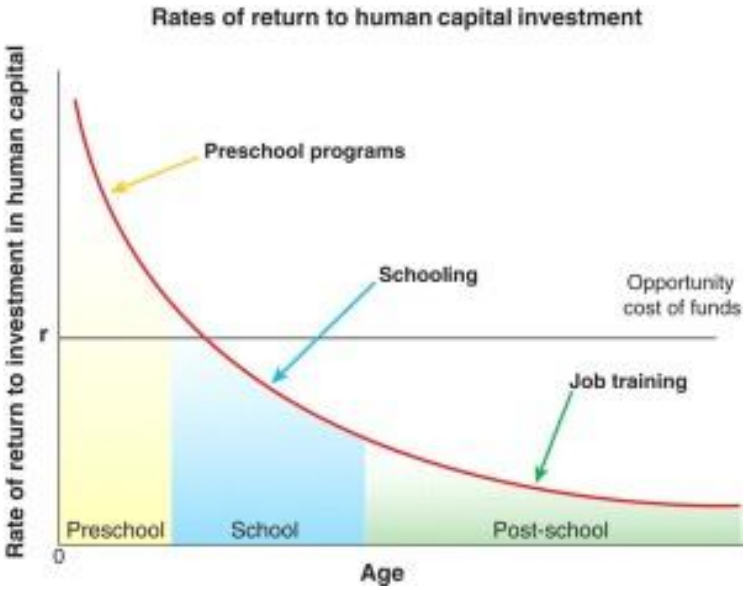
Just as Abecedarian kids earned higher wages than the control group, researchers found similar results from participants of the Chicago Child-Parent Program. The Chicago program targeted disadvantaged kids and provided a Headstart type intervention from ages three to nine. A cost-benefit analysis indicated for every dollar invested, the program produced seven in return. The largest impact was earning capacity, but Chicago kids were also less likely to need special education and less likely to commit crimes (Temple & Reynolds, 2007).

Much like with the Perry Program, the Chicago program demonstrated the relationship between early education, higher wages and crime reduction. Again it was the non-cognitive soft-skill development that made the difference. Second chance efforts like GED and job training provide fewer benefits and struggle to lift people out of poverty (Heckman & Masterov, 2007).




Source: Heckman, The Review of Agricultural Economics (2007)

What the Perry, Abecedarian and Chicago programs show is that pre-school helps kids develop soft-skills that make it easier to gain cognitive skills later and can lead to better jobs and a better quality of life. This in turn lessens the burden on government resources for remedial education, criminal justice and job-training programs.

Investing in human capital through access to finger-paints and story time may appear far-reaching, but multiple studies now point to early intervention as the cheapest, most effective way to prepare kids for the workforce and reduce crime. As labor force growth wanes and the demand for skilled workers increases, these studies suggest that a pipeline that begins at pre-school has great potential to produce big benefits to society in the long run.



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Table 1
Present value of Abecedarian benefits and costs per child (2002 dollars)

| | Discount rate (%) | | |
|---|---|---|---|
| | 3 | 5 | 7 |
| Program cost (net) | $35,864 | $34,599 | $33,421 |
| Program benefits | | | |
| Part. earnings | 37,531 | 16,460 | 6376 |
| Earnings of future generations | 5722 | 1586 | 479 |
| Maternal earnings | 68,728 | 48,496 | 35,560 |
| K-12 education | 8836 | 7375 | 6205 |
| Smoking/health | 17,781 | 4166 | 1008 |
| Higher education costs | −8128 | −5621 | −3920 |
| AFDC | 196 | 129 | 85 |
| Total benefits | $130,666 | $72,591 | $45,793 |
| Net present value | $94,802 | $37,992 | $12,372 |

**Reducing the Harmful Effects of Tobacco**

Tobacco tax increases offer a win-win-win solution for states as they work to balance budgets while preserving essential public services. Tobacco tax increases are one of the most effective ways to reduce smoking and other tobacco use, especially among kids. Every state that has significantly increased its cigarette tax has enjoyed substantial increases in revenue, even while reducing smoking. Higher tobacco taxes also save money by reducing tobacco-related health care costs, including Medicaid expenses. States can realize even greater health benefits and cost savings by allocating some of the revenue to programs that prevent children from smoking and help smokers quit.

National and state polls consistently have found overwhelming public support for tobacco tax increases. Polls also show that, when it comes to balancing budgets, voters prefer raising tobacco taxes to other tax increases or cutting crucial programs such as education and public safety.

Tobacco use causes approximately $3.03 billion in annual health care expenditures in Missouri. Smoking specifically causes over $500 million in annual costs for the Missouri Medicaid program. The initiative petition would increase the tax on cigarettes by $0.72 per pack and would increase the tax on other tobacco products by 5%. By conservative estimates, those tax increases would raise approximately $303 million in new state revenue to improve early childhood health



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and education programs. New state revenue is the amount of additional new revenue over the first full year after the effective date. The state will collect less new revenue to the extent that the rate increase does not apply to all cigarettes and other tobacco products held in wholesaler and retailer inventories on the effective date. This fiscal projection was derived using a price elasticity of demand for cigarettes of -0.8, even though the weight of credible academic literature suggests a conservative estimate for the price elasticity of demand for cigarettes is -0.4.

Tax increases of less than roughly 25 cents per pack or 10% of the average state pack price do not produce significant public health benefits or cost savings because the cigarette companies can easily offset the beneficial impact of such small increases with temporary price cuts, coupons, and other promotional discounting. Splitting a tax rate increase into separate, smaller increases in successive years will similarly diminish or eliminate the public health benefits and related cost savings (as well as reduce the amount of new revenues).

In addition to raising new revenue, the tax increase would have an immediate public health benefit. Each 10% cigarette price increase reduces youth smoking by 6.5%. Each 10% cigarette price increase reduces adult smoking by 2%. The total expected reduction in smoking consumption as a result of a 10% price increase is 4%. It is conservatively estimated that the initiative petition would decrease youth smoking by 6% in Missouri.

There would also be a fiscal benefit to the citizens of the state from the improved public health. As of 2014, the CDC estimated 11,000 annual average smoking-attributable deaths in Missouri. 127,500 Missouri Youth aged 0-17 are projected to die from smoking. Approximately 22.1% of Missouri adults smoke. Approximately 14.9% of Missouri high school students smoke. The average Missouri resident's state and federal tax burden from smoking-caused government expenditures is $588 per household. Approximately one of every six pregnant women smokes, a rate significantly higher than the national average. Smoking during pregnancy increases the risk for preterm delivery, stillbirth, low birth weight and Sudden Infant Death Syndrome.
In recent years, almost every state and the federal government have increased tobacco taxes. Missouri is a notable exception. The average state cigarette tax is currently $1.60 per pack, but rates vary widely from 17 cents in Missouri to $4.35 in New York. On April 1, 2009, the federal cigarette tax increased by 62 cents, to $1.01 per pack.

As of July 1, 2015, Missouri's cigarette tax was less than one-third of any of its border states: IL - $ 1.98; IA - $1.36; KS - $1.29; AR - $1.15; OK - $1.03; NE - $0.64; TN - $0.62; KY - $0.60. Moreover, Missouri's 17-cent per pack tax on cigarettes is the lowest in the country. The real value of the cigarette tax is decreasing. As a percentage of the overall Missouri State Budget, Missouri's tobacco taxes have decreased from 1.036% in 2000 to 0.464% in 2015. See MO Executive Budget Books & MO Office of Administration.

Every day 3,000 kids try their first cigarette and another 700 kids become regular smokers. There are more than 250 thousand new underage smokers each year. One third will eventually die from their addiction. Smoking has declined in every state where the tobacco tax has been increased.



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Ongoing reductions in state smoking levels will, over time, gradually erode state cigarette tax revenues (in the absence of any new rate increases). But those declines are more predictable and less volatile than many other state revenue sources, such as state income tax or corporate tax revenues (which can drop sharply during recessions). In addition, the smoking declines that reduce tobacco tax revenues will simultaneously produce much larger reductions in government and private sector smoking-caused costs. See the Campaign for Tobacco-Free Kids factsheet, *Tobacco Tax Increases are a Reliable Source of Substantial New State Revenue*, http://tobaccofreekids.org/research/factsheets/pdf/0303.pdf.

For other ways states can increase revenues (and promote public health) other than just raising its cigarette tax, see the Campaign factsheet, *The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

For more on sources and calculations, see http://www.tobaccofreekids.org/research/factsheets/pdf/0281.pdf

**Additional Information on Tobacco Product Tax Increases**

*Raising State Cigarette Taxes Always Increases State Revenues and Always Reduces Smoking*, http://tobaccofreekids.org/research/factsheets/pdf/0098.pdf.

*Responses to Misleading and Inaccurate Cigarette Company Arguments Against State Tobacco Tax Increases*, http://tobaccofreekids.org/research/factsheets/pdf/0227.pdf.

*State Cigarette Excise Tax Rates & Rankings*, http://tobaccofreekids.org/research/factsheets/pdf/0097.pdf.

*Top Combined State-Local Cigarette Tax Rates (State plus County plus City)*, http://tobaccofreekids.org/research/factsheets/pdf/0267.pdf.

*State Cigarette Tax Increases Benefit Lower-Income Smokers and Families*, http://tobaccofreekids.org/research/factsheets/pdf/0147.pdf.

*The Best Way to Tax Smokeless Tobacco*, http://tobaccofreekids.org/research/factsheets/pdf/0282.pdf.

*How to Make State Cigar Tax Rates Fair and Effective*, http://tobaccofreekids.org/research/factsheets/pdf/0335.pdf.

*State Benefits from Increasing Smokeless Tobacco Tax Rates*, http://tobaccofreekids.org/research/factsheets/pdf/0180.pdf.



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*The Case for High-Tech Cigarette Tax Stamps*, http://tobaccofreekids.org/research/factsheets/pdf/0310.pdf.

*State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion*, http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf.

*The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

**Works Cited**

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Sincerely,

Edward D. Greim
Partner, Graves Garrett, LLC



1100 Main Street, Suite 2700 Kansas City, MO 64105 ph 816.256.3181 www.gravesgarrett.com

Tom Kruckemeyer
Missouri Budget Project
3534 Washington Ave
St. Louis, Missouri 63103

September 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

To Whom It May Concern:

I currently work as the Director of Fiscal Policy and Chief Economist at the Missouri Budget Project, a nonprofit, objective, public policy analysis organization that provides independent research on complex state policy issues and how they impact the state budget. I hold a B.A. in Economics and History and an M.A. in Economics from the University of Missouri-St. Louis. I also hold an M.A. Political Science from the University of Missouri-Columbia. I worked in the Missouri Division of Budget from 1978 to 2004, where I served as the chief economist. In the course of both my positions at the Missouri Division of Budget as well as my current position, I have routinely projected the fiscal impact of tax changes.

In my experience, it is a conservative, generally accepted practice to project the revenue generated from a proposed cigarette tax by estimating an average price per cigarette (or price per pack), estimating a uniform price elasticity of demand, and to assume that the tax will result in a penny-for-penny increase in the cost of cigarettes.

Upon information and belief, the Office of Administration usually estimates the price elasticity of demand for cigarettes as -0.8. This estimate means that a 10% increase in the cost of cigarettes results in an 8% reduction in the quantity of cigarettes sold. A price elasticity of demand of -0.8 is a conservative but reasonable estimate for the price elasticity of demand of a product such as cigarettes. Notably, even with a 50 cent to one dollar increase in Missouri's cigarette tax, Missouri's cigarette tax will remain lower than many of its contiguous states, in particular the states that border major metropolitan areas, Illinois and Kansas.

Additionally, the Office of Administration's method for estimating cigarette tax revenue is conservative because it assumes a penny-for-penny price increase in the cost of cigarettes as a result of the tax. In practice, whether the entire tax increase will result in a 50 cent to one dollar increase in the prices of cigarettes is unknown because the market for cigarettes is competitive. Moreover, regardless of whether the Office of Administration estimates that the demand for cigarettes will remain flat or decrease due to societal trends, the overall fiscal impact is largely the same. An estimate of the decrease in future tax collections due to decreased smoking from societal trends is not essential to the findings in the fiscal note that this particular tax will result in a net increase to state revenue with no net cost to local governments.

If the Office of Administration decides to use the same assumptions in projecting the revenue for other tobacco products ("OTP") as it does for cigarettes, it is my opinion that the resulting collection estimate would be conservative but appropriate. Recent trends suggest that the revenue generated from the tax on other tobacco products is increasing.

Based on generally accepted methods for estimating the fiscal impact of a proposed tax, I estimate that a phased-in 50 cent cigarette tax increase will result in approximately 90 million dollars of revenue in calendar years 2017 and 2018. I estimate that the cigarette tax will result in approximately 150 million dollars of revenue in calendar years 2019 and 2020. I estimate that the cigarette tax will result in approximately 206 million dollars of revenue in calendar year 2021. In comparison, I estimate that an immediate 50 cent cigarette tax increase will result in approximately 214 million dollars of revenue in calendar year 2017. An immediate 63 cent cigarette tax increase will result in approximately 263 million dollars of revenue in calendar year 2017. An immediate 72 cent cigarette tax increase will result in approximately 295 million dollars of revenue in calendar year 2017. An immediate 80 cent cigarette tax increase will result in approximately 323 million dollars of revenue in calendar year 2017. An immediate one dollar cigarette tax increase will result in approximately 387 million dollars of revenue in calendar year 2017. These estimates assume a 1% yearly reduction in the state's smoking level. I estimate the 5% increase in the tax on non-cigarette tobacco products will result in approximately 8 million dollars of revenue annually. There may be a small decrease in revenue collection for each phase of the additional tax due to lags associated with the implementation and collection of taxes.

These taxes are expected to result in limited implementation costs to the state. The costs associated with administering the Early Childhood Education and Health Trust Fund will primarily be borne by the Trust Fund. Nonetheless it is proper and reasonable to consider additional costs of administering the cigarette tax increase, which may include fixed costs like salaries as well as additional marginal costs, such as costs associated with stamping cigarettes. All state government costs are estimated to be offset by additional revenue increases.

Local governments will receive revenue from the tax to offset any potential decrease in local tax revenue. Based on a price elasticity of demand of -0.8, local revenue may decrease, but any such decrease in cigarette taxes will be by an amount less than $1 million. By any reasonable estimate, 4% of the Early Childhood Education and Health Trust Fund will exceed the decrease in revenue associated with local tobacco taxes and local sales taxes. Accordingly, any such decrease will be offset as a result local revenue from the transfer of funds to localities with local tobacco taxes and local sales taxes. Additionally, while direct local revenue is zero, there are positive indirect effects the may result in additional revenue to local governments.

Sincerely,

/s/

Tom Kruckemeyer
Director of Fiscal Policy & Chief
Economist, Missouri Budget Project

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College**.

**Fiscal Note Summary**

Estimated additional revenue to state government is $276 million to $357 million annually, with limited estimated implementation costs. The revenue will fund only programs and services allowed by the proposal. The fiscal impact to local governmental entities is unknown.

RECEIVED
SEP 17 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-106

September 17, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Edward Greim regarding a proposed statutory amendment to Chapters 210, 196 & 149, version 8 (2016-106)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Edward Greim on September 17, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-106 County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 SEP 17 AM 8:44

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do □ do not □ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Address of Affiant

_____
Printed Name of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My commission expires _____

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NOTICE: You are advised that the proposed law changes, repeals, or modifies by implication, or may be construed to change, repeal or modify by implication, the following provisions of the Missouri Revised Statutes — Sections 66.340, 66.350, 149.015, 149.021, 149.065, 149.160, 196.1003, 210.102, and 210.320. The proposed law enacts two new sections, to be known as sections 149.017 and 149.161.

*Be it enacted by the people of the State of Missouri:*

Sections 210.102 and 196.1003 of the Revised Statutes of Missouri are amended and sections 149.017 and 149.161 are enacted, to read as follows:

210.102. 1. Sections 149.017 and 149.161, and certain amendments to 196.1003 and 210.102, shall be referred to as the Early Childhood Health and Education Act, with the purpose of supporting and improving early childhood health and education through regulation of tobacco manufacturers and sellers. This Act:

(1) Creates the Early Childhood Health and Education Trust Fund in order to support and improve early childhood health and education across the state;

(2) Reforms the Coordinating Board for Early Childhood to administer the Early Childhood Health and Education Trust Fund and provide grants that support and improve early childhood health and education; and

(3) Funds the Early Childhood Health and Education Trust Fund through increased regulations on tobacco manufacturers and sellers.

All of the provisions of this act are severable. If any provision of this act is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this act shall be and remain valid and in full force and effect.

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2. It shall be the duty of the Missouri children's services commission to:

(1) Make recommendations which will encourage greater interagency coordination, cooperation, more effective utilization of existing resources and less duplication of effort in activities of state agencies which affect the legal rights and well-being of children in Missouri;

(2) Develop an integrated state plan for the care provided to children in this state through state programs;

(3) Develop a plan to improve the quality of children's programs statewide. Such plan shall include, but not be limited to:

(a) Methods for promoting geographic availability and financial accessibility for all children and families in need of such services;

(b) Program recommendations for children's services which include child development, education, supervision, health and social services;

(4) Design and implement evaluation of the activities of the commission in fulfilling the duties as set out in this section;

(5) Report annually to the governor with five copies each to the house of representatives and senate about its activities including, but not limited to the following:

(a) A general description of the activities pertaining to children of each state agency having a member on the commission;

(b) A general description of the plans and goals, as they affect children, of each state agency having a member on the commission;

(c) Recommendations for statutory and appropriation initiatives to implement the integrated state plan;

(d) A report from the commission regarding the state of children in Missouri.

[2.]3. For years ending on or before December 31, 2016, [There is hereby established within the children's services commission] the "Coordinating Board for Early Childhood", which shall constitute a body corporate and politic, shall be established within the children's services commission, and shall include but not be limited to the following members:

(1) A representative from the governor's office;

(2) A representative from each of the following departments: health and senior services, mental health, social services, and elementary and secondary education;

(3) A representative of the judiciary;

(4) A representative of the family and community trust board (FACT);

(5) A representative from the head start program;

(6) Nine members appointed by the governor with the advice and consent of the senate who are representatives of the groups, such as business, philanthropy, civic groups, faith-based organizations, parent groups, advocacy organizations, early childhood service providers, and other stakeholders. The coordinating board may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers. The coordinating board shall elect from amongst its members a chairperson, vice chairperson, a secretary-reporter, and such other officers as it deems necessary. Members of the board shall serve without compensation but may be reimbursed for actual expenses necessary to the performance of their official duties for the board.

4. Beginning on January 1, 2017, the coordinating board for early childhood, which shall constitute a body corporate and politic, shall be established within the department of elementary and secondary education and shall include the following members:

(1) The director or the director's designee from each of the following departments: health and senior services, mental health, and

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social services;

(2) The commissioner or the commissioner's designee from the department of elementary and secondary education;

(3) Two members of the Missouri general assembly. One member shall be the chairman of the joint committee on education. One member shall be a member of the joint committee on education, shall be from a different party and different legislative chamber than the chairman of the joint committee on education, and shall be appointed by the elected leader, either the speaker of the house of representatives or the president pro tempore of the senate, of the member's legislative chamber;

(4) The director of the Missouri head start-state collaborative office;

(5) Six citizens, representing each of the following areas: early childhood education and development providers, local Head Start agencies, higher education, business, faith, and medicine. The Governor shall appoint, with the advice and consent of the senate, the three citizens representing the areas of medicine, business, and higher education. The state board of education shall appoint the citizens representing the areas of early childhood education and development providers, local Head Start agencies, and faith.

Citizens appointed under subdivision (5) shall serve a term of three years. Such citizens shall be eligible to serve two terms. Such citizens that serve a partial term of less than eighteen months shall be eligible to serve the partial term and two full terms. Such citizens that serve a partial term of more than eighteen months shall be eligible to serve the partial term and one full term.

[3.]5. The coordinating board for early childhood shall have the power to:

(1) Develop a comprehensive statewide long-range strategic plan for a cohesive early childhood system. The board shall review the plan each year and make amendments to the plan as it deems necessary. The board shall submit the plan to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of 2018 and each year thereafter;

(2) Confer with public and private entities for the purpose of promoting and improving the development of children from birth through age five of this state;

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(3) Identify legislative recommendations to improve services for children from birth through age five;

(4)Promote coordination of existing services and programs across public and private entities;

(5) Promote research-based approaches to services and ongoing program evaluation;

(6) Identify service gaps and advise public and private entities on methods to close such gaps;

(7) Apply for and accept gifts, grants, appropriations, loans, or contributions to the coordinating board for early childhood fund from any source, public or private, and enter into contracts or other transactions with any federal or state agency, any private organizations, or any other source in furtherance of the purpose of subsections 3 through 15[2 and 3] of this section, and take any and all actions necessary to avail itself of such aid and cooperation;

(8) Direct disbursements and grants from the coordinating board for early childhood fund and the early childhood health and education trust fund as provided in this section;

(9) Administer the coordinating board for early childhood fund and the early childhood health and education trust fund [and invest any portion of the moneys not required for immediate disbursement in obligations of the United States or any agency or instrumentality of the United States, in obligations of the state of Missouri and its political subdivisions, in certificates of deposit and time deposits, or other obligations of banks and savings and loan associations, or in such other obligations as may be prescribed by the board];

(10) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal with real or personal property or any interests therein, wherever situated;

(11) Sell, convey, lease, exchange, transfer or otherwise dispose of all or any of its property or any interest therein, wherever situated;

(12) Employ and fix the compensation of an executive director and such other agents or employees as it considers necessary;

(13) Adopt, alter, or repeal by its own bylaws, rules, and regulations governing the manner in which its business may be transacted;

(14) Adopt and use an official seal;

(15) Assess or charge fees as the board determines to be reasonable to carry out its purposes;

(16) Make all expenditures which are incident and necessary to carry out its purposes;

(17) Sue and be sued in its official name;

(18) Take such action, enter into such agreements, and exercise all functions necessary or appropriate to carry out the duties and purposes set forth in this section;

(19) Contract with one or more not-for-profits to meet the requirements of this section;

(20) Provide technical assistance to grantees;

(21) Coordinate with parents, community leaders, local governments, and public and private entities to improve the quality of and increase access to early childhood development programs in communities throughout the state; and

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(22) Pursue public and private partnership opportunities that are consistent with the objectives of subsection 6 of this section.

6. Any grants awarded by the coordinating board for early childhood shall accomplish one or more of the following objectives:

(1) Increasing access to existing quality early childhood development programs;

(2) Improving the quality of early childhood development programs;

(3) Increasing access to preventive health care and health and developmental screenings for children ages birth through five;

(4) Offering parent and family support and education concerning prenatal development, early child development, numeracy, and literacy;

(5) Providing professional development and training for early childhood development providers;

(6) Increasing coordination of early childhood development programs and public information about the importance of early childhood development;

(7) Providing evidenced-based smoking cessation programs for pregnant mothers.

7. The coordinating board for early childhood shall consider the following nonexclusive factors when awarding grants as provided in this section:

(1) Whether the project or activities will improve outcomes for children ages birth through five, consistent with the objectives of this section;

(2) Whether the project or activity leverages matching dollars;

(3) Whether the project or activity addresses needs identified by the local community; and

(4) The sustainability of the project or activity.

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8. The coordinating board for early childhood shall establish accountability and audit requirements for all grant recipients, including requirements that success be measured by outcomes for children and families.

9. It shall be the duty of the coordinating board for early childhood to:

(1) Establish and maintain a conflict of interest policy for its members and staff;

(2) Prepare an annual report describing the activities of the board and a description of outcomes for children and families achieved by the board and grant recipients, including a list of all grant recipients and the amount of any grants awarded to such recipients. The board shall submit the report to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of each year, beginning in 2019, and shall provide a copy of the report to the secretary of state; and

(3) Ensure a fair and equitable distribution of funds collected as provided under sections 149.017 and 149.161 based on the established residency population of children ages birth through five.

10. There is hereby created the "Coordinating Board for Early Childhood Fund" which shall consist of the following:

(1) Any moneys appropriated by the general assembly for use by the board in carrying out the powers set out in subsections 3 through 9[2 and 3] of this section;

(2) Any moneys received from grants or which are given, donated, or contributed to the fund from any source;

(3) Any moneys received as fees authorized under subsections 3 through 9[2 and 3] of this section;

(4) Any moneys received as interest on deposits or as income on approved investments of the fund;

(5) Any moneys obtained from any other available source. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the coordinating board for early childhood fund at the end of the biennium shall not revert to the credit of the general revenue fund.

11. There is hereby created the Early Childhood Health and Education Trust Fund which shall consist of all moneys collected as provided in sections 149.017 and 149.161, less any reduction allowed in section 149.021. Interest and moneys earned on the fund shall be credited to the fund.

12. No more than eight percent of the moneys received by the early childhood health and education trust fund shall be used for administrative expenses. Eligible administrative expenses shall include only those reasonable and necessary for:

(1) Salaries, fringe benefits, expenses, and equipment of staff employed by the coordinating board for early childhood;

(2) Expenses associated with cost sharing of salaries, fringe benefits, expenses, and equipment of staff employed or contracted by the coordinating board for early childhood from any other state department or agency of the state;

(3) Expenses of the coordinating board for early childhood associated with contracting with not-for-profit entities;

(4) Expenses of the coordinating board for early childhood associated with audits and outcome evaluations of programs and activities funded under this section;

(5) Expenses of grantees associated with meeting administrative requirements of grants established by the coordinating board for early childhood;

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No more than 40% of administrative expenses shall be expended on items (1) through (4) of this subsection.

13. Moneys in the funds may be invested by the state treasurer, and any income therefrom shall be deposited to the credit of the fund. Any moneys credited to and placed in the early childhood health and education trust fund shall be appropriated and used only for purposes which are authorized by this section and shall not be subject to the provisions of section 33.080.

14. The net proceeds from the moneys collected as provided in sections 149.017 and 149.161 shall constitute new and additional funding for the activities, initiatives, and programs funded by the coordinating board for early childhood and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

15. Beginning January 1, 2017, the department of elementary and secondary education and the coordinating board for early childhood may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This subsection and chapter 536 are nonseverable from one another, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017 shall be invalid and void.

149.017. 1. Beginning January 1, 2017, in addition to the tax levied upon the sale of cigarettes in this state pursuant to section 149.015, a tax shall be levied upon the sale of cigarettes applied a tax at an amount equal to thirty-one and one half mills per cigarette.

2. The tax shall be evidenced by stamps in the same manner as cigarettes stamped pursuant to sections 149.015 and 149.021. Stamped cigarettes in the possession of a wholesaler or retailer before any phase of the additional tax under subsection 1 of this section is imposed, shall not be subject to such phase of the additional tax before retail sale.

3. The tax on any cigarettes contained in packages of four, ten, twenty or similar quantities to be used solely for distribution as samples shall be computed on a per cigarette basis at the rate set forth in this section, and payment of the tax shall be remitted to the director at such time and in such manner as he may prescribe.

4. The provisions of section 149.065 notwithstanding, all moneys collected as a result of the taxes imposed by this section and section 149.161 shall be credited to and placed in the early childhood health and education trust fund established by section 210.102 as said moneys are received. All of the moneys from the taxes imposed by this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the early childhood health and education trust fund.

5. The additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section and section 149.161 may be paid from moneys appropriated from the early childhood health and education trust fund for that purpose, not to exceed one and one half of one percent (1.5%) of the total moneys collected in that fiscal year. Collection and enforcement activities and initiatives that are paid for with moneys from the early childhood health and education trust fund shall be conducted in a fiscally responsible manner in order to maximize the net proceeds available for distribution pursuant to section 210.102. Moneys appropriated from the early childhood health and education trust fund pursuant to this subdivision shall not be used to pay costs that are not additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section;

6. The net proceeds from the taxes imposed by this section and section 149.161 shall constitute new and additional funding for the activities, initiatives, and programs described in section 210.102 and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

7. On an annual basis, the director of the department of revenue, in consultation with the director of health and senior services, shall determine whether the taxes imposed by this section and section 149.161 have resulted in a decrease in consumption of tobacco products and thereby directly caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320 or revenues to local governments under lawfully enacted sales taxes. If a reduction in the amount of moneys collected and deposited into any of those funds pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320, or revenues to local governments under lawfully enacted sales taxes has been directly caused by the taxes imposed by this section and section 149.161, an amount equal to the amount of moneys that were not collected and deposited into that fund or funds or were not generated by the local tobacco taxes authorized by sections 66.340, 210.320, and sections providing authority for local government sales taxes because of the taxes imposed by this section and section 149.161 shall be transferred from the early childhood health and education trust fund pursuant to section 210.102 as follows: first, to the appropriate political subdivisions, second, to local governments to account for any decrease in local sales tax collections, and third to the appropriate fund or funds. The aggregate amount transferred to such funds and political subdivisions from the early childhood health and education trust fund for any year shall not exceed four percent of the total moneys collected pursuant to this section and section 149.161 during that same year.

149.161. Beginning on January 1, 2017, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, a tax shall be levied upon the first sale of tobacco products other than cigarettes within this state in the amount of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. The tax on tobacco products shall be at the rate of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. Licensed persons making first sales shall be allowed credit in accordance with the provisions of section 149.160.1. The additional tax levied by this section shall not apply to inventories of tobacco products in the possession of the retailer or wholesaler on December 31, 2016.

196.1003. Requirements.

Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this Act shall do one of the following:

(a) become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

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(b) (1) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts, (as such amounts are adjusted for inflation) —
1999: $.0094241 per unit sold after the date of enactment of this Act;
2000: $.0104712 per unit sold;
for each of 2001 and 2002: $.0136125 per unit sold;
for each of 2003 through 2006: $.0167539 per unit sold;
for each of 2007 and each year thereafter: $.0188482 per unit sold.

(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances —

(A) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (i) in the order in which they were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment) had it been a participating manufacturer, the percentage determined in subdivision (D) of the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(C) to the extent not released from escrow under subparagraphs (A) or (B), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

(D) The amount in subdivision (B) of the excess released from escrow shall be: for units sold during all years ending on or after December 31, 2017, zero percent.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails [in any year] to place into escrow the funds required under this section shall

(A) be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;

(B) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

(C) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years.

Each failure to make an annual deposit required under this section shall constitute a separate violation. Any tobacco product manufacturer that violates the provisions of this section shall pay the State's cost and attorney's fees incurred during a successful prosecution under this section.

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**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-106)**

**Subject**

Initiative petition from Edward Greim regarding a proposed amendment to Chapters 149, 196, and 210 of the Revised Statutes of Missouri. (Received September 17, 2015)

**Date**

October 7, 2015

**Description**

This proposal would amend Chapters 149, 196, and 210 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Edward Greim** provided information as a proponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated it does not appear that this proposal would have a direct fiscal impact on their department.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** (DOR) indicated this petition will have a fiscal impact of $75,006 for fiscal year (FY) 2017 on their department, creating additional expense for IT consultants, and will increase revenues for the Early Childhood Health and Education Trust Fund by $313,600,000 annually.

If approved by voters, this petition increases the revenue stream for the Early Childhood Health and Education Trust Fund, but creates a negative impact to general revenue.

**Section 149.017**
Beginning January 1, 2017, the legislation increases the tax on cigarettes to 31.5 mills per cigarette ($0.63 per pack of 20).

Stamped cigarettes in inventory prior to the effective dates of the increase and in possession of a retailer are not subject to the additional tax before retail sale. The petition

also allows for up to one and one-half percent collection fee of the total moneys collected in a fiscal year.

The legislation requires the Department, in consultation with the Department of Health and Senior Services (DHSS), to annually determine if the taxes result in a decrease in consumption of tobacco products. The Departments must further determine if there are reductions in moneys collected and deposited into the fair share fund, health initiatives fund, or the state school moneys fund or local tobacco taxes.

With the additional assessed tax, the Department estimates an increase of $305 million per year to the Early Childhood Health and Education Trust Fund.

**Section 149.161**
Beginning on January 1, 2017, this section, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, levies a five percent tax upon the first sale of tobacco products other than cigarettes within this state. The legislation bases the five percent increase on the manufacturer's invoice price before discounts and deals. The person making the first sale within the state pays the tax.

With the additional assessed tax, the Department estimates an increase of $8.6 million per year to the Early Childhood Health and Education Trust Fund.

**Section 196.1003**
The amount of the excess escrow released must be for units sold during all years ending on or after December 31, 2017, zero percent.

**Section 210.102**
The section creates the Early Childhood Health and Education Act. Beginning in 2017, the Coordinating Board for Early Childhood becomes a body corporate and politic under the purview of the Department of Elementary & Secondary Education (DESE). Subsection 11 creates the Early Childhood Health and Education Trust Fund. The legislation deposits all moneys collected under sections 149.017 and 149.161, less any reductions allowed in section 149.021, into the trust fund.

**Administrative Impact:**
**Excise Tax:**
The Early Childhood Health and Education Trust Fund requires changes to SAGE 50 accounting system and cashiering records. The legislation also creates the requirement for a new form.

Officials from the **Department of Public Safety** indicated their department sees no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated no fiscal impact to their department.

Officials from the **Office of Administration** (OA) indicated the proposal amends Sections 210.102 and 196.1003, RSMo, and adds Sections 149.017 and 149.161, RSMo.

Section 210.102, RSMo, moves the Coordinating Board for Early Childhood from the Children's Services Commission to DESE, effective January 1, 2017, changes the board membership and provides further guidance on funding and operations for the Board.

Section 149.017, RSMo, increases cigarette tax by 31½ mills per cigarette on 1/1/2017. Section 149.161, RSMo, levies an additional 5% tax on other tobacco products beginning 1/1/2017. These monies will go to the Early Childhood Health and Education Trust (ECHET) Fund established in Section 210.102, RSMo. DOR and DHSS must annually determine whether the new taxes have caused a reduction in consumption and therefore a reduction in the amount of money collected for the Fair Share Fund, the Health Initiatives Fund or the State School Moneys Fund and for local sales and tobacco taxes. If a reduction in consumption is found, then up to 4% of the new revenue collected is to be distributed to the various funds and political subdivisions from the ECHET Fund to hold them harmless.

Section 196.1003, RSMo, changes escrow requirements for the tobacco Master Settlement Agreement, with provisions to direct potential civil penalties to the ECHET Fund. Because this language changes what was previously approved as a "qualifying statute", it could adversely impact future Nonparticipating Manufacturer (NPM) adjustment arbitrations.

FISCAL IMPACT:

Cigarette Tax

In FY15, there was $81.7 million in cigarette excise taxes collected. OA assumes that the average pack of cigarettes retails for $4.50, translating to roughly 480.9 million packs sold in Missouri. OA further assumes that cigarette sales have a (0.8) elasticity. Therefore, OA estimates a tax increase of 31½ mills per cigarette in January 2017 will increase the "Early Childhood Health and Education Fund" by $132.3 million in FY17 and $264.7 million once fully implemented in FY18.

There is no way to truly know what impact these tax increases will have on demand due to smoking cessation efforts, other state and federal regulations, and the increase in sales of e-cigarettes. However, OA estimates that the tax increase will decrease the Fair Share Fund by $1.0 million in FY17 and $1.9 million in FY18 and thereafter, the Health Initiatives fund by $1.0 million in FY17 and $1.9 million in FY18 and thereafter, and the State School Moneys Fund by $2.2 million in FY17 and $4.3 million in FY18 and thereafter.

Further, since cigarette sales will decrease slightly, General Revenue will be reduced by $6.2 million, the School District Trust Fund will be reduced by $2.1 million, and local sales tax will be reduced by $8.8 million once fully implemented in FY18, from the loss of sales tax.

Other Tobacco Products

In FY15, there was $17.7 million in other tobacco product excise taxes collected. OA assumes that the average unit retails for $4.09, translating to roughly $176.9 million in wholesales in Missouri. OA further assumes that other tobacco product sales have a (0.8) elasticity. Therefore, OA estimates this proposal will increase the "Early Childhood Health and Education Fund" by $4.0 million in FY17 and $7.9 million once fully implemented in FY18.

There is no way to truly know what impact this tax increase will have on demand due to cessation efforts, other state, federal, and local regulations, and the introduction of alternative products. However, OA estimates that this tax increase will decrease the Health Initiatives Fund by $0.3 million in FY17 and $0.6 million once fully implemented in FY18.

Further, since other tobacco product sales will decrease slightly, General Revenue will be reduced by $190,000, the School District Trust Fund will be reduced by $62,000, and local sales tax will be reduced by $260,000 once fully implemented in FY18, from the loss of sales tax.

Master Settlement Agreement

The escrow changes should not impact state revenues. When civil penalties are redirected to the ECHET Fund, it would be an unknown loss of potential general revenue to the state.

Total Impact

This proposal will increase the "Early Childhood Health and Education Fund" by $272.6 million once fully implemented in FY18. This proposal will also decrease the Fair Share Fund by $1.9 million, the Health Initiatives fund by $2.5 million, and the State School Moneys Fund by $4.3 million once fully implemented in FY18.

In addition, due to lost sales tax revenue General Revenue will be reduced by $6.4 million, the School District Trust Fund will be reduced by $2.2 million, and local sales tax will be reduced by $9.1 million once fully implemented in FY18.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated the initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated that there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated this initiative petition will have an undetermined fiscal impact on the university, to the extent the petition would affect any general revenue allocated to their university.

**Edward Greim** provided the following information as a proponent of this initiative petition.

Graves Garrett LLC

Edward D. Greim
Graves Garrett, LLC
1100 Main Street, Suite 2700
Kansas City, Missouri 64105
Direct Dial: (816) 256-4144
edgreim@gravesgarrett.com

September 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: *Fiscal Note in Initiative Petitions 16-106 & 16-110*

To Whom It May Concern:

Based on the information contained in this letter and the attached letter from Tom Kruckemeyer, we propose the following fiscal note summary:

> Estimated additional revenue to state government is $271 million annually with limited estimated implementation costs or savings. The revenue will fund only programs and services allowed by the proposal. The proposal is estimated to result in no net costs or savings to local governmental entities.

**Introduction**

The initiative allows 460,000 children to receive the early health screenings they need to grow and thrive and the early childhood development experiences that will prepare them for long-term educational success. These programs have important trickle-down effects that result in increased revenue and decreased costs at the state and local level. The initiative is accomplished by funding grants across the state to improve early childhood health and education. Funding for grants is provided by a tobacco tax, conservatively resulting in $271 million in direct state revenue, while yielding important public health benefits.

**Early Childhood Delivers Big Benefits**

Missouri enrolls fewer children in its state preschool program than any neighboring state, and funding for programs like Parents as Teachers has been slashed in half. All Missourians benefit

from investments in early childhood education: children start school ready to succeed; parents are able to keep good jobs and earn higher incomes; and taxpayers save money because early childhood education lowers drop-out rates, reduces crime and cuts the cost of social services. Despite clear evidence showing investing in early learning is one of the smartest investments we can make, year after year we battle with the Missouri General Assembly to fund quality early childhood education. Missouri is the 38th worst state for public pre-K funding. In 2012, the General Assembly cut $13.2 million from early childhood programs, and Parents as Teachers remains $19 million behind its 2009 funding.

Traditional thought has long emphasized the relationship between early childhood education and academic success, but researchers now are finding that preschool does not have a substantial effect on increasing IQs but rather develops a child's "soft skills" and can have a profound effect on adult earning potential especially for disadvantaged kids.

Evidence shows that non-cognitive skills matter. Through activities like finger painting, playing with blocks, and interacting with other students, children learn how to control impulses, keep anger in check, stay on task, listen and follow curiosity. These soft skills are basic, but important tools needed to learn, find and keep a job and just manage everyday life. Most children gain these skills at home from their parents, but disadvantaged kids often miss the window of opportunity, which are the critical years before Kindergarten.

A literature of empirical evidence shows strong outcome effects for kids who attend pre-school. Using cost-benefit analyses, researchers have found a link between preschool attendance and reduced crime, fewer teen pregnancies, higher rates of college attendance and less need for public assistance. Cost-benefit studies show that pre-school provides the best value and produces more net benefits to society than increased classroom time or job training programs.

*Evidence from the Perry Preschool Program*

The most widely cited early childhood intervention occurred in Ypsilanti, Michigan during the 60s. Children with low IQ scores and a low socioeconomic index were invited to participate in the Perry Preschool Program. Using a coin toss, researchers divided students into two groups, a treatment group and a control group. Starting at age three the "treatment" kids got 2.5 hours of preschool a day and weekly home visits for two years. The "control" kids did not participate in either of the services. Researchers interviewed both groups at ages 15, 19, 27 and 40 and asked them questions about life events like school, work, marriage, parenting and incarceration. The following chart shows the major findings of the study.



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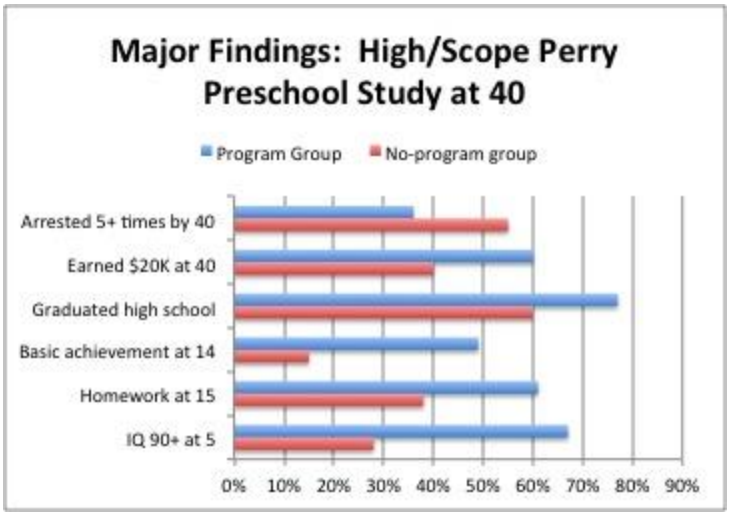


Source: Lifetime Effects: The HighScope Perry Preschool Study Through Age 40 (2005)

The pre-school girls went farther in school, earned higher GPAs, and received less special education than girls from the control group. Boys benefitted as well, but the boys who did not receive the preschool intervention were 2.3 times more likely to get arrested. The cost-savings alone from just the crime reduction demonstrated success.

With increased scrutiny over government spending, cost-benefit analysis gives policy analysts a tool to separate productive programs from ones that yield no social gains. A recent cost-benefit study that used a wider variety of assumptions and applied more rigorous accounting rules, estimated a return rate of about 7-10%. By monetizing social crime, the researchers were able to estimate that for every dollar invested in preschool, society earned back $30 to $300 dollars over the course of a lifetime (Heckman, Moon, Pinto, Savelyev, & Yavitz, 2010).

*Abecedarian and Chicago Studies*

Other studies confirmed the results of the Perry Preschool Project. The Carolina Abecedarian project in the 70s randomly assigned infants into intervention and control groups. The intervention group received full-day childcare from birth through Kindergarten. Intervention kids scored higher in reading and math, completed more education, were older when their first child was born and the mothers of intervention kids progressed farther in school and made more money than the control mothers. Intervention kids even smoked less.

A full-day five-year Pre-K program, while effective, would likely be cost-prohibitive for any state budget; however, the findings proved that early intervention does make a difference. And evidence suggests that a less expensive program could produce similar outcomes (Barnett & Masse, 2007).



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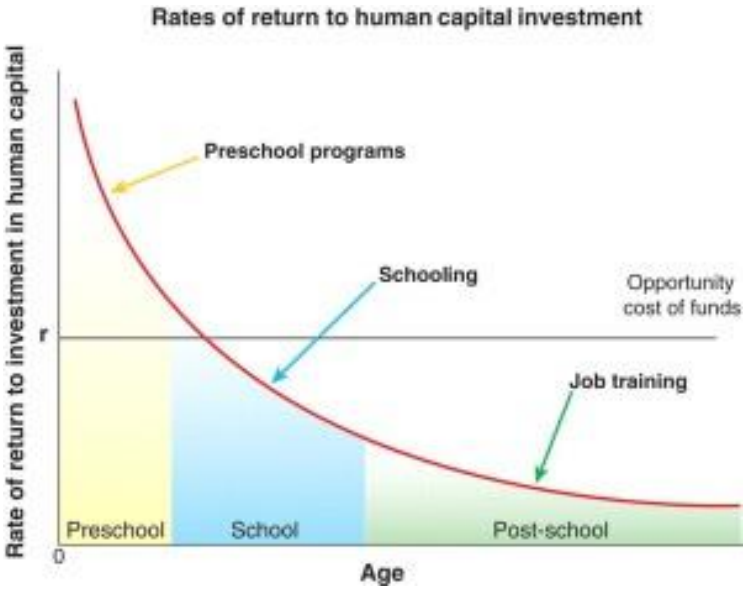
Just as Abecedarian kids earned higher wages than the control group, researchers found similar results from participants of the Chicago Child-Parent Program. The Chicago program targeted disadvantaged kids and provided a Headstart type intervention from ages three to nine. A cost-benefit analysis indicated for every dollar invested, the program produced seven in return. The largest impact was earning capacity, but Chicago kids were also less likely to need special education and less likely to commit crimes (Temple & Reynolds, 2007).

Much like with the Perry Program, the Chicago program demonstrated the relationship between early education, higher wages and crime reduction. Again it was the non-cognitive soft-skill development that made the difference. Second chance efforts like GED and job training provide fewer benefits and struggle to lift people out of poverty (Heckman & Masterov, 2007).




Source: Heckman, The Review of Agricultural Economics (2007)

What the Perry, Abecedarian and Chicago programs show is that pre-school helps kids develop soft-skills that make it easier to gain cognitive skills later and can lead to better jobs and a better quality of life. This in turn lessens the burden on government resources for remedial education, criminal justice and job-training programs.

Investing in human capital through access to finger-paints and story time may appear far-reaching, but multiple studies now point to early intervention as the cheapest, most effective way to prepare kids for the workforce and reduce crime. As labor force growth wanes and the demand for skilled workers increases, these studies suggest that a pipeline that begins at pre-school has great potential to produce big benefits to society in the long run.



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Table 1
Present value of Abecedarian benefits and costs per child (2002 dollars)

| | Discount rate (%) | | |
|---|---|---|---|
| | 3 | 5 | 7 |
| Program cost (net) | $35,864 | $34,599 | $33,421 |
| Program benefits | | | |
| Part. earnings | 37,531 | 16,460 | 6376 |
| Earnings of future generations | 5722 | 1586 | 479 |
| Maternal earnings | 68,728 | 48,496 | 35,560 |
| K-12 education | 8836 | 7375 | 6205 |
| Smoking/health | 17,781 | 4166 | 1008 |
| Higher education costs | −8128 | −5621 | −3920 |
| AFDC | 196 | 129 | 85 |
| Total benefits | $130,666 | $72,591 | $45,793 |
| Net present value | $94,802 | $37,992 | $12,372 |

**Reducing the Harmful Effects of Tobacco**

Tobacco tax increases offer a win-win-win solution for states as they work to balance budgets while preserving essential public services. Tobacco tax increases are one of the most effective ways to reduce smoking and other tobacco use, especially among kids. Every state that has significantly increased its cigarette tax has enjoyed substantial increases in revenue, even while reducing smoking. Higher tobacco taxes also save money by reducing tobacco-related health care costs, including Medicaid expenses. States can realize even greater health benefits and cost savings by allocating some of the revenue to programs that prevent children from smoking and help smokers quit.

National and state polls consistently have found overwhelming public support for tobacco tax increases. Polls also show that, when it comes to balancing budgets, voters prefer raising tobacco taxes to other tax increases or cutting crucial programs such as education and public safety.

Tobacco use causes approximately $3.03 billion in annual health care expenditures in Missouri. Smoking specifically causes over $500 million in annual costs for the Missouri Medicaid program. The initiative petition would increase the tax on cigarettes by $0.50 per pack and would increase the tax on other tobacco products by 5%. By conservative estimates, those tax increases would raise approximately $271 million in new state revenue to improve early childhood health



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and education programs. New state revenue is the amount of additional new revenue over the first full year after the effective date. The state will collect less new revenue to the extent that the rate increase does not apply to all cigarettes and other tobacco products held in wholesaler and retailer inventories on the effective date. This fiscal projection was derived using a price elasticity of demand for cigarettes of -0.8, even though the weight of credible academic literature suggests a conservative estimate for the price elasticity of demand for cigarettes is -0.4.

Tax increases of less than roughly 25 cents per pack or 10% of the average state pack price do not produce significant public health benefits or cost savings because the cigarette companies can easily offset the beneficial impact of such small increases with temporary price cuts, coupons, and other promotional discounting. Splitting a tax rate increase into separate, smaller increases in successive years will similarly diminish or eliminate the public health benefits and related cost savings (as well as reduce the amount of new revenues).

In addition to raising new revenue, the tax increase would have an immediate public health benefit. Each 10% cigarette price increase reduces youth smoking by 6.5%. Each 10% cigarette price increase reduces adult smoking by 2%. The total expected reduction in smoking consumption as a result of a 10% price increase is 4%. It is conservatively estimated that the initiative petition would decrease youth smoking by 6% in Missouri.

There would also be a fiscal benefit to the citizens of the state from the improved public health. As of 2014, the CDC estimated 11,000 annual average smoking-attributable deaths in Missouri. 127,500 Missouri Youth aged 0-17 are projected to die from smoking. Approximately 22.1% of Missouri adults smoke. Approximately 14.9% of Missouri high school students smoke. The average Missouri resident's state and federal tax burden from smoking-caused government expenditures is $588 per household. Approximately one of every six pregnant women smokes, a rate significantly higher than the national average. Smoking during pregnancy increases the risk for preterm delivery, stillbirth, low birth weight and Sudden Infant Death Syndrome.
In recent years, almost every state and the federal government have increased tobacco taxes. Missouri is a notable exception. The average state cigarette tax is currently $1.60 per pack, but rates vary widely from 17 cents in Missouri to $4.35 in New York. On April 1, 2009, the federal cigarette tax increased by 62 cents, to $1.01 per pack.

As of July 1, 2015, Missouri's cigarette tax was less than one-third of any of its border states: IL - $ 1.98; IA - $1.36; KS - $1.29; AR - $1.15; OK - $1.03; NE - $0.64; TN - $0.62; KY - $0.60. Moreover, Missouri's 17-cent per pack tax on cigarettes is the lowest in the country. The real value of the cigarette tax is decreasing. As a percentage of the overall Missouri State Budget, Missouri's tobacco taxes have decreased from 1.036% in 2000 to 0.464% in 2015. See MO Executive Budget Books & MO Office of Administration.

Every day 3,000 kids try their first cigarette and another 700 kids become regular smokers. There are more than 250 thousand new underage smokers each year. One third will eventually die from their addiction. Smoking has declined in every state where the tobacco tax has been increased.



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Ongoing reductions in state smoking levels will, over time, gradually erode state cigarette tax revenues (in the absence of any new rate increases). But those declines are more predictable and less volatile than many other state revenue sources, such as state income tax or corporate tax revenues (which can drop sharply during recessions). In addition, the smoking declines that reduce tobacco tax revenues will simultaneously produce much larger reductions in government and private sector smoking-caused costs. See the Campaign for Tobacco-Free Kids factsheet, *Tobacco Tax Increases are a Reliable Source of Substantial New State Revenue*, http://tobaccofreekids.org/research/factsheets/pdf/0303.pdf.

For other ways states can increase revenues (and promote public health) other than just raising its cigarette tax, see the Campaign factsheet, *The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

For more on sources and calculations, see http://www.tobaccofreekids.org/research/factsheets/pdf/0281.pdf

**Additional Information on Tobacco Product Tax Increases**

*Raising State Cigarette Taxes Always Increases State Revenues and Always Reduces Smoking*, http://tobaccofreekids.org/research/factsheets/pdf/0098.pdf.

*Responses to Misleading and Inaccurate Cigarette Company Arguments Against State Tobacco Tax Increases*, http://tobaccofreekids.org/research/factsheets/pdf/0227.pdf.

*State Cigarette Excise Tax Rates & Rankings*, http://tobaccofreekids.org/research/factsheets/pdf/0097.pdf.

*Top Combined State-Local Cigarette Tax Rates (State plus County plus City)*, http://tobaccofreekids.org/research/factsheets/pdf/0267.pdf.

*State Cigarette Tax Increases Benefit Lower-Income Smokers and Families*, http://tobaccofreekids.org/research/factsheets/pdf/0147.pdf.

*The Best Way to Tax Smokeless Tobacco*, http://tobaccofreekids.org/research/factsheets/pdf/0282.pdf.

*How to Make State Cigar Tax Rates Fair and Effective*, http://tobaccofreekids.org/research/factsheets/pdf/0335.pdf.

*State Benefits from Increasing Smokeless Tobacco Tax Rates*, http://tobaccofreekids.org/research/factsheets/pdf/0180.pdf.



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*The Case for High-Tech Cigarette Tax Stamps*, http://tobaccofreekids.org/research/factsheets/pdf/0310.pdf.

*State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion*, http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf.

*The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

**Works Cited**

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Sincerely,

Edward D. Greim
Partner, Graves Garrett, LLC



1100 Main Street, Suite 2700 Kansas City, MO 64105 ph 816.256.3181 www.gravesgarrett.com

Tom Kruckemeyer
Missouri Budget Project
3534 Washington Ave
St. Louis, Missouri 63103

September 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

To Whom It May Concern:

I currently work as the Director of Fiscal Policy and Chief Economist at the Missouri Budget Project, a nonprofit, objective, public policy analysis organization that provides independent research on complex state policy issues and how they impact the state budget. I hold a B.A. in Economics and History and an M.A. in Economics from the University of Missouri-St. Louis. I also hold an M.A. Political Science from the University of Missouri-Columbia. I worked in the Missouri Division of Budget from 1978 to 2004, where I served as the chief economist. In the course of both my positions at the Missouri Division of Budget as well as my current position, I have routinely projected the fiscal impact of tax changes.

In my experience, it is a conservative, generally accepted practice to project the revenue generated from a proposed cigarette tax by estimating an average price per cigarette (or price per pack), estimating a uniform price elasticity of demand, and to assume that the tax will result in a penny-for-penny increase in the cost of cigarettes.

Upon information and belief, the Office of Administration usually estimates the price elasticity of demand for cigarettes as -0.8. This estimate means that a 10% increase in the cost of cigarettes results in an 8% reduction in the quantity of cigarettes sold. A price elasticity of demand of -0.8 is a conservative but reasonable estimate for the price elasticity of demand of a product such as cigarettes. Notably, even with a 50 cent to one dollar increase in Missouri's cigarette tax, Missouri's cigarette tax will remain lower than many of its contiguous states, in particular the states that border major metropolitan areas, Illinois and Kansas.

Additionally, the Office of Administration's method for estimating cigarette tax revenue is conservative because it assumes a penny-for-penny price increase in the cost of cigarettes as a result of the tax. In practice, whether the entire tax increase will result in a 50 cent to one dollar increase in the prices of cigarettes is unknown because the market for cigarettes is competitive. Moreover, regardless of whether the Office of Administration estimates that the demand for cigarettes will remain flat or decrease due to societal trends, the overall fiscal impact is largely the same. An estimate of the decrease in future tax collections due to decreased smoking from societal trends is not essential to the findings in the fiscal note that this particular tax will result in a net increase to state revenue with no net cost to local governments.

If the Office of Administration decides to use the same assumptions in projecting the revenue for other tobacco products ("OTP") as it does for cigarettes, it is my opinion that the resulting collection estimate would be conservative but appropriate. Recent trends suggest that the revenue generated from the tax on other tobacco products is increasing.

Based on generally accepted methods for estimating the fiscal impact of a proposed tax, I estimate that a phased-in 50 cent cigarette tax increase will result in approximately 90 million dollars of revenue in calendar years 2017 and 2018. I estimate that the cigarette tax will result in approximately 150 million dollars of revenue in calendar years 2019 and 2020. I estimate that the cigarette tax will result in approximately 206 million dollars of revenue in calendar year 2021. In comparison, I estimate that an immediate 50 cent cigarette tax increase will result in approximately 214 million dollars of revenue in calendar year 2017. An immediate 63 cent cigarette tax increase will result in approximately 263 million dollars of revenue in calendar year 2017. An immediate 72 cent cigarette tax increase will result in approximately 295 million dollars of revenue in calendar year 2017. An immediate 80 cent cigarette tax increase will result in approximately 323 million dollars of revenue in calendar year 2017. An immediate one dollar cigarette tax increase will result in approximately 387 million dollars of revenue in calendar year 2017. These estimates assume a 1% yearly reduction in the state's smoking level. I estimate the 5% increase in the tax on non-cigarette tobacco products will result in approximately 8 million dollars of revenue annually. There may be a small decrease in revenue collection for each phase of the additional tax due to lags associated with the implementation and collection of taxes.

These taxes are expected to result in limited implementation costs to the state. The costs associated with administering the Early Childhood Education and Health Trust Fund will primarily be borne by the Trust Fund. Nonetheless it is proper and reasonable to consider additional costs of administering the cigarette tax increase, which may include fixed costs like salaries as well as additional marginal costs, such as costs associated with stamping cigarettes. All state government costs are estimated to be offset by additional revenue increases.

Local governments will receive revenue from the tax to offset any potential decrease in local tax revenue. Based on a price elasticity of demand of -0.8, local revenue may decrease, but any such decrease in cigarette taxes will be by an amount less than $1 million. By any reasonable estimate, 4% of the Early Childhood Education and Health Trust Fund will exceed the decrease in revenue associated with local tobacco taxes and local sales taxes. Accordingly, any such decrease will be offset as a result local revenue from the transfer of funds to localities with local tobacco taxes and local sales taxes. Additionally, while direct local revenue is zero, there are positive indirect effects the may result in additional revenue to local governments.

Sincerely,

/s/

Tom Kruckemeyer
Director of Fiscal Policy & Chief
Economist, Missouri Budget Project

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College**.

**Fiscal Note Summary**

Estimated additional revenue to state government is $246 million to $313 million annually, with limited estimated implementation costs. The revenue will fund only programs and services allowed by the proposal. The fiscal impact to local governmental entities is unknown.

RECEIVED
SEP 17 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-105

September 17, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Edward Greim regarding a proposed statutory amendment to Chapters 210, 196 & 149, version 7 (2016-105)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Edward Greim on September 17, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-105 County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 SEP 17 AM 8:43
OFFICE OF SOS

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do □ do not □ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Address of Affiant

_____
Printed Name of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My commission expires _____

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NOTICE: You are advised that the proposed law changes, repeals, or modifies by implication, or may be construed to change, repeal or modify by implication, the following provisions of the Missouri Revised Statutes — Sections 66.340, 66.350, 149.015, 149.021, 149.065, 149.160, 196.1003, 210.102, and 210.320. The proposed law enacts two new sections, to be known as sections 149.017 and 149.161.

*Be it enacted by the people of the State of Missouri:*

Sections 210.102 and 196.1003 of the Revised Statutes of Missouri are amended and sections 149.017 and 149.161 are enacted, to read as follows:

210.102. 1. Sections 149.017 and 149.161, and certain amendments to 196.1003 and 210.102, shall be referred to as the Early Childhood Health and Education Act, with the purpose of supporting and improving early childhood health and education through regulation of tobacco manufacturers and sellers. This Act:

(1) Creates the Early Childhood Health and Education Trust Fund in order to support and improve early childhood health and education across the state;

(2) Reforms the Coordinating Board for Early Childhood to administer the Early Childhood Health and Education Trust Fund and provide grants that support and improve early childhood health and education; and

(3) Funds the Early Childhood Health and Education Trust Fund through increased regulations on tobacco manufacturers and sellers.

All of the provisions of this act are severable. If any provision of this act is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this act shall be and remain valid and in full force and effect.

2. It shall be the duty of the Missouri children's services commission to:

(1) Make recommendations which will encourage greater interagency coordination, cooperation, more effective utilization of existing resources and less duplication of effort in activities of state agencies which affect the legal rights and well-being of children in Missouri;

(2) Develop an integrated state plan for the care provided to children in this state through state programs;

(3) Develop a plan to improve the quality of children's programs statewide. Such plan shall include, but not be limited to:

(a) Methods for promoting geographic availability and financial accessibility for all children and families in need of such services;

(b) Program recommendations for children's services which include child development, education, supervision, health and social services;

(4) Design and implement evaluation of the activities of the commission in fulfilling the duties as set out in this section;

(5) Report annually to the governor with five copies each to the house of representatives and senate about its activities including, but not limited to the following:

(a) A general description of the activities pertaining to children of each state agency having a member on the commission;

(b) A general description of the plans and goals, as they affect children, of each state agency having a member on the commission;

(c) Recommendations for statutory and appropriation initiatives to implement the integrated state plan;

(d) A report from the commission regarding the state of children in Missouri.

[2.]3. For years ending on or before December 31, 2016, [There is hereby established within the children's services commission] the "Coordinating Board for Early Childhood", which shall constitute a body corporate and politic, shall be established within the children's services commission, and shall include but not be limited to the following members:

(1) A representative from the governor's office;

(2) A representative from each of the following departments: health and senior services, mental health, social services, and elementary and secondary education;

(3) A representative of the judiciary;

(4) A representative of the family and community trust board (FACT);

(5) A representative from the head start program;

(6) Nine members appointed by the governor with the advice and consent of the senate who are representatives of the groups, such as business, philanthropy, civic groups, faith-based organizations, parent groups, advocacy organizations, early childhood service providers, and other stakeholders. The coordinating board may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers. The coordinating board shall elect from amongst its members a chairperson, vice chairperson, a secretary-reporter, and such other officers as it deems necessary. Members of the board shall serve without compensation but may be reimbursed for actual expenses necessary to the performance of their official duties for the board.

4. Beginning on January 1, 2017, the coordinating board for early childhood, which shall constitute a body corporate and politic, shall be established within the department of elementary and secondary education and shall include the following members:

(1) The director or the director's designee from each of the following departments: health and senior services, mental health, and

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social services;

(2) The commissioner or the commissioner's designee from the department of elementary and secondary education;

(3) Two members of the Missouri general assembly. One member shall be the chairman of the joint committee on education. One member shall be a member of the joint committee on education, shall be from a different party and different legislative chamber than the chairman of the joint committee on education, and shall be appointed by the elected leader, either the speaker of the house of representatives or the president pro tempore of the senate, of the member's legislative chamber;

(4) The director of the Missouri head start-state collaborative office;

(5) Six citizens, representing each of the following areas: early childhood education and development providers, local Head Start agencies, higher education, business, faith, and medicine. The Governor shall appoint, with the advice and consent of the senate, the three citizens representing the areas of medicine, business, and higher education. The state board of education shall appoint the citizens representing the areas of early childhood education and development providers, local Head Start agencies, and faith.

Citizens appointed under subdivision (5) shall serve a term of three years. Such citizens shall be eligible to serve two terms. Such citizens that serve a partial term of less than eighteen months shall be eligible to serve the partial term and two full terms. Such citizens that serve a partial term of more than eighteen months shall be eligible to serve the partial term and one full term.

[3.]5. The coordinating board for early childhood shall have the power to:

(1) Develop a comprehensive statewide long-range strategic plan for a cohesive early childhood system. The board shall review the plan each year and make amendments to the plan as it deems necessary. The board shall submit the plan to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of 2018 and each year thereafter;

(2) Confer with public and private entities for the purpose of promoting and improving the development of children from birth through age five of this state;

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(3) Identify legislative recommendations to improve services for children from birth through age five;

(4)Promote coordination of existing services and programs across public and private entities;

(5) Promote research-based approaches to services and ongoing program evaluation;

(6) Identify service gaps and advise public and private entities on methods to close such gaps;

(7) Apply for and accept gifts, grants, appropriations, loans, or contributions to the coordinating board for early childhood fund from any source, public or private, and enter into contracts or other transactions with any federal or state agency, any private organizations, or any other source in furtherance of the purpose of subsections 3 through 15[2 and 3] of this section, and take any and all actions necessary to avail itself of such aid and cooperation;

(8) Direct disbursements and grants from the coordinating board for early childhood fund and the early childhood health and education trust fund as provided in this section;

(9) Administer the coordinating board for early childhood fund and the early childhood health and education trust fund [and invest any portion of the moneys not required for immediate disbursement in obligations of the United States or any agency or instrumentality of the United States, in obligations of the state of Missouri and its political subdivisions, in certificates of deposit and time deposits, or other obligations of banks and savings and loan associations, or in such other obligations as may be prescribed by the board];

(10) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal with real or personal property or any interests therein, wherever situated;

(11) Sell, convey, lease, exchange, transfer or otherwise dispose of all or any of its property or any interest therein, wherever situated;

(12) Employ and fix the compensation of an executive director and such other agents or employees as it considers necessary;

(13) Adopt, alter, or repeal by its own bylaws, rules, and regulations governing the manner in which its business may be transacted;

(14) Adopt and use an official seal;

(15) Assess or charge fees as the board determines to be reasonable to carry out its purposes;

(16) Make all expenditures which are incident and necessary to carry out its purposes;

(17) Sue and be sued in its official name;

(18) Take such action, enter into such agreements, and exercise all functions necessary or appropriate to carry out the duties and purposes set forth in this section;

(19) Contract with one or more not-for-profits to meet the requirements of this section;

(20) Provide technical assistance to grantees;

(21) Coordinate with parents, community leaders, local governments, and public and private entities to improve the quality of and increase access to early childhood development programs in communities throughout the state; and

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(22) Pursue public and private partnership opportunities that are consistent with the objectives of subsection 6 of this section.

6. Any grants awarded by the coordinating board for early childhood shall accomplish one or more of the following objectives:

(1) Increasing access to existing quality early childhood development programs;

(2) Improving the quality of early childhood development programs;

(3) Increasing access to preventive health care and health and developmental screenings for children ages birth through five;

(4) Offering parent and family support and education concerning prenatal development, early child development, numeracy, and literacy;

(5) Providing professional development and training for early childhood development providers;

(6) Increasing coordination of early childhood development programs and public information about the importance of early childhood development;

(7) Providing evidenced-based smoking cessation programs for pregnant mothers.

7. The coordinating board for early childhood shall consider the following nonexclusive factors when awarding grants as provided in this section:

(1) Whether the project or activities will improve outcomes for children ages birth through five, consistent with the objectives of this section;

(2) Whether the project or activity leverages matching dollars;

(3) Whether the project or activity addresses needs identified by the local community; and

(4) The sustainability of the project or activity.

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8. The coordinating board for early childhood shall establish accountability and audit requirements for all grant recipients, including requirements that success be measured by outcomes for children and families.

9. It shall be the duty of the coordinating board for early childhood to:

(1) Establish and maintain a conflict of interest policy for its members and staff;

(2) Prepare an annual report describing the activities of the board and a description of outcomes for children and families achieved by the board and grant recipients, including a list of all grant recipients and the amount of any grants awarded to such recipients. The board shall submit the report to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of each year, beginning in 2019, and shall provide a copy of the report to the secretary of state; and

(3) Ensure a fair and equitable distribution of funds collected as provided under sections 149.017 and 149.161 based on the established residency population of children ages birth through five.

10. There is hereby created the "Coordinating Board for Early Childhood Fund" which shall consist of the following:

(1) Any moneys appropriated by the general assembly for use by the board in carrying out the powers set out in subsections 3 through 9[2 and 3] of this section;

(2) Any moneys received from grants or which are given, donated, or contributed to the fund from any source;

(3) Any moneys received as fees authorized under subsections 3 through 9[2 and 3] of this section;

(4) Any moneys received as interest on deposits or as income on approved investments of the fund;

(5) Any moneys obtained from any other available source. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the coordinating board for early childhood fund at the end of the biennium shall not revert to the credit of the general revenue fund.

11. There is hereby created the Early Childhood Health and Education Trust Fund which shall consist of all moneys collected as provided in sections 149.017 and 149.161, less any reduction allowed in section 149.021. Interest and moneys earned on the fund shall be credited to the fund.

12. No more than eight percent of the moneys received by the early childhood health and education trust fund shall be used for administrative expenses. Eligible administrative expenses shall include only those reasonable and necessary for:

(1) Salaries, fringe benefits, expenses, and equipment of staff employed by the coordinating board for early childhood;

(2) Expenses associated with cost sharing of salaries, fringe benefits, expenses, and equipment of staff employed or contracted by the coordinating board for early childhood from any other state department or agency of the state;

(3) Expenses of the coordinating board for early childhood associated with contracting with not-for-profit entities;

(4) Expenses of the coordinating board for early childhood associated with audits and outcome evaluations of programs and activities funded under this section;

(5) Expenses of grantees associated with meeting administrative requirements of grants established by the coordinating board for early childhood;

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No more than 40% of administrative expenses shall be expended on items (1) through (4) of this subsection.

13. Moneys in the funds may be invested by the state treasurer, and any income therefrom shall be deposited to the credit of the fund. Any moneys credited to and placed in the early childhood health and education trust fund shall be appropriated and used only for purposes which are authorized by this section and shall not be subject to the provisions of section 33.080.

14. The net proceeds from the moneys collected as provided in sections 149.017 and 149.161 shall constitute new and additional funding for the activities, initiatives, and programs funded by the coordinating board for early childhood and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

15. Beginning January 1, 2017, the department of elementary and secondary education and the coordinating board for early childhood may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This subsection and chapter 536 are nonseverable from one another, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017 shall be invalid and void.

149.017. 1. Beginning January 1, 2017, in addition to the tax levied upon the sale of cigarettes in this state pursuant to section 149.015, a tax shall be levied upon the sale of cigarettes applied a tax at an amount equal to twenty-five mills per cigarette.

2. The tax shall be evidenced by stamps in the same manner as cigarettes stamped pursuant to sections 149.015 and 149.021. Stamped cigarettes in the possession of a wholesaler or retailer before any phase of the additional tax under subsection 1 of this section is imposed, shall not be subject to such phase of the additional tax before retail sale.

3. The tax on any cigarettes contained in packages of four, ten, twenty or similar quantities to be used solely for distribution as samples shall be computed on a per cigarette basis at the rate set forth in this section, and payment of the tax shall be remitted to the director at such time and in such manner as he may prescribe.

4. The provisions of section 149.065 notwithstanding, all moneys collected as a result of the taxes imposed by this section and section 149.161 shall be credited to and placed in the early childhood health and education trust fund established by section 210.102 as said moneys are received. All of the moneys from the taxes imposed by this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the early childhood health and education trust fund.

5. The additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section and section 149.161 may be paid from moneys appropriated from the early childhood health and education trust fund for that purpose, not to exceed one and one half of one percent (1.5%) of the total moneys collected in that fiscal year. Collection and enforcement activities and initiatives that are paid for with moneys from the early childhood health and education trust fund shall be conducted in a fiscally responsible manner in order to maximize the net proceeds available for distribution pursuant to section 210.102. Moneys appropriated from the early childhood health and education trust fund pursuant to this subdivision shall not be used to pay costs that are not additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section;

6. The net proceeds from the taxes imposed by this section and section 149.161 shall constitute new and additional funding for the activities, initiatives, and programs described in section 210.102 and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

7. On an annual basis, the director of the department of revenue, in consultation with the director of health and senior services, shall determine whether the taxes imposed by this section and section 149.161 have resulted in a decrease in consumption of tobacco products and thereby directly caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320 or revenues to local governments under lawfully enacted sales taxes. If a reduction in the amount of moneys collected and deposited into any of those funds pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320, or revenues to local governments under lawfully enacted sales taxes has been directly caused by the taxes imposed by this section and section 149.161, an amount equal to the amount of moneys that were not collected and deposited into that fund or funds or were not generated by the local tobacco taxes authorized by sections 66.340, 210.320, and sections providing authority for local government sales taxes because of the taxes imposed by this section and section 149.161 shall be transferred from the early childhood health and education trust fund pursuant to section 210.102 as follows: first, to the appropriate political subdivisions, second, to local governments to account for any decrease in local sales tax collections, and third to the appropriate fund or funds. The aggregate amount transferred to such funds and political subdivisions from the early childhood health and education trust fund for any year shall not exceed four percent of the total moneys collected pursuant to this section and section 149.161 during that same year.

149.161. Beginning on January 1, 2017, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, a tax shall be levied upon the first sale of tobacco products other than cigarettes within this state in the amount of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. The tax on tobacco products shall be at the rate of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. Licensed persons making first sales shall be allowed credit in accordance with the provisions of section 149.160.1. The additional tax levied by this section shall not apply to inventories of tobacco products in the possession of the retailer or wholesaler on December 31, 2016.

196.1003. Requirements.

Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this Act shall do one of the following:

(a) become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

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(b) (1) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts, (as such amounts are adjusted for inflation) —
1999: $.0094241 per unit sold after the date of enactment of this Act;
2000: $.0104712 per unit sold;
for each of 2001 and 2002: $.0136125 per unit sold;
for each of 2003 through 2006: $.0167539 per unit sold;
for each of 2007 and each year thereafter: $.0188482 per unit sold.

(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances —

(A) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (i) in the order in which they were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment) had it been a participating manufacturer, the percentage determined in subdivision (D) of the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(C) to the extent not released from escrow under subparagraphs (A) or (B), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

(D) The amount in subdivision (B) of the excess released from escrow shall be: for units sold during all years ending on or after December 31, 2017, zero percent.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails [in any year] to place into escrow the funds required under this section shall

(A) be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;

(B) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

(C) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years.

Each failure to make an annual deposit required under this section shall constitute a separate violation. Any tobacco product manufacturer that violates the provisions of this section shall pay the State's cost and attorney's fees incurred during a successful prosecution under this section.

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**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-105)**

**Subject**

Initiative petition from Edward Greim regarding a proposed amendment to Chapters 149, 196, and 210 of the Revised Statutes of Missouri. (Received September 17, 2015)

**Date**

October 7, 2015

**Description**

This proposal would amend Chapters 149, 196, and 210 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Edward Greim** provided information as a proponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated it does not appear that this proposal would have a direct fiscal impact on their department.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** (DOR) indicated this petition will have a fiscal impact of $75,006 for fiscal year (FY) 2017 on their department, creating additional expense for IT consultants, and will increase revenues for the Early Childhood Health and Education Trust Fund by $250,700,000 annually.

If approved by voters, this petition increases the revenue stream for the Early Childhood Health and Education Trust Fund, but creates a negative impact to general revenue.

**Section 149.017**
Beginning January 1, 2017, the legislation increases the tax on cigarettes to 25 mills per cigarette ($0.50 per pack of 20).

Stamped cigarettes in inventory prior to the effective dates of the increase and in possession of a retailer are not subject to the additional tax before retail sale. The petition

also allows for up to one and one-half percent collection fee of the total moneys collected in a fiscal year.

The legislation requires the Department, in consultation with the Department of Health and Senior Services (DHSS), to annually determine if the taxes result in a decrease in consumption of tobacco products. The Departments must further determine if there are reductions in moneys collected and deposited into the fair share fund, health initiatives fund, or the state school moneys fund or local tobacco taxes.

With the additional assessed tax, the Department estimates an increase of $242.1 million per year to the Early Childhood Health and Education Trust Fund.

**Section 149.161**
Beginning on January 1, 2017, this section, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, levies a five percent tax upon the first sale of tobacco products other than cigarettes within this state. The legislation bases the five percent increase on the manufacturer's invoice price before discounts and deals. The person making the first sale within the state pays the tax.

With the additional assessed tax, the Department estimates an increase of $8.6 million per year to the Early Childhood Health and Education Trust Fund.

**Section 196.1003**
The amount of the excess escrow released must be for units sold during all years ending on or after December 31, 2017, zero percent.

**Section 210.102**
The section creates the Early Childhood Health and Education Act. Beginning in 2017, the Coordinating Board for Early Childhood becomes a body corporate and politic under the purview of the Department of Elementary & Secondary Education (DESE). Subsection 11 creates the Early Childhood Health and Education Trust Fund. The legislation deposits all moneys collected under sections 149.017 and 149.161, less any reductions allowed in section 149.021, into the trust fund.

**Administrative Impact:**
**Excise Tax:**
The Early Childhood Health and Education Trust Fund requires changes to SAGE 50 accounting system and cashiering records. The legislation also creates the requirement for a new form.

Officials from the **Department of Public Safety** indicated their department sees no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this initiative petition.

Officials from the **Department of Transportation** indicated no fiscal impact to their department.

Officials from the **Office of Administration** (OA) indicated the proposal amends Sections 210.102 and 196.1003, RSMo, and adds Sections 149.017 and 149.161, RSMo.

Section 210.102, RSMo, moves the Coordinating Board for Early Childhood from the Children's Services Commission to DESE, effective January 1, 2017, changes the board membership and provides further guidance on funding and operations for the Board.

Section 149.017, RSMo, increases cigarette tax by 25 mills per cigarette on 1/1/2017. Section 149.161, RSMo, levies an additional 5% tax on other tobacco products beginning 1/1/2017. These monies will go to the Early Childhood Health and Education Trust (ECHET) Fund established in Section 210.102, RSMo. DOR and DHSS must annually determine whether the new taxes have caused a reduction in consumption and therefore a reduction in the amount of money collected for the Fair Share Fund, the Health Initiatives Fund or the State School Moneys Fund, local tobacco taxes and for local sales taxes. If a reduction in consumption is found, then up to 4% of the new revenue collected is to be distributed to the various funds and political subdivisions from the ECHET Fund to hold them harmless.

Section 196.1003, RSMo, changes escrow requirements for the tobacco Master Settlement Agreement, with provisions to direct potential civil penalties to the ECHET Fund. Because this language changes what was previously approved as a "qualifying statute", it could adversely impact future Nonparticipating Manufacturer (NPM) adjustment arbitrations.

FISCAL IMPACT:

Cigarette Tax

In FY15, there was $81.7 million in cigarette excise taxes collected. OA assumes that the average pack of cigarettes retails for $4.50, translating to roughly 480.9 million packs sold in Missouri. OA further assumes that cigarette sales have a (0.8) elasticity. Therefore, OA estimates a tax increase of 25 mills per cigarette in January 2017 will increase the "Early Childhood Health and Education Fund" by $107.2 million in FY17 and $214.4 million once fully implemented in FY18.

There is no way to truly know what impact these tax increases will have on demand due to smoking cessation efforts, other state and federal regulations, and the increase in sales of e-cigarettes. However, OA estimates that the tax increase will decrease the Fair Share Fund by $0.8 million in FY17 and $1.6 million in FY18 and thereafter, the Health Initiatives fund by $0.8 million in FY17 and $1.6 million in FY18 and thereafter, and the State School Moneys Fund by $1.7 million in FY17 and $3.5 million in FY18 and thereafter.

Further, since cigarette sales will decrease slightly, General Revenue will be reduced by $5.0 million, the School District Trust Fund will be reduced by $1.7 million, and local sales tax will be reduced by $7.1 million once fully implemented in FY18, from the loss of sales tax.

Other Tobacco Products

In FY15, there was $17.7 million in other tobacco product excise taxes collected. OA assumes that the average unit retails for $4.09, translating to roughly $176.9 million in wholesales in Missouri. OA further assumes that other tobacco product sales have a (0.8) elasticity. Therefore, OA estimates this proposal will increase the "Early Childhood Health and Education Fund" by $4.0 million in FY17 and $7.9 million once fully implemented in FY18.

There is no way to truly know what impact this tax increase will have on demand due to cessation efforts, other state, federal, and local regulations, and the introduction of alternative products. However, OA estimates that this tax increase will decrease the Health Initiatives Fund by $0.3 million in FY17 and $0.6 million once fully implemented in FY18.

Further, since other tobacco product sales will decrease slightly, General Revenue will be reduced by $190,000, the School District Trust Fund will be reduced by $62,000, and local sales tax will be reduced by $260,000 once fully implemented in FY18, from the loss of sales tax.

Master Settlement Agreement

The escrow changes should not impact state revenues. When civil penalties are redirected to the ECHET Fund, it would be an unknown loss of potential general revenue to the state.

Total Impact

This proposal will increase the "Early Childhood Health and Education Fund" by $222.3 million once fully implemented in FY18. This proposal will also decrease the Fair Share Fund by $1.6 million, the Health Initiatives fund by $2.2 million, and the State School Moneys Fund by $3.5 million once fully implemented in FY18.

In addition, due to lost sales tax revenue General Revenue will be reduced by $5.2 million, the School District Trust Fund will be reduced by $1.8 million, and local sales tax will be reduced by $7.4 million once fully implemented in FY18.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated the initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated that there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated this initiative petition will have an undetermined fiscal impact on the university, to the extent the petition would affect any general revenue allocated to their university.

**Edward Greim** provided the following information as a proponent of this initiative petition.

Graves Garrett LLC

Edward D. Greim
Graves Garrett, LLC
1100 Main Street, Suite 2700
Kansas City, Missouri 64105
Direct Dial: (816) 256-4144
edgreim@gravesgarrett.com

September 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: *Fiscal Note in Initiative Petitions 16-105 & 16-109*

To Whom It May Concern:

Based on the information contained in this letter and the attached letter from Tom Kruckemeyer, we propose the following fiscal note summary:

> Estimated additional revenue to state government is $222 million annually with limited estimated implementation costs or savings. The revenue will fund only programs and services allowed by the proposal. The proposal is estimated to result in no net costs or savings to local governmental entities.

**Introduction**

The initiative allows 460,000 children to receive the early health screenings they need to grow and thrive and the early childhood development experiences that will prepare them for long-term educational success. These programs have important trickle-down effects that result in increased revenue and decreased costs at the state and local level. The initiative is accomplished by funding grants across the state to improve early childhood health and education. Funding for grants is provided by a tobacco tax, conservatively resulting in $222 million in direct state revenue, while yielding important public health benefits.

**Early Childhood Delivers Big Benefits**

Missouri enrolls fewer children in its state preschool program than any neighboring state, and funding for programs like Parents as Teachers has been slashed in half. All Missourians benefit

from investments in early childhood education: children start school ready to succeed; parents are able to keep good jobs and earn higher incomes; and taxpayers save money because early childhood education lowers drop-out rates, reduces crime and cuts the cost of social services. Despite clear evidence showing investing in early learning is one of the smartest investments we can make, year after year we battle with the Missouri General Assembly to fund quality early childhood education. Missouri is the 38th worst state for public pre-K funding. In 2012, the General Assembly cut $13.2 million from early childhood programs, and Parents as Teachers remains $19 million behind its 2009 funding.

Traditional thought has long emphasized the relationship between early childhood education and academic success, but researchers now are finding that preschool does not have a substantial effect on increasing IQs but rather develops a child's "soft skills" and can have a profound effect on adult earning potential especially for disadvantaged kids.

Evidence shows that non-cognitive skills matter. Through activities like finger painting, playing with blocks, and interacting with other students, children learn how to control impulses, keep anger in check, stay on task, listen and follow curiosity. These soft skills are basic, but important tools needed to learn, find and keep a job and just manage everyday life. Most children gain these skills at home from their parents, but disadvantaged kids often miss the window of opportunity, which are the critical years before Kindergarten.

A literature of empirical evidence shows strong outcome effects for kids who attend pre-school. Using cost-benefit analyses, researchers have found a link between preschool attendance and reduced crime, fewer teen pregnancies, higher rates of college attendance and less need for public assistance. Cost-benefit studies show that pre-school provides the best value and produces more net benefits to society than increased classroom time or job training programs.

*Evidence from the Perry Preschool Program*

The most widely cited early childhood intervention occurred in Ypsilanti, Michigan during the 60s. Children with low IQ scores and a low socioeconomic index were invited to participate in the Perry Preschool Program. Using a coin toss, researchers divided students into two groups, a treatment group and a control group. Starting at age three the "treatment" kids got 2.5 hours of preschool a day and weekly home visits for two years. The "control" kids did not participate in either of the services. Researchers interviewed both groups at ages 15, 19, 27 and 40 and asked them questions about life events like school, work, marriage, parenting and incarceration. The following chart shows the major findings of the study.



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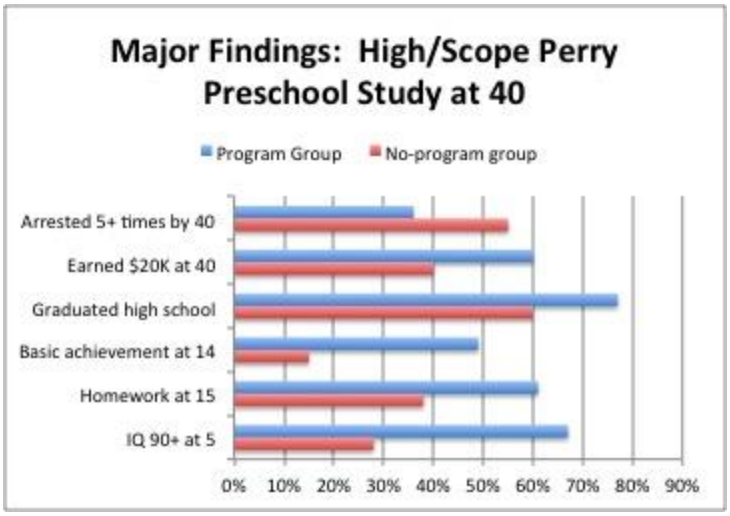


Source: Lifetime Effects: The HighScope Perry Preschool Study Through Age 40 (2005)

The pre-school girls went farther in school, earned higher GPAs, and received less special education than girls from the control group. Boys benefitted as well, but the boys who did not receive the preschool intervention were 2.3 times more likely to get arrested. The cost-savings alone from just the crime reduction demonstrated success.

With increased scrutiny over government spending, cost-benefit analysis gives policy analysts a tool to separate productive programs from ones that yield no social gains. A recent cost-benefit study that used a wider variety of assumptions and applied more rigorous accounting rules, estimated a return rate of about 7-10%. By monetizing social crime, the researchers were able to estimate that for every dollar invested in preschool, society earned back $30 to $300 dollars over the course of a lifetime (Heckman, Moon, Pinto, Savelyev, & Yavitz, 2010).

*Abecedarian and Chicago Studies*

Other studies confirmed the results of the Perry Preschool Project. The Carolina Abecedarian project in the 70s randomly assigned infants into intervention and control groups. The intervention group received full-day childcare from birth through Kindergarten. Intervention kids scored higher in reading and math, completed more education, were older when their first child was born and the mothers of intervention kids progressed farther in school and made more money than the control mothers. Intervention kids even smoked less.

A full-day five-year Pre-K program, while effective, would likely be cost-prohibitive for any state budget; however, the findings proved that early intervention does make a difference. And evidence suggests that a less expensive program could produce similar outcomes (Barnett & Masse, 2007).



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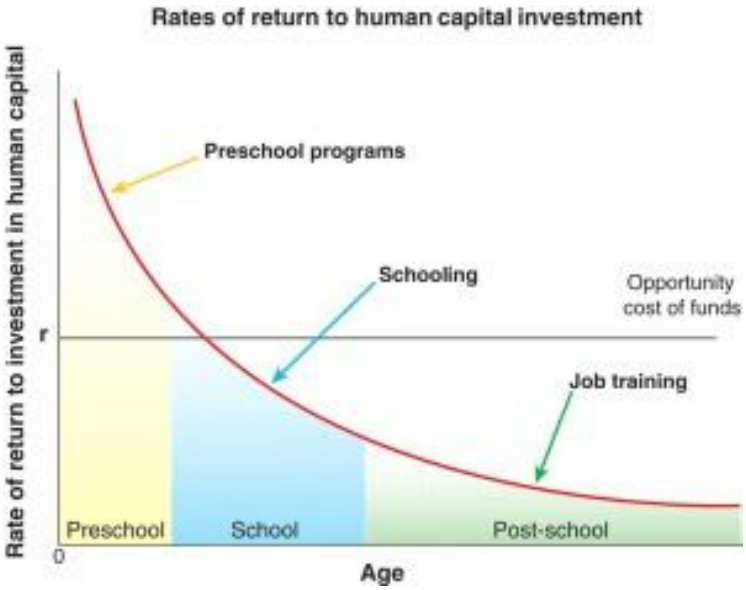
Just as Abecedarian kids earned higher wages than the control group, researchers found similar results from participants of the Chicago Child-Parent Program. The Chicago program targeted disadvantaged kids and provided a Headstart type intervention from ages three to nine. A cost-benefit analysis indicated for every dollar invested, the program produced seven in return. The largest impact was earning capacity, but Chicago kids were also less likely to need special education and less likely to commit crimes (Temple & Reynolds, 2007).

Much like with the Perry Program, the Chicago program demonstrated the relationship between early education, higher wages and crime reduction. Again it was the non-cognitive soft-skill development that made the difference. Second chance efforts like GED and job training provide fewer benefits and struggle to lift people out of poverty (Heckman & Masterov, 2007).




Source: Heckman, The Review of Agricultural Economics (2007)

What the Perry, Abecedarian and Chicago programs show is that pre-school helps kids develop soft-skills that make it easier to gain cognitive skills later and can lead to better jobs and a better quality of life. This in turn lessens the burden on government resources for remedial education, criminal justice and job-training programs.

Investing in human capital through access to finger-paints and story time may appear far-reaching, but multiple studies now point to early intervention as the cheapest, most effective way to prepare kids for the workforce and reduce crime. As labor force growth wanes and the demand for skilled workers increases, these studies suggest that a pipeline that begins at pre-school has great potential to produce big benefits to society in the long run.



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Table 1
Present value of Abecedarian benefits and costs per child (2002 dollars)

| | Discount rate (%) | | |
|---|---|---|---|
| | 3 | 5 | 7 |
| Program cost (net) | $35,864 | $34,599 | $33,421 |
| Program benefits | | | |
| Part. earnings | 37,531 | 16,460 | 6376 |
| Earnings of future generations | 5722 | 1586 | 479 |
| Maternal earnings | 68,728 | 48,496 | 35,560 |
| K-12 education | 8836 | 7375 | 6205 |
| Smoking/health | 17,781 | 4166 | 1008 |
| Higher education costs | −8128 | −5621 | −3920 |
| AFDC | 196 | 129 | 85 |
| Total benefits | $130,666 | $72,591 | $45,793 |
| Net present value | $94,802 | $37,992 | $12,372 |

**Reducing the Harmful Effects of Tobacco**

Tobacco tax increases offer a win-win-win solution for states as they work to balance budgets while preserving essential public services. Tobacco tax increases are one of the most effective ways to reduce smoking and other tobacco use, especially among kids. Every state that has significantly increased its cigarette tax has enjoyed substantial increases in revenue, even while reducing smoking. Higher tobacco taxes also save money by reducing tobacco-related health care costs, including Medicaid expenses. States can realize even greater health benefits and cost savings by allocating some of the revenue to programs that prevent children from smoking and help smokers quit.

National and state polls consistently have found overwhelming public support for tobacco tax increases. Polls also show that, when it comes to balancing budgets, voters prefer raising tobacco taxes to other tax increases or cutting crucial programs such as education and public safety.

Tobacco use causes approximately $3.03 billion in annual health care expenditures in Missouri. Smoking specifically causes over $500 million in annual costs for the Missouri Medicaid program. The initiative petition would increase the tax on cigarettes by $0.50 per pack and would increase the tax on other tobacco products by 5%. By conservative estimates, those tax increases would raise approximately $222 million in new state revenue to improve early childhood health



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and education programs. New state revenue is the amount of additional new revenue over the first full year after the effective date. The state will collect less new revenue to the extent that the rate increase does not apply to all cigarettes and other tobacco products held in wholesaler and retailer inventories on the effective date. This fiscal projection was derived using a price elasticity of demand for cigarettes of -0.8, even though the weight of credible academic literature suggests a conservative estimate for the price elasticity of demand for cigarettes is -0.4.

Tax increases of less than roughly 25 cents per pack or 10% of the average state pack price do not produce significant public health benefits or cost savings because the cigarette companies can easily offset the beneficial impact of such small increases with temporary price cuts, coupons, and other promotional discounting. Splitting a tax rate increase into separate, smaller increases in successive years will similarly diminish or eliminate the public health benefits and related cost savings (as well as reduce the amount of new revenues).

In addition to raising new revenue, the tax increase would have an immediate public health benefit. Each 10% cigarette price increase reduces youth smoking by 6.5%. Each 10% cigarette price increase reduces adult smoking by 2%. The total expected reduction in smoking consumption as a result of a 10% price increase is 4%. It is conservatively estimated that the initiative petition would decrease youth smoking by 6% in Missouri.

There would also be a fiscal benefit to the citizens of the state from the improved public health. As of 2014, the CDC estimated 11,000 annual average smoking-attributable deaths in Missouri. 127,500 Missouri Youth aged 0-17 are projected to die from smoking. Approximately 22.1% of Missouri adults smoke. Approximately 14.9% of Missouri high school students smoke. The average Missouri resident's state and federal tax burden from smoking-caused government expenditures is $588 per household. Approximately one of every six pregnant women smokes, a rate significantly higher than the national average. Smoking during pregnancy increases the risk for preterm delivery, stillbirth, low birth weight and Sudden Infant Death Syndrome.
In recent years, almost every state and the federal government have increased tobacco taxes. Missouri is a notable exception. The average state cigarette tax is currently $1.60 per pack, but rates vary widely from 17 cents in Missouri to $4.35 in New York. On April 1, 2009, the federal cigarette tax increased by 62 cents, to $1.01 per pack.

As of July 1, 2015, Missouri's cigarette tax was less than one-third of any of its border states: IL - $ 1.98; IA - $1.36; KS - $1.29; AR - $1.15; OK - $1.03; NE - $0.64; TN - $0.62; KY - $0.60. Moreover, Missouri's 17-cent per pack tax on cigarettes is the lowest in the country. The real value of the cigarette tax is decreasing. As a percentage of the overall Missouri State Budget, Missouri's tobacco taxes have decreased from 1.036% in 2000 to 0.464% in 2015. See MO Executive Budget Books & MO Office of Administration.

Every day 3,000 kids try their first cigarette and another 700 kids become regular smokers. There are more than 250 thousand new underage smokers each year. One third will eventually die from their addiction. Smoking has declined in every state where the tobacco tax has been increased.



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Ongoing reductions in state smoking levels will, over time, gradually erode state cigarette tax revenues (in the absence of any new rate increases). But those declines are more predictable and less volatile than many other state revenue sources, such as state income tax or corporate tax revenues (which can drop sharply during recessions). In addition, the smoking declines that reduce tobacco tax revenues will simultaneously produce much larger reductions in government and private sector smoking-caused costs. See the Campaign for Tobacco-Free Kids factsheet, *Tobacco Tax Increases are a Reliable Source of Substantial New State Revenue*, http://tobaccofreekids.org/research/factsheets/pdf/0303.pdf.

For other ways states can increase revenues (and promote public health) other than just raising its cigarette tax, see the Campaign factsheet, *The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

For more on sources and calculations, see http://www.tobaccofreekids.org/research/factsheets/pdf/0281.pdf

**Additional Information on Tobacco Product Tax Increases**

*Raising State Cigarette Taxes Always Increases State Revenues and Always Reduces Smoking*, http://tobaccofreekids.org/research/factsheets/pdf/0098.pdf.

*Responses to Misleading and Inaccurate Cigarette Company Arguments Against State Tobacco Tax Increases*, http://tobaccofreekids.org/research/factsheets/pdf/0227.pdf.

*State Cigarette Excise Tax Rates & Rankings*, http://tobaccofreekids.org/research/factsheets/pdf/0097.pdf.

*Top Combined State-Local Cigarette Tax Rates (State plus County plus City)*, http://tobaccofreekids.org/research/factsheets/pdf/0267.pdf.

*State Cigarette Tax Increases Benefit Lower-Income Smokers and Families*, http://tobaccofreekids.org/research/factsheets/pdf/0147.pdf.

*The Best Way to Tax Smokeless Tobacco*, http://tobaccofreekids.org/research/factsheets/pdf/0282.pdf.

*How to Make State Cigar Tax Rates Fair and Effective*, http://tobaccofreekids.org/research/factsheets/pdf/0335.pdf.

*State Benefits from Increasing Smokeless Tobacco Tax Rates*, http://tobaccofreekids.org/research/factsheets/pdf/0180.pdf.



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*The Case for High-Tech Cigarette Tax Stamps*, http://tobaccofreekids.org/research/factsheets/pdf/0310.pdf.

*State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion*, http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf.

*The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

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Sincerely,

Edward D. Greim
Partner, Graves Garrett, LLC



1100 Main Street, Suite 2700 Kansas City, MO 64105 ph 816.256.3181 www.gravesgarrett.com

Tom Kruckemeyer
Missouri Budget Project
3534 Washington Ave
St. Louis, Missouri 63103

September 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

To Whom It May Concern:

I currently work as the Director of Fiscal Policy and Chief Economist at the Missouri Budget Project, a nonprofit, objective, public policy analysis organization that provides independent research on complex state policy issues and how they impact the state budget. I hold a B.A. in Economics and History and an M.A. in Economics from the University of Missouri-St. Louis. I also hold an M.A. Political Science from the University of Missouri-Columbia. I worked in the Missouri Division of Budget from 1978 to 2004, where I served as the chief economist. In the course of both my positions at the Missouri Division of Budget as well as my current position, I have routinely projected the fiscal impact of tax changes.

In my experience, it is a conservative, generally accepted practice to project the revenue generated from a proposed cigarette tax by estimating an average price per cigarette (or price per pack), estimating a uniform price elasticity of demand, and to assume that the tax will result in a penny-for-penny increase in the cost of cigarettes.

Upon information and belief, the Office of Administration usually estimates the price elasticity of demand for cigarettes as -0.8. This estimate means that a 10% increase in the cost of cigarettes results in an 8% reduction in the quantity of cigarettes sold. A price elasticity of demand of -0.8 is a conservative but reasonable estimate for the price elasticity of demand of a product such as cigarettes. Notably, even with a 50 cent to one dollar increase in Missouri's cigarette tax, Missouri's cigarette tax will remain lower than many of its contiguous states, in particular the states that border major metropolitan areas, Illinois and Kansas.

Additionally, the Office of Administration's method for estimating cigarette tax revenue is conservative because it assumes a penny-for-penny price increase in the cost of cigarettes as a result of the tax. In practice, whether the entire tax increase will result in a 50 cent to one dollar increase in the prices of cigarettes is unknown because the market for cigarettes is competitive. Moreover, regardless of whether the Office of Administration estimates that the demand for cigarettes will remain flat or decrease due to societal trends, the overall fiscal impact is largely the same. An estimate of the decrease in future tax collections due to decreased smoking from societal trends is not essential to the findings in the fiscal note that this particular tax will result in a net increase to state revenue with no net cost to local governments.

If the Office of Administration decides to use the same assumptions in projecting the revenue for other tobacco products ("OTP") as it does for cigarettes, it is my opinion that the resulting collection estimate would be conservative but appropriate. Recent trends suggest that the revenue generated from the tax on other tobacco products is increasing.

Based on generally accepted methods for estimating the fiscal impact of a proposed tax, I estimate that a phased-in 50 cent cigarette tax increase will result in approximately 90 million dollars of revenue in calendar years 2017 and 2018. I estimate that the cigarette tax will result in approximately 150 million dollars of revenue in calendar years 2019 and 2020. I estimate that the cigarette tax will result in approximately 206 million dollars of revenue in calendar year 2021. In comparison, I estimate that an immediate 50 cent cigarette tax increase will result in approximately 214 million dollars of revenue in calendar year 2017. An immediate 63 cent cigarette tax increase will result in approximately 263 million dollars of revenue in calendar year 2017. An immediate 72 cent cigarette tax increase will result in approximately 295 million dollars of revenue in calendar year 2017. An immediate 80 cent cigarette tax increase will result in approximately 323 million dollars of revenue in calendar year 2017. An immediate one dollar cigarette tax increase will result in approximately 387 million dollars of revenue in calendar year 2017. These estimates assume a 1% yearly reduction in the state's smoking level. I estimate the 5% increase in the tax on non-cigarette tobacco products will result in approximately 8 million dollars of revenue annually. There may be a small decrease in revenue collection for each phase of the additional tax due to lags associated with the implementation and collection of taxes.

These taxes are expected to result in limited implementation costs to the state. The costs associated with administering the Early Childhood Education and Health Trust Fund will primarily be borne by the Trust Fund. Nonetheless it is proper and reasonable to consider additional costs of administering the cigarette tax increase, which may include fixed costs like salaries as well as additional marginal costs, such as costs associated with stamping cigarettes. All state government costs are estimated to be offset by additional revenue increases.

Local governments will receive revenue from the tax to offset any potential decrease in local tax revenue. Based on a price elasticity of demand of -0.8, local revenue may decrease, but any such decrease in cigarette taxes will be by an amount less than $1 million. By any reasonable estimate, 4% of the Early Childhood Education and Health Trust Fund will exceed the decrease in revenue associated with local tobacco taxes and local sales taxes. Accordingly, any such decrease will be offset as a result local revenue from the transfer of funds to localities with local tobacco taxes and local sales taxes. Additionally, while direct local revenue is zero, there are positive indirect effects the may result in additional revenue to local governments.

Sincerely,

/s/

Tom Kruckemeyer
Director of Fiscal Policy & Chief
Economist, Missouri Budget Project

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College**.

**Fiscal Note Summary**

Estimated additional revenue to state government is $200 million to $250 million annually, with limited estimated implementation costs. The revenue will fund only programs and services allowed by the proposal. The fiscal impact to local governmental entities is unknown.

RECEIVED
SEP 10 2015
STATE AUDITORS OFFICE

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

September 10, 2015

16-104

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article XIV, version 12 (2016-104)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on September 10, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

16-104

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

RECEIVED
2015 SEP 10 AM 9:15
SECRETARY OF STATE

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____

(Name of payer) Signature of Affiant (Person obtaining signatures)

_____

Printed Name of Affiant

_____

Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____

Signature of Notary

_____

Address of Notary (Street, City, State & Zip Code)

My commission expires _____

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*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article XIV of the Constitution relating to Ethics is created by adopting four new sections to be known as Article XIV Sections 1, 2, 3, and 4 to read as follows:

Article XIV

Section 1.

1. No statewide elected officer or member of the general assembly shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit clients to represent as a paid lobbyist until one year after the expiration of any term of office for which such official is elected. No statewide elected officer or member of the general assembly shall act or serve as a paid political consultant or solicit clients to represent as a paid political consultant during any term of office for which such official is elected. Any paid employee of such officials shall also be barred from acting or serving as a paid lobbyist, registering as a paid lobbyist, or soliciting clients to represent as a paid lobbyist until one year after termination of their employment. Any paid employee of such officials shall also be barred from acting or serving as a paid political consultant or soliciting clients to represent as a paid political consultant during their employment.

2. No statewide elected officer or member of the general assembly, or the spouse, dependent children, staff or employees of such officer or member, or any department or division director of the executive branch, or any judicial branch purchasing officer or any locally elected government official shall accept any gift, tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. This subsection shall not be construed to prevent any public official from accepting contributions to political committees under his or her control, consistent with this article and applicable law, accepting informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, or accepting items that are available or distributed free of charge to members of the general public. However, no such public official or committee controlled by the public official shall accept an in-kind contribution of food, entertainment, lodging, or travel from a lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal.

3. No lobbyist shall deliver any gift, tangible or intangible item, service, or thing of value in excess of five dollars per occurrence to any statewide elected officer or member of the general assembly, or to the spouse, dependent children, staff or employees of such officer or member, or to any department or division director of the executive branch, or to any judicial branch purchasing officer, or to any locally elected government official. This subsection shall not be construed to prevent a lobbyist from delivering to a public official any contribution to a political committee under the control of that public official, consistent with this article and applicable law, any informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, or items that are available or distributed free of charge to members of the general public. However, no lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal shall make an in-kind contribution of food, entertainment, lodging, or travel to a public official or political committee controlled by a public official.

4. Notwithstanding any provision of law to the contrary, nothing in this section shall prohibit a paid employee of a statewide elected official from acting, serving or registering as a lobbyist for such employer before the legislative branch of state government.

5. Any violation of this section shall be punishable by a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars or both.

6. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to

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influence any action by a locally elected government official; and such person is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

"Paid political consultant", a person or organization controlled by the person that is paid to promote the election of a candidate, group of candidates or the interest of an organization or committee, as defined under the campaign finance laws of this state, which shall include, but not be limited to, planning campaign strategies, coordinating campaign staff, organizing meetings and public events to publicize the candidate or cause, public opinion polling, providing research on issues or opposition background, coordinating, producing or purchasing print, electronic, digital, broadcast or other media, direct mail production, phone solicitation, fundraising, and any other political activities.

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Section 2.

1. Unlimited campaign contributions to candidates for public office are banned. In addition to other campaign contribution limitations or restrictions provided for by law and unless local charter or ordinance provides for a lower contribution limit for a local office, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for public office shall not exceed the following:

   (1) To elect an individual to the office of governor, lieutenant governor, secretary of state, state treasurer, state auditor, or attorney general, one thousand dollars;
   (2) To elect an individual to the office of state senator, two hundred fifty dollars;
   (3) To elect an individual to the office of state representative, two hundred fifty dollars; and
   (4) To elect an individual to any other office, including judicial office, two hundred fifty dollars.

   The contribution limits under this subsection shall also apply to any person exploring a candidacy for a public office listed in this subsection.

   For purposes of this subsection, "base year amount" shall be the contribution limits prescribed in this subsection on January 1, 2017. Contribution limits set forth herein shall be adjusted on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a candidate for public office shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No contribution to a candidate for public office shall be made by or accepted from a corporation.

4. No candidate for public office shall accept a contribution from an out-of-state political committee unless the out-of-state committee has registered and filed a disclosure report with the ethics commission.

5. No political committee or candidate for public office shall accept a contribution from a foreign government or from a natural person who is not a citizen of the United States.

6. There shall be a rebuttable presumption that a contribution to a candidate for public office is made or accepted with the intent to circumvent the limitations on contributions imposed in this section when a contribution is received from a committee or organization that is primarily funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. A committee or organization shall be deemed to be primarily funded by a single person, individual, or other committee when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

7. No contribution to a candidate for public office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

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8. If a payment for a covered communication for a candidate for public office is made by a person who is a coordinated spender with respect to the candidate, the payment or expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

9. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

10. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

11. No public official or candidate for public office shall solicit contributions, conduct fundraising activities, or hold fundraising events, supporting or opposing any candidate, ballot measure, political party, or political committee, on any property or in any building owned or leased by the state or any political subdivision, unless the property or building is routinely used by and made available for rent or for a fee to all members of the public by the state or the political subdivision.

12. For purposes of this section, the following terms are defined as follows:

(1) "Candidate", an individual who seeks nomination or election to public office, including an elected officeholder who is the subject of a recall election, an individual who seeks nomination by the individual's political party for election to public office, an individual standing for retention in an election to an office to which the individual was previously appointed, an individual who seeks nomination or election whether or not the specific elective public office to be sought has been finally determined, and an individual who is a write-in candidate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for public office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or

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candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

(c) In addition, the term "contribution" shall include any payment or expenditure by any person other than a candidate or a candidate committee made in connection with the election of any candidate that is authorized, requested, suggested, or fostered by a candidate, candidate committee, or agents of the candidate or candidate committee, or made in cooperation with the candidate, candidate committee, or agents of the candidate or candidate committee, and any payment or expenditure for any communication which republishes, disseminates, or distributes, in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or by agents of the candidate or candidate committee.

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(d) For purposes of the definition of "contribution", there is a rebuttable presumption that a payment or expenditure by a person for a communication about a candidate or a candidate's opponent is a contribution in any of the following circumstances:

a. The communication includes or is based on information about a candidate's campaign plans, projects, or needs that is not generally available to the public or is provided directly or indirectly by the candidate;

b. The person discusses or negotiates the communication with the candidate;

c. The person and the candidate or the candidate's committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting, legal services, or other non-campaign services.

(e) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;

b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;

c. The person made contributions to the candidate;

d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;

e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee, including with the express or tacit approval of the candidate or candidate committee or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

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(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience in the form of:

(a) An audio or video communication via internet, broadcast, cable or satellite;

(b) A written communication via internet or printed advertisements, pamphlets, circulars, flyers, brochures, letterheads; or

(c) Other published statements which:

a. Irrespective of when such communication is made, contain words such as "vote", "oppose", "support", "elect", "defeat", or "reject", which call for the election or defeat of the clearly identified candidate; or

b. Refers to and advocates for or against a clearly identified candidate on or after January first of the year of the election in which such candidate is seeking office.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

13. Any violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year or a fine of up to one thousand dollars or both, plus an amount equal to three times the value of the illegal contributions.
(2) For the second and subsequent violations, a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the value of the illegal contributions.

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Section 3.

No statewide elected officer, or any member of the general assembly, or any of such elected official's employees or staff shall engage in sexual harassment. For purpose of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by law or policy for the victim, any violation of this section shall be punishable by imprisonment for up to one year or a fine of up to one thousand dollars or both.

Section 4.

If any provision of this article or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

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**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-104)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article XIV. (Received September 10, 2015)

## Date

September 30, 2015

## Description

This proposal would create a new Article XIV of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated no impact to their department.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson** indicated they expect no fiscal impact should the contents of this petition become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated they have reviewed this initiative petition and determined there is no financial impact.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for FY 2017, $61,107 for FY 2018 and $61,734 for FY 2019.

**Summarize how this bill would affect the agency**

Prohibiting a statewide official, member of the general assembly, employee of such office holders from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130, RSMo

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific prohibition of receiving compensation as a political consultant from the entities outlined in Section 105.456, RSMo, including reviewing campaign finance reports as established in Section 105.955.14 (2), (3), RSMo.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a statewide official, member of the general assembly, employee of such office holders from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory

requirements; examples include providing education, developing informational materials, telephone and email assistance.

- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a statewide official, member of general assembly, spouse and/or dependent child of such office holders, department and/or division directors of executive brand agencies, judicial purchasing officers and local elected government officials to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.

• Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

• $15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

• 1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

• If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate increased annual operating costs of at least $61,000 and indicate there may be minimal incarceration costs if people are convicted under the provisions of this petition. Local governmental entities report no expected fiscal impact.

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SEP 10 2015
STATE AUDITORS OFFICE

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

16-103

September 10, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article XIV, version 11 (2016-103)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on September 10, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

16-103

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

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SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ (Name of payer)

_____ Signature of Affiant (Person obtaining signatures)

_____ Printed Name of Affiant

_____ Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____ Signature of Notary

_____ Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-103

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article XIV of the Constitution relating to Ethics is created by adopting four new sections to be known as Article XIV Sections 1, 2, 3, and 4 to read as follows:

Article XIV

Section 1.

1. No statewide elected officer or member of the general assembly shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit clients to represent as a paid lobbyist until one year after the expiration of any term of office for which such official is elected. No statewide elected officer or member of the general assembly shall act or serve as a paid political consultant or solicit clients to represent as a paid political consultant during any term of office for which such official is elected. Any paid employee of such officials shall also be barred from acting or serving as a paid lobbyist, registering as a paid lobbyist, or soliciting clients to represent as a paid lobbyist until one year after termination of their employment. Any paid employee of such officials shall also be barred from acting or serving as a paid political consultant or soliciting clients to represent as a paid political consultant during their employment.

2. No statewide elected officer or member of the general assembly, or the spouse, dependent children, staff or employees of such officer or member, or any department or division director of the executive branch, or any judicial branch purchasing officer or any locally elected government official shall accept any gift, tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. This subsection shall not be construed to prevent any public official from accepting contributions to political committees under his or her control, consistent with this article and applicable law, accepting informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, or accepting items that are available or distributed free of charge to members of the general public. However, no such public official or committee controlled by the public official shall accept an in-kind contribution of food, entertainment, lodging, or travel from a lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal.

3. No lobbyist shall deliver any gift, tangible or intangible item, service, or thing of value in excess of five dollars per occurrence to any statewide elected officer or member of the general assembly, or to the spouse, dependent children, staff or employees of such officer or member, or to any department or division director of the executive branch, or to any judicial branch purchasing officer, or to any locally elected government official. This subsection shall not be construed to prevent a lobbyist from delivering to a public official any contribution to a political committee under the control of that public official, consistent with this article and applicable law, any informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, or items that are available or distributed free of charge to members of the general public. However, no lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal shall make an in-kind contribution of food, entertainment, lodging, or travel to a public official or political committee controlled by a public official.

4. Notwithstanding any provision of law to the contrary, nothing in this section shall prohibit a paid employee of a statewide elected official from acting, serving or registering as a lobbyist for such employer before the legislative branch of state government.

5. Any violation of this section shall be punishable by a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars or both.

6. For purposes of this section, the following terms mean:

   "Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to

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influence any action by a locally elected government official; and such person is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

"Paid political consultant", a person or organization controlled by the person that is paid to promote the election of a candidate, group of candidates or the interest of an organization or committee, as defined under the campaign finance laws of this state, which shall include, but not be limited to, planning campaign strategies, coordinating campaign staff, organizing meetings and public events to publicize the candidate or cause, public opinion polling, providing research on issues or opposition background, coordinating, producing or purchasing print, electronic, digital, broadcast or other media, direct mail production, phone solicitation, fundraising, and any other political activities.

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Section 2.

1. Unlimited campaign contributions to candidates for public office are banned. In addition to other campaign contribution limitations or restrictions provided for by law and unless local charter or ordinance provides for a lower contribution limit for a local office, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for public office shall not exceed the following:

   (1) To elect an individual to the office of governor, lieutenant governor, secretary of state, state treasurer, state auditor, or attorney general, two thousand seven hundred dollars;
   (2) To elect an individual to the office of state senator, one thousand dollars;
   (3) To elect an individual to the office of state representative, one thousand dollars; and
   (4) To elect an individual to any other office, including judicial office, one thousand dollars.

   The contribution limits under this subsection shall also apply to any person exploring a candidacy for a public office listed in this subsection.

   For purposes of this subsection, "base year amount" shall be the contribution limits prescribed in this subsection on January 1, 2017. Contribution limits set forth herein shall be adjusted on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a candidate for public office shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No contribution to a candidate for public office shall be made by or accepted from a corporation.

4. No candidate for public office shall accept a contribution from an out-of-state political committee unless the out-of-state committee has registered and filed a disclosure report with the ethics commission.

5. No political committee or candidate for public office shall accept a contribution from a foreign government or from a natural person who is not a citizen of the United States.

6. There shall be a rebuttable presumption that a contribution to a candidate for public office is made or accepted with the intent to circumvent the limitations on contributions imposed in this section when a contribution is received from a committee or organization that is primarily funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. A committee or organization shall be deemed to be primarily funded by a single person, individual, or other committee when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

7. No contribution to a candidate for public office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

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8. If a payment for a covered communication for a candidate for public office is made by a person who is a coordinated spender with respect to the candidate, the payment or expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

9. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

10. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

11. No public official or candidate for public office shall solicit contributions, conduct fundraising activities, or hold fundraising events, supporting or opposing any candidate, ballot measure, political party, or political committee, on any property or in any building owned or leased by the state or any political subdivision, unless the property or building is routinely used by and made available for rent or for a fee to all members of the public by the state or the political subdivision.

12. For purposes of this section, the following terms are defined as follows:

(1) "Candidate", an individual who seeks nomination or election to public office, including an elected officeholder who is the subject of a recall election, an individual who seeks nomination by the individual's political party for election to public office, an individual standing for retention in an election to an office to which the individual was previously appointed, an individual who seeks nomination or election whether or not the specific elective public office to be sought has been finally determined, and an individual who is a write-in candidate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for public office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or

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candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

(c) In addition, the term "contribution" shall include any payment or expenditure by any person other than a candidate or a candidate committee made in connection with the election of any candidate that is authorized, requested, suggested, or fostered by a candidate, candidate committee, or agents of the candidate or candidate committee, or made in cooperation with the candidate, candidate committee, or agents of the candidate or candidate committee, and any payment or expenditure for any communication which republishes, disseminates, or distributes, in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or by agents of the candidate or candidate committee.

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(d) For purposes of the definition of "contribution", there is a rebuttable presumption that a payment or expenditure by a person for a communication about a candidate or a candidate's opponent is a contribution in any of the following circumstances:

a. The communication includes or is based on information about a candidate's campaign plans, projects, or needs that is not generally available to the public or is provided directly or indirectly by the candidate;

b. The person discusses or negotiates the communication with the candidate;

c. The person and the candidate or the candidate's committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting, legal services, or other non-campaign services.

(e) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;

b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;

c. The person made contributions to the candidate;

d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;

e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee, including with the express or tacit approval of the candidate or candidate committee or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

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(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience in the form of:

(a) An audio or video communication via internet, broadcast, cable or satellite;

(b) A written communication via internet or printed advertisements, pamphlets, circulars, flyers, brochures, letterheads; or

(c) Other published statements which:

a. Irrespective of when such communication is made, contain words such as "vote", "oppose", "support", "elect", "defeat", or "reject", which call for the election or defeat of the clearly identified candidate; or

b. Refers to and advocates for or against a clearly identified candidate on or after January first of the year of the election in which such candidate is seeking office.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

13. Any violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year or a fine of up to one thousand dollars or both, plus an amount equal to three times the value of the illegal contributions.
(2) For the second and subsequent violations, a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the value of the illegal contributions.

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Section 3.

No statewide elected officer, or any member of the general assembly, or any of such elected official's employees or staff shall engage in sexual harassment. For purpose of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by law or policy for the victim, any violation of this section shall be punishable by imprisonment for up to one year or a fine of up to one thousand dollars or both.

Section 4.

If any provision of this article or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

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**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-103)**

**Subject**

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article XIV. (Received September 10, 2015)

**Date**

September 30, 2015

**Description**

This proposal would create a new Article XIV of the Missouri Constitution.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated no impact to their department.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson** indicated they expect no fiscal impact should the contents of this petition become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated they have reviewed this initiative petition and determined there is no financial impact.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for FY 2017, $61,107 for FY 2018 and $61,734 for FY 2019.

**Summarize how this bill would affect the agency**

Prohibiting a statewide official, member of the general assembly, employee of such office holders from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130, RSMo

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific prohibition of receiving compensation as a political consultant from the entities outlined in Section 105.456, RSMo, including reviewing campaign finance reports as established in Section 105.955.14 (2), (3), RSMo.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a statewide official, member of the general assembly, employee of such office holders from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory

requirements; examples include providing education, developing informational materials, telephone and email assistance.

- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a statewide official, member of general assembly, spouse and/or dependent child of such office holders, department and/or division directors of executive brand agencies, judicial purchasing officers and local elected government officials to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.

• Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

• $15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

• 1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

• If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate increased annual operating costs of at least $61,000 and indicate there may be minimal incarceration costs if people are convicted under the provisions of this petition. Local governmental entities report no expected fiscal impact.

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SEP 10 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-102

September 10, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article XIV, version 10 (2016-102)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on September 10, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

16-102

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

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[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____

(Name of payer) Signature of Affiant (Person obtaining signatures)

_____

Printed Name of Affiant

_____

Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____

Signature of Notary

_____

My commission expires _____ Address of Notary (Street, City, State & Zip Code)

16-102

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article XIV of the Constitution relating to Ethics is created by adopting four new sections to be known as Article XIV Sections 1, 2, 3, and 4 to read as follows:

Article XIV

Section 1.

1. No statewide elected officer or member of the general assembly shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit clients to represent as a paid lobbyist until one year after the expiration of any term of office for which such official is elected. No statewide elected officer or member of the general assembly shall act or serve as a paid political consultant or solicit clients to represent as a paid political consultant during any term of office for which such official is elected. Any paid employee of such officials shall also be barred from acting or serving as a paid lobbyist, registering as a paid lobbyist, or soliciting clients to represent as a paid lobbyist until one year after termination of their employment. Any paid employee of such officials shall also be barred from acting or serving as a paid political consultant or soliciting clients to represent as a paid political consultant during their employment.

2. No statewide elected officer or member of the general assembly, or the spouse, dependent children, staff or employees of such officer or member, or any department or division director of the executive branch, or any judicial branch purchasing officer or any locally elected government official shall accept any gift, tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. This subsection shall not be construed to prevent any public official from accepting contributions to political committees under his or her control, consistent with this article and applicable law, accepting informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, or accepting items that are available or distributed free of charge to members of the general public. However, no such public official or committee controlled by the public official shall accept an in-kind contribution of food, entertainment, lodging, or travel from a lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal.

3. No lobbyist shall deliver any gift, tangible or intangible item, service, or thing of value in excess of five dollars per occurrence to any statewide elected officer or member of the general assembly, or to the spouse, dependent children, staff or employees of such officer or member, or to any department or division director of the executive branch, or to any judicial branch purchasing officer, or to any locally elected government official. This subsection shall not be construed to prevent a lobbyist from delivering to a public official any contribution to a political committee under the control of that public official, consistent with this article and applicable law, any informational materials such as books, reports, pamphlets, calendars, or periodicals informing the public official regarding his or her official duties, or items that are available or distributed free of charge to members of the general public. However, no lobbyist or lobbyist principal or organization controlled by a lobbyist or lobbyist principal shall make an in-kind contribution of food, entertainment, lodging, or travel to a public official or political committee controlled by a public official.

4. Notwithstanding any provision of law to the contrary, nothing in this section shall prohibit a paid employee of a statewide elected official from acting, serving or registering as a lobbyist for such employer before the legislative branch of state government.

5. Any violation of this section shall be punishable by a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars or both.

6. For purposes of this section, the following terms mean:

   "Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to

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influence any action by a locally elected government official; and such person is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

"Paid political consultant", a person or organization controlled by the person that is paid to promote the election of a candidate, group of candidates or the interest of an organization or committee, as defined under the campaign finance laws of this state, which shall include, but not be limited to, planning campaign strategies, coordinating campaign staff, organizing meetings and public events to publicize the candidate or cause, public opinion polling, providing research on issues or opposition background, coordinating, producing or purchasing print, electronic, digital, broadcast or other media, direct mail production, phone solicitation, fundraising, and any other political activities.

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Section 2.

1. Unlimited campaign contributions to candidates for public office are banned. In addition to other campaign contribution limitations or restrictions provided for by law and unless local charter or ordinance provides for a lower contribution limit for a local office, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for public office shall not exceed the following:

   (1) To elect an individual to the office of governor, lieutenant governor, secretary of state, state treasurer, state auditor, or attorney general, five thousand four hundred dollars;
   (2) To elect an individual to the office of state senator, two thousand seven hundred dollars;
   (3) To elect an individual to the office of state representative, two thousand seven hundred dollars; and
   (4) To elect an individual to any other office, including judicial office, two thousand seven hundred dollars.

   The contribution limits under this subsection shall also apply to any person exploring a candidacy for a public office listed in this subsection.

   For purposes of this subsection, "base year amount" shall be the contribution limits prescribed in this subsection on January 1, 2017. Contribution limits set forth herein shall be adjusted on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a candidate for public office shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No contribution to a candidate for public office shall be made by or accepted from a corporation.

4. No candidate for public office shall accept a contribution from an out-of-state political committee unless the out-of-state committee has registered and filed a disclosure report with the ethics commission.

5. No political committee or candidate for public office shall accept a contribution from a foreign government or from a natural person who is not a citizen of the United States.

6. There shall be a rebuttable presumption that a contribution to a candidate for public office is made or accepted with the intent to circumvent the limitations on contributions imposed in this section when a contribution is received from a committee or organization that is primarily funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. A committee or organization shall be deemed to be primarily funded by a single person, individual, or other committee when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

7. No contribution to a candidate for public office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

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8. If a payment for a covered communication for a candidate for public office is made by a person who is a coordinated spender with respect to the candidate, the payment or expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

9. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

10. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

11. No public official or candidate for public office shall solicit contributions, conduct fundraising activities, or hold fundraising events, supporting or opposing any candidate, ballot measure, political party, or political committee, on any property or in any building owned or leased by the state or any political subdivision, unless the property or building is routinely used by and made available for rent or for a fee to all members of the public by the state or the political subdivision.

12. For purposes of this section, the following terms are defined as follows:

(1) "Candidate", an individual who seeks nomination or election to public office, including an elected officeholder who is the subject of a recall election, an individual who seeks nomination by the individual's political party for election to public office, an individual standing for retention in an election to an office to which the individual was previously appointed, an individual who seeks nomination or election whether or not the specific elective public office to be sought has been finally determined, and an individual who is a write-in candidate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for public office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or

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candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

(c) In addition, the term "contribution" shall include any payment or expenditure by any person other than a candidate or a candidate committee made in connection with the election of any candidate that is authorized, requested, suggested, or fostered by a candidate, candidate committee, or agents of the candidate or candidate committee, or made in cooperation with the candidate, candidate committee, or agents of the candidate or candidate committee, and any payment or expenditure for any communication which republishes, disseminates, or distributes, in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or by agents of the candidate or candidate committee.

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(d) For purposes of the definition of "contribution", there is a rebuttable presumption that a payment or expenditure by a person for a communication about a candidate or a candidate's opponent is a contribution in any of the following circumstances:

a. The communication includes or is based on information about a candidate's campaign plans, projects, or needs that is not generally available to the public or is provided directly or indirectly by the candidate;

b. The person discusses or negotiates the communication with the candidate;

c. The person and the candidate or the candidate's committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting, legal services, or other non-campaign services.

(e) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;

b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;

c. The person made contributions to the candidate;

d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;

e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee, including with the express or tacit approval of the candidate or candidate committee or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

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(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience in the form of:

(a) An audio or video communication via internet, broadcast, cable or satellite;

(b) A written communication via internet or printed advertisements, pamphlets, circulars, flyers, brochures, letterheads; or

(c) Other published statements which:

a. Irrespective of when such communication is made, contain words such as "vote", "oppose", "support", "elect", "defeat", or "reject", which call for the election or defeat of the clearly identified candidate; or

b. Refers to and advocates for or against a clearly identified candidate on or after January first of the year of the election in which such candidate is seeking office.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

13. Any violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year or a fine of up to one thousand dollars or both, plus an amount equal to three times the value of the illegal contributions.
(2) For the second and subsequent violations, a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the value of the illegal contributions.

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Section 3.

No statewide elected officer, or any member of the general assembly, or any of such elected official's employees or staff shall engage in sexual harassment. For purpose of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by law or policy for the victim, any violation of this section shall be punishable by imprisonment for up to one year or a fine of up to one thousand dollars or both.

Section 4.

If any provision of this article or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

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**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-102)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article XIV. (Received September 10, 2015)

## Date

September 30, 2015

## Description

This proposal would create a new Article XIV of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated no impact to their department.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson** indicated they expect no fiscal impact should the contents of this petition become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated they have reviewed this initiative petition and determined there is no financial impact.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for FY 2017, $61,107 for FY 2018 and $61,734 for FY 2019.

**Summarize how this bill would affect the agency**

Prohibiting a statewide official, member of the general assembly, employee of such office holders from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130, RSMo

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific prohibition of receiving compensation as a political consultant from the entities outlined in Section 105.456, RSMo, including reviewing campaign finance reports as established in Section 105.955.14 (2), (3), RSMo.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a statewide official, member of the general assembly, employee of such office holders from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory

requirements; examples include providing education, developing informational materials, telephone and email assistance.

- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a statewide official, member of general assembly, spouse and/or dependent child of such office holders, department and/or division directors of executive brand agencies, judicial purchasing officers and local elected government officials to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.

• Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

• $15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

• 1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

• If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate increased annual operating costs of at least $61,000 and indicate there may be minimal incarceration costs if people are convicted under the provisions of this petition. Local governmental entities report no expected fiscal impact.

RECEIVED
SEP 10 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-101

September 10, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article III, version 9 (2016-101)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on September 10, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

16-101

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 SEP 10 AM 9:36
MISSOURI SECRETARY OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ (Name of payer)

_____ Signature of Affiant (Person obtaining signatures)

_____ Printed Name of Affiant

_____ Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____ Signature of Notary

_____ Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-101

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article III of the Constitution is revised by repealing Section 5, amending Sections 2, 7, 12 and 19 and adopting 5 new sections to be known as Article III Sections 16(a), 20(c), 20(d), 20(e) and 20(f) to read as follows:

Section 2. 1. There is hereby established the post of "non-partisan state demographer." The non-partisan state demographer shall acquire appropriate information to develop procedures in preparation for drawing legislative redistricting maps on the basis of each federal census for presentation to the house apportionment commission and the senate apportionment commission.

2. The non-partisan state demographer shall be selected by the commissioner of administration pursuant to the merit personnel system. The non-partisan state demographer shall serve a term of five years and may be reappointed at the discretion of the commissioner of administration. The non-partisan state demographer shall be disqualified from holding office as a member of the general assembly for four years following the date of the presentation of the most recent legislative redistricting map to the house apportionment commission or the senatorial apportionment commission.

3. The house of representatives shall consist of one hundred sixty-three members elected at each general election and apportioned [in the following manner:] as provided in this section.

4. Within ten days after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within ten days after notification by the governor that such a ruling has been made, the non-partisan state demographer shall begin the preparation of legislative districting plans and maps using the following methods:

(1) Districts shall be established on the basis of population. Legislative districts shall each have a population as nearly equal as practicable to the ideal population for such districts, determined by dividing the number of districts to be established into the population of the state reported in the federal decennial census.

(2) Districts shall be established in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The non-partisan state demographer shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the non-partisan state demographer shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the non-partisan state demographer shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The non-partisan state demographer shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the non-partisan state demographer shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three

16-101

percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

(3) Districts shall be composed of convenient contiguous territory. Areas which meet only at the points of adjoining corners are not contiguous.

(4) To the extent consistent with subdivisions 1, 2, and 3 of this subsection, district boundaries shall coincide with the boundaries of political subdivisions of the state. The number of counties and cities divided among more than one district shall be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous, but this preference shall not apply to a legislative district boundary drawn along a county line which passes through a city that lies in more than one county.

2015 SEP 36 RECEIVED

(5) Preference shall be that districts are compact in form, but the standards established by subdivisions 1, 2, 3, and 4 of this subsection take precedence over compactness where a conflict arises between compactness and these standards. In general, compact districts are those which are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries.

5. Within sixty days after the population of this state is reported to the President for each decennial census of the United States [and] or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

6. Within six months after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within six months after notification by the governor that such a ruling has been made, the non-partisan state demographer shall file with the secretary of state and with the house apportionment commission a tentative plan of apportionment and map of the proposed districts.

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The commissioners so selected shall, [on the fifteenth day, excluding Sundays and holidays, after all members have been selected] within ten days of receiving the tentative plan of apportionment and map of the proposed districts, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary[and]. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

The commission may make changes to the tentative plan of apportionment and map of the proposed districts received from the non-partisan state demographer provided that such changes are consistent with this section and approved by a vote of at least seven-tenths of the commissioners. If no changes are made or approved as provided for in this subsection, the tentative plan of apportionment and map of proposed districts shall become final. Not later than two months of receiving the tentative plan of apportionment and map of the proposed districts, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts.

[The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.

Each district shall be composed of contiguous territory as compact as may be.

Not later than five months after the appointment of the commission, the commission shall receive the tentative plan of apportionment and map of the proposed districts ordered in subsection 4 of this section and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.]

Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

No reapportionment shall be subject to the referendum.

[Section 5. The senate shall consist of thirty-four members elected by the qualified voters of the respective districts for four years. For the election of senators, the state shall be divided into convenient districts of contiguous territory, as compact and nearly equal in population as may be.]

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Section 7. 1. The senate shall consist of thirty-four members elected by the qualified voters of the senatorial districts for a term of four years. Senatorial districts shall be apportioned as provided for in this section.

2. Within ten days after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within ten days after notification by the governor that such a ruling has been made, the non-partisan state demographer authorized in article III section 2, shall begin the preparation of senatorial districting plans and maps using the following methods:

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(1) Districts shall be established on the basis of population. Districts shall each have a population as nearly equal as practicable to the ideal population for such districts, determined by dividing the number of districts to be established into the population of the state reported in the federal decennial census. No county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

(2) Districts shall be established in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The non-partisan state demographer shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the non-partisan state demographer shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the non-partisan state demographer shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The non-partisan state demographer shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the non-partisan state demographer shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

(3) Districts shall be composed of convenient contiguous territory. Areas which meet only at the points of adjoining corners are not contiguous.

(4) To the extent consistent with subdivisions 1, 2, and 3 of this subsection, district boundaries shall coincide with the boundaries of political subdivisions of the state. The number of counties and cities divided among more than one district shall be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous, but this preference shall not apply to a legislative district boundary drawn along a county line which passes through a city that lies in more than one county.

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(5) Preference shall be that districts are compact in form, but the standards established by subdivisions 1, 2, 3, and 4 of this subsection take precedence over compactness where a conflict arises between compactness and these standards. In general, compact districts are those which are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries.

3. Within sixty days after the population of this state is reported to the President for each decennial census of the United States, [and] or within sixty days after notification by the governor that a reapportionment has been invalidated by a court of competent jurisdiction, the state committee of each of the two political parties casting the highest vote for governor at the last preceding election shall, at a committee meeting duly called, select by a vote of the individual committee members, and thereafter submit to the governor a list of ten persons, and within thirty days thereafter the governor shall appoint a commission of ten members, five from each list, to reapportion the thirty-four senatorial districts and to establish the numbers and boundaries of said districts.

If either of the party committees fails to submit a list within such time the governor shall appoint five members of his own choice from the party of the committee so failing to act.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

4. Within six months after the population of this state is reported to the President for each decennial census of the United States or in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within six months after notification by the governor that such a ruling has been made, the non-partisan state demographer shall file with the secretary of state and with the senatorial apportionment commission a tentative plan of apportionment and map of the proposed districts.

The commissioners so selected shall [on the fifteenth day, excluding Sundays and holidays, after all members have been selected] within ten days of receiving the tentative plan of apportionment and map of the proposed districts required by subsection 4 of this section, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary [and]. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the secretary of the senate within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable. The commission may make changes to the tentative plan of apportionment and map of the proposed districts received from the non-partisan state demographer provided that such changes are consistent with this section and approved by a vote of at least seven-tenths of the commissioners. If no changes are made or approved as provided for in this subsection, the tentative plan of apportionment and map of proposed districts shall become final. Not later than two months after receiving the tentative plan of apportionment and map of the proposed districts, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts.

[The commission shall reapportion the senatorial districts by dividing the population of the state by the number thirty-four and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure; no county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

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Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven members.

After the statement is filed senators shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the senate shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter senators shall be elected according to such districts until a reapportionment is made as herein provided.]

Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session, but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

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SEC. OF STATE

No reapportionment shall be subject to the referendum.

Section 12. 1. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This subsection shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

2. No senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist until the expiration of one calendar year after the conclusion of the session of the general assembly in which the member or employee last served. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

3. No senator or representative or their employees or any entity controlled by a senator or representative or their employees shall act or serve as a paid employee or paid consultant to a political committee or political candidate or solicit prospective employers or clients as a paid employee or paid consultant to a political committee or political candidate. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

4. For purposes of this section, the term "lobbyist" means any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any

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natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official.

Section 16(a). 1. No senator or representative or their employees or staff shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. Senators or representatives and their employees and staff may accept informational material relevant to the general assembly's official functions and items that are available or distributed free of charge to members of the general public. All gifts by a lobbyist or lobbyist principal to a senator or representative or their employees or staff shall be reported to the ethics commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient. Candidates for senator or representative, including candidates for reelection, or candidates for offices within the senate or house may accept campaign contributions consistent with this article and applicable campaign finance law. Any violation of this section shall be punishable by a term of imprisonment of up to six months and the imposition of a fine of up to five hundred dollars or both.

2. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly and is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

Section 19. 1. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place.

2. Legislative records shall be public records and subject to generally applicable state laws governing public access to public records, including the "sunshine law." Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member, their employees and staff. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate, respectively.

3. Legislative proceedings, including committee proceedings, shall be public meetings subject to generally applicable law governing public access to public meetings, including the "sunshine law." Open public meetings of legislative proceedings shall be subject to recording by citizens, so long as the proceedings are not materially disrupted.

Section 20(c). No senator or representative or their employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or

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creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by policy or law for the victim, any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars.

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Section 20(d).

1. Unlimited campaign contributions to candidates for legislative offices are banned. In addition to other campaign contribution limitations or restrictions provided for by law, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for legislative office shall not exceed the following:
   (1) To elect an individual to the office of state senator, two hundred fifty dollars; and
   (2) To elect an individual to the office of state representative, two hundred fifty dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this subsection, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the ethics commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a legislative candidate shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No legislative candidate shall accept a contribution from a corporation.

4. There shall be a rebuttable presumption that a contribution to a candidate for legislative office is made or accepted with the intent to circumvent the limitations on contributions imposed in this section when a contribution is received from a committee or organization that is primarily funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. A committee or organization shall be deemed to be primarily funded by a single person, individual, or other committee when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

5. No contribution to a candidate for legislative office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

6. If a payment for a covered communication for a candidate for legislative office is made by a person who is a coordinated spender with respect to the candidate, the payment or expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

7. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

8. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

9. For purposes of this section, the following terms are defined as follows:

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(1) "Candidate", an individual who seeks nomination or election to the house or senate or as an officer of the house or senate, an individual who seeks nomination by the individual's political party for election to the house or senate or as an officer of the house or senate, and an individual who is a write-in candidate for the house or senate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

(c) In addition, the term "contribution" shall include any payment or expenditure by any person other than a candidate or a candidate committee made in connection with the election of any candidate that is authorized, requested, suggested, or fostered by a candidate, candidate committee, or agents of the candidate or

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candidate committee, or made in cooperation with the candidate, candidate committee, or agents of the candidate or candidate committee, and any payment or expenditure for any communication which republishes, disseminates, or distributes, in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or by agents of the candidate or candidate committee.

(d) For purposes of the definition of "contribution", there is a rebuttable presumption that a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to the election of a candidate's opponent is a contribution in any of the following circumstances:

a. The communication includes or is based on information about a candidate's campaign plans, projects, or needs that is not generally available to the public or is provided directly or indirectly by the candidate;

b. The person discusses or negotiates the communication with the candidate;

c. The person and the candidate or candidate committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting, legal services, or other non-campaign services.

(e) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;

b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;

c. The person made contributions to the candidate;

d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;

e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee, including with the express or tacit approval of the candidate or candidate committee or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or

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fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience in the form of:

(a) An audio or video communication via internet, broadcast, cable or satellite;

(b) A written communication via internet or printed advertisements, pamphlets, circulars, flyers, brochures, letterheads; or

(c) Other published statements which:

a. Irrespective of when such communication is made, contain words such as "vote", "oppose", "support", "elect", "defeat", or "reject", which call for the election or defeat of the clearly identified candidate; and

b. Refers to and advocates for or against a clearly identified candidate on or after January first of the year of the election in which such candidate is seeking office.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

10. Any violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year and or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.

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(2) For the second and subsequent violations, a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

Section 20(e). No political fundraising activities or political fundraising event, including the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party or political committee, shall occur in or on any premises, property or building owned, leased or controlled by the house of representatives, senate or general assembly. Any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars plus an amount equal to three times the illegal contributions.

Section 20(f). If any provision of sections 12, 16(a), 19, 20(c), 20(d) or 20(e) or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

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**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-101)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article III. (Received September 10, 2015)

## Date

September 30, 2015

## Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated no impact to their department.

Officials from the **Office of Administration** indicated this initiative petition revises Article III of the Missouri Constitution by amending Sections 2, 7, 12 and 19 and enacting five new sections. Section 5 is repealed but reenacted with changes in Section 7.

The initiative creates the post of "non-partisan State Demographer" to oversee the redistricting process for the state House and Senate districts. The demographer is to be selected by the Commissioner of Administration pursuant to the merit personnel system and shall serve a term of five years. This demographer will be unable to hold elected office for four years following the filing of the new legislative districts. The redistricting process shall maximize partisan fairness and competitiveness.

It mandates that legislative records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms shall be public. It allows explicitly identified legislative proceedings as open meetings and authorizes recording of such proceedings by citizens.

Legislators and their employees are prohibited from lobbying for at least one year after the conclusion of the session during which they vacate office, and from acting as paid consultants while in office. Legislators and their staff are prohibited from accepting a gift in excess of five dollars, per occurrence. Political fundraising activities and events may not be held in any location owned by, or under the control of, the legislature.

Legislators and staff are prohibited from engaging in sexual harassment.

Campaign contributions for state senators and representatives are limited to $250, with consumer price index adjustments made in even-numbered years. Also, corporate contributions are prohibited. There are penalty provisions included for each of the prohibitions, along with a severability clause.

This proposal could have an impact on the Office of Administration. There is currently a State Demographer, with statutory duties that extend beyond those of legislative reapportionment. If the existing State Demographer would be expected to assume the role of "Non-partisan State Demographer", there would be no fiscal impact. However, if that post is filled by another individual, the salary and benefits costs would be an estimated $125,993 in FY 2021, adjusted for inflation. In either scenario, the cost for other staff hired for the purposes of redistricting would remain the same.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson** indicated they expect no fiscal impact should the contents of this petition become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated they have reviewed this initiative petition and determined there is no financial impact.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for FY 2017, $61,107 for FY 2018 and $61,734 for FY 2019.

**Summarize how this bill would affect the agency**

Prohibiting a member of the general assembly from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130, RSMo

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific prohibition of receiving compensation as a political consultant from the entities outlined in Section 105.456, RSMo, including reviewing campaign finance reports as established in Section 105.955.14 (2), (3), RSMo.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a member of the general assembly from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a member of general assembly to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

• Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
• Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:
• Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
• Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
• Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
• Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

• $15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search

capabilities, providing for a manual review by MEC staff of adherence to the established limits.

• 1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

• If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate annual operating costs will increase at least $61,000, may increase an additional $125,000, and may result in minimal incarceration costs if people are convicted under the provisions of this petition. Local governmental entities report no expected fiscal impact.

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SEP 1 0 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

September 10, 2015

16-100

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article III, version 8 (2016-100)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on September 10, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

16-100

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

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SECRETARY OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____

(Name of payer) Signature of Affiant (Person obtaining signatures)

_____

Printed Name of Affiant

_____

Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____

Signature of Notary

_____

My commission expires _____ Address of Notary (Street, City, State & Zip Code)

16-100

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article III of the Constitution is revised by repealing Section 5, amending Sections 2, 7, 12 and 19 and adopting 5 new sections to be known as Article III Sections 16(a), 20(c), 20(d), 20(e) and 20(f) to read as follows:

Section 2. 1. There is hereby established the post of "non-partisan state demographer." The non-partisan state demographer shall acquire appropriate information to develop procedures in preparation for drawing legislative redistricting maps on the basis of each federal census for presentation to the house apportionment commission and the senate apportionment commission.

2. The non-partisan state demographer shall be selected by the commissioner of administration pursuant to the merit personnel system. The non-partisan state demographer shall serve a term of five years and may be reappointed at the discretion of the commissioner of administration. The non-partisan state demographer shall be disqualified from holding office as a member of the general assembly for four years following the date of the presentation of the most recent legislative redistricting map to the house apportionment commission or the senatorial apportionment commission.

3. The house of representatives shall consist of one hundred sixty-three members elected at each general election and apportioned [in the following manner:] as provided in this section.

4. Within ten days after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within ten days after notification by the governor that such a ruling has been made, the non-partisan state demographer shall begin the preparation of legislative districting plans and maps using the following methods:

(1) Districts shall be established on the basis of population. Legislative districts shall each have a population as nearly equal as practicable to the ideal population for such districts, determined by dividing the number of districts to be established into the population of the state reported in the federal decennial census.

(2) Districts shall be established in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The non-partisan state demographer shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the non-partisan state demographer shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the non-partisan state demographer shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The non-partisan state demographer shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the non-partisan state demographer shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three

16-100

percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

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(3) Districts shall be composed of convenient contiguous territory. Areas which meet only at the points of adjoining corners are not contiguous.

(4) To the extent consistent with subdivisions 1, 2, and 3 of this subsection, district boundaries shall coincide with the boundaries of political subdivisions of the state. The number of counties and cities divided among more than one district shall be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous, but this preference shall not apply to a legislative district boundary drawn along a county line which passes through a city that lies in more than one county.

(5) Preference shall be that districts are compact in form, but the standards established by subdivisions 1, 2, 3, and 4 of this subsection take precedence over compactness where a conflict arises between compactness and these standards. In general, compact districts are those which are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries.

5. Within sixty days after the population of this state is reported to the President for each decennial census of the United States [and] or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

6. Within six months after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within six months after notification by the governor that such a ruling has been made, the non-partisan state demographer shall file with the secretary of state and with the house apportionment commission a tentative plan of apportionment and map of the proposed districts.

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The commissioners so selected shall, [on the fifteenth day, excluding Sundays and holidays, after all members have been selected] within ten days of receiving the tentative plan of apportionment and map of the proposed districts, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary[and]. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

The commission may make changes to the tentative plan of apportionment and map of the proposed districts received from the non-partisan state demographer provided that such changes are consistent with this section and approved by a vote of at least seven-tenths of the commissioners. If no changes are made or approved as provided for in this subsection, the tentative plan of apportionment and map of proposed districts shall become final. Not later than two months of receiving the tentative plan of apportionment and map of the proposed districts, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts.

[The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.

Each district shall be composed of contiguous territory as compact as may be.

Not later than five months after the appointment of the commission, the commission shall receive the tentative plan of apportionment and map of the proposed districts ordered in subsection 4 of this section and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.]

Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

No reapportionment shall be subject to the referendum.

[Section 5. The senate shall consist of thirty-four members elected by the qualified voters of the respective districts for four years. For the election of senators, the state shall be divided into convenient districts of contiguous territory, as compact and nearly equal in population as may be.]

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Section 7. 1. The senate shall consist of thirty-four members elected by the qualified voters of the senatorial districts for a term of four years. Senatorial districts shall be apportioned as provided for in this section.

2. Within ten days after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within ten days after notification by the governor that such a ruling has been made, the non-partisan state demographer authorized in article III section 2, shall begin the preparation of senatorial districting plans and maps using the following methods:

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(1) Districts shall be established on the basis of population. Districts shall each have a population as nearly equal as practicable to the ideal population for such districts, determined by dividing the number of districts to be established into the population of the state reported in the federal decennial census. No county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

(2) Districts shall be established in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The non-partisan state demographer shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the non-partisan state demographer shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the non-partisan state demographer shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The non-partisan state demographer shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the non-partisan state demographer shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

(3) Districts shall be composed of convenient contiguous territory. Areas which meet only at the points of adjoining corners are not contiguous.

(4) To the extent consistent with subdivisions 1, 2, and 3 of this subsection, district boundaries shall coincide with the boundaries of political subdivisions of the state. The number of counties and cities divided among more than one district shall be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous, but this preference shall not apply to a legislative district boundary drawn along a county line which passes through a city that lies in more than one county.

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(5) Preference shall be that districts are compact in form, but the standards established by subdivisions 1, 2, 3, and 4 of this subsection take precedence over compactness where a conflict arises between compactness and these standards. In general, compact districts are those which are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries.

3. Within sixty days after the population of this state is reported to the President for each decennial census of the United States, [and] or within sixty days after notification by the governor that a reapportionment has been invalidated by a court of competent jurisdiction, the state committee of each of the two political parties casting the highest vote for governor at the last preceding election shall, at a committee meeting duly called, select by a vote of the individual committee members, and thereafter submit to the governor a list of ten persons, and within thirty days thereafter the governor shall appoint a commission of ten members, five from each list, to reapportion the thirty-four senatorial districts and to establish the numbers and boundaries of said districts.

If either of the party committees fails to submit a list within such time the governor shall appoint five members of his own choice from the party of the committee so failing to act.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

4. Within six months after the population of this state is reported to the President for each decennial census of the United States or in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within six months after notification by the governor that such a ruling has been made, the non-partisan state demographer shall file with the secretary of state and with the senatorial apportionment commission a tentative plan of apportionment and map of the proposed districts.

The commissioners so selected shall [on the fifteenth day, excluding Sundays and holidays, after all members have been selected] within ten days of receiving the tentative plan of apportionment and map of the proposed districts required by subsection 4 of this section, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary [and]. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the secretary of the senate within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable. The commission may make changes to the tentative plan of apportionment and map of the proposed districts received from the non-partisan state demographer provided that such changes are consistent with this section and approved by a vote of at least seven-tenths of the commissioners. If no changes are made or approved as provided for in this subsection, the tentative plan of apportionment and map of proposed districts shall become final. Not later than two months after receiving the tentative plan of apportionment and map of the proposed districts, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts.

[The commission shall reapportion the senatorial districts by dividing the population of the state by the number thirty-four and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure; no county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

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Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven members.

After the statement is filed senators shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the senate shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter senators shall be elected according to such districts until a reapportionment is made as herein provided.]

Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session, but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

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No reapportionment shall be subject to the referendum.

Section 12. 1. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This subsection shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

2. No senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist until the expiration of one calendar year after the conclusion of the session of the general assembly in which the member or employee last served. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

3. No senator or representative or their employees or any entity controlled by a senator or representative or their employees shall act or serve as a paid employee or paid consultant to a political committee or political candidate or solicit prospective employers or clients as a paid employee or paid consultant to a political committee or political candidate. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

4. For purposes of this section, the term "lobbyist" means any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any

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natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official.

Section 16(a). 1. No senator or representative or their employees or staff shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. Senators or representatives and their employees and staff may accept informational material relevant to the general assembly's official functions and items that are available or distributed free of charge to members of the general public. All gifts by a lobbyist or lobbyist principal to a senator or representative or their employees or staff shall be reported to the ethics commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient. Candidates for senator or representative, including candidates for reelection, or candidates for offices within the senate or house may accept campaign contributions consistent with this article and applicable campaign finance law. Any violation of this section shall be punishable by a term of imprisonment of up to six months and the imposition of a fine of up to five hundred dollars or both.

2. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly and is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

Section 19. 1. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place.

2. Legislative records shall be public records and subject to generally applicable state laws governing public access to public records, including the "sunshine law." Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member, their employees and staff. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate, respectively.

3. Legislative proceedings, including committee proceedings, shall be public meetings subject to generally applicable law governing public access to public meetings, including the "sunshine law." Open public meetings of legislative proceedings shall be subject to recording by citizens, so long as the proceedings are not materially disrupted.

Section 20(c). No senator or representative or their employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or

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creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by policy or law for the victim, any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars.

Section 20(d).

1. Unlimited campaign contributions to candidates for legislative offices are banned. In addition to other campaign contribution limitations or restrictions provided for by law, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for legislative office shall not exceed the following:
   (1) To elect an individual to the office of state senator, one thousand; and
   (2) To elect an individual to the office of state representative, one thousand dollars.

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The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this subsection, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the ethics commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a legislative candidate shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No legislative candidate shall accept a contribution from a corporation.

4. There shall be a rebuttable presumption that a contribution to a candidate for legislative office is made or accepted with the intent to circumvent the limitations on contributions imposed in this section when a contribution is received from a committee or organization that is primarily funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. A committee or organization shall be deemed to be primarily funded by a single person, individual, or other committee when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

5. No contribution to a candidate for legislative office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

6. If a payment for a covered communication for a candidate for legislative office is made by a person who is a coordinated spender with respect to the candidate, the payment or expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

7. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

8. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

9. For purposes of this section, the following terms are defined as follows:

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(1) "Candidate", an individual who seeks nomination or election to the house or senate or as an officer of the house or senate, an individual who seeks nomination by the individual's political party for election to the house or senate or as an officer of the house or senate, and an individual who is a write-in candidate for the house or senate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

(c) In addition, the term "contribution" shall include any payment or expenditure by any person other than a candidate or a candidate committee made in connection with the election of any candidate that is authorized, requested, suggested, or fostered by a candidate, candidate committee, or agents of the candidate or

16-100

candidate committee, or made in cooperation with the candidate, candidate committee, or agents of the candidate or candidate committee, and any payment or expenditure for any communication which republishes, disseminates, or distributes, in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or by agents of the candidate or candidate committee.

(d) For purposes of the definition of "contribution", there is a rebuttable presumption that a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to the election of a candidate's opponent is a contribution in any of the following circumstances:

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a. The communication includes or is based on information about a candidate's campaign plans, projects, or needs that is not generally available to the public or is provided directly or indirectly by the candidate;

b. The person discusses or negotiates the communication with the candidate;

c. The person and the candidate or candidate committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting, legal services, or other non-campaign services.

(e) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;

b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;

c. The person made contributions to the candidate;

d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;

e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee, including with the express or tacit approval of the candidate or candidate committee or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or

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fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience in the form of:

(a) An audio or video communication via internet, broadcast, cable or satellite;

(b) A written communication via internet or printed advertisements, pamphlets, circulars, flyers, brochures, letterheads; or

(c) Other published statements which:

a. Irrespective of when such communication is made, contain words such as "vote", "oppose", "support", "elect", "defeat", or "reject", which call for the election or defeat of the clearly identified candidate; and

b. Refers to and advocates for or against a clearly identified candidate on or after January first of the year of the election in which such candidate is seeking office.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

10. Any violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year and or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.

16-100

(2) For the second and subsequent violations, a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

Section 20(e). No political fundraising activities or political fundraising event, including the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party or political committee, shall occur in or on any premises, property or building owned, leased or controlled by the house of representatives, senate or general assembly. Any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars plus an amount equal to three times the illegal contributions.

Section 20(f). If any provision of sections 12, 16(a), 19, 20(c), 20(d) or 20(e) or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

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SECRETARY OF STATE

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-100)**

**Subject**

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article III. (Received September 10, 2015)

**Date**

September 30, 2015

**Description**

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated no impact to their department.

Officials from the **Office of Administration** indicated this initiative petition revises Article III of the Missouri Constitution by amending Sections 2, 7, 12 and 19 and enacting five new sections. Section 5 is repealed but reenacted with changes in Section 7.

The initiative creates the post of "non-partisan State Demographer" to oversee the redistricting process for the state House and Senate districts. The demographer is to be selected by the Commissioner of Administration pursuant to the merit personnel system and shall serve a term of five years. This demographer will be unable to hold elected office for four years following the filing of the new legislative districts. The redistricting process shall maximize partisan fairness and competitiveness.

It mandates that legislative records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms shall be public. It allows explicitly identified legislative proceedings as open meetings and authorizes recording of such proceedings by citizens.

Legislators and their employees are prohibited from lobbying for at least one year after the conclusion of the session during which they vacate office, and from acting as paid consultants while in office. Legislators and their staff are prohibited from accepting a gift in excess of five dollars, per occurrence. Political fundraising activities and events may not be held in any location owned by, or under the control of, the legislature.

Legislators and staff are prohibited from engaging in sexual harassment.

Campaign contributions for state senators and representatives are limited to $1,000, with consumer price index adjustments made in even-numbered years. Also, corporate contributions are prohibited. There are penalty provisions included for each of the prohibitions, along with a severability clause.

This proposal could have an impact on the Office of Administration. There is currently a State Demographer, with statutory duties that extend beyond those of legislative reapportionment. If the existing State Demographer would be expected to assume the role of "Non-partisan State Demographer", there would be no fiscal impact. However, if that post is filled by another individual, the salary and benefits costs would be an estimated $125,993 in FY 2021, adjusted for inflation. In either scenario, the cost for other staff hired for the purposes of redistricting would remain the same.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson** indicated they expect no fiscal impact should the contents of this petition become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated they have reviewed this initiative petition and determined there is no financial impact.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for FY 2017, $61,107 for FY 2018 and $61,734 for FY 2019.

**Summarize how this bill would affect the agency**

Prohibiting a member of the general assembly from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130, RSMo

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific prohibition of receiving compensation as a political consultant from the entities outlined in Section 105.456, RSMo, including reviewing campaign finance reports as established in Section 105.955.14 (2), (3), RSMo.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a member of the general assembly from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a member of general assembly to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

• Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
• Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:
• Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
• Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
• Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
• Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

• $15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search

capabilities, providing for a manual review by MEC staff of adherence to the established limits.

• 1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

• If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate annual operating costs will increase at least $61,000, may increase an additional $125,000, and may result in minimal incarceration costs if people are convicted under the provisions of this petition. Local governmental entities report no expected fiscal impact.

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SEP 10 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-099

September 10, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article III, version 7 (2016-099)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on September 10, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

16-099

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

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SEC. OF STATE

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
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| 6. | | | | | |
| 7. | | | | | |
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| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____

(Name of payer) Signature of Affiant (Person obtaining signatures)

_____

Printed Name of Affiant

_____

Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____

Signature of Notary

_____

My commission expires _____ Address of Notary (Street, City, State & Zip Code)

16-099

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article III of the Constitution is revised by repealing Section 5, amending Sections 2, 7, 12 and 19 and adopting 5 new sections to be known as Article III Sections 16(a), 20(c), 20(d), 20(e) and 20(f) to read as follows:

Section 2. 1. There is hereby established the post of "non-partisan state demographer." The non-partisan state demographer shall acquire appropriate information to develop procedures in preparation for drawing legislative redistricting maps on the basis of each federal census for presentation to the house apportionment commission and the senate apportionment commission.

2. The non-partisan state demographer shall be selected by the commissioner of administration pursuant to the merit personnel system. The non-partisan state demographer shall serve a term of five years and may be reappointed at the discretion of the commissioner of administration. The non-partisan state demographer shall be disqualified from holding office as a member of the general assembly for four years following the date of the presentation of the most recent legislative redistricting map to the house apportionment commission or the senatorial apportionment commission.

3. The house of representatives shall consist of one hundred sixty-three members elected at each general election and apportioned [in the following manner:] as provided in this section.

4. Within ten days after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within ten days after notification by the governor that such a ruling has been made, the non-partisan state demographer shall begin the preparation of legislative districting plans and maps using the following methods:

(1) Districts shall be established on the basis of population. Legislative districts shall each have a population as nearly equal as practicable to the ideal population for such districts, determined by dividing the number of districts to be established into the population of the state reported in the federal decennial census.

(2) Districts shall be established in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The non-partisan state demographer shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the non-partisan state demographer shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the non-partisan state demographer shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The non-partisan state demographer shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the non-partisan state demographer shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three

16-099

percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

(3) Districts shall be composed of convenient contiguous territory. Areas which meet only at the points of adjoining corners are not contiguous.

(4) To the extent consistent with subdivisions 1, 2, and 3 of this subsection, district boundaries shall coincide with the boundaries of political subdivisions of the state. The number of counties and cities divided among more than one district shall be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous, but this preference shall not apply to a legislative district boundary drawn along a county line which passes through a city that lies in more than one county.

(5) Preference shall be that districts are compact in form, but the standards established by subdivisions 1, 2, 3, and 4 of this subsection take precedence over compactness where a conflict arises between compactness and these standards. In general, compact districts are those which are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries.

5. Within sixty days after the population of this state is reported to the President for each decennial census of the United States [and] or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

6. Within six months after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within six months after notification by the governor that such a ruling has been made, the non-partisan state demographer shall file with the secretary of state and with the house apportionment commission a tentative plan of apportionment and map of the proposed districts.

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The commissioners so selected shall, [on the fifteenth day, excluding Sundays and holidays, after all members have been selected] within ten days of receiving the tentative plan of apportionment and map of the proposed districts, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary[and]. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

The commission may make changes to the tentative plan of apportionment and map of the proposed districts received from the non-partisan state demographer provided that such changes are consistent with this section and approved by a vote of at least seven-tenths of the commissioners. If no changes are made or approved as provided for in this subsection, the tentative plan of apportionment and map of proposed districts shall become final. Not later than two months of receiving the tentative plan of apportionment and map of the proposed districts, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts.

[The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.

Each district shall be composed of contiguous territory as compact as may be.

Not later than five months after the appointment of the commission, the commission shall receive the tentative plan of apportionment and map of the proposed districts ordered in subsection 4 of this section and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.]

Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

No reapportionment shall be subject to the referendum.

[Section 5. The senate shall consist of thirty-four members elected by the qualified voters of the respective districts for four years. For the election of senators, the state shall be divided into convenient districts of contiguous territory, as compact and nearly equal in population as may be.]

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Section 7. 1. The senate shall consist of thirty-four members elected by the qualified voters of the senatorial districts for a term of four years. Senatorial districts shall be apportioned as provided for in this section.

2. Within ten days after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within ten days after notification by the governor that such a ruling has been made, the non-partisan state demographer authorized in article III section 2, shall begin the preparation of senatorial districting plans and maps using the following methods:

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(1) Districts shall be established on the basis of population. Districts shall each have a population as nearly equal as practicable to the ideal population for such districts, determined by dividing the number of districts to be established into the population of the state reported in the federal decennial census. No county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

(2) Districts shall be established in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The non-partisan state demographer shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the non-partisan state demographer shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the non-partisan state demographer shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The non-partisan state demographer shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the non-partisan state demographer shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

(3) Districts shall be composed of convenient contiguous territory. Areas which meet only at the points of adjoining corners are not contiguous.

(4) To the extent consistent with subdivisions 1, 2, and 3 of this subsection, district boundaries shall coincide with the boundaries of political subdivisions of the state. The number of counties and cities divided among more than one district shall be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous, but this preference shall not apply to a legislative district boundary drawn along a county line which passes through a city that lies in more than one county.

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(5) Preference shall be that districts are compact in form, but the standards established by subdivisions 1, 2, 3, and 4 of this subsection take precedence over compactness where a conflict arises between compactness and these standards. In general, compact districts are those which are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries.

3. Within sixty days after the population of this state is reported to the President for each decennial census of the United States, [and] or within sixty days after notification by the governor that a reapportionment has been invalidated by a court of competent jurisdiction, the state committee of each of the two political parties casting the highest vote for governor at the last preceding election shall, at a committee meeting duly called, select by a vote of the individual committee members, and thereafter submit to the governor a list of ten persons, and within thirty days thereafter the governor shall appoint a commission of ten members, five from each list, to reapportion the thirty-four senatorial districts and to establish the numbers and boundaries of said districts.

If either of the party committees fails to submit a list within such time the governor shall appoint five members of his own choice from the party of the committee so failing to act.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

4. Within six months after the population of this state is reported to the President for each decennial census of the United States or in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within six months after notification by the governor that such a ruling has been made, the non-partisan state demographer shall file with the secretary of state and with the senatorial apportionment commission a tentative plan of apportionment and map of the proposed districts.

The commissioners so selected shall [on the fifteenth day, excluding Sundays and holidays, after all members have been selected] within ten days of receiving the tentative plan of apportionment and map of the proposed districts required by subsection 4 of this section, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary [and]. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the secretary of the senate within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable. The commission may make changes to the tentative plan of apportionment and map of the proposed districts received from the non-partisan state demographer provided that such changes are consistent with this section and approved by a vote of at least seven-tenths of the commissioners. If no changes are made or approved as provided for in this subsection, the tentative plan of apportionment and map of proposed districts shall become final. Not later than two months after receiving the tentative plan of apportionment and map of the proposed districts, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts.

[The commission shall reapportion the senatorial districts by dividing the population of the state by the number thirty-four and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure; no county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

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Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven members.

After the statement is filed senators shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the senate shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter senators shall be elected according to such districts until a reapportionment is made as herein provided.]

Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session, but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

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No reapportionment shall be subject to the referendum.

Section 12. 1. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This subsection shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

2. No senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist until the expiration of one calendar year after the conclusion of the session of the general assembly in which the member or employee last served. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

3. No senator or representative or their employees or any entity controlled by a senator or representative or their employees shall act or serve as a paid employee or paid consultant to a political committee or political candidate or solicit prospective employers or clients as a paid employee or paid consultant to a political committee or political candidate. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

4. For purposes of this section, the term "lobbyist" means any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any

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natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official.

Section 16(a). 1. No senator or representative or their employees or staff shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. Senators or representatives and their employees and staff may accept informational material relevant to the general assembly's official functions and items that are available or distributed free of charge to members of the general public. All gifts by a lobbyist or lobbyist principal to a senator or representative or their employees or staff shall be reported to the ethics commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient. Candidates for senator or representative, including candidates for reelection, or candidates for offices within the senate or house may accept campaign contributions consistent with this article and applicable campaign finance law. Any violation of this section shall be punishable by a term of imprisonment of up to six months and the imposition of a fine of up to five hundred dollars or both.

2. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly and is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

Section 19. 1. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place.

2. Legislative records shall be public records and subject to generally applicable state laws governing public access to public records, including the "sunshine law." Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member, their employees and staff. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate, respectively.

3. Legislative proceedings, including committee proceedings, shall be public meetings subject to generally applicable law governing public access to public meetings, including the "sunshine law." Open public meetings of legislative proceedings shall be subject to recording by citizens, so long as the proceedings are not materially disrupted.

Section 20(c). No senator or representative or their employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or

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creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by policy or law for the victim, any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars.

Section 20(d).

1. Unlimited campaign contributions to candidates for legislative offices are banned. In addition to other campaign contribution limitations or restrictions provided for by law, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for legislative office shall not exceed the following:
   (1) To elect an individual to the office of state senator, two thousand seven hundred dollars; and
   (2) To elect an individual to the office of state representative, two thousand seven hundred dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this subsection, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the ethics commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

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2. No contribution to a legislative candidate shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No legislative candidate shall accept a contribution from a corporation.

4. There shall be a rebuttable presumption that a contribution to a candidate for legislative office is made or accepted with the intent to circumvent the limitations on contributions imposed in this section when a contribution is received from a committee or organization that is primarily funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. A committee or organization shall be deemed to be primarily funded by a single person, individual, or other committee when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

5. No contribution to a candidate for legislative office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

6. If a payment for a covered communication for a candidate for legislative office is made by a person who is a coordinated spender with respect to the candidate, the payment or expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

7. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

8. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

9. For purposes of this section, the following terms are defined as follows:

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(1) "Candidate", an individual who seeks nomination or election to the house or senate or as an officer of the house or senate, an individual who seeks nomination by the individual's political party for election to the house or senate or as an officer of the house or senate, and an individual who is a write-in candidate for the house or senate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

(c) In addition, the term "contribution" shall include any payment or expenditure by any person other than a candidate or a candidate committee made in connection with the election of any candidate that is authorized, requested, suggested, or

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fostered by a candidate, candidate committee, or agents of the candidate or candidate committee, or made in cooperation with the candidate, candidate committee, or agents of the candidate or candidate committee, and any payment or expenditure for any communication which republishes, disseminates, or distributes, in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or by agents of the candidate or candidate committee.

(d) For purposes of the definition of "contribution", there is a rebuttable presumption that a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to the election of a candidate's opponent is a contribution in any of the following circumstances:

a. The communication includes or is based on information about a candidate's campaign plans, projects, or needs that is not generally available to the public or is provided directly or indirectly by the candidate;

b. The person discusses or negotiates the communication with the candidate;

c. The person and the candidate or candidate committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting, legal services, or other non-campaign services.

(e) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;

b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;

c. The person made contributions to the candidate;

d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;

e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee, including with the express or tacit approval of the candidate or candidate committee or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate

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stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience in the form of:

(a) An audio or video communication via internet, broadcast, cable or satellite;

(b) A written communication via internet or printed advertisements, pamphlets, circulars, flyers, brochures, letterheads; or

(c) Other published statements which:

a. Irrespective of when such communication is made, contain words such as "vote", "oppose", "support", "elect", "defeat", or "reject", which call for the election or defeat of the clearly identified candidate; and

b. Refers to and advocates for or against a clearly identified candidate on or after January first of the year of the election in which such candidate is seeking office.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

10. Any violation of this section shall be punishable by:

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(1) For the first violation, imprisonment for up to one year and or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.
(2) For the second and subsequent violations, a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

Section 20(e). No political fundraising activities or political fundraising event, including the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party or political committee, shall occur in or on any premises, property or building owned, leased or controlled by the house of representatives, senate or general assembly. Any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars plus an amount equal to three times the illegal contributions.

Section 20(f). If any provision of sections 12, 16(a), 19, 20(c), 20(d) or 20(e) or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

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SECRETARY OF STATE

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-099)**

**Subject**

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article III. (Received September 10, 2015)

**Date**

September 30, 2015

**Description**

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated no impact to their department.

Officials from the **Office of Administration** indicated this initiative petition revises Article III of the Missouri Constitution by amending Sections 2, 7, 12 and 19 and enacting five new sections. Section 5 is repealed but reenacted with changes in Section 7.

The initiative creates the post of "non-partisan State Demographer" to oversee the redistricting process for the state House and Senate districts. The demographer is to be selected by the Commissioner of Administration pursuant to the merit personnel system and shall serve a term of five years. This demographer will be unable to hold elected office for four years following the filing of the new legislative districts. The redistricting process shall maximize partisan fairness and competitiveness.

It mandates that legislative records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms shall be public. It allows explicitly identified legislative proceedings as open meetings and authorizes recording of such proceedings by citizens.

Legislators and their employees are prohibited from lobbying for at least one year after the conclusion of the session during which they vacate office, and from acting as paid consultants while in office. Legislators and their staff are prohibited from accepting a gift in excess of five dollars, per occurrence. Political fundraising activities and events may not be held in any location owned by, or under the control of, the legislature.

Legislators and staff are prohibited from engaging in sexual harassment.

Campaign contributions for state senators and representatives are limited to $2,700, with consumer price index adjustments made in even-numbered years. Also, corporate contributions are prohibited. There are penalty provisions included for each of the prohibitions, along with a severability clause.

This proposal could have an impact on the Office of Administration. There is currently a State Demographer, with statutory duties that extend beyond those of legislative reapportionment. If the existing State Demographer would be expected to assume the role of "Non-partisan State Demographer", there would be no fiscal impact. However, if that post is filled by another individual, the salary and benefits costs would be an estimated $125,993 in FY 2021, adjusted for inflation. In either scenario, the cost for other staff hired for the purposes of redistricting would remain the same.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson** indicated they expect no fiscal impact should the contents of this petition become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated they have reviewed this initiative petition and determined there is no financial impact.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for FY 2017, $61,107 for FY 2018 and $61,734 for FY 2019.

**Summarize how this bill would affect the agency**

Prohibiting a member of the general assembly from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130, RSMo

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific prohibition of receiving compensation as a political consultant from the entities outlined in Section 105.456, RSMo, including reviewing campaign finance reports as established in Section 105.955.14 (2), (3), RSMo.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a member of the general assembly from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a member of general assembly to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:

• Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
• Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:
• Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
• Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
• Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
• Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

• $15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search

capabilities, providing for a manual review by MEC staff of adherence to the established limits.

• 1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

• If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate annual operating costs will increase at least $61,000, may increase an additional $125,000, and may result in minimal incarceration costs if people are convicted under the provisions of this petition. Local governmental entities report no expected fiscal impact.

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SEP 10 2015
STATE AUDITOR'S OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-098

September 10, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article III, version 6 (2016-098)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on September 10, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

16-098

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

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2015 SEP 10 AM 9:33
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
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| 7. | | | | | |
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| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____

(Name of payer) Signature of Affiant (Person obtaining signatures)

_____

Printed Name of Affiant

_____

Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____

Signature of Notary

_____

My commission expires _____ Address of Notary (Street, City, State & Zip Code)

16-098

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article III of the Constitution is revised by amending Sections 2, 7, 12 and 19 and adopting 5 new sections to be known as Article III Sections 16(a), 20(c), 20(d), 20(e) and 20(f) to read as follows:

Section 2. 1. The house of representatives shall consist of one hundred sixty-three members elected at each general election and apportioned in the following manner: Within sixty days after the population of this state is reported to the President for each decennial census of the United States and, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

2. The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.

Each district shall be composed of contiguous territory as compact as may be.

The commission shall create districts in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The commission shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the commission shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then

16-098

calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the commission shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The commission shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the commission shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

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Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned consistent with the criteria of this section by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.

3. Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

4. No reapportionment shall be subject to the referendum.

5. Any taxpayer of this state shall have standing to bring suit in a circuit court of proper venue to enforce the provisions of this section.

Section 7. 1. Within sixty days after the population of this state is reported to the President for each decennial census of the United States, and within sixty days after notification by the governor that a reapportionment has been invalidated by a court of competent jurisdiction, the state committee of each of the two political parties casting the highest vote for governor at the last preceding election shall, at a committee meeting duly called, select by a vote of the individual committee members, and thereafter submit to the governor a list of ten persons, and within thirty days thereafter the governor shall appoint a commission of ten members, five from each list, to reapportion the thirty-four senatorial districts and to establish the numbers and boundaries of said districts.

If either of the party committees fails to submit a list within such time the governor shall appoint five members of his own choice from the party of the committee so failing to act.

16-098

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the secretary of the senate within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

2. The commission shall reapportion the senatorial districts by dividing the population of the state by the number thirty-four and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure; no county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

The commission shall create districts in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The commission shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the commission shall determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the commission shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The commission shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the commission shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven members.

After the statement is filed senators shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand

16-098

discharged and the senate shall be apportioned consistent with the criteria of this section by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter senators shall be elected according to such districts until a reapportionment is made as herein provided.

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3. Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session, but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

4. No reapportionment shall be subject to the referendum.

5. Any taxpayer of this state shall have standing to bring suit in a circuit court of proper venue to enforce the provisions of this section.

Section 12. 1. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This subsection shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

2. No senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist until the expiration of one calendar year after the conclusion of the session of the general assembly in which the member or employee last served. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

3. No senator or representative or their employees or any entity controlled by a senator or representative or their employees shall act or serve as a paid employee or paid consultant to a political committee or political candidate or solicit prospective employers or clients as a paid employee or paid consultant to a political committee or political candidate. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

4. For purposes of this section, the term "lobbyist" means any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official.

Section 16(a). 1. No senator or representative or their employees or staff shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value

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from any lobbyist or lobbyist principal in excess of five dollars per occurrence. Senators or representatives and their employees and staff may accept informational material relevant to the general assembly's official functions and items that are available or distributed free of charge to members of the general public. All gifts by a lobbyist or lobbyist principal to a senator or representative or their employees or staff shall be reported to the ethics commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient. Candidates for senator or representative, including candidates for reelection, or candidates for offices within the senate or house may accept campaign contributions consistent with this article and applicable campaign finance law. Any violation of this section shall be punishable by a term of imprisonment of up to six months and the imposition of a fine of up to five hundred dollars or both.

2. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly and is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

Section 19. 1. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place.

2. Legislative records shall be public records and subject to generally applicable state laws governing public access to public records, including the "sunshine law." Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member, their employees and staff. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate, respectively.

3. Legislative proceedings, including committee proceedings, shall be public meetings subject to generally applicable law governing public access to public meetings, including the "sunshine law." Open public meetings of legislative proceedings shall be subject to recording by citizens, so long as the proceedings are not materially disrupted.

Section 20(c). No senator or representative or their employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by policy or law for the victim, any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars.

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Section 20(d).

1. Unlimited campaign contributions to candidates for legislative offices are banned. In addition to other campaign contribution limitations or restrictions provided for by law, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for legislative office shall not exceed the following:
   (1) To elect an individual to the office of state senator, two hundred fifty dollars; and
   (2) To elect an individual to the office of state representative, two hundred fifty dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

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For purposes of this subsection, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the ethics commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a legislative candidate shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No legislative candidate shall accept a contribution from a corporation.

4. There shall be a rebuttable presumption that a contribution to a candidate for legislative office is made or accepted with the intent to circumvent the limitations on contributions imposed in this section when a contribution is received from a committee or organization that is primarily funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. A committee or organization shall be deemed to be primarily funded by a single person, individual, or other committee when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

5. No contribution to a candidate for legislative office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

6. If a payment for a covered communication for a candidate for legislative office is made by a person who is a coordinated spender with respect to the candidate, the payment or expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

7. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

8. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

9. For purposes of this section, the following terms are defined as follows:

   (1) "Candidate", an individual who seeks nomination or election to the house or senate or as an officer of the house or senate, an individual who seeks nomination by the individual's political party for election to the house or senate or as an officer of the house or senate, and an individual who is a write-in candidate for the house or senate.

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(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

(c) In addition, the term "contribution" shall include any payment or expenditure by any person other than a candidate or a candidate committee made in connection with the election of any candidate that is authorized, requested, suggested, or fostered by a candidate, candidate committee, or agents of the candidate or candidate committee, or made in cooperation with the candidate, candidate committee, or agents of the candidate or candidate committee, and any payment or expenditure for any communication which republishes, disseminates, or distributes, in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or by agents of the candidate or candidate committee.

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(d) For purposes of the definition of "contribution", there is a rebuttable presumption that a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to the election of a candidate's opponent is a contribution in any of the following circumstances:

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a. The communication includes or is based on information about a candidate's campaign plans, projects, or needs that is not generally available to the public or is provided directly or indirectly by the candidate;

b. The person discusses or negotiates the communication with the candidate;

c. The person and the candidate or candidate committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting, legal services, or other non-campaign services.

(e) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;

b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;

c. The person made contributions to the candidate;

d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;

e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee, including with the express or tacit approval of the candidate or candidate committee or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a

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candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience in the form of:

(a) An audio or video communication via internet, broadcast, cable or satellite;

(b) A written communication via internet or printed advertisements, pamphlets, circulars, flyers, brochures, letterheads; or

(c) Other published statements which:

a. Irrespective of when such communication is made, contain words such as "vote", "oppose", "support", "elect", "defeat", or "reject", which call for the election or defeat of the clearly identified candidate; and

b. Refers to and advocates for or against a clearly identified candidate on or after January first of the year of the election in which such candidate is seeking office.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

10. Any violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year and or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.
(2) For the second and subsequent violations, a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

Section 20(e). No political fundraising activities or political fundraising event, including the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party or political

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committee, shall occur in or on any premises, property or building owned, leased or controlled by the house of representatives, senate or general assembly. Any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars plus an amount equal to three times the illegal contributions.

Section 20(f). If any provision of sections 12, 16(a), 19, 20(c), 20(d) or 20(e) or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

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**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-098)**

**Subject**

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article III. (Received September 10, 2015)

**Date**

September 30, 2015

**Description**

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated no impact to their department.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson** indicated they expect no fiscal impact should the contents of this petition become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated they have reviewed this initiative petition and determined there is no financial impact.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for FY 2017, $61,107 for FY 2018 and $61,734 for FY 2019.

**Summarize how this bill would affect the agency**

Prohibiting a member of the general assembly from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130, RSMo

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific prohibition of receiving compensation as a political consultant from the entities outlined in Section 105.456, RSMo, including reviewing campaign finance reports as established in Section 105.955.14 (2), (3), RSMo.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a member of the general assembly from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.

- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a member of general assembly to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:
- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:
- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

- $15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

- 1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

- If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate increased annual operating costs of at least $61,000 and indicate there may be minimal incarceration costs if people are convicted under the provisions of this petition. Local governmental entities report no expected fiscal impact.

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STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-097

September 10, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article III, version 5 (2016-097)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on September 10, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

16-097

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

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SECRETARY OF STATE

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-097

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article III of the Constitution is revised by amending Sections 2, 7, 12 and 19 and adopting 5 new sections to be known as Article III Sections 16(a), 20(c), 20(d), 20(e) and 20(f) to read as follows:

Section 2. 1. The house of representatives shall consist of one hundred sixty-three members elected at each general election and apportioned in the following manner: Within sixty days after the population of this state is reported to the President for each decennial census of the United States and, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

2. The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.

Each district shall be composed of contiguous territory as compact as may be.

The commission shall create districts in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The commission shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the commission shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then

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calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the commission shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The commission shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the commission shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

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Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned consistent with the criteria of this section by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.

3. Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

4. No reapportionment shall be subject to the referendum.

5. Any taxpayer of this state shall have standing to bring suit in a circuit court of proper venue to enforce the provisions of this section.

Section 7. 1. Within sixty days after the population of this state is reported to the President for each decennial census of the United States, and within sixty days after notification by the governor that a reapportionment has been invalidated by a court of competent jurisdiction, the state committee of each of the two political parties casting the highest vote for governor at the last preceding election shall, at a committee meeting duly called, select by a vote of the individual committee members, and thereafter submit to the governor a list of ten persons, and within thirty days thereafter the governor shall appoint a commission of ten members, five from each list, to reapportion the thirty-four senatorial districts and to establish the numbers and boundaries of said districts.

If either of the party committees fails to submit a list within such time the governor shall appoint five members of his own choice from the party of the committee so failing to act.

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Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the secretary of the senate within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

2. The commission shall reapportion the senatorial districts by dividing the population of the state by the number thirty-four and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure; no county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

The commission shall create districts in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The commission shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the commission shall determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the commission shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The commission shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the commission shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven members.

After the statement is filed senators shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand

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discharged and the senate shall be apportioned consistent with the criteria of this section by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter senators shall be elected according to such districts until a reapportionment is made as herein provided.

3. Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session, but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

4. No reapportionment shall be subject to the referendum.

5. Any taxpayer of this state shall have standing to bring suit in a circuit court of proper venue to enforce the provisions of this section.

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Section 12. 1. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This subsection shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

2. No senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist until the expiration of one calendar year after the conclusion of the session of the general assembly in which the member or employee last served. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

3. No senator or representative or their employees or any entity controlled by a senator or representative or their employees shall act or serve as a paid employee or paid consultant to a political committee or political candidate or solicit prospective employers or clients as a paid employee or paid consultant to a political committee or political candidate. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

4. For purposes of this section, the term "lobbyist" means any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official.

Section 16(a). 1. No senator or representative or their employees or staff shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value

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from any lobbyist or lobbyist principal in excess of five dollars per occurrence. Senators or representatives and their employees and staff may accept informational material relevant to the general assembly's official functions and items that are available or distributed free of charge to members of the general public. All gifts by a lobbyist or lobbyist principal to a senator or representative or their employees or staff shall be reported to the ethics commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient. Candidates for senator or representative, including candidates for reelection, or candidates for offices within the senate or house may accept campaign contributions consistent with this article and applicable campaign finance law. Any violation of this section shall be punishable by a term of imprisonment of up to six months and the imposition of a fine of up to five hundred dollars or both.

2. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly and is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

Section 19. 1. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place.

2. Legislative records shall be public records and subject to generally applicable state laws governing public access to public records, including the "sunshine law." Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member, their employees and staff. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate, respectively.

3. Legislative proceedings, including committee proceedings, shall be public meetings subject to generally applicable law governing public access to public meetings, including the "sunshine law." Open public meetings of legislative proceedings shall be subject to recording by citizens, so long as the proceedings are not materially disrupted.

Section 20(c). No senator or representative or their employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by policy or law for the victim, any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars.

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Section 20(d).

1. Unlimited campaign contributions to candidates for legislative offices are banned. In addition to other campaign contribution limitations or restrictions provided for by law, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for legislative office shall not exceed the following:
   (1) To elect an individual to the office of state senator, one thousand dollars; and
   (2) To elect an individual to the office of state representative, one thousand dollars.

The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this subsection, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the ethics commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

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2. No contribution to a legislative candidate shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No legislative candidate shall accept a contribution from a corporation.

4. There shall be a rebuttable presumption that a contribution to a candidate for legislative office is made or accepted with the intent to circumvent the limitations on contributions imposed in this section when a contribution is received from a committee or organization that is primarily funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. A committee or organization shall be deemed to be primarily funded by a single person, individual, or other committee when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

5. No contribution to a candidate for legislative office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

6. If a payment for a covered communication for a candidate for legislative office is made by a person who is a coordinated spender with respect to the candidate, the payment or expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

7. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

8. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

9. For purposes of this section, the following terms are defined as follows:

   (1) "Candidate", an individual who seeks nomination or election to the house or senate or as an officer of the house or senate, an individual who seeks nomination by the individual's political party for election to the house or senate or as an officer of the house or senate, and an individual who is a write-in candidate for the house or senate.

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(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

(c) In addition, the term "contribution" shall include any payment or expenditure by any person other than a candidate or a candidate committee made in connection with the election of any candidate that is authorized, requested, suggested, or fostered by a candidate, candidate committee, or agents of the candidate or candidate committee, or made in cooperation with the candidate, candidate committee, or agents of the candidate or candidate committee, and any payment or expenditure for any communication which republishes, disseminates, or distributes, in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or by agents of the candidate or candidate committee.

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(d) For purposes of the definition of "contribution", there is a rebuttable presumption that a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to the election of a candidate's opponent is a contribution in any of the following circumstances:

a. The communication includes or is based on information about a candidate's campaign plans, projects, or needs that is not generally available to the public or is provided directly or indirectly by the candidate;

b. The person discusses or negotiates the communication with the candidate;

c. The person and the candidate or candidate committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting, legal services, or other non-campaign services.

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(e) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;

b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;

c. The person made contributions to the candidate;

d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;

e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee, including with the express or tacit approval of the candidate or candidate committee or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a

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candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience in the form of:

(a) An audio or video communication via internet, broadcast, cable or satellite;

(b) A written communication via internet or printed advertisements, pamphlets, circulars, flyers, brochures, letterheads; or

(c) Other published statements which:

a. Irrespective of when such communication is made, contain words such as "vote", "oppose", "support", "elect", "defeat", or "reject", which call for the election or defeat of the clearly identified candidate; and

b. Refers to and advocates for or against a clearly identified candidate on or after January first of the year of the election in which such candidate is seeking office.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

10. Any violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year and or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.
(2) For the second and subsequent violations, a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

Section 20(e). No political fundraising activities or political fundraising event, including the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party or political

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committee, shall occur in or on any premises, property or building owned, leased or controlled by the house of representatives, senate or general assembly. Any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars plus an amount equal to three times the illegal contributions.

Section 20(f). If any provision of sections 12, 16(a), 19, 20(c), 20(d) or 20(e) or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

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OFFICE OF STATE

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-097)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article III. (Received September 10, 2015)

## Date

September 30, 2015

## Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated no impact to their department.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson** indicated they expect no fiscal impact should the contents of this petition become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated they have reviewed this initiative petition and determined there is no financial impact.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for FY 2017, $61,107 for FY 2018 and $61,734 for FY 2019.

**Summarize how this bill would affect the agency**

Prohibiting a member of the general assembly from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130, RSMo

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific prohibition of receiving compensation as a political consultant from the entities outlined in Section 105.456, RSMo, including reviewing campaign finance reports as established in Section 105.955.14 (2), (3), RSMo.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a member of the general assembly from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.

- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a member of general assembly to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:
- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:
- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

- $15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

- 1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

- If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate increased annual operating costs of at least $61,000 and indicate there may be minimal incarceration costs if people are convicted under the provisions of this petition. Local governmental entities report no expected fiscal impact.

RECEIVED
SEP 10 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-096

September 10, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article III, version 4 (2016-096)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on September 10, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

16-096

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

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SECRETARY OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____
(Name of payer)

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-096

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article III of the Constitution is revised by amending Sections 2, 7, 12 and 19 and adopting 5 new sections to be known as Article III Sections 16(a), 20(c), 20(d), 20(e) and 20(f) to read as follows:

Section 2. 1. The house of representatives shall consist of one hundred sixty-three members elected at each general election and apportioned in the following manner: Within sixty days after the population of this state is reported to the President for each decennial census of the United States and, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

2. The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.

Each district shall be composed of contiguous territory as compact as may be.

The commission shall create districts in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The commission shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the commission shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then

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calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the commission shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

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The commission shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the commission shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned consistent with the criteria of this section by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.

3. Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

4. No reapportionment shall be subject to the referendum.

5. Any taxpayer of this state shall have standing to bring suit in a circuit court of proper venue to enforce the provisions of this section.

Section 7. 1. Within sixty days after the population of this state is reported to the President for each decennial census of the United States, and within sixty days after notification by the governor that a reapportionment has been invalidated by a court of competent jurisdiction, the state committee of each of the two political parties casting the highest vote for governor at the last preceding election shall, at a committee meeting duly called, select by a vote of the individual committee members, and thereafter submit to the governor a list of ten persons, and within thirty days thereafter the governor shall appoint a commission of ten members, five from each list, to reapportion the thirty-four senatorial districts and to establish the numbers and boundaries of said districts.

If either of the party committees fails to submit a list within such time the governor shall appoint five members of his own choice from the party of the committee so failing to act.

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Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the secretary of the senate within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

2. The commission shall reapportion the senatorial districts by dividing the population of the state by the number thirty-four and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure; no county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

The commission shall create districts in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The commission shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the commission shall determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the commission shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The commission shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the commission shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven members.

After the statement is filed senators shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand

from any lobbyist or lobbyist principal in excess of five dollars per occurrence. Senators or representatives and their employees and staff may accept informational material relevant to the general assembly's official functions and items that are available or distributed free of charge to members of the general public. All gifts by a lobbyist or lobbyist principal to a senator or representative or their employees or staff shall be reported to the ethics commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient. Candidates for senator or representative, including candidates for reelection, or candidates for offices within the senate or house may accept campaign contributions consistent with this article and applicable campaign finance law. Any violation of this section shall be punishable by a term of imprisonment of up to six months and the imposition of a fine of up to five hundred dollars or both.

2. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly and is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

Section 19. 1. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place.

2. Legislative records shall be public records and subject to generally applicable state laws governing public access to public records, including the "sunshine law." Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member, their employees and staff. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate, respectively.

3. Legislative proceedings, including committee proceedings, shall be public meetings subject to generally applicable law governing public access to public meetings, including the "sunshine law." Open public meetings of legislative proceedings shall be subject to recording by citizens, so long as the proceedings are not materially disrupted.

Section 20(c). No senator or representative or their employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by policy or law for the victim, any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars.

16-096

discharged and the senate shall be apportioned consistent with the criteria of this section by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter senators shall be elected according to such districts until a reapportionment is made as herein provided.

3. Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session, but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

4. No reapportionment shall be subject to the referendum.

5. Any taxpayer of this state shall have standing to bring suit in a circuit court of proper venue to enforce the provisions of this section.

Section 12. 1. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This subsection shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

2. No senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist until the expiration of one calendar year after the conclusion of the session of the general assembly in which the member or employee last served. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

3. No senator or representative or their employees or any entity controlled by a senator or representative or their employees shall act or serve as a paid employee or paid consultant to a political committee or political candidate or solicit prospective employers or clients as a paid employee or paid consultant to a political committee or political candidate. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

4. For purposes of this section, the term "lobbyist" means any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official.

Section 16(a). 1. No senator or representative or their employees or staff shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value

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Section 20(d).

1. Unlimited campaign contributions to candidates for legislative offices are banned. In addition to other campaign contribution limitations or restrictions provided for by law, the amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election for legislative office shall not exceed the following:
   (1) To elect an individual to the office of state senator, two thousand seven hundred dollars; and
   (2) To elect an individual to the office of state representative, two thousand seven hundred dollars.

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The contribution limits and other restrictions of this section shall also apply to any person exploring a candidacy for a public office listed in this subsection.

For purposes of this subsection, "base year amount" shall be the contribution limits prescribed in this section on January 1, 2017. Contribution limits set forth herein shall be adjusted by the ethics commission, or its successor agency, on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index and rounded to the nearest twenty-five-dollar amount, for all years after January 1, 2015.

2. No contribution to a legislative candidate shall be made or accepted with the intent to circumvent the limitations on contributions imposed in this section.

3. No legislative candidate shall accept a contribution from a corporation.

4. There shall be a rebuttable presumption that a contribution to a candidate for legislative office is made or accepted with the intent to circumvent the limitations on contributions imposed in this section when a contribution is received from a committee or organization that is primarily funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations. A committee or organization shall be deemed to be primarily funded by a single person, individual, or other committee when the committee or organization receives more than fifty percent of its annual funding from that single person, individual, or other committee.

5. No contribution to a candidate for legislative office shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to, or with the intent to, conceal the identity of the actual source of the contribution.

6. If a payment for a covered communication for a candidate for legislative office is made by a person who is a coordinated spender with respect to the candidate, the payment or expenditure shall be deemed to have been authorized, requested, suggested, or fostered by the candidate, or made in cooperation with the candidate and constitute a contribution.

7. Any payment for communications treated as a contribution under this section shall qualify as a contribution regardless of whether the resulting communication expressly advocates for or against any candidate.

8. In no circumstance shall a candidate be found to have violated limits on acceptance of contributions if the ethics commission, its successor agency, or a court determines that a candidate has taken no action to indicate acceptance of or acquiescence to the making of an expenditure that is deemed a contribution pursuant to this section.

9. For purposes of this section, the following terms are defined as follows:

   (1) "Candidate", an individual who seeks nomination or election to the house or senate or as an officer of the house or senate, an individual who seeks nomination by the individual's political party for election to the house or senate or as an

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officer of the house or senate, and an individual who is a write-in candidate for the house or senate.

(2) "Candidate committee", the single committee which is formed and controlled by a candidate to receive contributions and make expenditures on behalf of the person's candidacy.

(3) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value to any candidate or candidate committee for the purpose of supporting or opposing the nomination or election of any candidate for office or for paying debts or obligations of any candidate or candidate committee previously incurred for such purposes. An in-kind contribution of anything of value shall be deemed to have a monetary value equivalent to the fair market value.

(a) "Contribution" to any candidate or candidate committee includes, but is not limited to:

a. A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

b. Payment by any person, other than a candidate or candidate committee, to compensate another person for services rendered to that candidate or candidate committee;

c. Receipts from the sale of goods and services, including the sale of tickets or political merchandise;

d. Receipts from fundraising events;

e. Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in a candidate election campaign or used or intended for the payment of such debts or obligations of a candidate or candidate committee previously incurred, or which was received by a candidate committee;

f. Funds received by a candidate committee which are transferred to such committee from another committee or other source;

g. Facilities, office space or equipment supplied by any person to a candidate or candidate committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or candidate committees, on an equal basis for similar purposes on the same conditions;

(b) "Contribution" to a candidate or candidate committee does not include:

a. Ordinary home hospitality or non-skilled services provided without compensation by individuals volunteering their time in support of a candidate or candidate committee, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a monetary contribution which is expressly and unconditionally rejected and is either returned to the donor or transmitted to the state treasurer within ten business days after receipt;

c. Interest earned on deposit of candidate committee funds;

(c) In addition, the term "contribution" shall include any payment or expenditure by any person other than a candidate or a candidate committee made in connection with the election of any candidate that is authorized, requested, suggested, or fostered by a candidate, candidate committee, or agents of the candidate or candidate committee, or made in cooperation with the candidate, candidate committee, or agents of the candidate or candidate committee, and any payment or expenditure for any communication which republishes, disseminates, or

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distributes, in whole or in part, any broadcast or any written, graphic, or other form of campaign material prepared by the candidate or candidate committee or by agents of the candidate or candidate committee.

(d) For purposes of the definition of "contribution", there is a rebuttable presumption that a payment or expenditure by a person for a communication in support of a candidate's election or in opposition to the election of a candidate's opponent is a contribution in any of the following circumstances:

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a. The communication includes or is based on information about a candidate's campaign plans, projects, or needs that is not generally available to the public or is provided directly or indirectly by the candidate;

b. The person discusses or negotiates the communication with the candidate;

c. The person and the candidate or candidate committee retain the same individual or entity to provide professional campaign services during the same election cycle. For purposes of this subparagraph, the term "professional campaign services" does not include accounting, legal services, or other non-campaign services.

(e) None of the following circumstances are sufficient in and of themselves to support a finding that a payment or expenditure by a person for a communication is authorized, requested, suggested, or fostered by a candidate or committee, or made in cooperation with a candidate or committee:

a. The person interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate, but does not communicate with the candidate regarding the communication;

b. The person solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication;

c. The person made contributions to the candidate;

d. The person unilaterally communicates to the candidate the intent to make a communication, but does not discuss or negotiate the communication with the candidate;

e. The person employs or contracts with a political consultant or pollster who rendered services to the candidate prior to the current election cycle.

(4) "Coordinated spender" means, with respect to a candidate or candidate committee of a candidate, a person for which any of the following applies:

(a) The person is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of, the candidate or candidate committee, or agents of the candidate or candidate committee, including with the express or tacit approval of the candidate or candidate committee or agents of the candidate or candidate committee.

(b) The candidate or the candidate committee or agents of the candidate or candidate committee solicit funds or engage in other fundraising activity on the person's behalf during the election cycle involved, including by providing the person with names of potential donors or other lists to be used by the person in engaging in fundraising activity, regardless of whether the person pays fair market value for the names or lists provided.

(c) The person is established, directed, or managed by any person who, during the two-year period before the general election or primary election in which the candidate stands for nomination, has been employed or retained as a political, media, or fundraising adviser or consultant for the candidate or candidate committee or for any other entity directly or indirectly controlled by the candidate or candidate committee, or has held a formal position with a title for the candidate or candidate committee.

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(d) The person is a current or former business partner of a candidate or is established, directed, or managed by a current or former business partner of the candidate, in the case of a person that is a political committee. The term "business partner of a candidate" means a person who is a director, officer, partner, trustee, owner, employee, or who holds any position of management in a business entity, or an affiliate of a business entity, in which the candidate is a director, officer, partner, trustee, owner, employee, or holds any position of management; "an affiliate of a business entity" means any business entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the business entity.

(e) The person is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office during the two-year period before the general election or before any primary election in which the candidate stands for nomination.

(f) The person has, within the same election cycle, co-hosted or co-sponsored with the candidate or the candidate committee fundraising events or campaign activities benefitting the person, the candidate, or the candidate committee.

(g) The person is controlled, established, directed, managed, or retains significant services from the family member of a candidate.

(5) "Covered communication" is a communication conveyed to five hundred or more members of a general public audience in the form of:

(a) An audio or video communication via internet, broadcast, cable or satellite;

(b) A written communication via internet or printed advertisements, pamphlets, circulars, flyers, brochures, letterheads; or

(c) Other published statements which:

a. Irrespective of when such communication is made, contain words such as "vote", "oppose", "support", "elect", "defeat", or "reject", which call for the election or defeat of the clearly identified candidate; and

b. Refers to and advocates for or against a clearly identified candidate on or after January first of the year of the election in which such candidate is seeking office.

(6) "Election", any primary, general or special election held to nominate or elect an individual to public office or to retain or recall an elected officeholder, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(7) "Person", an individual, group of individuals, corporation, partnership, committee, political committee, proprietorship, joint venture, institution, union, labor organization, business entity, non-profit entity, trade or professional or business association, other association, political party, or any other club or organization however constituted. For purposes of this definition, all committees of a political party shall constitute a single person.

10. Any violation of this section shall be punishable by:

(1) For the first violation, imprisonment for up to one year and or a fine of up to one thousand dollars or both, plus an amount equal to three times the illegal contributions.
(2) For the second and subsequent violations, a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both, plus an amount equal to three times the illegal contributions.

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Section 20(e). No political fundraising activities or political fundraising event, including the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party or political committee, shall occur in or on any premises, property or building owned, leased or controlled by the house of representatives, senate or general assembly. Any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars plus an amount equal to three times the illegal contributions.

Section 20(f). If any provision of sections 12, 16(a), 19, 20(c), 20(d) or 20(e) or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

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SECRETARY OF STATE

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-096)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article III. (Received September 10, 2015)

## Date

September 30, 2015

## Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated no impact to their department.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson** indicated they expect no fiscal impact should the contents of this petition become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated they have reviewed this initiative petition and determined there is no financial impact.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for FY 2017, $61,107 for FY 2018 and $61,734 for FY 2019.

**Summarize how this bill would affect the agency**

Prohibiting a member of the general assembly from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130, RSMo

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific prohibition of receiving compensation as a political consultant from the entities outlined in Section 105.456, RSMo, including reviewing campaign finance reports as established in Section 105.955.14 (2), (3), RSMo.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a member of the general assembly from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.

- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a member of general assembly to accept specified monetary lobbyist/lobbyist principal gifts would require the following of the MEC:
- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:
- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

**Assumptions and methodology used in arriving at state fiscal impact**

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

- $15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in Section 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

- 1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

- If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for full-time employees, equipment, and expenses.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate increased annual operating costs of at least $61,000 and indicate there may be minimal incarceration costs if people are convicted under the provisions of this petition. Local governmental entities report no expected fiscal impact.

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SEP 10 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-095

September 10, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article III, version 3 (2016-095)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on September 10, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

16-095

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

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2015 SEP 10 AM 9:

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____

(Name of payer) Signature of Affiant (Person obtaining signatures)

_____

Printed Name of Affiant

_____

Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____

Signature of Notary

_____

My commission expires _____ Address of Notary (Street, City, State & Zip Code)

16-095

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article III of the Constitution is revised by repealing Section 5, amending Sections 2, 7, 12 and 19 and adopting 3 new sections to be known as Article III Sections 16(a), 20(c), 20(d) to read as follows:

Section 2. 1. There is hereby established the post of "non-partisan state demographer." The non-partisan state demographer shall acquire appropriate information to develop procedures in preparation for drawing legislative redistricting maps on the basis of each federal census for presentation to the house apportionment commission and the senate apportionment commission.

2. The non-partisan state demographer shall be selected by the commissioner of administration pursuant to the merit personnel system. The non-partisan state demographer shall serve a term of five years and may be reappointed at the discretion of the commissioner of administration. The non-partisan state demographer shall be disqualified from holding office as a member of the general assembly for four years following the date of the presentation of the most recent legislative redistricting map to the house apportionment commission or the senatorial apportionment commission.

3. The house of representatives shall consist of one hundred sixty-three members elected at each general election and apportioned [in the following manner:] as provided in this section.

4. Within ten days after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within ten days after notification by the governor that such a ruling has been made, the non-partisan state demographer shall begin the preparation of legislative districting plans and maps using the following methods:

(1) Districts shall be established on the basis of population. Legislative districts shall each have a population as nearly equal as practicable to the ideal population for such districts, determined by dividing the number of districts to be established into the population of the state reported in the federal decennial census.

(2) Districts shall be established in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The non-partisan state demographer shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the non-partisan state demographer shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the non-partisan state demographer shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The non-partisan state demographer shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the non-partisan state demographer shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three

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percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

(3) Districts shall be composed of convenient contiguous territory. Areas which meet only at the points of adjoining corners are not contiguous.

(4) To the extent consistent with subdivisions 1, 2, and 3 of this subsection, district boundaries shall coincide with the boundaries of political subdivisions of the state. The number of counties and cities divided among more than one district shall be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous, but this preference shall not apply to a legislative district boundary drawn along a county line which passes through a city that lies in more than one county.

(5) Preference shall be that districts are compact in form, but the standards established by subdivisions 1, 2, 3, and 4 of this subsection take precedence over compactness where a conflict arises between compactness and these standards. In general, compact districts are those which are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries.

5. Within sixty days after the population of this state is reported to the President for each decennial census of the United States [and] or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

6. Within six months after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within six months after notification by the governor that such a ruling has been made, the non-partisan state demographer shall file with the secretary of state and with the house apportionment commission a tentative plan of apportionment and map of the proposed districts.

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The commissioners so selected shall, [on the fifteenth day, excluding Sundays and holidays, after all members have been selected] within ten days of receiving the tentative plan of apportionment and map of the proposed districts, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary[ and]. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

The commission may make changes to the tentative plan of apportionment and map of the proposed districts received from the non-partisan state demographer provided that such changes are consistent with this section and approved by a vote of at least seven-tenths of the commissioners. If no changes are made or approved as provided for in this subsection, the tentative plan of apportionment and map of proposed districts shall become final. Not later than two months of receiving the tentative plan of apportionment and map of the proposed districts, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts.

[The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.

Each district shall be composed of contiguous territory as compact as may be.

Not later than five months after the appointment of the commission, the commission shall receive the tentative plan of apportionment and map of the proposed districts ordered in subsection 4 of this section and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.]

Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

No reapportionment shall be subject to the referendum.

[Section 5. The senate shall consist of thirty-four members elected by the qualified voters of the respective districts for four years. For the election of senators, the state shall be divided into convenient districts of contiguous territory, as compact and nearly equal in population as may be.]

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Section 7.1. The senate shall consist of thirty-four members elected by the qualified voters of the senatorial districts for a term of four years. Senatorial districts shall be apportioned as provided for in this section.

2. Within ten days after the population of this state is reported to the President for each decennial census of the United States or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within ten days after notification by the governor that such a ruling has been made, the non-partisan state demographer authorized in article III section 2, shall begin the preparation of senatorial districting plans and maps using the following methods:

(1) Districts shall be established on the basis of population. Districts shall each have a population as nearly equal as practicable to the ideal population for such districts, determined by dividing the number of districts to be established into the population of the state reported in the federal decennial census. No county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

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(2) Districts shall be established in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The non-partisan state demographer shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the non-partisan state demographer shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the non-partisan state demographer shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The non-partisan state demographer shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the non-partisan state demographer shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

(3) Districts shall be composed of convenient contiguous territory. Areas which meet only at the points of adjoining corners are not contiguous.

(4) To the extent consistent with subdivisions 1, 2, and 3 of this subsection, district boundaries shall coincide with the boundaries of political subdivisions of the state. The number of counties and cities divided among more than one district shall be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous, but this preference shall not apply to a legislative district boundary drawn along a county line which passes through a city that lies in more than one county.

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(5) Preference shall be that districts are compact in form, but the standards established by subdivisions 1, 2, 3, and 4 of this subsection take precedence over compactness where a conflict arises between compactness and these standards. In general, compact districts are those which are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries.

3.Within sixty days after the population of this state is reported to the President for each decennial census of the United States, [and] or within sixty days after notification by the governor that a reapportionment has been invalidated by a court of competent jurisdiction, the state committee of each of the two political parties casting the highest vote for governor at the last preceding election shall, at a committee meeting duly called, select by a vote of the individual committee members, and thereafter submit to the governor a list of ten persons, and within thirty days thereafter the governor shall appoint a commission of ten members, five from each list, to reapportion the thirty-four senatorial districts and to establish the numbers and boundaries of said districts.

If either of the party committees fails to submit a list within such time the governor shall appoint five members of his own choice from the party of the committee so failing to act.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

4. Within six months after the population of this state is reported to the President for each decennial census of the United States or in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within six months after notification by the governor that such a ruling has been made, the non-partisan state demographer shall file with the secretary of state and with the senatorial apportionment commission a tentative plan of apportionment and map of the proposed districts.

The commissioners so selected shall [on the fifteenth day, excluding Sundays and holidays, after all members have been selected] within ten days of receiving the tentative plan of apportionment and map of the proposed districts required by subsection 4 of this section, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary[and]. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the secretary of the senate within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable. The commission may make changes to the tentative plan of apportionment and map of the proposed districts received from the non-partisan state demographer provided that such changes are consistent with this section and approved by a vote of at least seven-tenths of the commissioners. If no changes are made or approved as provided for in this subsection, the tentative plan of apportionment and map of proposed districts shall become final. Not later than two months after receiving the tentative plan of apportionment and map of the proposed districts, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts.

[The commission shall reapportion the senatorial districts by dividing the population of the state by the number thirty-four and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure; no county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

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Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven members.

After the statement is filed senators shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the senate shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter senators shall be elected according to such districts until a reapportionment is made as herein provided.]

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Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session, but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

No reapportionment shall be subject to the referendum.

Section 12. 1. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This subsection shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

2. No senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist until the expiration of one calendar year after the conclusion of the session of the general assembly in which the member or employee last served. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

3. No senator or representative or their employees or any entity controlled by a senator or representative or their employees shall act or serve as a paid employee or paid consultant to a political committee or political candidate or solicit prospective employers or clients as a paid employee or paid consultant to a political committee or political candidate. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

4. For purposes of this section, the term "lobbyist" means any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any

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natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official.

Section 16(a). 1. No senator or representative or their employees or staff shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value from any lobbyist or lobbyist principal in excess of five dollars per occurrence. Senators or representatives and their employees and staff may accept informational material relevant to the general assembly's official functions and items that are available or distributed free of charge to members of the general public. All gifts by a lobbyist or lobbyist principal to a senator or representative or their employees or staff shall be reported to the ethics commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient. Candidates for senator or representative, including candidates for reelection, or candidates for offices within the senate or house may accept campaign contributions consistent with this article and applicable campaign finance law. Any violation of this section shall be punishable by a term of imprisonment of up to six months and the imposition of a fine of up to five hundred dollars or both.

2. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly and is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

Section 19. 1. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place.

2. Legislative records shall be public records and subject to generally applicable state laws governing public access to public records, including the "sunshine law." Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member, their employees and staff. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate, respectively.

3. Legislative proceedings, including committee proceedings, shall be public meetings subject to generally applicable law governing public access to public meetings, including the "sunshine law." Open public meetings of legislative proceedings shall be subject to recording by citizens, so long as the proceedings are not materially disrupted.

Section 20(c). No political fundraising activities or political fundraising event, including the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party or political party committee, shall occur in or on any premises, property or building owned, leased or controlled by the house of representatives, senate or general assembly. Any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars plus an amount equal to the illegal contributions or both.

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Section 20(d). No senator or representative or their employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by policy or law for the victim, any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars.

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**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-095)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article III. (Received September 10, 2015)

## Date

September 30, 2015

## Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated no impact to their department.

Officials from the **Office of Administration** indicated this initiative petition revises Article III of the Missouri Constitution by amending Sections 2, 7, 12 and 19 and enacting five new sections. Section 5 is repealed but reenacted with changes in Section 7.

The initiative creates the post of "non-partisan State Demographer" to oversee the redistricting process for the state House and Senate districts. The demographer is to be selected by the Commissioner of Administration pursuant to the merit personnel system and shall serve a term of five years. This demographer will be unable to hold elected office for four years following the filing of the new legislative districts. The redistricting process shall maximize partisan fairness and competitiveness.

It mandates that legislative records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms shall be public. It allows explicitly identified legislative proceedings as open meetings and authorizes recording of such proceedings by citizens.

Legislators and their employees are prohibited from lobbying for at least one year after the conclusion of the session during which they vacate office, and from acting as paid consultants while in office.

Legislators and their staff are prohibited from accepting a gift in excess of five dollars, per occurrence.

Political fundraising activities and events may not be held in any location owned by, or under the control of, the legislature.

Legislators and staff are prohibited from engaging in sexual harassment.

This proposal could have an impact on the Office of Administration. There is currently a State Demographer, with statutory duties that extend beyond those of legislative reapportionment. If the existing State Demographer would be expected to assume the role of "Non-partisan State Demographer", there would be no fiscal impact. However, if that post is filled by another individual, the salary and benefits costs would be an estimated $125,993 in fiscal year 2021, adjusted for inflation. In either scenario, the cost for other staff hired for the purposes of redistricting would remain the same.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson** indicated they expect no fiscal impact should the contents of this petition become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated they have reviewed this initiative petition and determined there is no financial impact.

Officials from the **Missouri Ethics Commission** indicated the proposed initiative petition does not have a fiscal impact on their office.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities indicate annual operating costs may increase an estimated $125,000 and result in minimal incarceration costs if people are convicted under the provisions of this petition. Local governmental entities report no expected fiscal impact.

RECEIVED
SEP 10 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-094

September 10, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article III, version 2 (2016-094)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on September 10, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

16-094

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

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2015 SEP 10 AM 9:29
MO SEC OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
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| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
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| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____

(Name of payer) Signature of Affiant (Person obtaining signatures)

_____

Printed Name of Affiant

_____

Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____

Signature of Notary

_____

My commission expires _____ Address of Notary (Street, City, State & Zip Code)

16-094

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article III of the Constitution is revised by amending Sections 2, 7, 12 and 19 and adopting 3 new sections to be known as Article III Sections 16(a), 20(c) and 20(d), to read as follows:

Section 2. 1. The house of representatives shall consist of one hundred sixty-three members elected at each general election and apportioned in the following manner: Within sixty days after the population of this state is reported to the President for each decennial census of the United States [and] or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

2. The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.
Each district shall be composed of contiguous territory as compact as may be.

The commission shall create districts in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The commission shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the commission shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the

16-094

highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the commission shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The commission shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the commission shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

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Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.
Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned consistent with the criteria of this section by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.

3. Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

4. No reapportionment shall be subject to the referendum.

5. Any taxpayer of this state shall have standing to bring suit in a circuit court of proper venue to enforce the provisions of this section.

Section 7. 1. Within sixty days after the population of this state is reported to the President for each decennial census of the United States, and within sixty days after notification by the governor that a reapportionment has been invalidated by a court of competent jurisdiction, the state committee of each of the two political parties casting the highest vote for governor at the last preceding election shall, at a committee meeting duly called, select by a vote of the individual committee members, and thereafter submit to the governor a list of ten persons, and within thirty days thereafter the governor shall appoint a commission of ten members, five from each list, to reapportion the thirty-four senatorial districts and to establish the numbers and boundaries of said districts.

If either of the party committees fails to submit a list within such time the governor shall appoint five members of his own choice from the party of the committee so failing to act.

16-004

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the secretary of the senate within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

2. The commission shall reapportion the senatorial districts by dividing the population of the state by the number thirty-four and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure; no county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

The commission shall create districts in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The commission shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the commission shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the commission shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The commission shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the commission shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven members.

After the statement is filed senators shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand

16-094

discharged and the senate shall be apportioned consistent with the criteria of this section by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter senators shall be elected according to such districts until a reapportionment is made as herein provided.

3. Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session, but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

4. No reapportionment shall be subject to the referendum.

5. Any taxpayer of this state shall have standing to bring suit in a circuit court of proper venue to enforce the provisions of this section.

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OFFICE OF SEC. OF STATE

Section 12. 1. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This subsection shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

2. No senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist until the expiration of two calendar years after the conclusion of the session of the general assembly in which the member or employee last served. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

3. No senator or representative or their employees or any entity controlled by a senator or representative or their employees shall act or serve as a paid employee or paid consultant to a political committee or political candidate or solicit prospective employers or clients as a paid employee or paid consultant to a political committee or political candidate. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

4. For purposes of this section, the term "lobbyist" means any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official.

Section 16(a). 1. No senator or representative or their employees or staff shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value

16-094

from any lobbyist or lobbyist principal in excess of five dollars per occurrence. Senators or representatives and their employees and staff may accept informational material relevant to the general assembly's official functions and items that are available or distributed free of charge to members of the general public. All gifts by a lobbyist or lobbyist principal to a senator or representative or their employees or staff shall be reported to the ethics commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient. Candidates for senator or representative, including candidates for reelection, or candidates for offices within the senate or house may accept campaign contributions consistent with this article and applicable campaign finance law. Any violation of this section shall be punishable by a term of imprisonment of up to six months and the imposition of a fine of up to five hundred dollars or both.

2. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly and is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

Section 19. 1. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place.

2. Legislative records shall be public records and subject to generally applicable state laws governing public access to public records, including the "sunshine law." Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member, their employees and staff. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate, respectively.

3. Legislative proceedings, including committee proceedings, shall be public meetings subject to generally applicable law governing public access to public meetings, including the "sunshine law." Open public meetings of legislative proceedings shall be subject to recording by citizens, so long as the proceedings are not materially disrupted.

Section 20(c). No political fundraising activities or political fundraising event, including the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party or political party committee, shall occur in or on any premises, property or building owned, leased or controlled by the house of representatives, senate or general assembly. Any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars plus an amount equal to the illegal contributions or both.

Section 20(d). No senator or representative or their employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of

16-091

such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by policy or law for the victim, any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars.

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SEC. OF STATE

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-094)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article III. (Received September 10, 2015)

## Date

September 30, 2015

## Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated no impact to their department.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson** indicated they expect no fiscal impact should the contents of this petition become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated they have reviewed this initiative petition and determined there is no financial impact.

Officials from the **Missouri Ethics Commission** indicated the proposed initiative petition does not have a fiscal impact on their office.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State and local governmental entities reported no fiscal impact except for minimal state incarceration costs if people are convicted under the provisions of this petition.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

RECEIVED
SEP 10 2015

16-093

ELECTIONS DIVISION
(573) 751-2301

September 10, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article III, version 1 (2016-093)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Bradley Ketcher on September 10, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-093

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

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SECRETARY OF STATE

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____
(Name of payer) Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____

16-093

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article III of the Constitution is revised by amending Sections 2, 7, 12 and 19 and adopting 3 new sections to be known as Article III Sections 16(a), 20(c) and 20(d), to read as follows:

Section 2. 1. The house of representatives shall consist of one hundred sixty-three members elected at each general election and apportioned in the following manner: Within sixty days after the population of this state is reported to the President for each decennial census of the United States [and] or, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

2. The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.
Each district shall be composed of contiguous territory as compact as may be.

The commission shall create districts in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The commission shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the commission shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the

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highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the commission shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

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The commission shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the commission shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.
Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned consistent with the criteria of this section by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.

3. Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

4. No reapportionment shall be subject to the referendum.

5. Any taxpayer of this state shall have standing to bring suit in a circuit court of proper venue to enforce the provisions of this section.

Section 7. 1. Within sixty days after the population of this state is reported to the President for each decennial census of the United States, and within sixty days after notification by the governor that a reapportionment has been invalidated by a court of competent jurisdiction, the state committee of each of the two political parties casting the highest vote for governor at the last preceding election shall, at a committee meeting duly called, select by a vote of the individual committee members, and thereafter submit to the governor a list of ten persons, and within thirty days thereafter the governor shall appoint a commission of ten members, five from each list, to reapportion the thirty-four senatorial districts and to establish the numbers and boundaries of said districts.

If either of the party committees fails to submit a list within such time the governor shall appoint five members of his own choice from the party of the committee so failing to act.

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Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the secretary of the senate within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

2. The commission shall reapportion the senatorial districts by dividing the population of the state by the number thirty-four and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure; no county lines shall be crossed except when necessary to add sufficient population to a multi-district county or city to complete only one district which lies partly within such multi-district county or city so as to be as nearly equal as practicable in population. Any county with a population in excess of the quotient obtained by dividing the population of the state by the number thirty-four is hereby declared to be a multi-district county.

The commission shall create districts in a manner which maximizes partisan fairness and competitiveness, treating similarly-situated parties equitably so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage of the vote. The commission shall draw districts that meet as closely as possible the tests for partisan fairness and competitiveness.

To that end, the commission shall calculate the average statewide electoral performance by determining the number of votes cast for the two top vote-getting parties and then calculating the percentage of those votes won by each of the two parties casting the highest vote for governor at the last three preceding gubernatorial elections, for United States Senate at the last three preceding United States Senate elections, and for President of the United States at the last three preceding Presidential elections. Using the resultant statewide electoral performance index, the commission shall test the plan, simulating an evenly split statewide election by normalizing district-level results by the amount by which the statewide electoral performance index varies from fifty percent. In a hypothetical evenly divided statewide election under the proposed plan, the legislative seats should be distributed evenly between parties.

The commission shall promote competitiveness by ensuring the plan is drawn so as to be equally responsive to surges in the electorate favoring either party. To test this, the commission shall again use the normalized district-level results within the proposed plan to simulate separate elections in which the hypothetical statewide vote varies from fifty percent by one percent, two percent, three percent, four percent and five percent in favor of each party. The number of additional seats yielded by the simulation for any party for any amount it performs over fifty percent should be matched by the number of seats gained by the other party when it performs the same amount over fifty percent.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven members.

After the statement is filed senators shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand

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discharged and the senate shall be apportioned consistent with the criteria of this section by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter senators shall be elected according to such districts until a reapportionment is made as herein provided.

3. Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session, but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

4. No reapportionment shall be subject to the referendum.

5. Any taxpayer of this state shall have standing to bring suit in a circuit court of proper venue to enforce the provisions of this section.

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Section 12. 1. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This subsection shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

2. No senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist until the expiration of one calendar year after the conclusion of the session of the general assembly in which the member or employee last served. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

3. No senator or representative or their employees or any entity controlled by a senator or representative or their employees shall act or serve as a paid employee or paid consultant to a political committee or political candidate or solicit prospective employers or clients as a paid employee or paid consultant to a political committee or political candidate. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

4. For purposes of this section, the term "lobbyist" means any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly; or any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof; or any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof; or any natural person employed specifically for the purpose of attempting to influence any action by a locally elected government official.

Section 16(a). 1. No senator or representative or their employees or staff shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value

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from any lobbyist or lobbyist principal in excess of five dollars per occurrence. Senators or representatives and their employees and staff may accept informational material relevant to the general assembly's official functions and items that are available or distributed free of charge to members of the general public. All gifts by a lobbyist or lobbyist principal to a senator or representative or their employees or staff shall be reported to the ethics commission, or its successor agency, in a manner that identifies the gift, its value and the individual recipient. Candidates for senator or representative, including candidates for reelection, or candidates for offices within the senate or house may accept campaign contributions consistent with this article and applicable campaign finance law. Any violation of this section shall be punishable by a term of imprisonment of up to six months and the imposition of a fine of up to five hundred dollars or both.

2. For purposes of this section, the following terms mean:

"Lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, appropriation, resolution, amendment, nomination, appointment, report or any other action or matter in either house of the general assembly or in a legislative committee in either house of the general assembly and is registered as a lobbyist with the ethics commission or its successor agency.

"Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit entity, corporation, association or other entity who retains, designates, employs, contracts for or compensates a lobbyist and is listed as a principal with the ethics commission or its successor agency.

Section 19. 1. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place.

2. Legislative records shall be public records and subject to generally applicable state laws governing public access to public records, including the "sunshine law." Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member, their employees and staff. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate, respectively.

3. Legislative proceedings, including committee proceedings, shall be public meetings subject to generally applicable law governing public access to public meetings, including the "sunshine law." Open public meetings of legislative proceedings shall be subject to recording by citizens, so long as the proceedings are not materially disrupted.

Section 20(c). No political fundraising activities or political fundraising event, including the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party or political party committee, shall occur in or on any premises, property or building owned, leased or controlled by the house of representatives, senate or general assembly. Any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars plus an amount equal to the illegal contributions or both.

Section 20(d). No senator or representative or their employees or staff shall engage in sexual harassment. For purposes of this section, "sexual harassment" means any unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment or education, submission to or rejection of

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such conduct by an individual is used as the basis for employment or educational decisions affecting such individuals, or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. In addition to any civil or administrative remedy provided for by policy or law for the victim, any violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars.

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**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-093)**

## Subject

Initiative petition from Bradley Ketcher regarding a proposed constitutional amendment to Article III. (Received September 10, 2015)

## Date

September 30, 2015

## Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated although the expectation is for minimal impact, the department is unable to determine the exact number of people who would be convicted under the provisions of this petition and whether or not additional inmate beds may be required. The cumulative effect of various new legislation, if adopted as statute, may require institutional facility expansion.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated no impact to their department.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson** indicated they expect no fiscal impact should the contents of this petition become law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated they have reviewed this initiative petition and determined there is no financial impact.

Officials from the **Missouri Ethics Commission** indicated the proposed initiative petition does not have a fiscal impact on their office.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State and local governmental entities reported no fiscal impact except for minimal state incarceration costs if people are convicted under the provisions of this petition.

STATE AUDITOR'S OFFICE
RECEIVED
SEP 10 2015

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-092

September 10, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Winston Apple regarding a proposed statutory amendment to Chapters 286 & 143 (2016-092)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Winston Apple on September 9, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16092

County:_____
Page number: _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021 RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail, or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

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SECRETARY OF STATE

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print of type names of signers)

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong Dist | NAME (Print or Typed) |
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Signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____.

_____
Signature of Affiant (Person obtaining signatures)

_____
(Printed Name of Affiant)

_____
Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A. D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)
My commission expires _____

16-092

*Be it enacted by the people of the state of Missouri:*

*Two new sections of the Revised Missouri Statutes are hereby enacted, to be known as sections 286.131 and 143.012, to read as follows:*

286.131. 1. An agency to be known as "The Climate Crisis Response Project" is hereby created within the Missouri Department of Labor.

2. Funding for The Climate Crisis Response Project will be provided through revenues from a tax on capital gains, as provided for in Section 143.012.

3. As funds become available, staff and workers will be hired to plan projects to improve energy efficiency in homes and businesses; manufacture wind turbines and solar panels; construct wind farms and solar farms; and plant trees.

4. a. The compensation provided for, and other specific policies related to, work done through public sector employment shall be determined and set by the labor and industrial relations commission, but, at a minimum, shall be set at a level that provides a living wage, which is hereby defined as putting a worker, and her or his family, at least ten percent above the poverty level, as determined by the federal government, provided a worker is present and working 40 hours per week.

b. If a family has two adult members and no child under the age of three, compensation will be based on both adults working 40 hours per week, however in no event shall the hourly wage paid under this program be less than the applicable minimum wage.

c. Jobs within The Climate Crisis Response Project that involve work that can be done with workers who belong to a labor union, will use union workers and will pay the prevailing wage. Any workers hired for these types of jobs who do not already belong to the appropriate labor union, will be required to join the appropriate labor union within thirty days of being hired.

d. Management and administrative positions will pay a reasonable salary based on the prevailing salaries for positions with similar responsibilities elsewhere within the government of the state of Missouri.

5. Any jobs created within The Climate Crisis Response Project that are not covered by a labor union will pay wages or salaries that are as nearly equivalent to, or greater than, union wages for comparable work as possible.

6. Once the state of Missouri is producing all of its electricity from clean, renewable sources, the funds generated by the tax on capital gains may be used, as directed by appropriate legislation, for infrastructure projects or to replace funds generated by the state sales tax so that sales taxes may be reduced or eliminated.

143.012. Beginning with the 2017 calendar year, a tax of ten percent on the amount of capital gains reported on each Missouri resident's Federal tax return (Form 1040), will be imposed, with the funds collected dedicated to providing funding for The Climate Crisis Response Project.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-092)**

## Subject

Initiative petition from Winston Apple regarding a proposed amendment to Chapters 286 and 143 of the Revised Statutes of Missouri. (Received September 10, 2015)

## Date

September 30, 2015

## Description

This proposal would amend Chapters 286 and 143 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated the Division of Energy (DE) assumes that any costs to administer the provisions of this proposal would be incurred by the Department of Labor and Industrial Relations (DOLIR) from the capital gains tax imposed by this proposal. As Missouri's state energy office, the DE is charged with advancing energy efficiency and renewable energy projects in the state. If DE is requested to provide technical assistance to DOLIR related to the implementation or administration of this proposal and additional staff are necessary to provide this assistance, it is assumed that any costs would be provided through contract or agreement with the DOLIR and funded through the capital gains tax.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** (DOLIR) indicated:

This petition could impact Department of Revenue, Office of Administration, or Department of Economic Development.

Space will be required for 64 full time employees (FTE) throughout the state.

Information Technology Services Division (ITSD) estimates costs of $299,538 in fiscal year (FY) 2017 and $61,045 in FY 2018 to set up and implement the computer system.

A surtax on capital gains of 10% would be imposed beginning with the 2017 tax year. DOLIR defers to the Office of Administration regarding the estimate of revenue collected from this surtax.

**Summarize how this bill affects the department**

This petition seeks to create a new Section 286.131, RSMo, requiring the Department of Labor to create an agency known as the "The Climate Crisis Response Project". Funds

would be generated from a ten percent tax on capital gains as stated in Section 143.012, RSMo. As funds are available, this agency would use those funds to improve energy efficiency in homes and businesses; manufacture wind turbines and solar panels; construct wind farms and solar farms; and plant trees.

With an annual revenue estimate of $617,500,000, DOLIR estimates 4,397 FTE could participate in The Climate Crisis Response Project each year. If revenues increase or decrease in a given year, the number of participants in the program would rise or fall proportionally. The DOLIR estimates an additional 64 FTE would be needed to administer the program.

ITSD Costs--A new system will be developed for this proposal.

**Long-range implications**

Per Sections 143.012 and 286.131, RSMo, a capital gains tax increase of ten percent would be used to fund The Climate Crisis Response Project. Projects would increase or decrease based on the availability of funding. The proposed language is unclear regarding the long-range implications, how constructed assets would be managed, and how revenues (if any) from the projects would be assessed and used.

**Assumptions and methodology used in arriving at state fiscal impact**

This petition creates a new Section 286.131, RSMo, to establish "The Climate Crisis Response Project" and 143.012 to assess a ten percent tax on capital gains reported in Missouri.

Administrative Costs and Management of Construction/Manufacturing Projects
It is estimated that approximately ten percent of the available funds will be needed for administration and to manage the project under the agency known as "The Climate Crisis Response Project". With total funds available estimated at $617,500,000, an estimated $5,749,330 will be needed for The Climate Crisis Response Project agency. Salaries for agency staff have been adjusted to be similar to union wages. In addition, it is assumed the DOLIR will contract for the management of the construction/manufacturing projects. Project management fees are estimated to be 10% of the cost of wages and material, which equates to $55,613,697 (10% x (materials $139,034,244 + labor $417,102,729)).

Wages Paid
Section 286.131.4.c, RSMo, indicates that jobs within The Climate Crisis Response Project will use union workers and pay prevailing wages, if possible. Additionally, Section 286.131.5, RSMo, indicates that any jobs not covered by a labor union will pay wages or salaries that are as nearly equivalent to, or greater than, union wages for comparable work as possible. Since the wages will vary with the type of position, a salary of $30 per hour is used as an average union wage\prevailing wage. Fringe is computed at the standard state rate of 52.005%. It is estimated that 4,397 FTE could be employed annually through the program.

Material Costs for Construction Projects
In calculating the material costs, the DOLIR assumes labor to material costs at a 3 to 1 ratio. Using this ratio, the annual material cost is estimated at $139,034,244. (1/3 of 417,102,729).

Summary
Best estimates of union wages, materials, and project management costs have been used. Depending on the work projects, costs will vary significantly. Therefore the number of participates which could be funded will also vary. The scope of this statute revision is very broad and the long-range implications are unknown.

ITSD Costs
The assumptions made are to import information from a new client public service job application form into a database. Build new web pages to display and update the client information. Create a new exchange of data with Department of Mental Health to retrieve information on substance abuse, other additions and mental health issues for clients that have a public service job. Create a new exchange of data with Department of Social Services (DSS) to gather information on clients that have a public service job that are failing to provide adequately for their dependents. Create a new exchange with DSS to send client information to have vouchers produced from the DSS programs currently in place like food stamps. Create a new exchange with Department of Revenue to receive client information for the W-4 dependent. Create a new exchange with Department of Economic Development to receive client information on aptitude test and training. Create a new exchange with a vendor to send payment information for them to produce the payment. Create a new exchange with State Advantage for Missouri (SAMII). If DOLIR cannot use DSS voucher system then the cost will increase significantly for DOLIR to produce vouchers. Create a financial min system to track the financial piece along with financial reports. Scanning and imaging of the form. The system will require a new database and services from the State Data Center.

Officials from the **Department of Revenue** indicated the total increased costs would be $164,089 for FY 2017, $168,172 for FY 2018, and $169,922 for FY 2019. Increased revenue is expected to be $351,400,000 per year.

If excess funds remain after all applicants have been employed, the legislation transfers this excess to General Revenue, less enough reserve to meet the next 12 month period.

This legislation may create a positive impact on state revenues.

Section 143.012, RSMo
Beginning January 1, 2017, the legislation imposes a 10 percent tax on capital gains reported on a Missouri resident taxpayer’s federal tax return. Funds generated from the tax on capital gains will fund the Climate Crisis Response Project.

For tax year 2013, taxpayers reported positive capital gains of $3.514 billion on federal tax returns filed by Missouri residents. The department anticipates collecting an estimated $351.4 million from the 10 percent surtax to provide funding for public sector employment through the Division of Employment Security.

Section 286.131, RSMo
This section creates the Climate Crisis Response Project. The legislation funds the project through a tax on capital gains as provided in Section 143.012, RSMo. Once established, personnel will plan projects to improve energy efficiency in homes and businesses, manufacture wind turbines, solar panels, construct wind and solar farms, and plant trees.

Once the state produces electricity from renewable sources, funds generated by the tax may be used for infrastructure projects or replace funds generated by state sales tax, reducing or eliminating sales tax.

Administrative Impact:
Personal Tax
Personal Tax requires form and programming changes. Additionally, Personal Tax requires two (2) Revenue Processing Technicians I (Range 10, Step L) for error correction and correspondence.

Collections & Tax Assistance
This section anticipates additional contacts on the surtax, notice of adjustment, and billings. Collections & Tax Assistance requires two (2) Tax Collection Technicians I (Range 10, Step L) for additional contacts on the delinquent and non-delinquent tax lines. Each technician requires CARES equipment and license.

Business Tax
The department may require the generation of a report to identify the amount of capital gains tax due.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated no impact to their department.

Officials from the **Office of Administration** indicated the proposal adds Sections 286.131 and 143.012, RSMo, to create the Climate Crisis Response Project in the Department of Labor. The program would provide workers to plan projects to improve energy efficiency in homes and businesses; manufacture wind turbines and solar panels; construct wind farms and solar farms; and plant trees.

This program would be funded with revenue created by a 10 percent capital gains surtax. Using Tax Year 2012 data, capital gains for Missouri taxpayers totaled $617.5 billion; therefore, the office estimates that 10 percent surtax would increase total state revenue by up to $617.5 million with the revenue directed to the program. After the state of Missouri is producing all of its electricity from clean, renewable sources, the funds generated by the surcharge may be used for infrastructure projects or to replace funds generated by the state sales tax so that sales taxes may be reduced or eliminated.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **City of Raymore** indicated the fiscal impact is unknown. While this proposal does not directly affect the revenues and expenses of Raymore, it does affect its residents. If approved this could affect the residents net available funds which could affect their abilities to pay local taxes, local utilities, not to mention less spending money which effects sales taxes.

Officials from the **University of Missouri** indicated the university has reviewed the initiative petition and determined there is no financial impact.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate annual revenue increases of $351 million to $617 million to fund the proposed program. State governmental entities estimate startup costs of $360,000 and annual operating costs of $169,000. The fiscal impact to local governments is unknown.

16-091

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

September 4, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Winston Apple regarding a proposed statutory amendment to Chapter 192 (2016-091)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Winston Apple on September 4, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

RECEIVED
SEP 04 2015
STATE AUDITORS OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-091

County:_____
Page number: _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021 RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail, or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

RECEIVED
2015 SEP -4 AM 9:42
SECRETARY OF STATE

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print of type names of signers)

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong Dist | NAME (Print or Typed) |
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Signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____.

_____
Signature of Affiant (Person obtaining signatures)

_____
(Printed Name of Affiant)

_____
Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A. D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)
My commission expires _____

16091

*Be it enacted by the people of the state of Missouri:*

*One new section of the Revised Missouri Statutes is enacted, to be known as section 192.008, to read as follows:*

192.008. 1. "The Missouri Health Insurance Cooperative" (hereinafter referred to as "MHIC") is hereby created, within the department of health and senior services, to provide health insurance for citizens of Missouri who wish to become members of the cooperative.

2. The MHIC shall be administered by the director of the department of health and senior services.

3. The state of Missouri is authorized to issue bonds to cover the start-up costs for the MHIC and any shortages of funds needed to pay authorized benefits until such time as the premiums and out-of-pocket maximums for members have been adjusted to fully cover administrative expenses and benefits paid with money collected from premiums paid by members.

4. Memberships in The Missouri Health Insurance Cooperative shall be available beginning no later than January 1, 2018.

5. Enrollment in The Missouri Health Insurance Cooperative (hereinafter referred to as "MHIC") shall be voluntary and limited to citizens of the state of Missouri.

6. The MHIC shall be revenue-neutral. The percentages of income established for premiums and out-of-pocket maximums shall be adjusted annually and set at levels that will insure that revenues are sufficient to cover all costs, including amounts paid out to members for health care expenses in excess of their out-of-pocket maximum and all administrative expenses; as well as funds necessary to pay principal and interest on bonds issued to fund start-up costs for MHIC.

7. Premiums for insurance coverage through MHIC, as well as the annual out-of-pocket maximum for members will be based on percentages of each member's gross annual income, as determined by the board. Premiums are to be set as low as possible and out-of-pocket maximums set no higher than necessary to maintain the revenue neutral status of the MHIC, while making membership as affordable as possible.

8. Only treatments and procedures deemed medically necessary, as determined by the department of health and senior services shall be covered through the MHIC.

9. Members who waive coverage for health care expenses and treatments commonly associated with smoking tobacco or consuming alcohol or recreational use of drugs will receive a discount on their premiums that reflects, as accurately as possible the benefits to The MHIC as a result of not having to pay for such care and treatment. Should the general assembly elect to provide subsidies to MHIC for health care expenses and treatments commonly associated with smoking tobacco, consuming alcohol, or other recreational drug use through the collection of excise taxes on tobacco products, alcohol, or recreational drugs, this discount will be suspended and all members of MHIC will pay the same percentage of their income as premiums.

10. Members of the MHIC and health care providers in the state of Missouri, are responsible for keeping records and receipts for covered health care, to be furnished to the MHIC in the event that expenses for needed health care exceed the out-of-pocket maximum for a given calendar year and reimbursement is thereby requested.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-091)**

## Subject

Initiative petition from Winston Apple regarding a proposed amendment to Chapter 192 of the Revised Statutes of Missouri. (Received September 4, 2015)

## Date

September 24, 2015

## Description

This proposal would amend Chapter 192 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated:

An unknown number of staff to oversee the Missouri Health Insurance Cooperative program would require rental space, located in Jefferson City.

Unknown IT costs or savings related to this proposal.

Section 192.008.7, RSMo, of the petition states that program would be revenue-neutral.

Section 192.008, RSMo, creates a new health insurance program, *The Missouri Health Insurance Cooperative* (MHIC), with oversight by the Department of Health and Senior Services (DHSS). MHIC is to be available by January 1, 2018 which is six months of fiscal year (FY) 2018.

The program is to be self-supporting by annually adjusting premiums and out-of-pocket maximums to ensure that all costs as well as funds necessary to pay principal and interest on bonds issued to fund start-up costs for the MHIC.

DHSS is unable to determine the number of individuals who would participate in MHIC. In addition, the premium rates charged by MHIC could be affected by items such as (1) costs for covered services, (2) the scope of benefits that are included, (3) the plan's cost-sharing requirements, and (4) the health status of the plan's enrollees. Also, the MHIC program oversight responsibilities and costs would be directly impacted by the size of the program (i.e., number of participants, list of covered services, etc.). The Office of Administration could issue bonds for startup costs and to cover initial shortages. DHSS is not able to determine the amount of startup cost, premium rates, etc. DHSS does not administer a similar program of any kind, so significant unknown staffing or contractual costs would be necessary. Due to the numerous unknown factors, DHSS is submitting an Unknown Expense equal to Unknown Revenue (Revenue Neutral-zero impact) fiscal note.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated no impact to their department.

Officials from the **Office of Administration** indicated the proposal adds Section 192.008 RSMo, to create the Missouri Health Insurance Cooperative (MHIC) which will be administered by the Department of Health and Senior Services. The state is authorized to issue bonds to cover start-up costs and funds needed for the program until the premium base has been established and is able to pay benefits and administrative costs. Premium levels are to be set and adjusted annually in order to raise sufficient funds to cover all costs, including principal and interest on bonds.

This initiative does not specify who within the state has the authority to issue bonds. There must be a vote of the citizens or there must be a specifically named Board of which a majority vote is required before bonds are issued. If it was determined that the Board of Public Buildings would issue the bonds, the bond issuance duties would be carried out by the Office of Administration. Those duties could be assumed by current staff at no additional cost. However, there would be a cost to the state for the bond issuance and potentially for the principal and interest payments until the MHIC became self-supporting. The Office of Administration is unable to estimate the cost as it would be dependent upon the amount of bonds issued. For example, issuing $10,000,000 would cost about $692,000 per year for 25 years plus an issuance cost of $250,000. It is expensive to issue bonds regularly, especially for relatively small amounts of money such

as this. It may make more sense for an entity to borrow funds from a bank in the form of a revolving loan instead of through the municipal markets.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated the city collects approximately $54 million from a 72-cents per $100 property tax levy for public health purposes. A healthier population could require less local support of healthcare providers.

Officials from the **City of Raymore** indicated no fiscal effect.

Officials from **University of Missouri** indicated there is no fiscal impact on their university.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

The program is required to be revenue neutral. Therefore no costs or savings are expected for state and local governmental entities.

16-090

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

September 4, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Winston Apple regarding a proposed statutory amendment to Chapters 286 & 143 (2016-090)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Winston Apple on September 4, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

RECEIVED
SEP 04 2015
STATE AUDITORS OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-090

County:_____
Page number: _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021 RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail, or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

RECEIVED
2015 SEP -4 AM 9:41
MO SEC. OF STATE

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print of type names of signers)

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong Dist | NAME (Print or Typed) |
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Signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____.

_____
Signature of Affiant (Person obtaining signatures)

_____
(Printed Name of Affiant)

_____
Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A. D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)
My commission expires _____

16-090

*Be it enacted by the people of the state of Missouri:*

*Two new sections of the Revised Missouri Statutes are hereby enacted, to be known as sections 286.131 and 143.012, to read as follows:*

286.131. 1. Effective June 1, 2018, the division of employment security will begin to provide employment through a program to be known as "public sector employment," in lieu of unemployment benefits to as many eligible citizens of Missouri as possible with the funds available.

2. Public sector employment will be available only to residents of the state of Missouri.

3. If funding is insufficient to provide employment for all applicants, priority placement will be given to the applicants with the greatest number of dependents (as claimed on the applicant's federal Form W-4).

4. a. The compensation provided for, and other specific policies related to, work done through public sector employment shall be determined and set by the labor and industrial relations commission, but shall be set at a level that provides a living wage, which is hereby defined as putting a worker and her or his family at least ten percent above the poverty level, as determined by the federal government, provided a worker is present and working 40 hours per week.

b. If a family has two adult members and no child under the age of three, both adults will be required to work 40 hours per week, however in no event shall the hourly wage paid under this program be less than the applicable minimum wage.

5. The work done as public sector employment should be directed toward projects that have some public benefit for the state of Missouri. Initial projects should have a particular focus on improving the energy efficiency of existing publically owned buildings, constructing state-owned and operated wind and solar projects, and planting trees.

6. Applicants for public sector employment may be required to take aptitude tests to determine the jobs for which they may be best suited and to receive training designed to improve their skills. Normal rates of compensation provided under this program will be paid for time spent testing and training.

7. In the event that an applicant employed through these public works projects consistently fails to provide adequately for the needs of his or her dependents, as a result of substance abuse problems, other addictions, or other mental health issues, guidance and assistance in financial management shall be offered. Should the applicant continue to misuse the income being provided through these public works projects, an amount equal to ninety percent of the income earned may be paid in the form of vouchers to be used exclusively to pay for rent, food, utilities, and medical care for the employee and her or his dependents.

143.012. 1. Beginning with the 2017 calendar year, a surtax of ten percent on the amount of capital gains reported on each Missouri resident's Federal tax return (Form 1040), will be imposed, with the funds collected dedicated to providing funding for public sector employment through the division of employment security.

2. To the extent that public sector employment reduces the funding needed to provide various forms of public assistance, the state of Missouri shall seek approval from the government of the United States of America to transfer funding provided for such assistance programs to the division of employment security.

3. In the event that excess funds remain after all applicants for employment have been employed, all funds beyond a reserve sufficient to meet anticipated funding for the succeeding twelve-month period, as determined by the commission, shall be transferred to the general fund. If, after funds have been transferred to the general fund, unexpected demand for public sector employment results in a shortfall of revenue needed to fully fund the program, an amount equal to all funds transferred to the general fund during the preceding 12 month period shall be returned to the division of employment security.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-090)**

## Subject

Initiative petition from Winston Apple regarding a proposed amendment to Chapters 286 and 143 of the Revised Statutes of Missouri. (Received September 4, 2015)

## Date

September 24, 2015

## Description

This proposal would amend Chapters 286 and 143 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** (DOLIR) indicated:

The proposal could affect any agency that administers any public assistance programs.

Space will be required for 1,271 full time employees (FTE) throughout the state.

There are over 138,000 small businesses covered under Missouri's unemployment insurance system. Because Missouri's Unemployment Insurance Compensation (UI) program is certified in conformity with Federal UI laws, most employers never actually pay the total 6.0% in Federal Unemployment Tax Act (FUTA) taxes due to the credits they receive for the payment of state unemployment taxes and for paying reduced rates under an approved experience rating plan. However, since this bill could cause Missouri's program to be out of compliance or out of conformity, Missouri employers would pay the full 6.0%, or approximately an additional $889 million per year.

Information Technology Services Division (ITSD) estimates costs of $299,538 in FY 2017 and $61,405 in FY 2018 to set up and implement the computer system.

A surtax on capital gains of 10% would be imposed beginning with the 2017 tax year. DOLIR defers to the Office of Administration regarding the estimate of revenue collected from this surtax.

**Summarize how this bill affects the department**

This petition seeks to create a new Section 286.131, RSMo, requiring the Division of Employment Security (DES) to provide employment through a program called "Public Sector Employment" in lieu of unemployment benefits. It is unclear to the DES whether this public works program is designed to be voluntary or mandatory. If this language is interpreted to prohibit otherwise eligible individuals from filing claims for the payment of unemployment benefits, a conformity issue with federal law would be raised.

This petition also creates Section 143.012.2, RSMo, that, under certain conditions, would permit the state to seek funding for the program from various forms of public assistance. If this provision would allow the state to seek funding from the unemployment insurance trust fund for the public works program then a conformity issue with federal law would be raised.

The federal and state governments are jointly responsible for administering the UI program. State administrative grants are needed to operate the UI program and for employers to qualify for certain tax credits.

Depending upon interpretation, this bill could create several conformity issues with federal unemployment law. Non-conformity with federal law could jeopardize the certification of Missouri's UI program. If the program fails to be certified, Missouri would lose approximately $38 million in federal funds the state receives each year to administer the UI program. Additionally, Missouri would lose the approximately $12 million in federal funds each year the Department of Economic Development-Division of Workforce Development uses for Wagner-Peyser reemployment services.

The FUTA imposes a 6.0% payroll tax on employers. Most employers never actually pay the total 6.0% due to credits they receive for the payment of state unemployment taxes and for paying reduced rates under an approved experience rating plan. FUTA allows employers tax credits up to a maximum of 5.4% against the FUTA payroll tax if the state UI law is approved by the Secretary of Labor. However, if this bill causes Missouri's program to be out of compliance or out of conformity, Missouri employers would pay the full 6.0% or approximately an additional $889 million per year.

DOLIR assumes the state unemployment tax would still be collected and deposited into the UI Trust Fund because the proposal does not repeal those statutes. If the UI Trust Fund no longer pays out unemployment benefits, the lack of unemployment payouts would lead to a 0% contribution rate for employers with no revenue deposited to the UI Trust. This would effectively negate the purpose of the fund and the statutes that govern it.

Regardless of whether the program would be mandatory, DOLIR estimates it would need FTE and ongoing costs to set up and administer the program.

Using the assumptions described later in this response, the estimated cost per participant in the Public Sector Employment Program is $18,904 ($3,038,908,429 ÷ 160,753) in fiscal year (FY) 2019. This proposal indicates that as many eligible citizens of Missouri as possible should be served with the funds available. With an annual revenue estimate of $617,500,000, DOLIR estimates 32,665 individuals could participate in the Public Sector Work Program each year. If revenues increase or decrease in a given year, the number of participants in the program would rise or fall proportionally.

ITSD Costs--A new system will be developed for this proposal.

**Long-range implications**

As the program becomes established, individuals would be deferred from public assistance to the "Public Sector Employment" program, which could result in a decrease in unemployment benefit payments by DOLIR and in public assistance payments from other agencies.

Ongoing costs associated with the program would be the same as those covered in the estimate period.

DOLIR assumes the state unemployment tax would still be collected and deposited into the UI Trust Fund because the proposal does not repeal those statutes. If the UI Trust Fund no longer pays out unemployment benefits, the lack of unemployment payouts would lead to a 0% contribution rate for employers with no revenue deposited to the UI Trust. This would effectively negate the purpose of the fund and the statutes that govern it.

**Assumptions and methodology used in arriving at state fiscal impact**

This petition creates a new Section 286.131, RSMo, to establish a public sector works program to be operated by the DES to provide employment in lieu of unemployment benefits to as many eligible citizens as possible. It is unclear whether this program would be voluntary or mandatory. If the program is interpreted to be a mandatory program and prohibits otherwise eligible individuals from filing claims for the payment of unemployment benefits, a conformity issue with federal law would be raised.

The federal and state governments are jointly responsible for administering the UI program. State administrative grants are needed to operate the UI program and for employers to qualify for certain tax credits. Non-conformity with federal law could jeopardize the certification of Missouri's UI program. If the program fails to be certified, Missouri would lose approximately $38 million in federal funds the state receives each year to administer the UI program. Additionally, Missouri would lose the approximately $12 million in federal funds each year the Department of Economic Development-Division of Workforce Development uses for Wagner-Peyser reemployment services.

If this program is designed to be voluntary, meaning individuals have a choice between accepting a public works position or claiming unemployment benefits, then no federal conformity issue is raised. However, the DES receives a federal UI administrative grant to operate Missouri's UI program. Section 303(a)(8) of the Social Security Act limits the expenditure of UI grant funds to amounts necessary for "the proper and efficient administration" of the State's UI law. The costs for developing, administering, and maintaining the "Public Sector Employment" program are not considered a necessary expense for the "proper and efficient administration" of the State's UI law; therefore, they are not allowable expenditures from the State's UI grant. As such, all funding necessary to develop, administer and maintain this program will need to come from the surtax established by the proposed statutes or from general revenue.

The DES estimates the total cost to develop, adminsister and maintain the Public Sector Employment program to be roughly $3 billion per year if it were to serve the entire population of unemployed individuals which currently claim benefits. In estimating the total costs of the program, the DES made the following assumptions and estimates.

Placement and DES Administrative Costs

The DES estimates 120,000 individuals will qualify for unemployment benefits annually and could be placed in the Public Sector Employment program. Additionally, approximately 40,753 individuals may qualify if they are a part of a family that has two adult members and no child under the age of six (initiative petition indicates under the age of three, but only statistics available are under the age of six)[*]. The DES estimates up to 160,753 individuals may qualify for this program annually. The DES estimates the average costs, with fringe, per DES employee is about $30.00 per hour. The DES assumes it will take a total of 15 hours staff time for each Public Sector Employment job placement/ enrollment at approximately $30 per hour for a total cost of $72,338,850 (160,753 x $450). This equates to approximately 1,159 staff. Additional funds will be needed for ongoing equipment and operating supplies to support the operation of the program.

In addition, the DES assumes it will need 10% of the DES staffing costs for making placements to manage and administer the Public Sector Employment program. This equates to $7,233,885 ($72,338,850 X .10) and approximately 70 FTE and ongoing expenses related to managing the program.

***** The chart below illustrates how the approximately 40,753 additional individuals were calculated. Statistics for children under 3 were not available, so available statistics for children under the age of six were used. This is based on the total households in Missouri (2,375,611) and the unemployment rate of 5.80%. 2013 American Community Survey (S2302)

| | |
|---|---|
| Households with 1 worker in the past 12 months | 781,576 |
| Households with children under 6 with 1 worker | 78,939 |
| Households in MO with 1 worker and no children under 6 | 781,576 – 78,939 = 702,637 |
| Households in MO with 1 worker and no children under 6 (based on 5.80% unemployment) | 702,637 * 5.8% = 40,753 |

Wages Paid to Participants

The DES assumes the applicants placed in the job programs will be considered state employees. The DES assumes it will provide 20 weeks of work (40 hours each week) for each applicant. The DES based the average wage at a level that provides a living wage, which is defined as putting a worker and her or his family at least ten percent above the poverty level. The DES estimates that the average hourly wage, with fringe, for each participant placed in the program will be $15.00.* If the DES were to employ all 160,753 estimated applicants, at $15.00 per hour, for 20 weeks, the total cost of the annual wages paid to the participants would be $1,929,036,000 (160,753 X 20 X 40 X $15).

* The chart below provides the minimum hourly wage required for an individual to be at least ten percent above the federal government poverty level, based on family size.

| Family Size | 100% FPL | 110% FPL | 110% FPL Hourly Wage | Pay Rate (10% over FPL) | Number of Households in Missouri | Total Income Needed to Meet 110% of FPL |
|---|---|---|---|---|---|---|
| 1 | $11,770 | $12,947 | $6.22 | $7.65 | 672,276 | $8,703,957,372 |
| 2 | $15,930 | $17,523 | $8.42 | $8.42 | 822,516 | $14,412,947,868 |
| 3 | $20,090 | $22,099 | $10.62 | $10.62 | 370,462 | $8,186,839,738 |
| 4 | $24,250 | $26,675 | $12.82 | $12.82 | 296,548 | $7,910,417,900 |
| 5 | $28,410 | $31,251 | $15.02 | $15.02 | 134,977 | $4,218,166,227 |
| 6 | $32,570 | $35,827 | $17.22 | $17.22 | 49,861 | $1,786,370,047 |
| 7 | $36,730 | $40,403 | $19.42 | $19.42 | 28,971 | $1,170,515,313 |
| 8 | $40,890 | $44,979 | $21.62 | $21.62 | | |
| | | | | | = 2,375,611 | = $46,389,214,465 |

Average wage required to meet 110% of FPL = $19,527.28
Average hourly rate = $9.39

Material Costs for Construction Projects

In calculating the material costs, the DES assumes labor to material costs at 3 to 1 ratio. Using this ratio, the annual material cost is estimated at $636,581,880 ($1,929,036,000 X .33).

Management of Construction Projects

The DES will contract the management of the construction projects to the Office of Administration, Division of Design and Construction. The DES assumes management fees will be 10% of the cost of wages and material, which equates to $256,561,788 ($2,565,617,880 X .10).

Skill Assessment and Training Costs
The DES will contract with the Department of Economic Development, Division of Workforce Development for the cost of administering skills test and job training to each applicant in the Public Sector Employment program. The DES estimates the skills test of each participant will require 0.5 hours of time at $30.00 per hour for a total cost of $2,411,295 (160,753 X $15). In addition, the DES estimates the average training for each participant will require 20 hours of time at $30.00 per hour for a total cost of $96,451,800 (160,753 X $600).

Monitoring of Participants
The DES will contract with the Department of Social Services for the cost of monitoring each participant in the Public Sector Employment program. The DES estimates the monitoring of each participant will require 8 hours of time at $30.00 per hour for a total cost of $38,580,720 (160,753 X $240).

Section 143.012.2, RSMo, stipulates that under certain conditions the state shall seek funding for the public sector works program from various forms of public assistance, if approved by the federal government. If there are no public assistance funds available, the program would be supported by the capital gains surtax and general revenue.

DOLIR assumes the state unemployment tax would still be collected and deposited into the UI Trust Fund because the proposal does not repeal those statutes. If the UI Trust Fund no longer pays out unemployment benefits, the lack of unemployment payouts would lead to a 0% contribution rate for employers with no revenue deposited to the UI Trust. This would effectively negate the purpose of the UI Trust fund and the statutes that govern it.

ITSD Costs
The assumptions made are to import information from a new client public service job application form into a database. Build new web pages to display and update the client information. Create a new exchange of data with Department of Mental Health to retrieve information on substance abuse, other additions and mental health issues for clients that have a public service job. Create a new exchange of data with Department of Social Services (DSS) to gather information on clients that have a public service job that are failing to provide adequately for their dependents. Create a new exchange with DSS to send client information to have vouchers produced from the DSS programs currently in place like food stamps. Create a new exchange with Department of Revenue to receive client information for the W-4 dependent. Create a new exchange with Department of Economic Development to receive client information on aptitude test and training. Create a new exchange with a vendor to send payment information for them to produce the payment. Create a new exchange with Statewide Advantage for Missouri (SAMII). If DOLIR cannot use DSS voucher system then the cost will increase significantly for DOLIR to produce vouchers. Create a financial min system to track the financial piece along with financial reports. Scanning and imaging of the form. The system will require a new database and services from the State Data Center.

Officials from the **Department of Revenue** indicated the total increased costs would be $164,089 for FY 2017, $168,172 for FY 2018, and $169,922 for FY 2019. Increased revenue is expected to be $351,400,000 per year.

If excess funds remain after all applicants have been employed, the legislation transfers this excess to General Revenue, less the reserve sufficient to meet the next 12 month period.

This legislation may create a positive impact on state revenues.

Section 143.012, RSMo
Beginning January 1, 2017, the legislation imposes a ten percent (10%) surtax on capital gains reported on a Missouri resident taxpayer's federal tax return. Once implemented, if excess funds exist after all applicants are employed, less the reserve necessary to fund the next twelve months, the excess funds shall be transferred to General Revenue.

For tax year 2013, taxpayers reported positive capital gains of $3.514 billion on federal tax returns filed by Missouri residents. The department anticipates collecting an estimated $351.4 million from the 10 percent surtax to provide funding for public sector employment through the Division of Employment Security.

<u>Administrative Impact:</u>
Personal Tax
Personal Tax requires form and programming changes. Additionally, Personal Tax requires two (2) Revenue Processing Technicians I (Range 10, Step L) for error correction and correspondence.

Collections & Tax Assistance
This section will see additional contacts on the surtax, notice of adjustment, and billings. Collections & Tax Assistance requires two (2) Tax Collection Technicians I (Range 10, Step L) for additional contacts on the delinquent and non-delinquent tax lines. Each technician requires CARES equipment and license.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated no impact to their department.

Officials from the **Office of Administration** indicated the proposal adds Sections 286.131 and 143.012, RSMo, to create a Public Sector Employment program, administered by the Division of Employment Security. The program is to provide employment to eligible citizens in lieu of unemployment benefits. This initiative also enacts a 10 percent capital gains surtax to provide funding for the public sector employment through the Division of Employment Security. Using Tax Year 2012 data, capital gains for Missouri taxpayers totaled $617.5 billion; therefore, the office estimates that 10 percent surtax would increase total state revenue by up to $617.5 million with the revenue directed to the program. If it is determined there are excess funds from the surtax, those excess funds shall be transferred to the general fund.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from **University of Missouri** indicated this petition will have an undetermined fiscal impact on their university to the extent the general fund is impacted.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Elementary and Secondary Education, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate annual revenue increases of $351 million to $617 million to fund the proposed program. State government may lose $50 million in federal funding annually and businesses in the state may have increased federal unemployment tax costs of $889 million annually. Local governments report no expected fiscal impact.

16-089

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

September 4, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Steven L. Reed regarding a proposed constitutional amendment to Article I (2016-089)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Steven L. Reed on September 3, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

RECEIVED
SEP 04 2015
STATE AUDITORS OFFICE

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-089

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and name of the city, town or village in which I live are correctly written after my name.

Shall the Missouri Constitution be amended to allow people of Missouri to petition at entrances of all Missouri Career Center locations in the State of Missouri?

RECEIVED
2015 SEP -3 PM 2:25

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI,

COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)
(Petition Circulator's Printed Name)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | Zip Code | Congr. Dist. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
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| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer _____.

_____ Signature of Affiant (Person obtaining signatures)

_____ Street address of Affiant

_____ Printed Name of Affiant

_____ City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____ Signature of Notary

Notary Public (Seal)

_____ Address of Notary

My commission expires:

16-089

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Article I, is amended by adding one new section to be known as Section 26, to read as follows:

Section 26. All Missouri Career Center locations will allow the people of Missouri to petition at their entrances.

16-088

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

September 2, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Mike Grimes regarding a proposed statutory amendment to Chapter 393 (2016-088)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Mike Grimes on September 2, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

RECEIVED
SEP 02 2015
STATE AUDITORS OFFICE

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

16-088

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 SEP -2 AM 11:45
SEC OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
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| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____

Signature of Affiant (Person obtaining signatures)

_____

Printed Name of Affiant

_____

Address of Affiant

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____

Signature of Notary

_____

Address of Notary

My commission expires _____.

16-088

***Be it enacted by the people of the state of Missouri:***

***A new section of the Revised Missouri Statutes is hereby enacted, to be known as section 393.330 to read as follows:***

393.330. 1. The purpose of this section is to ensure that all retail customers of electric power in this state have the choice of electric suppliers, and to encourage competition in this state in the provision of electric supply.

2. No later than January 1, 2018, all retail customers of an electrical corporation as defined in § 386.020, RSMo., shall have the right to choose an alternative electric supplier. An "alternative electric supplier" means a company selling electric generation service to retail customers in this state.

3. The public service commission shall issue orders establishing a licensing procedure for all alternative electric suppliers. No alternative electric supplier shall engage in any business in this state unless it obtains and maintains a license issued by the public service commission.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-088)**

## Subject

Initiative petition from Mike Grimes regarding a proposed amendment to Chapter 393 of the Revised Statutes of Missouri. (Received September 2, 2015)

## Date

September 22, 2015

## Description

This proposal would amend Chapter 393 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and **Public Service Commission.**

**Edward Greim** provided information as an opponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** and the **Public Service Commission** (PSC) indicated:

Section 393.330.1, RSMo, states the purpose of the section is to ensure that "all" retail customers of electric power in the state have the choice of electric suppliers, which suggests the petition applies to the retail customers of investor-owned, municipal and rural cooperative electric providers.

Section 393.330.2, RSMo, states that all retail customers of an "electrical corporation as defined in Section 386.020, RSMo.", shall have the right to choose an alternative electric supplier, which suggests the petition is limited to the retail customers of investor-owned electric providers.

Section 393.330.3, RSMo, states the PSC shall establish a licensing procedure for all alternative electric suppliers. Without clarification as to the scope of the petition, the PSC is unable to estimate the fiscal impact of the proposal.

In addition, depending on the scope of the petition, it may have significant ramifications on the Missouri renewable energy standard and the Missouri Energy Efficiency Investment Act, both of which are only applicable to investor-owned electric providers.

The PSC reserves the right to quantify a fiscal impact and to identify additional issues and concerns if additional clarification on the petition is provided.

Attached is an Executive Summary of reports related to the Missouri electric industry structure and market power, which may be useful in reviewing the petition.

**Executive Summary of Reports Provided in Response to the**
**Analysis of Electric Industry Structure and Market Power**
**February 11, 2015**

**"Report I - The Changing Structure of the Electric Utility Industry". The Staff Team of the Missouri Public Service Commission (Staff Team). July 25, 1997.**

 Wholesale markets for electricity are expanding to encompass larger geographic regions with a need for a Power Exchange where spot and future prices are determined for electricity.

 Retail Electric Providers (REPs) will provide bundled electric service that will include generation; transmission; distribution; single billing.

 Market power – If the number of competitors is too small and the strength of competition is weak, then the local utility will have the ability to control the price for electricity because generation will no longer be regulated.

 Transmission assets should be turned over to an Independent System Operator (ISO) as the "gatekeeper" for regional transmission grids to maintain system reliability and commercial viability.

 A restructured market will likely include: a competitive generation function; a regulated transmission function; power exchanges for hourly transactions with bilateral contracts for longer use, and ISOs.

 The restructured utility will be unbundled into the following businesses: (1) generation; (2) transmission; (3) distribution; (4) retail services; and, (5) customer information.

 State regulators will deal with: (1) certificating the competitive electric business as a means of protecting the public interest in areas of reliability and quality of service; (2) mitigating market power; (3) prohibiting new businesses affiliated with established regulated companies from gaining an unfair competitive advantage; and, (4) setting quality of service standards.

**"Retail Competition in the Electric Industry" for the Missouri Public Service Commission. Scott Hempling. June 24, 1997.**

I. Determining Where Competition is Appropriate

 For which services is unbundling efficient?

 For which services is unbundling physically feasible?

II. Market Power Issues

 Possible differentials in entry cost
    - o Barriers created by law
    - o Utility control of physical distribution
    - o Customer loyalty and risk aversion
    - o Utility load diversity
    - o Utility access to information

 PSC regulation of market power

III. Implementation Issues

 Alternative market mechanisms
    - o Customers buy directly from generator
    - o Customers buy from aggregators

 Pilot programs

 Timing of customer choice

 New forms of regulation

 Obligation to serve

**“Report II - Alternative Structures for a Competitive Electric Industry”. Staff Team. August 28, 1997.**

 Wholesale Bulk Power Markets are those markets in which electricity merchants purchase power in large quantities form generators or from other electricity merchants for the purpose of reselling power.

- o Poolco – regional power exchange for all electricity transactions that take place on a real-time hourly basis within the region
- o Bilateral contracts
- o Bilateral contracts with a power exchange

 Retail End User Electricity Markets are markets in which retail electric providers resell electricity.

- o Incumbent utility remains the retail electric provider
- o Retail access with alternative retail providers
- o Incumbent utility and alternative retail electric providers

**“Report III – Changes in the Pricing of Electricity: An Explanation of Regulated and Market Pricing”. Staff Team. December 17, 1997.**

I. Contrasting Regulatory and Competitive Determination of Electricity Prices

 How prices for electricity are determined in a regulatory environment

- o Setting regulated prices
- o Components of embedded generation costs

 Electric price determination in competitive markets for generation

- o Differences in price determination in a competitive market
- o The short-run determination of price in a competitive market for generation
- o The long-run determination of price in a competitive market for generation

 Market pressures to levelize electric prices

- o Regulated retail rates
- o Competitive generation for retail

II. Regulatory and Competitive Electricity Prices for Various Classes of Service

 Regulatory setting of prices by class of service

 Setting prices by class of service in a competitive market

 Comparing class of service prices for generation: regulate vs competitive markets

- o Unbundling of generation costs at the class level
- o The role of efficiency of use

**<u>Retail Electric Competition Task Force – Case No. EW-97-245</u>**

On March 28, 1997, the Commission established the Retail Electric Competition Task Force. The Commission asked the Task Force to:

o Compile a comprehensive plan for implementation of retail competition in Missouri in the event legislation is enacted which authorizes it;

o Survey activity in other jurisdictions implementing or studying retail wheeling; and,

o Identify specific issues which will face the Commission, and the state as a whole, should retail competition occur.

**A. "Report of the Stranded Cost Working Group". March 6, 1998.**

Under current forms of regulation, the utilities have charged rates based on regulatory findings as to the amount of their prudently incurred expenses and investment. Electric rates have been based on the reasonable and prudent embedded costs the utilities incurred to provide service to customers. If competition in generation is feasible and allowed in the electric industry in Missouri, some portion of electric prices will no longer be dictated by the decisions of the public utility commission, but will be determined (at least in theory) by the supply and demand forces of the marketplace. Economic theory holds that prices of competitive goods and services should approximate the long-run marginal cost of producing the goods or service in question. The marginal cost of producing electricity may differ significantly from the current embedded cost of electric production reflected in current rate levels. Utilities whose embedded cost is in excess of the market price will suffer the phenomenon of "stranded costs" – embedded investment made by electric utilities to provide service to customers that will not be recoverable in price of electricity set in a competitive market. The report discusses, among other things: Mechanisms for quantifying stranded costs; timing of recovery; mitigation efforts; and, impact on key stakeholders.

**B. "Reliability Working Group Report". March 6, 1998.**

The Reliability Working Group reached the following conclusions as to how functional responsibilities, reliability enforcement, coordination and regulatory oversight functions might change under competition.

a. Because electricity is essential there must be a sufficient and reliable supply of electricity at a reasonable price.

b. The safety, reliability, quality and sustainability of electric service should be maintained or improved in a restructured electric industry.

c. No changes should be allowed to compromise safety or reliability, even if the intent is to lower consumer prices, except where a lower level of reliability is freely chosen by a customer and does not impact service to other customers.

d. Retail competition can be implemented under certain structures if it occurs through a carefully managed transition process that allows technical and administrative requirements to be developed and installed.

e. Any industry structure adopted to permit retail access must adequately address measures to maintain safe and reliable operation while ensure equitable treatment of all customers and market participants.

**C. "Alternative Market Structures for Retail Competition". March 6, 1998.**

The report sets out the structural changes that the working group believed would be common to any alternative proposal for market structure. The report also discusses each market structure as to the description of the structure, potential issues, potential structural impacts on utilities and potential impacts on consumers. Market structures include:

(1) A District Access Market Structure where retail electric providers (REP) directly negotiate with consumers to be their REP;

(2) A Poolco Market Structure where generation competition takes place at the wholesale level as generators and power marketers sell electricity to a common pool;
(3) A Hybrid Market Structure in which both REPs and a PX are active in the commercial sale of electricity.

**D. "Final Report of the Task Force on Retail Competition". May 1, 1998.**

The Task Force made the following recommendations:

a. The General Assembly have the Public Service Commission develop implementation requirements through a collaborative process that includes representatives from all stakeholder groups, with final approval involved through a rulemaking, hearing or filings before the Federal Energy Regulatory Commission.

b. Public interest protection be given a high priority during the transition. The General Assembly should have the Commission make a determination about which transition structures will provide strong protection to the end-use consumers and at the same time promote strong competition in generation.

c. The General Assembly give municipals and cooperatives the option whether to participate in the competitive supply of generation.

d. The Commission should consider giving the end-use consumers the option of having a single bill.

e. The General Assembly should require the appropriate state or local regulatory authorities to determine which bill option work best for different situations.

f. The General Assembly should require the appropriate state or local regulatory authorities to set out rules for the allocation of partial payments as well as rules for termination of service for non-payment.

g. The General Assembly should allow basic metering services to continue to be provided on a regulated basis.

h. Beyond the initial transmission, the General Assembly determines whether and when metering services is appropriate.

i. The General Assembly allow the appropriate state or local regulatory authorities to implement rules that will avoid unnecessary restrictions on technical requirements and excessive metering costs.

j. The Commission should form a working group to focus on the need for consumer education.

k. The General Assembly should require the Commission to develop rules containing minimum, verifiable, enforceable, uniform standards of disclosure to allow consumers to compare price, price variability, contract terms and condition, and other relevant factors.

l. Require the Commission to evaluate, and revise as necessary, consumer protection rules.

m. Develop a program of licensing that provides assurance of supplier's financial stability and ability to provide quality service.

n. Provider of last resort obligations for those that do not choose an alternative REP.

o. A rate reduction or rate cap on basic service during the transition.

p. A cost-effective low income program.

q. The introduction of retail competition should proceed only if it can be shown to benefit all classes of consumers.

r. Regulation must continue for services not subject to full and fair competition.

s. The appropriate regulatory authority must ensure present safety levels are maintained.

t. Quality and reliability of electric service must be maintained.

u. Workers displaced due to downsizing should be offered training to reenter job market.

v. Existing environmental standards must be preserved or improved and compliance with future standards must be ensured.

w. Adequate provision for the proper closure and decommissioning of generation facilities must be ensured.

x. Public benefit programs that address energy efficiency and research and development of new technologies and renewable resource technology should be encouraged.

y. The feasibility of a state funding mechanism for public benefit programs should be investigated.

z. The appropriateness of the current site review process for new generation and transmission facilities should be evaluated and modified as appropriate.

aa. Stranded costs claims should encompass all categories of costs that are deemed appropriate sources of stranded costs. All potential sources of stranded costs should be considered in determining the amount of stranded cost recovery.

bb. Methods for quantifying stranded costs should utilize market information to the extent possible and should include expected mitigation efforts. True-ups should be included as necessary.

cc. The General Assembly and regulators should approach the concept of securitization carefully. Options for its possible use should be preserved.

dd. Charges or credits should be confined to the customers of each individual utility and not spread across customers of other utilities.

ee. Rates should not be increased to allow for early recovery of stranded costs.

ff. Recommended several state and local tax reform principles.

gg. Discussed legal impediments and PSC jurisdiction.

hh. Recommended several steps related load forecasting, maintenance, firm load, transmission and ancillary services planning, distribution planning, emergency response, metering.

ii. Recommended several mitigation steps to limit market power and unfair competitive advantages.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated their department would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated their department sees no fiscal impact due to this legislation.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated they assume no fiscal impact from this initiative petition.

Officials from the **Office of Administration** indicated this proposal will have no impact on their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year’s legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot

measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not impact their office.

Officials from **Greene County** indicated that there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson** indicated they expect no fiscal impact if this becomes law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **University of Missouri** indicated based on the information provided, they are unable to project whether this initiative will have any fiscal impact on the university.

**Edward Greim** provided the following information as an opponent of this initiative petition.

Graves Garrett LLC

Edward D. Greim
Graves Garrett, LLC
1100 Main Street, Suite 2700
Kansas City, Missouri 64105
Direct Dial: (816) 256-4144
edgreim@gravesgarrett.com

September 14, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: *Fiscal Note in Initiative Petition 2016-088*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary:

> Estimated additional revenue to state government, if any, is unknown with estimated implementation costs, which may include litigation costs, that could exceed $500,000. Estimated additional revenue to local governmental entities, if any, is unknown. Estimated costs to local governments could exceed $522 million and may include litigation costs.

**Introduction**

The initiative proposes a major shift in the delivery of electric power in Missouri but contains scant details about how such a shift would occur. The Missouri Energy Development Association ("MEDA") writes to assist the auditor in assessing the fiscal impact of the proposed measure. Missouri currently enjoys some of the lowest electricity rates in the nation. Missouri electric utilities are highly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay well over $522 million in taxes to Missouri local governments, taxes that "alternative electric suppliers" may argue do not apply to their offerings.[1] Petition signers and voters must be informed that the initiative petition will incur substantial transitional costs and litigation costs, and that the initiative petition

[1] 522 million represents only license or franchise taxes paid by Missouri electric utilities to local governments, and does not include sales taxes or property taxes potentially at risk.

jeopardizes hundreds of millions of dollars of tax revenue to state and local governments. On the other hand, any positive fiscal impact is unlikely and at best highly speculative. If rates increase due to changes in regulation, which appears more likely than not, then electric rates paid by state and local government entities will increase. Increased tax revenues stemming from increased electric rates are unlikely to materialize to offset government's increased direct costs. That is because higher rates may lead to decreased demand, causing a net overall decline in customer payments for electricity and, therefore, a decline in taxes collected from those payments. Again, what is certain is that a complete transformation of Missouri's regulation of electric utilities will entail significant implementation and monitoring costs.

**Burdens on the State Government**

The initiative petition requires the state Public Service Commission to develop and implement regulations concerning licensing procedures for "alternative electric suppliers." This requirement will undoubtedly require additional staff and the attendant salaries, benefits, and office space. The additional staff required could be substantial, as the Public Service Commission's duties will essentially double, requiring additional expertise to effectively regulate these new entities. New entities must undergo testing for (1) creditworthiness; (2) generation ability; (3) information technology systems dependability and security; (4) service reliability; and (5) customer service, among other areas. The Public Service Commission must design and implement procedures for "customer handoff" when a customer chooses an alternative electric supplier or changes its choice of suppliers. It is unclear whether alternative electric suppliers' prices will be regulated as part of the Public Service Commission's licensing procedures. The initiative petition leaves numerous questions unanswered, thereby exposing the state to litigation costs regardless of the decisions it makes.

Historical evidence suggests that prices for electricity increase after alternative electric suppliers enter the market. Reliability may decrease.[2] The availability of alternative electric suppliers makes it difficult for public utilities to project their electric power generation needs, leading to stranded costs for idle or mothballed generation plants and increased costs for unmet generation needs. Utilities may recoup their higher costs through higher utility rates. State government will incur the cost of higher rates directly through its electricity purchases, and may incur costs to deal with reliability issues. At the retail level, any electricity price increase will decrease the quantity of electricity sold, due to the negative price elasticity of demand for electricity.[3] Most researchers have found long-term price elasticity of demand for electricity is somewhere between -0.8 to -2.0. As prices rise, it is unknown whether some or all of the state sales and property taxes

[2] The costs of a decrease in reliability could be astronomical for state and local governments. In addition to lost productivity costs, essential services like hospitals and prisons—many of which are operated or funded by state and local governments—may require enhanced electricity backup systems.

[3] Bernstein & Griffin, Regional differences in the Price Elasticity of demand of Electricity, p. 10-30 (Feb. 2006), *available at* http://www.nrel.gov/docs/fy06osti/39512.pdf.



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currently collected will apply to alternative electric suppliers. At a minimum, the state government may incur substantial litigation costs to enforce its tax statutes against these new alternative electric suppliers.

The creation of alternative electric suppliers also promises to complicate the state government's relationship with electric utilities. The Public Service Commission has entered numerous agreements with and made various representations to Missouri's electric utilities. Electric utilities own proprietary electricity transmission lines and generation facilities. The initiative petition may expose the state to substantial legal costs, including the cost of a judgment to the extent the change in the law constitutes a government taking of private property without just compensation within the meaning of the Fifth Amendment of the United States Constitution or Article I, section 26 of the Missouri Constitution. Additionally, some or all of Missouri electric utilities may prefer regulation as alternative electric suppliers. The availability of lower state taxes and the desire to maximize state subsidies may be important considerations in determining whether some or all of each Missouri utility may restructure as an alternative electric supplier.

It is also unclear to what extent the language "shall have the right to choose" will be interpreted to require the state to take affirmative steps, such as providing incentives or subsidies to alternative electric suppliers, which would provide retail customers with an effective "right to choose." Any cost of complying with this provision is unknown but could be substantial.

**Burdens on Local Governments**

Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax, and license tax. It is unknown whether some or all of the statutes authorizing the collection of these taxes by different types of municipalities will apply to electric power services provided by alternative electric suppliers. Even if existing statutes are later construed by courts to grant Missouri municipalities authority to enact ordinances that impose property tax, sales tax, or license tax on alternative electric suppliers, the text of the unique ordinances enacted by each municipality may not apply to alternative electric suppliers. The only way to know whether all taxes will still be collected is to examine every local tax ordinance. The amounts at issue are substantial. For example, Missouri electric utilities paid over 522 million dollars in license taxes to local governments in 2014. Determining whether some or all of this revenue will be lost is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

As the price of electricity rises, local governments will incur higher electricity costs. Local governments will also collect less tax revenue from their various local taxes due to the fact that the decrease in demand for electricity will likely offset higher revenues for each unit of electricity that consumers purchase. The availability of lower local government taxes may encourage some or all of each Missouri electric utility to restructure as an alternative electric supplier.



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Finally, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petition may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue or have higher costs of doing business. These local jobs are unlikely to be replaced by out-of-state alternative electric suppliers. Missouri electric utilities provide numerous other benefits to local governments, all of which may be reduced or discontinued if the initiative petition is enacted.

**Additional Information on the Impact of Electricity Deregulation**

**Background**

The idea of deregulation to spur competition was front and center beginning in the 1970's with the airline and telecommunications industries. Costs for consumers have continued to increase over the years for their services and the industries have sustained merger after merger to remain competitive. The electricity industry has also dabbled with deregulation since 1997, with a total of seventeen states[4] in the U.S. allowing a "retail choice" for consumers. "Retail choice" allows customers to choose their electricity provider and the state in which those customers reside no longer is limited by regulatory mechanisms to prevent exposure to market prices. (American Public Power Association, April 2014)[5]

**Facts**

- MEDA's investor-owned utility members are dedicated to providing safe, reliable, and affordable energy resources for nearly 4 million customers in Missouri.
- Proactive and efficient investments in critical infrastructure and generation/distribution have enabled Missouri customers to benefit from much lower utility rates than most states in the U.S.
- For example, according to the U.S. Energy Information Administration, as of October 2014, Missouri's average retail price of electricity to ultimate customers (residential, commercial, industrial, and transportation) ranked as the 11th lowest in the country at 8.47 cents per kilowatt-hour (c/kWh). (U.S. Energy Information Administration, 2014)
- In fact, Missouri is part of the "West North Central" census division[6], which as of October 2014 ranked as the 3rd lowest combined states average of retail price of

[4] California, Connecticut, the District of Columbia, Delaware, Illinois, Massachusetts, Maryland, Maine, Michigan, Montana, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, and Rhode Island

[5] American Public Power Association. (April 2014). Retail Electric Rates in Deregulated and Regulated States: 2013 Update. Washington, D.C.: www.publicpower.org.

[6] States included in the division are: Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota. *See generally* U.S. Energy Information Administration. (2001-2013). Retrieved January 29, 2015, from www.eia.gov:



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electricity at 8.84 c/kWh, narrowly missing the lowest census division's combined states average by just .19 c/kWh. (U.S. Energy Information Administration, 2014)

- Furthermore, there are NO deregulated states that are included in the three lowest census division's combined states average retail price of electricity as of October 2014.[7] As of late this past year, Missouri's deregulated neighbor Illinois's average retail price of electricity was 9.24 c/kWh, while Missouri enjoyed a much lower rate of 8.47 c/kWh. (U.S. Energy Information Administration, 2014)

**Impact of Deregulation in Missouri**

"States that implemented retail choice electric plans were generally high cost states, and the hope was that competition by electric suppliers would result in lower rates. In 1997, the states in the deregulated category had average rates that were 2.8 cents per kWh above rates in the regulated states (8.6 vs. 5.8). Unfortunately, the retail choice experience—complete with the combined effect of divestiture of utility generating assets, and exposure of retail consumers to wholesale rates set in RTO markets—has resulted in an even larger gap in 2013, with deregulated states paying, on average, rates that are 3.0 cents per kWh above rates in regulated states (12.1 vs. 9.1)"

**Average Revenue per Kilowatt-hour: Deregulated vs. Regulated States[8]**

| | **Deregulated States** | **Regulated States** | **National** |
|---|---|---|---|
| | (in cents per kilowatt-hour) | | |
| **2013** | **12.1** | **9.1** | **10.1** |

(American Public Power Association, April 2014)

To further emphasize the cost impact of deregulation, it is important to see the cost increase that each deregulated state has incurred in the last 16 years:

---

http://www.eia.gov/electricity/data/browser/#/topic/7?agg=1,0&geo=vvg&endsec=g&linechart=ELEC.PRICE.US-ALL.A~ELEC.PRICE.NEW-ALL.A~ELEC.PRICE.MAT-ALL.A~ELEC.PRICE.ENC-ALL.A~ELEC.PRICE.WNC-ALL.A~ELEC.PRICE.SAT-ALL.A~ELEC.PRICE.ESC-ALL.A~ELEC.PRICE.WSC-ALL.A.

[7] States included in the West South Central and East South Central census divisions are: Arkansas, Louisiana, Oklahoma, Texas, Alabama, Kentucky, Mississippi, and Tennessee.

[8] Source: Energy Information Administration, Forms EIA-861 and EIA-826



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**Deregulated State's Average Customer Rates, in cents per kWh**

| **RTO/State** | **1997** | **2013** | **Difference** |
|---|---|---|---|
| *ISO-New England* | | | |
| Connecticut | 10.5 | 15.7 | +5.2 |
| Maine | 9.5 | 11.9 | +2.4 |
| Massachusetts | 10.4 | 14.5 | +4.1 |
| New Hampshire | 11.6 | 14.3 | +2.7 |
| Rhode Island | 10.7 | 13.9 | +3.2 |
| *Eastern PJM and NYISO* | | | |
| Delaware | 7.0 | 11.0 | +4.0 |
| District of Columbia | 7.4 | 11.9 | +4.5 |
| Maryland | 7.0 | 11.7 | +4.7 |
| New Jersey | 10.5 | 13.7 | +3.2 |
| Pennsylvania | 8.0 | 9.8 | +1.8 |
| New York | 11.1 | 15.6 | +4.5 |
| *Midwest* | | | |
| Illinois | 7.7 | 8.0 | +.3[9] |

[9] According to October 2014 data from the U.S. Energy Information Administration previously cited, the average retail price of electricity in 2014 was 9.24 c/kWh, which is an increase of +1.24 c/kWh from 2013. U.S. Energy Information Administration. (2014, October). Retrieved January 22, 2015, from www.eia.gov: www.eia.gov/electricity/monthly/epm_table_grapher.cfm?t=epmt_5_6_a.



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| | | | |
|---|---|---|---|
| Michigan | 7.0 | 11.3 | +4.3 |
| Ohio | 6.3 | 9.2 | +2.9 |
| *Western States* | | | |
| California | 9.5 | 14.6 | +5.1 |
| Montana | 5.2 | 8.6 | +3.4 |

(American Public Power Association, April 2014)

The state of Texas, which also has retail access, was not included in the American Public Power Association study. It is important to note that Michigan allows alternative suppliers to compete for a maximum of 10% of electric utility's retail sales, Montana has repealed their retail access for customers < 5 MW and for all customers that choose utility service, and California has suspended their retail access for customers. In doing so, Montana's state government, local government, and utility customers have incurred substantial costs, essentially paying many costs twice.[10] West Virginia, Arkansas, Oklahoma, and New Mexico have all had their rate restructuring laws repealed or delayed. (Rose, 2013)[11]

The state of Indiana, which enjoys low electric rates similar to Missouri, recently examined deregulated states versus traditionally regulated states. Mr. Ken Rose, Independent Consultant and Senior Fellow with the Institute of Public Utilities, stated two important points in his report to the Regulatory Flexibility Committee of the Indiana General Assembly in the fall of 2013, "'Deregulating' at the state level actually transfers jurisdictional authority from the state to the federal regulatory authorities—primarily the Federal Energy Regulatory Commission (FERC). Unfortunately when things go wrong within a state or region, customers and other market participants are wholly dependent on the federal government to fix it."

[10] Ochenski, George, *Missoulian*, "Montana's energy deregulation debacle about to come to an end", (Sept. 29, 2013), *available at* http://missoulian.com/news/opinion/columnists/george-ochenski-montana-s-energy-deregulation-debacle-about-to-come/article_75a3e5ce-2992-11e3-b015-001a4bcf887a.html, ("**Unfortunately, the $900 million it will take to re-acquire the dams will, once again, be passed on to consumers.**"). *See also* Balaskovitz, Andy, *Midwest Energy News*, "Michigan's electric choice law 'in the crosshairs' in 2015", (Dec. 5, 2014), *available at* http://midwestenergynews.com/2014/12/05/michigans-electric-choice-law-in-the-crosshairs-in-2015/.

[11] Rose, K. (2013). Comparing Restructured States with Traditionally Regulated States. Institute of Public Utilities (www.ipu.msu.edu).

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**Conclusion**

The initiative petition will result in substantial transitional and implementation costs, and potential litigation costs, at the state and local level. Other costs, revenues, or savings, are highly speculative, but there is reason to believe that the initiative would lead to rate increases that would have an overall negative effect for state and local government. Judging by the financial impact of deregulation in the states where it is currently in place, changing the regulatory compact in Missouri will most likely bring increased utility costs to consumers and little added benefit while potentially impacting reliability. This gives further reason to doubt that any fiscal impact to state and local government will be positive.

Thank you for your consideration of these materials. If you have additional questions, please do not hesitate to contact me.

Respectfully submitted,

Edward D. Greim



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The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College**.

**Fiscal Note Summary**

The fiscal impact to state government is unknown but would likely include implementation costs and could include litigation costs. The fiscal impact to local governments is unknown but could include a loss in tax revenues from electric utility suppliers and potential litigation costs.

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

August 26, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Mike Grimes regarding a proposed statutory amendment to Chapter 393 (2016-087)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Mike Grimes on August 25, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

RECEIVED
AUG 26 2015
STATE AUDITORS OFFICE

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
AUG 25 2015
MO. SECRETARY OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
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| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ (Name of payer)

_____ Signature of Affiant (Person obtaining signatures)

_____ Printed Name of Affiant

_____ Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____ Signature of Notary

My commission expires _____.

_____ Address of Notary (Street, City, State & Zip Code)

RECEIVED
AUG 25 2015
MO. SECRETARY OF STATE

***Be in enacted by the people of the State of Missouri:***

***A new section of the Revised Missouri Statutes is hereby enacted, to be known as section 393.330 to read as follows:***

393.030. 1. The purpose of this section is to ensure that all retail and commercial customers of electric power in this state have the choice of electric suppliers, and to encourage competition in this state in the provision of electric supply.

2. No later than January 1, 2018, all retail and commercial customers of an electrical corporation as defined in § 386.020, RSMo., shall have the right to choose an alternative electric supplier. An "alternative electric supplier" means a person selling electric generation service to retail and commercial customers in this state.

3. The public service commission shall issue orders establishing a licensing procedure for all alternative electric suppliers. No alternative electric supplier shall engage in any business in this state unless it obtains and maintains a license issued by the public service commission.

16-086

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

August 19, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Edward Greim regarding a proposed statutory amendment to Chapters 210, 196, & 149, version 6 (2016-086)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Edward Greim on August 19, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

RECEIVED
AUG 19 2015
STATE AUDITORS OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-086

County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
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| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do □ do not □ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Address of Affiant

_____
Printed Name of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My commission expires _____

RECEIVED
2015 AUG 19 AM 9:37
SECRETARY OF STATE

16-086

NOTICE: You are advised that the proposed law changes, repeals, or modifies by implication, or may be construed to change, repeal or modify by implication, the following provisions of the Missouri Revised Statutes — Sections 66.340, 66.350, 149.015, 149.021, 149.065, 149.160, 196.1003, 210.102, and 210.320. The proposed law enacts three new sections, to be known as sections 149.017, 149.018, and 149.161.

*Be it enacted by the people of the State of Missouri:*

Sections 210.102 and 196.1003 of the Revised Statutes of Missouri are amended and sections 149.017, 149.018 and 149.161 are enacted, to read as follows:

210.102. 1. Sections 149.017, 149.018, and 149.161, and certain amendments to 196.1003 and 210.102, shall be referred to as the Early Childhood Health and Education Act, with the purpose of supporting and improving early childhood health and education through regulation of tobacco manufacturers and sellers. This Act:

(1) Creates the Early Childhood Health and Education Trust Fund in order to support and improve early childhood health and education across the state;

(2) Reforms the Coordinating Board for Early Childhood to administer the Early Childhood Health and Education Trust Fund and provide grants that support and improve early childhood health and education; and

(3) Funds the Early Childhood Health and Education Trust Fund through increased regulations on tobacco manufacturers and sellers.

All of the provisions of this act are severable. If any provision of this act is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this act shall be and remain valid and in full force and effect.

2. It shall be the duty of the Missouri children's services commission to:

(1) Make recommendations which will encourage greater interagency coordination, cooperation, more effective utilization of existing resources and less duplication of effort in activities of state agencies which affect the legal rights and well-being of children in Missouri;

(2) Develop an integrated state plan for the care provided to children in this state through state programs;

(3) Develop a plan to improve the quality of children's programs statewide. Such plan shall include, but not be limited to:

(a) Methods for promoting geographic availability and financial accessibility for all children and families in need of such services;

(b) Program recommendations for children's services which include child development, education, supervision, health and social services;

(4) Design and implement evaluation of the activities of the commission in fulfilling the duties as set out in this section;

(5) Report annually to the governor with five copies each to the house of representatives and senate about its activities including, but not limited to the following:

(a) A general description of the activities pertaining to children of each state agency having a member on the commission;

(b) A general description of the plans and goals, as they affect children, of each state agency having a member on the commission;

(c) Recommendations for statutory and appropriation initiatives to implement the integrated state plan;

(d) A report from the commission regarding the state of children in Missouri.

[2.]3. For years ending on or before December 31, 2016, [There is hereby established within the children's services commission] the "Coordinating Board for Early Childhood", which shall constitute a body corporate and politic, shall be established within the children's services commission, and shall include but not be limited to the following members:

(1) A representative from the governor's office;

(2) A representative from each of the following departments: health and senior services, mental health, social services, and elementary and secondary education;

(3) A representative of the judiciary;

(4) A representative of the family and community trust board (FACT);

(5) A representative from the head start program;

(6) Nine members appointed by the governor with the advice and consent of the senate who are representatives of the groups, such as business, philanthropy, civic groups, faith-based organizations, parent groups, advocacy organizations, early childhood service providers, and other stakeholders. The coordinating board may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers. The coordinating board shall elect from amongst its members a chairperson, vice chairperson, a secretary-reporter, and such other officers as it deems necessary. Members of the board shall serve without compensation but may be reimbursed for actual expenses necessary to the performance of their official duties for the board.

4. Beginning on January 1, 2017, the coordinating board for early childhood, which shall constitute a body corporate and politic, shall be established within the department of elementary and secondary education and shall include the following members:

(1) The director or the director's designee from each of the following departments: health and senior services, mental health, and

16-086

social services;

(2) The commissioner or the commissioner's designee from the department of elementary and secondary education;

(3) Two members of the Missouri general assembly. One member shall be the chairman of the joint committee on education. One member shall be a member of the joint committee on education, shall be from a different party and different legislative chamber than the chairman of the joint committee on education, and shall be appointed by the elected leader, either the speaker of the house of representatives or the president pro tempore of the senate, of the member's legislative chamber;

(4) The director of the Missouri head start-state collaborative office;

(5) Six citizens, representing each of the following areas: early childhood education and development providers, local head start agencies, higher education, business, faith, and medicine. The Governor shall appoint, with the advice and consent of the senate, the three citizens representing the areas of medicine, business, and higher education. The state board of education shall appoint the citizens representing the areas of early childhood education and development providers, local head start agencies, and faith.

Citizens appointed under subdivision (5) shall serve a term of three years. Such citizens shall be eligible to serve two terms. Such citizens that serve a partial term of less than eighteen months shall be eligible to serve the partial term and two full terms. Such citizens that serve a partial term of more than eighteen months shall be eligible to serve the partial term and one full term.

[3.]5. The coordinating board for early childhood shall have the power to:

(1) Develop a comprehensive statewide long-range strategic plan for a cohesive early childhood system. The board shall review the plan each year and make amendments to the plan as it deems necessary. The board shall submit the plan to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of 2018 and each year thereafter;

(2) Confer with public and private entities for the purpose of promoting and improving the development of children from birth through age five of this state;

(3) Identify legislative recommendations to improve services for children from birth through age five;

(4)Promote coordination of existing services and programs across public and private entities;

(5) Promote research-based approaches to services and ongoing program evaluation;

(6) Identify service gaps and advise public and private entities on methods to close such gaps;

(7) Apply for and accept gifts, grants, appropriations, loans, or contributions to the coordinating board for early childhood fund from any source, public or private, and enter into contracts or other transactions with any federal or state agency, any private organizations, or any other source in furtherance of the purpose of subsections 3 through 15[2 and 3] of this section, and take any and all actions necessary to avail itself of such aid and cooperation;

(8) Direct disbursements and grants from the coordinating board for early childhood fund and the early childhood health and education trust fund as provided in this section;

(9) Administer the coordinating board for early childhood fund and the early childhood health and education trust fund [and invest any portion of the moneys not required for immediate disbursement in obligations of the United States or any agency or instrumentality of the United States, in obligations of the state of Missouri and its political subdivisions, in certificates of deposit and time deposits, or other obligations of banks and savings and loan associations, or in such other obligations as may be prescribed by the board];

(10) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal with real or personal property or any interests therein, wherever situated;

(11) Sell, convey, lease, exchange, transfer or otherwise dispose of all or any of its property or any interest therein, wherever situated;

(12) Employ and fix the compensation of an executive director and such other agents or employees as it considers necessary;

(13) Adopt, alter, or repeal by its own bylaws, rules, and regulations governing the manner in which its business may be transacted;

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(14) Adopt and use an official seal;

(15) Assess or charge fees as the board determines to be reasonable to carry out its purposes;

(16) Make all expenditures which are incident and necessary to carry out its purposes;

(17) Sue and be sued in its official name;

(18) Take such action, enter into such agreements, and exercise all functions necessary or appropriate to carry out the duties and purposes set forth in this section;

(19) Contract with one or more not-for-profits to meet the requirements of this section;

(20) Provide technical assistance to grantees;

(21) Coordinate with parents, community leaders, local governments, and public and private entities to improve the quality of and increase access to early childhood development programs in communities throughout the state; and

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(22) Pursue public and private partnership opportunities that are consistent with the objectives of subsection 6 of this section.

6. Any grants awarded by the coordinating board for early childhood shall accomplish one or more of the following objectives:

(1) Increasing access to existing quality early childhood development programs;

(2) Improving the quality of early childhood development programs;

(3) Increasing access to preventive health care and health and developmental screenings for children ages birth through five;

(4) Offering parent and family support and education concerning prenatal development, early child development, numeracy, and literacy;

(5) Providing professional development and training for early childhood development providers;

(6) Increasing coordination of early childhood development programs and public information about the importance of early childhood development;

(7) Providing evidenced-based smoking cessation programs for pregnant mothers.

7. The coordinating board for early childhood shall consider the following nonexclusive factors when awarding grants as provided in this section:

(1) Whether the project or activities will improve outcomes for children ages birth through five, consistent with the objectives of this section;

(2) Whether the project or activity leverages matching dollars;

(3) Whether the project or activity addresses needs identified by the local community; and

(4) The sustainability of the project or activity.

8. The coordinating board for early childhood shall establish accountability and audit requirements for all grant recipients, including requirements that success be measured by outcomes for children and families.

9. It shall be the duty of the coordinating board for early childhood to:

(1) Establish and maintain a conflict of interest policy for its members and staff;

(2) Prepare an annual report describing the activities of the board and a description of outcomes for children and families achieved by the board and grant recipients, including a list of all grant recipients and the amount of any grants awarded to such recipients. The board shall submit the report to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of each year, beginning in 2019, and shall provide a copy of the report to the secretary of state; and

(3) Ensure a fair and equitable distribution of funds collected as provided under sections 149.017 and 149.161 based on the established residency population of children ages birth through five.

10. There is hereby created the "Coordinating Board for Early Childhood Fund" which shall consist of the following:

(1) Any moneys appropriated by the general assembly for use by the board in carrying out the powers set out in subsections 3 through 9[2 and 3] of this section;

(2) Any moneys received from grants or which are given, donated, or contributed to the fund from any source;

(3) Any moneys received as fees authorized under subsections 3 through 9[2 and 3] of this section;

(4) Any moneys received as interest on deposits or as income on approved investments of the fund;

(5) Any moneys obtained from any other available source. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the coordinating board for early childhood fund at the end of the biennium shall not revert to the credit of the general revenue fund.

11. There is hereby created the Early Childhood Health and Education Trust Fund which shall consist of all moneys collected as provided in sections 149.017 and 149.161, less any reduction allowed in section 149.021. Interest and moneys earned on the fund shall be credited to the fund.

12. No more than eight percent of the moneys received by the early childhood health and education trust fund shall be used for administrative expenses. Eligible administrative expenses shall include only those reasonable and necessary for:

(1) Salaries, fringe benefits, expenses, and equipment of staff employed by the coordinating board for early childhood;

(2) Expenses associated with cost sharing of salaries, fringe benefits, expenses, and equipment of staff employed or contracted by the coordinating board for early childhood from any other state department or agency of the state;

(3) Expenses of the coordinating board for early childhood associated with contracting with not-for-profit entities;

(4) Expenses of the coordinating board for early childhood associated with audits and outcome evaluations of programs and activities funded under this section;

(5) Expenses of grantees associated with meeting administrative requirements of grants established by the coordinating board for early childhood;

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No more than 40% of administrative expenses shall be expended on items (1) through (4) of this subsection.

13. Moneys in the funds may be invested by the state treasurer, and any income therefrom shall be deposited to the credit of the fund. Any moneys credited to and placed in the early childhood health and education trust fund shall be appropriated and used only for purposes which are authorized by this section and shall not be subject to the provisions of section 33.080.

14. The net proceeds from the moneys collected as provided in sections 149.017 and 149.161 shall constitute new and additional funding for the activities, initiatives, and programs funded by the coordinating board for early childhood and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

15. Beginning January 1, 2017, the department of elementary and secondary education and the coordinating board for early childhood may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This subsection and chapter 536 are nonseverable from one another, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017 shall be invalid and void.

149.017. 1. In addition to the tax levied upon the sale of cigarettes in this state pursuant to section 149.015, a tax shall be levied upon the sale of cigarettes applied as follows:

(A) Beginning January 1, 2017, a tax at an amount equal to ten mills per cigarette;

(B) Beginning January 1, 2019, an additional tax at an amount equal to seven and one-half mills per cigarette; and,

(C) Beginning January 1, 2021, an additional tax at an amount equal to seven and one-half mills per cigarette.

2. The tax shall be evidenced by stamps in the same manner as cigarettes stamped pursuant to sections 149.015 and 149.021. Stamped cigarettes in the possession of a wholesaler or retailer before any phase of the additional tax under subsection 1 of this section is imposed, shall not be subject to such phase of the additional tax before retail sale.

3. The tax on any cigarettes contained in packages of four, ten, twenty or similar quantities to be used solely for distribution as samples shall be computed on a per cigarette basis at the rate set forth in this section, and payment of the tax shall be remitted to the director at such time and in such manner as he may prescribe.

4. The provisions of section 149.065 notwithstanding, all moneys collected as a result of the taxes imposed by this section and section 149.161 shall be credited to and placed in the early childhood health and education trust fund established by section 210.102 as said moneys are received. All of the moneys from the taxes imposed by this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the early childhood health and education trust fund.

5. The additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section and section 149.161 may be paid from moneys appropriated from the early childhood health and education trust fund for that purpose, not to exceed one and one half of one percent (1.5%) of the total moneys collected in that fiscal year. Collection and enforcement activities and initiatives that are paid for with moneys from the early childhood health and education trust fund shall be conducted in a fiscally responsible manner in order to maximize the net proceeds available for distribution pursuant to section 210.102. Moneys appropriated from the early childhood health and education trust fund pursuant to this subdivision shall not be used to pay costs that are not additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section;

6. The net proceeds from the taxes imposed by this section and section 149.161 shall constitute new and additional funding for the activities, initiatives, and programs described in section 210.102 and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

7. On an annual basis, the director of the department of revenue, in consultation with the director of health and senior services, shall determine whether the taxes imposed by this section and section 149.161 have resulted in a decrease in consumption of tobacco products and thereby directly caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320. If a reduction in the amount of moneys collected and deposited into any of those funds pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320, has been directly caused by the taxes imposed by this section and section 149.161, an amount equal to the amount of moneys that were not collected and deposited into that fund or funds or were not generated by the local tobacco taxes authorized by sections 66.340 and 210.320 because of the taxes imposed by this section and section 149.161 shall be transferred from the early childhood health and education trust fund pursuant to section 210.102 as follows: first, to the appropriate political subdivisions, and second to the appropriate fund or funds. The aggregate amount transferred to such funds and political subdivisions from the early childhood health and education trust fund for any year shall not exceed three percent of the total moneys collected pursuant to this section and section 149.161 during that same year.

149.018. In the event a tax other than the taxes imposed by sections 149.015, 149.017, 149.160, and 149.161 is authorized to be imposed upon the sale of cigarettes and tobacco products by a constitutional or statutory statewide ballot measure submitted by initiative petition, and the initial effective date for all or any part of such tax is after January 1, 2017, but before January 1, 2021, the additional taxes imposed pursuant to sections 149.017 and 149.161 shall be suspended from being imposed and collected to the extent the new tax is imposed and collected. On an annual basis, the director of the department of revenue shall estimate the amount of additional tax suspended pursuant to this section.

149.161. Beginning on January 1, 2017, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, a tax shall be levied upon the first sale of tobacco products other than cigarettes within this state in the amount of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. The tax on tobacco products shall be at the rate of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. Licensed persons making first sales

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shall be allowed credit in accordance with the provisions of section 149.160.1. The additional tax levied by this section shall not apply to inventories of tobacco products in the possession of the retailer or wholesaler on December 31, 2016.

196.1003. Requirements.

Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this Act shall do one of the following:

(a) become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

(b) (1) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts, (as such amounts are adjusted for inflation) —
1999: $.0094241 per unit sold after the date of enactment of this Act;
2000: $.0104712 per unit sold;
for each of 2001 and 2002: $.0136125 per unit sold;
for each of 2003 through 2006: $.0167539 per unit sold;
for each of 2007 and each year thereafter: $.0188482 per unit sold.

(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances —

(A) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (i) in the order in which they were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment) had it been a participating manufacturer, the percentage determined in subdivision (D) of the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(C) to the extent not released from escrow under subparagraphs (A) or (B), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

(D) The amount in subdivision (B) of the excess released from escrow shall be: for units sold during the year ending on December 31, 2017, eighty percent; for units sold during the year ending on December 31, 2018, sixty percent; for units sold during the year ending on December 31, 2019, forty percent; for units sold during the year ending on December 31, 2020, twenty percent; for units sold during all years ending on or after December 31, 2021, zero percent.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails [in any year] to place into escrow the funds required under this section shall

(A) be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;

(B) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

(C) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years.

Each failure to make an annual deposit required under this section shall constitute a separate violation. Any tobacco product manufacturer that violates the provisions of this section shall pay the State's cost and attorney's fees incurred during a successful prosecution under this section.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-086)**

**Subject**

Initiative petition from Edward Greim regarding a proposed amendment to Chapters 149, 196, and 210 of the Revised Statutes of Missouri. (Received August 19, 2015)

**Date**

September 8, 2015

**Description**

This proposal would amend Chapters 149, 196, and 210 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Edward Greim** provided information as a proponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

The proposal amends Section 196.1003, RSMo, enacted pursuant to the State's tobacco settlement agreement. Amending this section has the potential to lead to litigation threatening the State's tobacco settlement payments, with potential unknown costs.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** (DESE) indicated the proposal appears to provide for an increase in the tax levied upon the sale of cigarettes. All moneys collected shall be credited to and placed in the early childhood health and education trust fund. The proposal also appears to create the coordinating board for early childhood within the department of elementary and secondary education. With restrictions, proceeds from the additional cigarette tax would provide for the operations of the coordinating board. Our department has no means to calculate the potential of these proceeds. Any funds would be additional monies to early childhood education.

Officials from the **Department of Higher Education** indicated this initiative petition would have no impact on their department.

Officials from the **Department of Health and Senior Services** (DHSS) indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated their department would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** (DOR) indicated this petition will have a fiscal impact of $75,006 for FY 2017 on their department, creating additional expense for IT consultants.

**Section 149.017**
Beginning January 1, 2017, the petition increases the tax on cigarettes by 10 mills per cigarette ($0.20 per pack of 20). Beginning January 1, 2019, the petition applies an additional tax of seven and one-half mills per cigarette ($0.15 per pack of 20). Finally, beginning on January 1, 2021, the legislation increases the tax an additional seven and one-half mills per cigarette ($0.15 per pack of 20). The resultant tax increase at the end of the phase-in period is 50 cents per pack of 20 cigarettes.

Stamped cigarettes in inventory prior to the effective dates of the increase and in possession of a wholesaler or retailer are not subject to the additional tax before retail sale. The petition also allows for up to a one and one-half percent collection fee of the total revenues collected in a fiscal year.

The legislation requires the Department, in consultation with the Department of Health & Senior Services, to annually determine if the taxes result in a decrease in consumption of tobacco products. The Departments must further determine if there are reductions in the revenue collected and deposited into the fair share fund, health initiatives fund, the state school moneys fund, or local tobacco taxes.

**Section 149.018**
In the event a tax other than those imposed by sections 149.015, 149.017, 149.160, and 149.161 is authorized on the sale of cigarettes and tobacco products and the initial effective date for this tax is after January 1, 2017, but before January 1, 2021, the legislation suspends the imposition and collection of the additional taxes imposed pursuant to sections 149.017 and 149.161 to the extent the new tax is imposed and collected. On an annual basis, the Department estimates the amount of additional tax suspended per this section.

**Section 149.161**
Beginning on January 1, 2017, this section, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, levies a five percent tax upon the first sale of tobacco products other than cigarettes within this state. The legislation bases the five percent increase on the manufacturer's invoice price before discounts and deals. The person making the first sale within the state pays the tax. The additional tax shall not apply to inventories of tobacco products in possession of the wholesaler or retailer before January 1, 2017.

**Section 196.1003**
This section reduces the amount of the excess released from escrow as follows:

For units sold during the year ending on December 31, 2017 - 80 percent;
For units sold during the year ending on December 31, 2018 - 60 percent;

For units sold during the year ending on December 31, 2019 - 40 percent;
For units sold during the year ending on December 31, 2020 - 20 percent;
For units sold during all years ending on or after December 31, 2021, zero percent.

**Section 210.102**
This section creates the Early Childhood Health & Education Act. Beginning in 2017, the Coordinating Board for Early Childhood becomes a body corporate and politic under the purview of the Department of Elementary & Secondary Education. Subsection 11 creates the Early Childhood Health & Education Trust Fund and consists of revenues collected under sections 149.017 and 149.171, less any reduction allowed in section 149.021.

**Administrative Impact:**
**Excise Tax:**
The Early Childhood Health & Education Trust Fund requires changes to the SAGE 50 accounting system and cashiering records. The legislation also creates the requirement for a new form.

Officials from the **Department of Public Safety** indicated their department sees no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office. They assume DESE will cover any expenses of the one House member serving on the Coordinating Board for Early Childhood.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** (OA) indicated the proposal amends Sections 210.102 and 196.1003, RSMo, and adds Sections 149.017, 149.018, and 149.161 RSMo.

Section 210.102, RSMo, moves the Coordinating Board for Early Childhood from the Children's Services Commission to DESE, effective January 1, 2017, changes the board membership and provides further guidance on funding and operations for the Board.

Section 149.017, RSMo, increases the cigarette tax by 10 mills per cigarette on 1/1/2017, another 7 ½ mills on 1/1/2019 and another 7 ½ mills 1/1/2021. Section 149.161, RSMo, levies an additional 5% tax on other tobacco products beginning 1/1/2017. These monies will go to the Early Childhood Health and Education Trust (ECHET) Fund established in Section 210.102, RSMo. DOR and DHSS must annually determine whether the new

taxes have caused a reduction in consumption and therefore a reduction in the amount of money collected for the Fair Share Fund, the Health Initiatives Fund or the State School Moneys Fund and for local tobacco taxes. If a reduction in consumption is found, then up to 3% of the new revenue collected is to be distributed to the various funds and political subdivisions from the ECHET Fund to hold them harmless.

Section 149.018, RSMo, suspends imposition and collection of the tax increases in this proposal if a new tax on cigarettes and tobacco products is approved by constitutional or statutory statewide ballot measures with an initial effective date between January 1, 2017 and January 1, 2021, to the extent the new tax is imposed and collected. The DOR Director is tasked with estimating the amount of additional tax suspended pursuant to this section.

Section 196.1003, RSMo, changes escrow requirements for the tobacco Master Settlement Agreement, with provisions to direct potential civil penalties to the ECHET Fund. Because this language changes what was previously approved as a "qualifying statute", it could adversely impact future Nonparticipating Manufacturer (NPM) adjustment arbitrations.

FISCAL IMPACT:

Cigarette Tax (Section 149.017)

In fiscal year (FY) 15, there was $81.7 million in cigarette excise taxes collected. OA assumes that the average pack of cigarettes retails for $4.50, translating to roughly 480.9 million packs sold in Missouri. OA further assumes that cigarette sales have a (0.8) elasticity. Therefore, OA estimates:

- The first tax increase of 10 mills per cigarette in January 2017 will increase the “Early Childhood Health and Education Trust Fund” by $45.0 million in FY17 and $90.1 million in FY18.
- The second tax increase of an additional 7.5 mills per cigarette in January of 2019 will increase the “Early Childhood Health and Education Trust Fund” by $121.94 million in FY19 and $153.8 million in FY20.
- The third tax increase of an additional 7.5 mills per cigarette in January of 2021 will increase the “Early Childhood Health and Education Trust Fund” by $184.1 million in FY21 and $214.4 million in FY22 and thereafter.

There is no way to truly know what impact these tax increases will have on demand due to smoking cessation efforts, other state and federal regulations, and the increase in sales of e-cigarettes. However, OA estimates:

- The first tax increase will decrease the Fair Share Fund by $0.3 million in FY17 and $0.7 million in FY18, the Health Initiatives Fund by $0.3 million in FY17 and $0.7 million in FY18, and the State School Moneys Fund by $0.7 million in FY17 and $1.5 million in FY18.
- The second tax increase will decrease the Fair Share Fund by $0.9 million in FY19 and $1.1 million in FY20, the Health Initiatives Fund by $0.9 million in FY19 and

$1.1 million in FY20, and the State School Moneys Fund by $2.0 million in FY19 and $2.5 million in FY20.

- The third tax increase will decrease the Fair Share Fund by $1.3 million in FY21 and $1.6 million in FY22 and thereafter, the Health Initiatives Fund by $1.3 million in FY21 and $1.6 million in FY22 and thereafter, and the State School Moneys Fund by $3.0 million in FY21 and $3.5 million in FY22 and thereafter.

Further, since cigarette sales will decrease slightly, General Revenue will be reduced by $5.1 million, the School District Trust Fund will be reduced by $1.7 million, and local sales tax will be reduced by $7.2 million once fully implemented in FY22, from the loss of sales tax.

Other Tobacco Products (Section 149.161)

In FY15, there was $17.7 million in other tobacco product excise taxes collected. OA assumes that the average unit retails for $4.09, translating to roughly $176.9 million in wholesales in Missouri. OA further assumes that other tobacco product sales have a (0.8) elasticity. Therefore, OA estimates this proposal will increase the "Early Childhood Health and Education Trust Fund" by $4.0 million in FY17 and $7.9 million once fully implemented in FY18.

There is no way to truly know what impact this tax increase will have on demand due to cessation efforts, other state, federal, and local regulations, and the introduction of alternative products. However, OA estimates that this tax increase will decrease the Health Initiatives Fund by $0.3 million in FY17 and $0.6 million once fully implemented in FY18.

Further, since other tobacco product sales will decrease slightly, General Revenue will be reduced by $190,000, the School District Trust Fund will be reduced by $62,000, and local sales tax will be reduced by $260,000 once fully implemented in FY18, from the loss of sales tax.

Master Settlement Agreement (Section 196.1003)

The escrow changes should not impact state revenues. When civil penalties are redirected to the ECHET Fund, it would be an unknown loss of potential general revenue to the state.

Total Impact

This proposal will increase the "Early Childhood Health and Education Trust Fund" by $222.3 million once fully implemented in FY22. This proposal will also decrease the Fair Share Fund by $1.6 million, the Health Initiatives Fund by $2.2 million, and the State School Moneys Fund by $3.5 million once fully implemented in FY22.

In addition, due to lost sales tax revenue, General Revenue will be reduced by $5.3 million, the School District Trust Fund will be reduced by $1.8 million, and local sales tax will be reduced by $7.5 million once fully implemented in FY22.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated the initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated that there are no estimated costs or savings to report from their county for this initiative petition.

Officials from **Jasper County** indicated no appreciable effect on county government.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

**Edward Greim** provided the following information as a proponent of this initiative petition.

Graves Garrett LLC

Edward D. Greim
Graves Garrett, LLC
1100 Main Street, Suite 2700
Kansas City, Missouri 64105
Direct Dial: (816) 256-4144
edgreim@gravesgarrett.com

August 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: *Fiscal Note in Initiative Petitions 81, 82, 85 & 86*

To Whom It May Concern:

Based on the information contained in this letter and the attached letter from Tom Kruckemeyer, we propose the following fiscal note summary:

> Estimated additional revenue to state government is $98 million to $214 million annually with limited estimated implementation costs or savings. The revenue will fund only programs and services allowed by the proposal. The proposal is estimated to result in no net costs or savings to local governmental entities.

**Introduction**

The initiative allows 460,000 children to receive the early health screenings they need to grow and thrive and the early childhood development experiences that will prepare them for long-term educational success. These programs have important trickle-down effects that result in increased revenue and decreased costs at the state and local level. The initiative is accomplished by funding grants across the state to improve early childhood health and education. Funding for grants is provided by a tobacco tax, conservatively resulting in $214 million in direct state revenue, while yielding important public health benefits.

**Early Childhood Delivers Big Benefits**

Missouri enrolls fewer children in its state preschool program than any neighboring state, and funding for programs like Parents as Teachers has been slashed in half. All Missourians benefit

from investments in early childhood education: children start school ready to succeed; parents are able to keep good jobs and earn higher incomes; and taxpayers save money because early childhood education lowers drop-out rates, reduces crime and cuts the cost of social services. Despite clear evidence showing investing in early learning is one of the smartest investments we can make, year after year we battle with the Missouri General Assembly to fund quality early childhood education. Missouri is the 38th worst state for public pre-K funding. In 2012, the General Assembly cut $13.2 million from early childhood programs, and Parents as Teachers remains $19 million behind its 2009 funding.

Traditional thought has long emphasized the relationship between early childhood education and academic success, but researchers now are finding that preschool does not have a substantial effect on increasing IQs but rather develops a child's "soft skills" and can have a profound effect on adult earning potential especially for disadvantaged kids.

Evidence shows that non-cognitive skills matter. Through activities like finger painting, playing with blocks, and interacting with other students, children learn how to control impulses, keep anger in check, stay on task, listen and follow curiosity. These soft skills are basic, but important tools needed to learn, find and keep a job and just manage everyday life. Most children gain these skills at home from their parents, but disadvantaged kids often miss the window of opportunity, which are the critical years before Kindergarten.

A literature of empirical evidence shows strong outcome effects for kids who attend pre-school. Using cost-benefit analyses, researchers have found a link between preschool attendance and reduced crime, fewer teen pregnancies, higher rates of college attendance and less need for public assistance. Cost-benefit studies show that pre-school provides the best value and produces more net benefits to society than increased classroom time or job training programs.

*Evidence from the Perry Preschool Program*

The most widely cited early childhood intervention occurred in Ypsilanti, Michigan during the 60s. Children with low IQ scores and a low socioeconomic index were invited to participate in the Perry Preschool Program. Using a coin toss, researchers divided students into two groups, a treatment group and a control group. Starting at age three the "treatment" kids got 2.5 hours of preschool a day and weekly home visits for two years. The "control" kids did not participate in either of the services. Researchers interviewed both groups at ages 15, 19, 27 and 40 and asked them questions about life events like school, work, marriage, parenting and incarceration. The following chart shows the major findings of the study.



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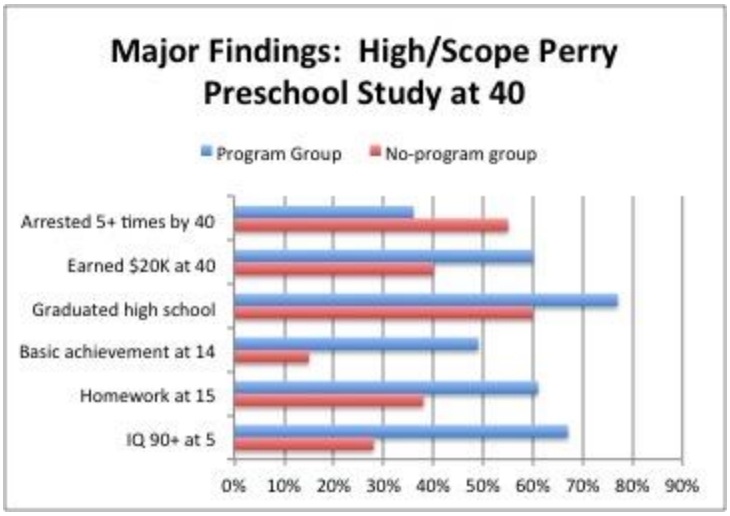


Source: Lifetime Effects: The HighScope Perry Preschool Study Through Age 40 (2005)

The pre-school girls went farther in school, earned higher GPAs, and received less special education than girls from the control group. Boys benefitted as well, but the boys who did not receive the preschool intervention were 2.3 times more likely to get arrested. The cost-savings alone from just the crime reduction demonstrated success.

With increased scrutiny over government spending, cost-benefit analysis gives policy analysts a tool to separate productive programs from ones that yield no social gains. A recent cost-benefit study that used a wider variety of assumptions and applied more rigorous accounting rules, estimated a return rate of about 7-10%. By monetizing social crime, the researchers were able to estimate that for every dollar invested in preschool, society earned back $30 to $300 dollars over the course of a lifetime (Heckman, Moon, Pinto, Savelyev, & Yavitz, 2010).

*Abecedarian and Chicago Studies*

Other studies confirmed the results of the Perry Preschool Project. The Carolina Abecedarian project in the 70s randomly assigned infants into intervention and control groups. The intervention group received full-day childcare from birth through Kindergarten. Intervention kids scored higher in reading and math, completed more education, were older when their first child was born and the mothers of intervention kids progressed farther in school and made more money than the control mothers. Intervention kids even smoked less.

A full-day five-year Pre-K program, while effective, would likely be cost-prohibitive for any state budget; however, the findings proved that early intervention does make a difference. And evidence suggests that a less expensive program could produce similar outcomes (Barnett & Masse, 2007).



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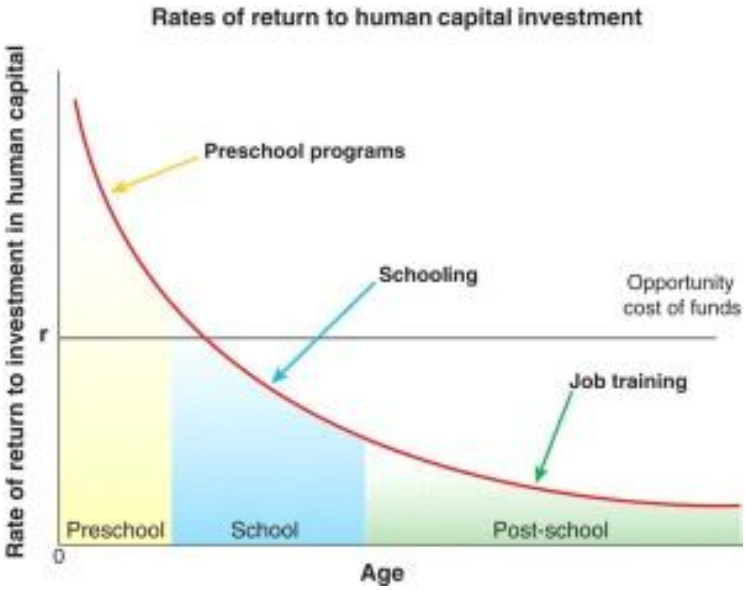
Just as Abecedarian kids earned higher wages than the control group, researchers found similar results from participants of the Chicago Child-Parent Program. The Chicago program targeted disadvantaged kids and provided a Headstart type intervention from ages three to nine. A cost-benefit analysis indicated for every dollar invested, the program produced seven in return. The largest impact was earning capacity, but Chicago kids were also less likely to need special education and less likely to commit crimes (Temple & Reynolds, 2007).

Much like with the Perry Program, the Chicago program demonstrated the relationship between early education, higher wages and crime reduction. Again it was the non-cognitive soft-skill development that made the difference. Second chance efforts like GED and job training provide fewer benefits and struggle to lift people out of poverty (Heckman & Masterov, 2007).




Source: Heckman, The Review of Agricultural Economics (2007)

What the Perry, Abecedarian and Chicago programs show is that pre-school helps kids develop soft-skills that make it easier to gain cognitive skills later and can lead to better jobs and a better quality of life. This in turn lessens the burden on government resources for remedial education, criminal justice and job-training programs.

Investing in human capital through access to finger-paints and story time may appear far-reaching, but multiple studies now point to early intervention as the cheapest, most effective way to prepare kids for the workforce and reduce crime. As labor force growth wanes and the demand for skilled workers increases, these studies suggest that a pipeline that begins at pre-school has great potential to produce big benefits to society in the long run.



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Present value of Abecedarian benefits and costs per child, (2002)

Table 1
Present value of Abecedarian benefits and costs per child (2002 dollars)

| | Discount rate (%) | | |
|---|---|---|---|
| | 3 | 5 | 7 |
| Program cost (net) | $35,864 | $34,599 | $33,421 |
| Program benefits | | | |
| Part. earnings | 37,531 | 16,460 | 6376 |
| Earnings of future generations | 5722 | 1586 | 479 |
| Maternal earnings | 68,728 | 48,496 | 35,560 |
| K-12 education | 8836 | 7375 | 6205 |
| Smoking/health | 17,781 | 4166 | 1008 |
| Higher education costs | −8128 | −5621 | −3920 |
| AFDC | 196 | 129 | 85 |
| Total benefits | $130,666 | $72,591 | $45,793 |
| Net present value | $94,802 | $37,992 | $12,372 |

**Reducing the Harmful Effects of Tobacco**

Tobacco tax increases offer a win-win-win solution for states as they work to balance budgets while preserving essential public services. Tobacco tax increases are one of the most effective ways to reduce smoking and other tobacco use, especially among kids. Every state that has significantly increased its cigarette tax has enjoyed substantial increases in revenue, even while reducing smoking. Higher tobacco taxes also save money by reducing tobacco-related health care costs, including Medicaid expenses. States can realize even greater health benefits and cost savings by allocating some of the revenue to programs that prevent children from smoking and help smokers quit.

National and state polls consistently have found overwhelming public support for tobacco tax increases. Polls also show that, when it comes to balancing budgets, voters prefer raising tobacco taxes to other tax increases or cutting crucial programs such as education and public safety.

Tobacco use causes approximately $3.03 billion in annual health care expenditures in Missouri. Smoking specifically causes over $500 million in annual costs for the Missouri Medicaid program. The initiative petition would increase the tax on cigarettes by $0.50 per pack and would increase the tax on other tobacco products by 5%. By conservative estimates, those tax increases

would raise approximately $214 million in new state revenue to improve early childhood health and education programs. New state annual revenue is the amount of additional new revenue over the first full year after the effective date of all phases of the additional tax. The state will collect less new revenue to the extent that the rate increase does not apply to all cigarettes and other tobacco products held in wholesaler and retailer inventories on the effective date. This fiscal projection was derived using a price elasticity of demand for cigarettes of -0.8, even though the weight of credible academic literature suggests a conservative estimate for the price elasticity of demand for cigarettes is -0.4.

Tax increases of less than roughly 25 cents per pack or 10% of the average state pack price do not produce significant public health benefits or cost savings because the cigarette companies can easily offset the beneficial impact of such small increases with temporary price cuts, coupons, and other promotional discounting. Splitting a tax rate increase into separate, smaller increases in successive years will similarly diminish or eliminate the public health benefits and related cost savings (as well as reduce the amount of new revenues).

In addition to raising new revenue, the tax increase would have an immediate public health benefit. Each 10% cigarette price increase reduces youth smoking by 6.5%. Each 10% cigarette price increase reduces adult smoking by 2%. The total expected reduction in smoking consumption as a result of a 10% price increase is 4%. It is conservatively estimated that the initiative petition would decrease youth smoking by 6% in Missouri.

There would also be a fiscal benefit to the citizens of the state from the improved public health. As of 2014, the CDC estimated 11,000 annual average smoking-attributable deaths in Missouri. 127,500 Missouri Youth aged 0-17 are projected to die from smoking. Approximately 22.1% of Missouri adults smoke. Approximately 14.9% of Missouri high school students smoke. The average Missouri resident's state and federal tax burden from smoking-caused government expenditures is $588 per household. Approximately one of every six pregnant women smokes, a rate significantly higher than the national average. Smoking during pregnancy increases the risk for preterm delivery, stillbirth, low birth weight and Sudden Infant Death Syndrome.
In recent years, almost every state and the federal government have increased tobacco taxes. Missouri is a notable exception. The average state cigarette tax is currently $1.60 per pack, but rates vary widely from 17 cents in Missouri to $4.35 in New York. On April 1, 2009, the federal cigarette tax increased by 62 cents, to $1.01 per pack.

As of July 1, 2015, Missouri's cigarette tax was less than one-third of any of its border states: IL - $ 1.98; IA - $1.36; KS - $1.29; AR - $1.15; OK - $1.03; NE - $0.64; TN - $0.62; KY - $0.60. Moreover, Missouri's 17-cent per pack tax on cigarettes is the lowest in the country. The real value of the cigarette tax is decreasing. As a percentage of the overall Missouri State Budget, Missouri's tobacco taxes have decreased from 1.036% in 2000 to 0.464% in 2015. See MO Executive Budget Books & MO Office of Administration.



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Every day 3,000 kids try their first cigarette and another 700 kids become regular smokers. There are more than 250 thousand new underage smokers each year. One third will eventually die from their addiction. Smoking has declined in every state where the tobacco tax has been increased.

Ongoing reductions in state smoking levels will, over time, gradually erode state cigarette tax revenues (in the absence of any new rate increases). But those declines are more predictable and less volatile than many other state revenue sources, such as state income tax or corporate tax revenues (which can drop sharply during recessions). In addition, the smoking declines that reduce tobacco tax revenues will simultaneously produce much larger reductions in government and private sector smoking-caused costs. See the Campaign for Tobacco-Free Kids factsheet, *Tobacco Tax Increases are a Reliable Source of Substantial New State Revenue*, http://tobaccofreekids.org/research/factsheets/pdf/0303.pdf.

For other ways states can increase revenues (and promote public health) other than just raising its cigarette tax, see the Campaign factsheet, *The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

For more on sources and calculations, see http://www.tobaccofreekids.org/research/factsheets/pdf/0281.pdf

**Additional Information on Tobacco Product Tax Increases**

*Raising State Cigarette Taxes Always Increases State Revenues and Always Reduces Smoking*, http://tobaccofreekids.org/research/factsheets/pdf/0098.pdf.

*Responses to Misleading and Inaccurate Cigarette Company Arguments Against State Tobacco Tax Increases*, http://tobaccofreekids.org/research/factsheets/pdf/0227.pdf.

*State Cigarette Excise Tax Rates & Rankings*, http://tobaccofreekids.org/research/factsheets/pdf/0097.pdf.

*Top Combined State-Local Cigarette Tax Rates (State plus County plus City)*, http://tobaccofreekids.org/research/factsheets/pdf/0267.pdf.

*State Cigarette Tax Increases Benefit Lower-Income Smokers and Families*, http://tobaccofreekids.org/research/factsheets/pdf/0147.pdf.

*The Best Way to Tax Smokeless Tobacco*, http://tobaccofreekids.org/research/factsheets/pdf/0282.pdf.

*How to Make State Cigar Tax Rates Fair and Effective*, http://tobaccofreekids.org/research/factsheets/pdf/0335.pdf.



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*State Benefits from Increasing Smokeless Tobacco Tax Rates*, http://tobaccofreekids.org/research/factsheets/pdf/0180.pdf.

*The Case for High-Tech Cigarette Tax Stamps*, http://tobaccofreekids.org/research/factsheets/pdf/0310.pdf.

*State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion*, http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf.

*The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

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Sincerely,

Edward D. Greim
Partner, Graves Garrett, LLC



1100 Main Street, Suite 2700 Kansas City, MO 64105 ph 816.256.3181 www.gravesgarrett.com

Tom Kruckemeyer
Missouri Budget Project
3534 Washington Ave
St. Louis, Missouri 63103

August 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

To Whom It May Concern:

I currently work as the Director of Fiscal Policy and Chief Economist at the Missouri Budget Project, a nonprofit, objective, public policy analysis organization that provides independent research on complex state policy issues and how they impact the state budget. I hold a B.A. in Economics and History and an M.A. in Economics from the University of Missouri-St. Louis. I also hold an M.A. Political Science from the University of Missouri-Columbia. I worked in the Missouri Division of Budget from 1978 to 2004, where I served as the chief economist. In the course of both my positions at the Missouri Division of Budget as well as my current position, I have routinely projected the fiscal impact of tax changes.

In my experience, it is a conservative, generally accepted practice to project the revenue generated from a proposed cigarette tax by estimating an average price per cigarette (or price per pack), estimating a uniform price elasticity of demand, and to assume that the tax will result in a penny-for-penny increase in the cost of cigarettes.

Upon information and belief, the Office of Administration usually estimates the price elasticity of demand for cigarettes as -0.8. This estimate means that a 10% increase in the cost of cigarettes results in an 8% reduction in the quantity of cigarettes sold. A price elasticity of demand of -0.8 is a conservative but reasonable estimate for the price elasticity of demand of a product such as cigarettes. Notably, even with a 50 cent increase in Missouri's cigarette tax, Missouri's cigarette tax will remain lower than many of its contiguous states, in particular the states that border major metropolitan areas, Illinois and Kansas.

Additionally, the Office of Administration's method for estimating cigarette tax revenue is conservative because it assumes a penny-for-penny price increase in the cost of cigarettes as a result of the tax. In practice, whether the entire tax increase will result in a 50 cent increase in the prices of cigarettes is unknown because the market for cigarettes is competitive. Moreover, regardless of whether the Office of Administration estimates that the demand for cigarettes will remain flat or decrease due to societal trends, the overall fiscal impact is largely the same. An estimate of the decrease in future tax collections due to decreased smoking from societal trends is not essential to the findings in the fiscal note that this particular tax will result in a net increase to state revenue with no net cost to local governments.

If the Office of Administration decides to use the same assumptions in projecting the revenue for other tobacco products ("OTP") as it does for cigarettes, it is my opinion that the resulting collection estimate would be conservative but appropriate. Recent trends suggest that the revenue generated from the tax on other tobacco products is increasing.

Based on generally accepted methods for estimating the fiscal impact of a proposed tax, I estimate that the phased-in 50 cent cigarette tax increase will result in approximately 90 million dollars of revenue in calendar years 2017 and 2018. I estimate that the cigarette tax will result in approximately 150 million dollars of revenue in calendar years 2019 and 2020. I estimate that the cigarette tax will result in approximately 206 million dollars of revenue in calendar year 2021. In comparison, I estimate that an immediate 50 cent cigarette tax increase will result in approximately 214 million dollars of revenue in calendar year 2017. These estimates assume a 1% yearly reduction in the state's smoking level. I estimate the 5% increase in the tax on non-cigarette tobacco products will result in approximately 8 million dollars of revenue annually. There may be a small decrease in revenue collection for each phase of the additional tax due to lags associated with the implementation and collection of taxes.

These taxes are expected to result in limited implementation costs to the state. The costs associated with administering the Early Childhood Education and Health Trust Fund will primarily be borne by the Trust Fund. Nonetheless it is proper and reasonable to consider additional costs of administering the cigarette tax increase, which may include fixed costs like salaries as well as additional marginal costs, such as costs associated with stamping cigarettes. All state government costs are estimated to be offset by additional revenue increases.

Local governments will receive revenue from the tax to offset any potential decrease in local tax revenue. Based on a price elasticity of demand of -0.8, local revenue may decrease, but any such decrease will be by an amount less than $500,000. By any reasonable estimate, 3% of the Early Childhood Education and Health Trust Fund will exceed the decrease in revenue associated with local tobacco taxes. Accordingly, any such decrease will be offset as a result local revenue from the transfer of funds to localities with local tobacco taxes. Additionally, while direct local revenue is zero, there are positive indirect effects the may result in additional revenue to local governments.

Sincerely,

/s/

Tom Kruckemeyer
Director of Fiscal Policy & Chief
Economist, Missouri Budget Project

The State Auditor's office did not receive a response from the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College**.

**Fiscal Note Summary**

When cigarette and tobacco tax increases are fully implemented, estimated additional revenue to state government is $200 million to $214 million annually, with limited estimated implementation costs and potential unknown litigation costs. The revenue will fund only programs and services allowed by the proposal. The fiscal impact to local governmental entities is unknown.

16-085

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

August 19, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Edward Greim regarding a proposed statutory amendment to Chapters 210 & 149, version 5 (2016-085)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Edward Greim on August 19, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

RECEIVED
AUG 19 2015
STATE AUDITORS OFFICE

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-085 County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do □ do not □ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Address of Affiant

_____
Printed Name of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My commission expires _____

RECEIVED
2016 AUG 19 AM 9:36
SECRETARY OF STATE

16-085

NOTICE: You are advised that the proposed law changes, repeals, or modifies by implication, or may be construed to change, repeal or modify by implication, the following provisions of the Missouri Revised Statutes — Sections 66.340, 66.350, 149.015, 149.021, 149.065, 149.160, 210.102, and 210.320. The proposed law enacts three new sections, to be known as sections 149.017, 149.018, and 149.161.

*Be it enacted by the people of the State of Missouri:*

Section 210.102 of the Revised Statutes of Missouri is amended and sections 149.017, 149.018 and 149.161 are enacted, to read as follows:

210.102. 1. Sections 149.017, 149.018, and 149.161, and certain amendments to 210.102, shall be referred to as the Early Childhood Health and Education Act, with the purpose of supporting and improving early childhood health and education through regulation of tobacco sellers. This Act:

(1) Creates the Early Childhood Health and Education Trust Fund in order to support and improve early childhood health and education across the state;

(2) Reforms the Coordinating Board for Early Childhood to administer the Early Childhood Health and Education Trust Fund and provide grants that support and improve early childhood health and education; and

(3) Funds the Early Childhood Health and Education Trust Fund through revenue derived from the sale of tobacco products.

All of the provisions of this act are severable. If any provision of this act is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this act shall be and remain valid and in full force and effect.

2. It shall be the duty of the Missouri children's services commission to:

(1) Make recommendations which will encourage greater interagency coordination, cooperation, more effective utilization of existing resources and less duplication of effort in activities of state agencies which affect the legal rights and well-being of children in Missouri;

(2) Develop an integrated state plan for the care provided to children in this state through state programs;

(3) Develop a plan to improve the quality of children's programs statewide. Such plan shall include, but not be limited to:

(a) Methods for promoting geographic availability and financial accessibility for all children and families in need of such services;

(b) Program recommendations for children's services which include child development, education, supervision, health and social services;

(4) Design and implement evaluation of the activities of the commission in fulfilling the duties as set out in this section;

(5) Report annually to the governor with five copies each to the house of representatives and senate about its activities including, but not limited to the following:

(a) A general description of the activities pertaining to children of each state agency having a member on the commission;

(b) A general description of the plans and goals, as they affect children, of each state agency having a member on the commission;

(c) Recommendations for statutory and appropriation initiatives to implement the integrated state plan;

(d) A report from the commission regarding the state of children in Missouri.

[2.]3. For years ending on or before December 31, 2016, [There is hereby established within the children's services commission] the "Coordinating Board for Early Childhood", which shall constitute a body corporate and politic, shall be established within the children's services commission, and shall include but not be limited to the following members:

(1) A representative from the governor's office;

(2) A representative from each of the following departments: health and senior services, mental health, social services, and elementary and secondary education;

(3) A representative of the judiciary;

(4) A representative of the family and community trust board (FACT);

(5) A representative from the head start program;

(6) Nine members appointed by the governor with the advice and consent of the senate who are representatives of the groups, such as business, philanthropy, civic groups, faith-based organizations, parent groups, advocacy organizations, early childhood service providers, and other stakeholders. The coordinating board may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers. The coordinating board shall elect from amongst its members a chairperson, vice chairperson, a secretary-reporter, and such other officers as it deems necessary. Members of the board shall serve without compensation but may be reimbursed for actual expenses necessary to the performance of their official duties for the board.

4. Beginning on January 1, 2017, the coordinating board for early childhood, which shall constitute a body corporate and politic, shall be established within the department of elementary and secondary education and shall include the following members:

(1) The director or the director's designee from each of the following departments: health and senior services, mental health, and social services;

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(2) The commissioner or the commissioner's designee from the department of elementary and secondary education;

(3) Two members of the Missouri general assembly. One member shall be the chairman of the joint committee on education. One member shall be a member of the joint committee on education, shall be from a different party and different legislative chamber than the chairman of the joint committee on education, and shall be appointed by the elected leader, either the speaker of the house of representatives or the president pro tempore of the senate, of the member's legislative chamber;

(4) The director of the Missouri head start-state collaborative office;

(5) Six citizens, representing each of the following areas: early childhood education and development providers, local head start agencies, higher education, business, faith, and medicine. The Governor shall appoint, with the advice and consent of the senate, the three citizens representing the areas of medicine, business, and higher education. The state board of education shall appoint the citizens representing the areas of early childhood education and development providers, local head start agencies, and faith.

Citizens appointed under subdivision (5) shall serve a term of three years. Such citizens shall be eligible to serve two terms. Such citizens that serve a partial term of less than eighteen months shall be eligible to serve the partial term and two full terms. Such citizens that serve a partial term of more than eighteen months shall be eligible to serve the partial term and one full term.

[3.]5. The coordinating board for early childhood shall have the power to:

(1) Develop a comprehensive statewide long-range strategic plan for a cohesive early childhood system. The board shall review the plan each year and make amendments to the plan as it deems necessary. The board shall submit the plan to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of 2018 and each year thereafter;

(2) Confer with public and private entities for the purpose of promoting and improving the development of children from birth through age five of this state;

(3) Identify legislative recommendations to improve services for children from birth through age five;

(4)Promote coordination of existing services and programs across public and private entities;

(5) Promote research-based approaches to services and ongoing program evaluation;

(6) Identify service gaps and advise public and private entities on methods to close such gaps;

(7) Apply for and accept gifts, grants, appropriations, loans, or contributions to the coordinating board for early childhood fund from any source, public or private, and enter into contracts or other transactions with any federal or state agency, any private organizations, or any other source in furtherance of the purpose of subsections 3 through 15[2 and 3] of this section, and take any and all actions necessary to avail itself of such aid and cooperation;

(8) Direct disbursements and grants from the coordinating board for early childhood fund and the early childhood health and education trust fund as provided in this section;

(9) Administer the coordinating board for early childhood fund and the early childhood health and education trust fund [and invest any portion of the moneys not required for immediate disbursement in obligations of the United States or any agency or instrumentality of the United States, in obligations of the state of Missouri and its political subdivisions, in certificates of deposit and time deposits, or other obligations of banks and savings and loan associations, or in such other obligations as may be prescribed by the board];

(10) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal with real or personal property or any interests therein, wherever situated;

(11) Sell, convey, lease, exchange, transfer or otherwise dispose of all or any of its property or any interest therein, wherever situated;

(12) Employ and fix the compensation of an executive director and such other agents or employees as it considers necessary;

(13) Adopt, alter, or repeal by its own bylaws, rules, and regulations governing the manner in which its business may be transacted;

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(14) Adopt and use an official seal;

(15) Assess or charge fees as the board determines to be reasonable to carry out its purposes;

(16) Make all expenditures which are incident and necessary to carry out its purposes;

(17) Sue and be sued in its official name;

(18) Take such action, enter into such agreements, and exercise all functions necessary or appropriate to carry out the duties and purposes set forth in this section;

(19) Contract with one or more not-for-profits to meet the requirements of this section;

(20) Provide technical assistance to grantees;

(21) Coordinate with parents, community leaders, local governments, and public and private entities to improve the quality of and increase access to early childhood development programs in communities throughout the state; and

(22) Pursue public and private partnership opportunities that are consistent with the objectives of subsection 6 of this section.

6. Any grants awarded by the coordinating board for early childhood shall accomplish one or more of the following objectives:

(1) Increasing access to existing quality early childhood development programs;

(2) Improving the quality of early childhood development programs;

(3) Increasing access to preventive health care and health and developmental screenings for children ages birth through five;

(4) Offering parent and family support and education concerning prenatal development, early child development, numeracy, and literacy;

(5) Providing professional development and training for early childhood development providers;

(6) Increasing coordination of early childhood development programs and public information about the importance of early childhood development;

(7) Providing evidenced-based smoking cessation programs for pregnant mothers.

7. The coordinating board for early childhood shall consider the following nonexclusive factors when awarding grants as provided in this section:

(1) Whether the project or activities will improve outcomes for children ages birth through five, consistent with the objectives of this section;

(2) Whether the project or activity leverages matching dollars;

(3) Whether the project or activity addresses needs identified by the local community; and

(4) The sustainability of the project or activity.

8. The coordinating board for early childhood shall establish accountability and audit requirements for all grant recipients, including requirements that success be measured by outcomes for children and families.

9. It shall be the duty of the coordinating board for early childhood to:

(1) Establish and maintain a conflict of interest policy for its members and staff;

(2) Prepare an annual report describing the activities of the board and a description of outcomes for children and families achieved by the board and grant recipients, including a list of all grant recipients and the amount of any grants awarded to such recipients. The board shall submit the report to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of each year, beginning in 2019, and shall provide a copy of the report to the secretary of state; and

(3) Ensure a fair and equitable distribution of funds collected as provided under sections 149.017 and 149.161 based on the established residency population of children ages birth through five.

10. There is hereby created the "Coordinating Board for Early Childhood Fund" which shall consist of the following:

(1) Any moneys appropriated by the general assembly for use by the board in carrying out the powers set out in subsections 3 through 9[2 and 3] of this section;

(2) Any moneys received from grants or which are given, donated, or contributed to the fund from any source;

(3) Any moneys received as fees authorized under subsections 3 through 9[2 and 3] of this section;

(4) Any moneys received as interest on deposits or as income on approved investments of the fund;

(5) Any moneys obtained from any other available source. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the coordinating board for early childhood fund at the end of the biennium shall not revert to the credit of the general revenue fund.

11. There is hereby created the Early Childhood Health and Education Trust Fund which shall consist of all moneys collected as provided in sections 149.017 and 149.161, less any reduction allowed in section 149.021. Interest and moneys earned on the fund shall be credited to the fund.

12. No more than eight percent of the moneys received by the early childhood health and education trust fund shall be used for administrative expenses. Eligible administrative expenses shall include only those reasonable and necessary for:

(1) Salaries, fringe benefits, expenses, and equipment of staff employed by the coordinating board for early childhood;

(2) Expenses associated with cost sharing of salaries, fringe benefits, expenses, and equipment of staff employed or contracted by the coordinating board for early childhood from any other state department or agency of the state;

(3) Expenses of the coordinating board for early childhood associated with contracting with not-for-profit entities;

(4) Expenses of the coordinating board for early childhood associated with audits and outcome evaluations of programs and activities funded under this section;

(5) Expenses of grantees associated with meeting administrative requirements of grants established by the coordinating board for early childhood;

No more than 40% of administrative expenses shall be expended on items (1) through (4) of this subsection.

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13. Moneys in the funds may be invested by the state treasurer, and any income therefrom shall be deposited to the credit of the fund. Any moneys credited to and placed in the early childhood health and education trust fund shall be appropriated and used only for purposes which are authorized by this section and shall not be subject to the provisions of section 33.080.

14. The net proceeds from the moneys collected as provided in sections 149.017 and 149.161 shall constitute new and additional funding for the activities, initiatives, and programs funded by the coordinating board for early childhood and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

15. Beginning January 1, 2017, the department of elementary and secondary education and the coordinating board for early childhood may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This subsection and chapter 536 are nonseverable from one another, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017 shall be invalid and void.

149.017. 1. In addition to the tax levied upon the sale of cigarettes in this state pursuant to section 149.015, a tax shall be levied upon the sale of cigarettes applied as follows:

(A) Beginning January 1, 2017, a tax at an amount equal to ten mills per cigarette;

(B) Beginning January 1, 2019, an additional tax at an amount equal to seven and one-half mills per cigarette; and,

(C) Beginning January 1, 2021, an additional tax at an amount equal to seven and one-half mills per cigarette.

2. The tax shall be evidenced by stamps in the same manner as cigarettes stamped pursuant to sections 149.015 and 149.021. Stamped cigarettes in the possession of a wholesaler or retailer before any phase of the additional tax under subsection 1 of this section is imposed, shall not be subject to such phase of the additional tax before retail sale.

3. The tax on any cigarettes contained in packages of four, ten, twenty or similar quantities to be used solely for distribution as samples shall be computed on a per cigarette basis at the rate set forth in this section, and payment of the tax shall be remitted to the director at such time and in such manner as he may prescribe.

4. The provisions of section 149.065 notwithstanding, all moneys collected as a result of the taxes imposed by this section and section 149.161 shall be credited to and placed in the early childhood health and education trust fund established by section 210.102 as said moneys are received. All of the moneys from the taxes imposed by this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the early childhood health and education trust fund.

5. The additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section and section 149.161 may be paid from moneys appropriated from the early childhood health and education trust fund for that purpose, not to exceed one and one half of one percent (1.5%) of the total moneys collected in that fiscal year. Collection and enforcement activities and initiatives that are paid for with moneys from the early childhood health and education trust fund shall be conducted in a fiscally responsible manner in order to maximize the net proceeds available for distribution pursuant to section 210.102. Moneys appropriated from the early childhood health and education trust fund pursuant to this subdivision shall not be used to pay costs that are not additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section;

6. The net proceeds from the taxes imposed by this section and section 149.161 shall constitute new and additional funding for the activities, initiatives, and programs described in section 210.102 and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

7. On an annual basis, the director of the department of revenue, in consultation with the director of health and senior services, shall determine whether the taxes imposed by this section and section 149.161 have resulted in a decrease in consumption of tobacco products and thereby directly caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320. If a reduction in the amount of moneys collected and deposited into any of those funds pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320, has been directly caused by the taxes imposed by this section and section 149.161, an amount equal to the amount of moneys that were not collected and deposited into that fund or funds or were not generated by the local tobacco taxes authorized by sections 66.340 and 210.320 because of the taxes imposed by this section and section 149.161 shall be transferred from the early childhood health and education trust fund pursuant to section 210.102 as follows: first, to the appropriate fund or funds or political subdivisions, and second to the appropriate fund or funds. The aggregate amount transferred to such funds and political subdivisions from the early childhood health and education trust fund for any year shall not exceed three percent of the total moneys collected pursuant to this section and section 149.161 during that same year.

149.018. In the event a tax other than the taxes imposed by sections 149.015, 149.017, 149.160, and 149.161 is authorized to be imposed upon the sale of cigarettes and tobacco products by a constitutional or statutory statewide ballot measure submitted by initiative petition, and the initial effective date for all or any part of such tax is after January 1, 2017, but before January 1, 2021, the additional taxes imposed pursuant to sections 149.017 and 149.161 shall be suspended from being imposed and collected to the extent the new tax is imposed and collected. On an annual basis, the director of the department of revenue shall estimate the amount of additional tax suspended pursuant to this section.

149.161. Beginning on January 1, 2017, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, a tax shall be levied upon the first sale of tobacco products other than cigarettes within this state in the amount of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. The tax on tobacco products shall be at the rate of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. Licensed persons making first sales shall be allowed credit in accordance with the provisions of section 149.160.1. The additional tax levied by this section shall not apply to inventories of tobacco products in the possession of the retailer or wholesaler on December 31, 2016.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-085)**

**Subject**

Initiative petition from Edward Greim regarding a proposed amendment to Chapters 149 and 210 of the Revised Statutes of Missouri. (Received August 19, 2015)

**Date**

September 8, 2015

**Description**

This proposal would amend Chapters 149 and 210 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Edward Greim** provided information as a proponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** (DESE) indicated the proposal appears to provide for an increase in the tax levied upon the sale of cigarettes. All moneys collected shall be credited to and placed in the early childhood health and education trust fund. The proposal also appears to create the coordinating board for early childhood within the department of elementary and secondary education. With restrictions, proceeds from the additional cigarette tax would provide for the operations of the coordinating board. Our department has no means to calculate the potential of these proceeds. Any funds would be additional monies to early childhood education.

Officials from the **Department of Higher Education** indicated this initiative petition would have no impact on their department.

Officials from the **Department of Health and Senior Services** (DHSS) indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated their department would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** (DOR) indicated this petition will have a fiscal impact of $75,006 for FY 2017 on their department, creating additional expense for IT consultants.

**Section 149.017**
Beginning January 1, 2017, the petition increases the tax on cigarettes by 10 mills per cigarette ($0.20 per pack of 20). Beginning January 1, 2019, the petition applies an additional tax of seven and one-half mills per cigarette ($0.15 per pack of 20). Finally, beginning on January 1, 2021, the legislation increases the tax an additional seven and one-half mills per cigarette ($0.15 per pack of 20). The resultant tax increase at the end of the phase-in period is 50 cents per pack of 20 cigarettes.

Stamped cigarettes in inventory prior to the effective dates of the increase and in possession of a wholesaler or retailer are not subject to the additional tax before retail sale. The petition also allows for up to a one and one-half percent collection fee of the total revenues collected in a fiscal year.

The legislation requires the Department, in consultation with the Department of Health & Senior Services, to annually determine if the taxes result in a decrease in consumption of tobacco products. The Departments must further determine if there are reductions in the revenue collected and deposited into the fair share fund, health initiatives fund, the state school moneys fund, or local tobacco taxes.

**Section 149.018**
In the event a tax other than those imposed by sections 149.015, 149.017, 149.160, and 149.161 is authorized on the sale of cigarettes and tobacco products and the initial effective date for this tax is after January 1, 2017, but before January 1, 2021, the legislation suspends the imposition and collection of the additional taxes imposed pursuant to sections 149.017 and 149.161 to the extent the new tax is imposed and collected. On an annual basis, the Department estimates the amount of additional tax suspended per this section.

**Section 149.161**
Beginning on January 1, 2017, this section, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, levies a five percent tax upon the first sale of tobacco products other than cigarettes within this state. The legislation bases the five percent increase on the manufacturer's invoice price before discounts and deals. The person making the first sale within the state pays the tax. The additional tax shall not apply to inventories of tobacco products in possession of the wholesaler or retailer before January 1, 2017.

**Section 210.102**
This section creates the Early Childhood Health & Education Act. Beginning in 2017, the Coordinating Board for Early Childhood becomes a body corporate and politic under the purview of the Department of Elementary & Secondary Education. Subsection 11 creates the Early Childhood Health & Education Trust Fund and consists of revenues collected under sections 149.017 and 149.171, less any reduction allowed in section 149.021.

**Administrative Impact:**

**Excise Tax:**

The Early Childhood Health & Education Trust Fund requires changes to the SAGE 50 accounting system and cashiering records. The legislation also creates the requirement for a new form.

Officials from the **Department of Public Safety** indicated their department sees no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office. They assume DESE will cover any expenses of the one House member serving on the Coordinating Board for Early Childhood.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** (OA) indicated the proposal amends Section 210.102, RSMo, and adds Sections 149.017, 149.018, and 149.161, RSMo.

Section 210.102, RSMo, moves the Coordinating Board for Early Childhood from the Children's Services Commission to DESE, effective January 1, 2017, changes the board membership and provides further guidance on funding and operations for the Board.

Section 149.017, RSMo, increases the cigarette tax by 10 mills per cigarette on 1/1/2017, another 7 ½ mills on 1/1/2019 and another 7 ½ mills 1/1/2021. Section 149.161, RSMo, levies an additional 5% tax on other tobacco products beginning 1/1/2017. These monies will go to the Early Childhood Health and Education Trust (ECHET) Fund established in Section 210.102, RSMo. DOR and DHSS must annually determine whether the new taxes have caused a reduction in consumption and therefore a reduction in the amount of money collected for the Fair Share Fund, the Health Initiatives Fund or the State School Moneys Fund and for local tobacco taxes. If a reduction in consumption is found, then up to 3% of the new revenue collected is to be distributed to the various funds and political subdivisions from the ECHET Fund to hold them harmless.

Section 149.018, RSMo, suspends imposition and collection of the tax increases in this proposal if a new tax on cigarettes and tobacco products is approved by constitutional or statutory statewide ballot measures with an initial effective date between January 1, 2017 and January 1, 2021, to the extent the new tax is imposed and collected. The DOR Director is tasked with estimating the amount of additional tax suspended pursuant to this section.

FISCAL IMPACT:

Cigarette Tax (Section 149.017)

In fiscal year (FY) 15, there was $81.7 million in cigarette excise taxes collected. OA assumes that the average pack of cigarettes retails for $4.50, translating to roughly 480.9 million packs sold in Missouri. OA further assumes that cigarette sales have a (0.8) elasticity. Therefore, OA estimates:

- The first tax increase of 10 mills per cigarette in January 2017 will increase the "Early Childhood Health and Education Trust Fund" by $45.0 million in FY17 and $90.1 million in FY18.
- The second tax increase of an additional 7.5 mills per cigarette in January of 2019 will increase the "Early Childhood Health and Education Trust Fund" by $121.94 million in FY19 and $153.8 million in FY20.
- The third tax increase of an additional 7.5 mills per cigarette in January of 2021 will increase the "Early Childhood Health and Education Trust Fund" by $184.1 million in FY21 and $214.4 million in FY22 and thereafter.

There is no way to truly know what impact these tax increases will have on demand due to smoking cessation efforts, other state and federal regulations, and the increase in sales of e-cigarettes. However, OA estimates:

- The first tax increase will decrease the Fair Share Fund by $0.3 million in FY17 and $0.7 million in FY18, the Health Initiatives Fund by $0.3 million in FY17 and $0.7 million in FY18, and the State School Moneys Fund by $0.7 million in FY17 and $1.5 million in FY18.
- The second tax increase will decrease the Fair Share Fund by $0.9 million in FY19 and $1.1 million in FY20, the Health Initiatives Fund by $0.9 million in FY19 and $1.1 million in FY20, and the State School Moneys Fund by $2.0 million in FY19 and $2.5 million in FY20.
- The third tax increase will decrease the Fair Share Fund by $1.3 million in FY21 and $1.6 million in FY22 and thereafter, the Health Initiatives Fund by $1.3 million in FY21 and $1.6 million in FY22 and thereafter, and the State School Moneys Fund by $3.0 million in FY21 and $3.5 million in FY22 and thereafter.

Further, since cigarette sales will decrease slightly, General Revenue will be reduced by $5.1 million, the School District Trust Fund will be reduced by $1.7 million, and local sales tax will be reduced by $7.2 million once fully implemented in FY22, from the loss of sales tax.

Other Tobacco Products (Section 149.161)

In FY15, there was $17.7 million in other tobacco product excise taxes collected. OA assumes that the average unit retails for $4.09, translating to roughly $176.9 million in wholesales in Missouri. OA further assumes that other tobacco product sales have a (0.8) elasticity. Therefore, OA estimates this proposal will increase the "Early Childhood Health and Education Trust Fund" by $4.0 million in FY17 and $7.9 million once fully implemented in FY18.

There is no way to truly know what impact this tax increase will have on demand due to cessation efforts, other state, federal, and local regulations, and the introduction of alternative products. However, OA estimates that this tax increase will decrease the Health Initiatives Fund by $0.3 million in FY17 and $0.6 million once fully implemented in FY18.

Further, since other tobacco product sales will decrease slightly, General Revenue will be reduced by $190,000, the School District Trust Fund will be reduced by $62,000, and local sales tax will be reduced by $260,000 once fully implemented in FY18, from the loss of sales tax.

Total Impact

This proposal will increase the "Early Childhood Health and Education Trust Fund" by $222.3 million once fully implemented in FY22. This proposal will also decrease the Fair Share Fund by $1.6 million, the Health Initiatives Fund by $2.2 million, and the State School Moneys Fund by $3.5 million once fully implemented in FY22.

In addition, due to lost sales tax revenue, General Revenue will be reduced by $5.3 million, the School District Trust Fund will be reduced by $1.8 million, and local sales tax will be reduced by $7.5 million once fully implemented in FY22.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume,

for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated the initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated that there are no estimated costs or savings to report from their county for this initiative petition.

Officials from **Jasper County** indicated no appreciable effect on county government.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

**Edward Greim** provided the following information as a proponent of this initiative petition.

Graves Garrett LLC

Edward D. Greim
Graves Garrett, LLC
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Direct Dial: (816) 256-4144
edgreim@gravesgarrett.com

August 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: *Fiscal Note in Initiative Petitions 81, 82, 85 & 86*

To Whom It May Concern:

Based on the information contained in this letter and the attached letter from Tom Kruckemeyer, we propose the following fiscal note summary:

> Estimated additional revenue to state government is $98 million to $214 million annually with limited estimated implementation costs or savings. The revenue will fund only programs and services allowed by the proposal. The proposal is estimated to result in no net costs or savings to local governmental entities.

**Introduction**

The initiative allows 460,000 children to receive the early health screenings they need to grow and thrive and the early childhood development experiences that will prepare them for long-term educational success. These programs have important trickle-down effects that result in increased revenue and decreased costs at the state and local level. The initiative is accomplished by funding grants across the state to improve early childhood health and education. Funding for grants is provided by a tobacco tax, conservatively resulting in $214 million in direct state revenue, while yielding important public health benefits.

**Early Childhood Delivers Big Benefits**

Missouri enrolls fewer children in its state preschool program than any neighboring state, and funding for programs like Parents as Teachers has been slashed in half. All Missourians benefit

from investments in early childhood education: children start school ready to succeed; parents are able to keep good jobs and earn higher incomes; and taxpayers save money because early childhood education lowers drop-out rates, reduces crime and cuts the cost of social services. Despite clear evidence showing investing in early learning is one of the smartest investments we can make, year after year we battle with the Missouri General Assembly to fund quality early childhood education. Missouri is the 38th worst state for public pre-K funding. In 2012, the General Assembly cut $13.2 million from early childhood programs, and Parents as Teachers remains $19 million behind its 2009 funding.

Traditional thought has long emphasized the relationship between early childhood education and academic success, but researchers now are finding that preschool does not have a substantial effect on increasing IQs but rather develops a child's "soft skills" and can have a profound effect on adult earning potential especially for disadvantaged kids.

Evidence shows that non-cognitive skills matter. Through activities like finger painting, playing with blocks, and interacting with other students, children learn how to control impulses, keep anger in check, stay on task, listen and follow curiosity. These soft skills are basic, but important tools needed to learn, find and keep a job and just manage everyday life. Most children gain these skills at home from their parents, but disadvantaged kids often miss the window of opportunity, which are the critical years before Kindergarten.

A literature of empirical evidence shows strong outcome effects for kids who attend pre-school. Using cost-benefit analyses, researchers have found a link between preschool attendance and reduced crime, fewer teen pregnancies, higher rates of college attendance and less need for public assistance. Cost-benefit studies show that pre-school provides the best value and produces more net benefits to society than increased classroom time or job training programs.

*Evidence from the Perry Preschool Program*

The most widely cited early childhood intervention occurred in Ypsilanti, Michigan during the 60s. Children with low IQ scores and a low socioeconomic index were invited to participate in the Perry Preschool Program. Using a coin toss, researchers divided students into two groups, a treatment group and a control group. Starting at age three the "treatment" kids got 2.5 hours of preschool a day and weekly home visits for two years. The "control" kids did not participate in either of the services. Researchers interviewed both groups at ages 15, 19, 27 and 40 and asked them questions about life events like school, work, marriage, parenting and incarceration. The following chart shows the major findings of the study.



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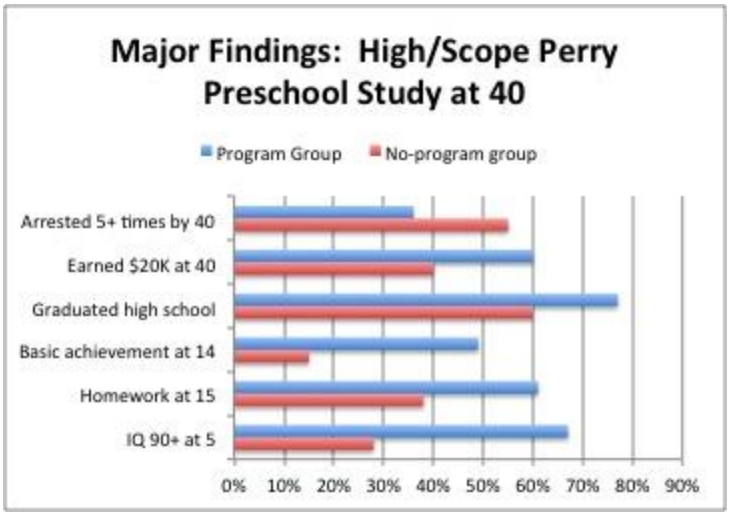


Source: Lifetime Effects: The HighScope Perry Preschool Study Through Age 40 (2005)

The pre-school girls went farther in school, earned higher GPAs, and received less special education than girls from the control group. Boys benefitted as well, but the boys who did not receive the preschool intervention were 2.3 times more likely to get arrested. The cost-savings alone from just the crime reduction demonstrated success.

With increased scrutiny over government spending, cost-benefit analysis gives policy analysts a tool to separate productive programs from ones that yield no social gains. A recent cost-benefit study that used a wider variety of assumptions and applied more rigorous accounting rules, estimated a return rate of about 7-10%. By monetizing social crime, the researchers were able to estimate that for every dollar invested in preschool, society earned back $30 to $300 dollars over the course of a lifetime (Heckman, Moon, Pinto, Savelyev, & Yavitz, 2010).

*Abecedarian and Chicago Studies*

Other studies confirmed the results of the Perry Preschool Project. The Carolina Abecedarian project in the 70s randomly assigned infants into intervention and control groups. The intervention group received full-day childcare from birth through Kindergarten. Intervention kids scored higher in reading and math, completed more education, were older when their first child was born and the mothers of intervention kids progressed farther in school and made more money than the control mothers. Intervention kids even smoked less.

A full-day five-year Pre-K program, while effective, would likely be cost-prohibitive for any state budget; however, the findings proved that early intervention does make a difference. And evidence suggests that a less expensive program could produce similar outcomes (Barnett & Masse, 2007).



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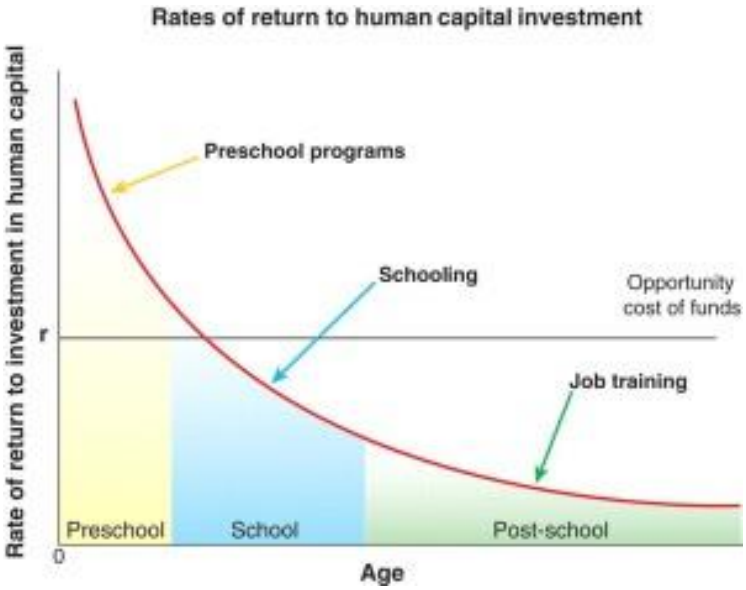
Just as Abecedarian kids earned higher wages than the control group, researchers found similar results from participants of the Chicago Child-Parent Program. The Chicago program targeted disadvantaged kids and provided a Headstart type intervention from ages three to nine. A cost-benefit analysis indicated for every dollar invested, the program produced seven in return. The largest impact was earning capacity, but Chicago kids were also less likely to need special education and less likely to commit crimes (Temple & Reynolds, 2007).

Much like with the Perry Program, the Chicago program demonstrated the relationship between early education, higher wages and crime reduction. Again it was the non-cognitive soft-skill development that made the difference. Second chance efforts like GED and job training provide fewer benefits and struggle to lift people out of poverty (Heckman & Masterov, 2007).




Source: Heckman, The Review of Agricultural Economics (2007)

What the Perry, Abecedarian and Chicago programs show is that pre-school helps kids develop soft-skills that make it easier to gain cognitive skills later and can lead to better jobs and a better quality of life. This in turn lessens the burden on government resources for remedial education, criminal justice and job-training programs.

Investing in human capital through access to finger-paints and story time may appear far-reaching, but multiple studies now point to early intervention as the cheapest, most effective way to prepare kids for the workforce and reduce crime. As labor force growth wanes and the demand for skilled workers increases, these studies suggest that a pipeline that begins at pre-school has great potential to produce big benefits to society in the long run.



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Present value of Abecedarian benefits and costs per child, (2002)

Table 1
Present value of Abecedarian benefits and costs per child (2002 dollars)

| | Discount rate (%) | | |
|---|---|---|---|
| | 3 | 5 | 7 |
| Program cost (net) | $35,864 | $34,599 | $33,421 |
| Program benefits | | | |
| Part. earnings | 37,531 | 16,460 | 6376 |
| Earnings of future generations | 5722 | 1586 | 479 |
| Maternal earnings | 68,728 | 48,496 | 35,560 |
| K-12 education | 8836 | 7375 | 6205 |
| Smoking/health | 17,781 | 4166 | 1008 |
| Higher education costs | −8128 | −5621 | −3920 |
| AFDC | 196 | 129 | 85 |
| Total benefits | $130,666 | $72,591 | $45,793 |
| Net present value | $94,802 | $37,992 | $12,372 |

**Reducing the Harmful Effects of Tobacco**

Tobacco tax increases offer a win-win-win solution for states as they work to balance budgets while preserving essential public services. Tobacco tax increases are one of the most effective ways to reduce smoking and other tobacco use, especially among kids. Every state that has significantly increased its cigarette tax has enjoyed substantial increases in revenue, even while reducing smoking. Higher tobacco taxes also save money by reducing tobacco-related health care costs, including Medicaid expenses. States can realize even greater health benefits and cost savings by allocating some of the revenue to programs that prevent children from smoking and help smokers quit.

National and state polls consistently have found overwhelming public support for tobacco tax increases. Polls also show that, when it comes to balancing budgets, voters prefer raising tobacco taxes to other tax increases or cutting crucial programs such as education and public safety.

Tobacco use causes approximately $3.03 billion in annual health care expenditures in Missouri. Smoking specifically causes over $500 million in annual costs for the Missouri Medicaid program. The initiative petition would increase the tax on cigarettes by $0.50 per pack and would increase the tax on other tobacco products by 5%. By conservative estimates, those tax increases

would raise approximately $214 million in new state revenue to improve early childhood health and education programs. New state annual revenue is the amount of additional new revenue over the first full year after the effective date of all phases of the additional tax. The state will collect less new revenue to the extent that the rate increase does not apply to all cigarettes and other tobacco products held in wholesaler and retailer inventories on the effective date. This fiscal projection was derived using a price elasticity of demand for cigarettes of -0.8, even though the weight of credible academic literature suggests a conservative estimate for the price elasticity of demand for cigarettes is -0.4.

Tax increases of less than roughly 25 cents per pack or 10% of the average state pack price do not produce significant public health benefits or cost savings because the cigarette companies can easily offset the beneficial impact of such small increases with temporary price cuts, coupons, and other promotional discounting. Splitting a tax rate increase into separate, smaller increases in successive years will similarly diminish or eliminate the public health benefits and related cost savings (as well as reduce the amount of new revenues).

In addition to raising new revenue, the tax increase would have an immediate public health benefit. Each 10% cigarette price increase reduces youth smoking by 6.5%. Each 10% cigarette price increase reduces adult smoking by 2%. The total expected reduction in smoking consumption as a result of a 10% price increase is 4%. It is conservatively estimated that the initiative petition would decrease youth smoking by 6% in Missouri.

There would also be a fiscal benefit to the citizens of the state from the improved public health. As of 2014, the CDC estimated 11,000 annual average smoking-attributable deaths in Missouri. 127,500 Missouri Youth aged 0-17 are projected to die from smoking. Approximately 22.1% of Missouri adults smoke. Approximately 14.9% of Missouri high school students smoke. The average Missouri resident's state and federal tax burden from smoking-caused government expenditures is $588 per household. Approximately one of every six pregnant women smokes, a rate significantly higher than the national average. Smoking during pregnancy increases the risk for preterm delivery, stillbirth, low birth weight and Sudden Infant Death Syndrome.
In recent years, almost every state and the federal government have increased tobacco taxes. Missouri is a notable exception. The average state cigarette tax is currently $1.60 per pack, but rates vary widely from 17 cents in Missouri to $4.35 in New York. On April 1, 2009, the federal cigarette tax increased by 62 cents, to $1.01 per pack.

As of July 1, 2015, Missouri's cigarette tax was less than one-third of any of its border states: IL - $ 1.98; IA - $1.36; KS - $1.29; AR - $1.15; OK - $1.03; NE - $0.64; TN - $0.62; KY - $0.60. Moreover, Missouri's 17-cent per pack tax on cigarettes is the lowest in the country. The real value of the cigarette tax is decreasing. As a percentage of the overall Missouri State Budget, Missouri's tobacco taxes have decreased from 1.036% in 2000 to 0.464% in 2015. See MO Executive Budget Books & MO Office of Administration.



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Every day 3,000 kids try their first cigarette and another 700 kids become regular smokers. There are more than 250 thousand new underage smokers each year. One third will eventually die from their addiction. Smoking has declined in every state where the tobacco tax has been increased.

Ongoing reductions in state smoking levels will, over time, gradually erode state cigarette tax revenues (in the absence of any new rate increases). But those declines are more predictable and less volatile than many other state revenue sources, such as state income tax or corporate tax revenues (which can drop sharply during recessions). In addition, the smoking declines that reduce tobacco tax revenues will simultaneously produce much larger reductions in government and private sector smoking-caused costs. See the Campaign for Tobacco-Free Kids factsheet, *Tobacco Tax Increases are a Reliable Source of Substantial New State Revenue*, http://tobaccofreekids.org/research/factsheets/pdf/0303.pdf.

For other ways states can increase revenues (and promote public health) other than just raising its cigarette tax, see the Campaign factsheet, *The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

For more on sources and calculations, see http://www.tobaccofreekids.org/research/factsheets/pdf/0281.pdf

**Additional Information on Tobacco Product Tax Increases**

*Raising State Cigarette Taxes Always Increases State Revenues and Always Reduces Smoking*, http://tobaccofreekids.org/research/factsheets/pdf/0098.pdf.

*Responses to Misleading and Inaccurate Cigarette Company Arguments Against State Tobacco Tax Increases*, http://tobaccofreekids.org/research/factsheets/pdf/0227.pdf.

*State Cigarette Excise Tax Rates & Rankings*, http://tobaccofreekids.org/research/factsheets/pdf/0097.pdf.

*Top Combined State-Local Cigarette Tax Rates (State plus County plus City)*, http://tobaccofreekids.org/research/factsheets/pdf/0267.pdf.

*State Cigarette Tax Increases Benefit Lower-Income Smokers and Families*, http://tobaccofreekids.org/research/factsheets/pdf/0147.pdf.

*The Best Way to Tax Smokeless Tobacco*, http://tobaccofreekids.org/research/factsheets/pdf/0282.pdf.

*How to Make State Cigar Tax Rates Fair and Effective*, http://tobaccofreekids.org/research/factsheets/pdf/0335.pdf.



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*State Benefits from Increasing Smokeless Tobacco Tax Rates*, http://tobaccofreekids.org/research/factsheets/pdf/0180.pdf.

*The Case for High-Tech Cigarette Tax Stamps*, http://tobaccofreekids.org/research/factsheets/pdf/0310.pdf.

*State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion*, http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf.

*The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

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Sincerely,

Edward D. Greim
Partner, Graves Garrett, LLC



1100 Main Street, Suite 2700 Kansas City, MO 64105 ph 816.256.3181 www.gravesgarrett.com

Tom Kruckemeyer
Missouri Budget Project
3534 Washington Ave
St. Louis, Missouri 63103

August 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

To Whom It May Concern:

I currently work as the Director of Fiscal Policy and Chief Economist at the Missouri Budget Project, a nonprofit, objective, public policy analysis organization that provides independent research on complex state policy issues and how they impact the state budget. I hold a B.A. in Economics and History and an M.A. in Economics from the University of Missouri-St. Louis. I also hold an M.A. Political Science from the University of Missouri-Columbia. I worked in the Missouri Division of Budget from 1978 to 2004, where I served as the chief economist. In the course of both my positions at the Missouri Division of Budget as well as my current position, I have routinely projected the fiscal impact of tax changes.

In my experience, it is a conservative, generally accepted practice to project the revenue generated from a proposed cigarette tax by estimating an average price per cigarette (or price per pack), estimating a uniform price elasticity of demand, and to assume that the tax will result in a penny-for-penny increase in the cost of cigarettes.

Upon information and belief, the Office of Administration usually estimates the price elasticity of demand for cigarettes as -0.8. This estimate means that a 10% increase in the cost of cigarettes results in an 8% reduction in the quantity of cigarettes sold. A price elasticity of demand of -0.8 is a conservative but reasonable estimate for the price elasticity of demand of a product such as cigarettes. Notably, even with a 50 cent increase in Missouri's cigarette tax, Missouri's cigarette tax will remain lower than many of its contiguous states, in particular the states that border major metropolitan areas, Illinois and Kansas.

Additionally, the Office of Administration's method for estimating cigarette tax revenue is conservative because it assumes a penny-for-penny price increase in the cost of cigarettes as a result of the tax. In practice, whether the entire tax increase will result in a 50 cent increase in the prices of cigarettes is unknown because the market for cigarettes is competitive. Moreover, regardless of whether the Office of Administration estimates that the demand for cigarettes will remain flat or decrease due to societal trends, the overall fiscal impact is largely the same. An estimate of the decrease in future tax collections due to decreased smoking from societal trends is not essential to the findings in the fiscal note that this particular tax will result in a net increase to state revenue with no net cost to local governments.

If the Office of Administration decides to use the same assumptions in projecting the revenue for other tobacco products ("OTP") as it does for cigarettes, it is my opinion that the resulting collection estimate would be conservative but appropriate. Recent trends suggest that the revenue generated from the tax on other tobacco products is increasing.

Based on generally accepted methods for estimating the fiscal impact of a proposed tax, I estimate that the phased-in 50 cent cigarette tax increase will result in approximately 90 million dollars of revenue in calendar years 2017 and 2018. I estimate that the cigarette tax will result in approximately 150 million dollars of revenue in calendar years 2019 and 2020. I estimate that the cigarette tax will result in approximately 206 million dollars of revenue in calendar year 2021. In comparison, I estimate that an immediate 50 cent cigarette tax increase will result in approximately 214 million dollars of revenue in calendar year 2017. These estimates assume a 1% yearly reduction in the state's smoking level. I estimate the 5% increase in the tax on non-cigarette tobacco products will result in approximately 8 million dollars of revenue annually. There may be a small decrease in revenue collection for each phase of the additional tax due to lags associated with the implementation and collection of taxes.

These taxes are expected to result in limited implementation costs to the state. The costs associated with administering the Early Childhood Education and Health Trust Fund will primarily be borne by the Trust Fund. Nonetheless it is proper and reasonable to consider additional costs of administering the cigarette tax increase, which may include fixed costs like salaries as well as additional marginal costs, such as costs associated with stamping cigarettes. All state government costs are estimated to be offset by additional revenue increases.

Local governments will receive revenue from the tax to offset any potential decrease in local tax revenue. Based on a price elasticity of demand of -0.8, local revenue may decrease, but any such decrease will be by an amount less than $500,000. By any reasonable estimate, 3% of the Early Childhood Education and Health Trust Fund will exceed the decrease in revenue associated with local tobacco taxes. Accordingly, any such decrease will be offset as a result local revenue from the transfer of funds to localities with local tobacco taxes. Additionally, while direct local revenue is zero, there are positive indirect effects the may result in additional revenue to local governments.

Sincerely,

/s/

Tom Kruckemeyer
Director of Fiscal Policy & Chief
Economist, Missouri Budget Project

The State Auditor's office did not receive a response from the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College**.

**Fiscal Note Summary**

When cigarette and tobacco tax increases are fully implemented, estimated additional revenue to state government is $200 million to $214 million annually, with limited estimated implementation costs. The revenue will fund only programs and services allowed by the proposal. The fiscal impact to local governmental entities is unknown.

16-084

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

August 19, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Edward Greim regarding a proposed statutory amendment to Chapters 210, 196, & 149, version 4 (2016-084)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Edward Greim on August 19, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

RECEIVED
AUG 19 2015
STATE AUDITORS OFFICE

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-084

County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do □ do not □ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Address of Affiant

_____
Printed Name of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My commission expires _____

RECEIVED
2015 AUG 19 AM 9:35
SECRETARY OF STATE

16-084

NOTICE: You are advised that the proposed law changes, repeals, or modifies by implication, or may be construed to change, repeal or modify by implication, the following provisions of the Missouri Revised Statutes — Sections 66.340, 66.350, 149.015, 149.021, 149.065, 149.160, 196.1003, 210.102, and 210.320. The proposed law enacts two new sections, to be known as sections 149.017 and 149.161.

*Be it enacted by the people of the State of Missouri:*

Sections 210.102 and 196.1003 of the Revised Statutes of Missouri are amended and sections 149.017 and 149.161 are enacted, to read as follows:

210.102. 1. Sections 149.017 and 149.161, and certain amendments to 196.1003 and 210.102, shall be referred to as the Early Childhood Health and Education Act, with the purpose of supporting and improving early childhood health and education through regulation of tobacco manufacturers and sellers. This Act:

(1) Creates the Early Childhood Health and Education Trust Fund in order to support and improve early childhood health and education across the state;

(2) Reforms the Coordinating Board for Early Childhood to administer the Early Childhood Health and Education Trust Fund and provide grants that support and improve early childhood health and education; and

(3) Funds the Early Childhood Health and Education Trust Fund through increased regulations on tobacco manufacturers and sellers.

All of the provisions of this act are severable. If any provision of this act is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this act shall be and remain valid and in full force and effect.

2. It shall be the duty of the Missouri children's services commission to:

(1) Make recommendations which will encourage greater interagency coordination, cooperation, more effective utilization of existing resources and less duplication of effort in activities of state agencies which affect the legal rights and well-being of children in Missouri;

(2) Develop an integrated state plan for the care provided to children in this state through state programs;

(3) Develop a plan to improve the quality of children's programs statewide. Such plan shall include, but not be limited to:

(a) Methods for promoting geographic availability and financial accessibility for all children and families in need of such services;

(b) Program recommendations for children's services which include child development, education, supervision, health and social services;

(4) Design and implement evaluation of the activities of the commission in fulfilling the duties as set out in this section;

(5) Report annually to the governor with five copies each to the house of representatives and senate about its activities including, but not limited to the following:

(a) A general description of the activities pertaining to children of each state agency having a member on the commission;

(b) A general description of the plans and goals, as they affect children, of each state agency having a member on the commission;

(c) Recommendations for statutory and appropriation initiatives to implement the integrated state plan;

(d) A report from the commission regarding the state of children in Missouri.

[2.]3. For years ending on or before December 31, 2016, [There is hereby established within the children's services commission] the "Coordinating Board for Early Childhood", which shall constitute a body corporate and politic, shall be established within the children's services commission, and shall include but not be limited to the following members:

(1) A representative from the governor's office;

(2) A representative from each of the following departments: health and senior services, mental health, social services, and elementary and secondary education;

(3) A representative of the judiciary;

(4) A representative of the family and community trust board (FACT);

(5) A representative from the head start program;

(6) Nine members appointed by the governor with the advice and consent of the senate who are representatives of the groups, such as business, philanthropy, civic groups, faith-based organizations, parent groups, advocacy organizations, early childhood service providers, and other stakeholders. The coordinating board may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers. The coordinating board shall elect from amongst its members a chairperson, vice chairperson, a secretary-reporter, and such other officers as it deems necessary. Members of the board shall serve without compensation but may be reimbursed for actual expenses necessary to the performance of their official duties for the board.

4. Beginning on January 1, 2017, the coordinating board for early childhood, which shall constitute a body corporate and politic, shall be established within the department of elementary and secondary education and shall include the following members:

(1) The director or the director's designee from each of the following departments: health and senior services, mental health, and

16-084

social services;

(2) The commissioner or the commissioner's designee from the department of elementary and secondary education;

(3) Two members of the Missouri general assembly. One member shall be the chairman of the joint committee on education. One member shall be a member of the joint committee on education, shall be from a different party and different legislative chamber than the chairman of the joint committee on education, and shall be appointed by the elected leader, either the speaker of the house of representatives or the president pro tempore of the senate, of the member's legislative chamber;

(4) The director of the Missouri head start-state collaborative office;

(5) Six citizens, representing each of the following areas: early childhood education and development providers, local Head Start agencies, higher education, business, faith, and medicine. The Governor shall appoint, with the advice and consent of the senate, the three citizens representing the areas of medicine, business, and higher education. The state board of education shall appoint the citizens representing the areas of early childhood education and development providers, local Head Start agencies, and faith.

Citizens appointed under subdivision (5) shall serve a term of three years. Such citizens shall be eligible to serve two terms. Such citizens that serve a partial term of less than eighteen months shall be eligible to serve the partial term and two full terms. Such citizens that serve a partial term of more than eighteen months shall be eligible to serve the partial term and one full term.

[3.]5. The coordinating board for early childhood shall have the power to:

(1) Develop a comprehensive statewide long-range strategic plan for a cohesive early childhood system. The board shall review the plan each year and make amendments to the plan as it deems necessary. The board shall submit the plan to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of 2018 and each year thereafter;

(2) Confer with public and private entities for the purpose of promoting and improving the development of children from birth through age five of this state;

(3) Identify legislative recommendations to improve services for children from birth through age five;

(4)Promote coordination of existing services and programs across public and private entities;

(5) Promote research-based approaches to services and ongoing program evaluation;

(6) Identify service gaps and advise public and private entities on methods to close such gaps;

(7) Apply for and accept gifts, grants, appropriations, loans, or contributions to the coordinating board for early childhood fund from any source, public or private, and enter into contracts or other transactions with any federal or state agency, any private organizations, or any other source in furtherance of the purpose of subsections 3 through 15[2 and 3] of this section, and take any and all actions necessary to avail itself of such aid and cooperation;

(8) Direct disbursements and grants from the coordinating board for early childhood fund and the early childhood health and education trust fund as provided in this section;

(9) Administer the coordinating board for early childhood fund and the early childhood health and education trust fund [and invest any portion of the moneys not required for immediate disbursement in obligations of the United States or any agency or instrumentality of the United States, in obligations of the state of Missouri and its political subdivisions, in certificates of deposit and time deposits, or other obligations of banks and savings and loan associations, or in such other obligations as may be prescribed by the board];

(10) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal with real or personal property or any interests therein, wherever situated;

(11) Sell, convey, lease, exchange, transfer or otherwise dispose of all or any of its property or any interest therein, wherever situated;

(12) Employ and fix the compensation of an executive director and such other agents or employees as it considers necessary;

(13) Adopt, alter, or repeal by its own bylaws, rules, and regulations governing the manner in which its business may be transacted;

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(14) Adopt and use an official seal;

(15) Assess or charge fees as the board determines to be reasonable to carry out its purposes;

(16) Make all expenditures which are incident and necessary to carry out its purposes;

(17) Sue and be sued in its official name;

(18) Take such action, enter into such agreements, and exercise all functions necessary or appropriate to carry out the duties and purposes set forth in this section;

(19) Contract with one or more not-for-profits to meet the requirements of this section;

(20) Provide technical assistance to grantees;

(21) Coordinate with parents, community leaders, local governments, and public and private entities to improve the quality of and increase access to early childhood development programs in communities throughout the state; and

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(22) Pursue public and private partnership opportunities that are consistent with the objectives of subsection 6 of this section.

6. Any grants awarded by the coordinating board for early childhood shall accomplish one or more of the following objectives:

(1) Increasing access to existing quality early childhood development programs;

(2) Improving the quality of early childhood development programs;

(3) Increasing access to preventive health care and health and developmental screenings for children ages birth through five;

(4) Offering parent and family support and education concerning prenatal development, early child development, numeracy, and literacy;

(5) Providing professional development and training for early childhood development providers;

(6) Increasing coordination of early childhood development programs and public information about the importance of early childhood development;

(7) Providing evidenced-based smoking cessation programs for pregnant mothers.

7. The coordinating board for early childhood shall consider the following nonexclusive factors when awarding grants as provided in this section:

(1) Whether the project or activities will improve outcomes for children ages birth through five, consistent with the objectives of this section;

(2) Whether the project or activity leverages matching dollars;

(3) Whether the project or activity addresses needs identified by the local community; and

(4) The sustainability of the project or activity.

8. The coordinating board for early childhood shall establish accountability and audit requirements for all grant recipients, including requirements that success be measured by outcomes for children and families.

9. It shall be the duty of the coordinating board for early childhood to:

(1) Establish and maintain a conflict of interest policy for its members and staff;

(2) Prepare an annual report describing the activities of the board and a description of outcomes for children and families achieved by the board and grant recipients, including a list of all grant recipients and the amount of any grants awarded to such recipients. The board shall submit the report to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of each year, beginning in 2019, and shall provide a copy of the report to the secretary of state; and

(3) Ensure a fair and equitable distribution of funds collected as provided under sections 149.017 and 149.161 based on the established residency population of children ages birth through five.

10. There is hereby created the "Coordinating Board for Early Childhood Fund" which shall consist of the following:

(1) Any moneys appropriated by the general assembly for use by the board in carrying out the powers set out in subsections 3 through 9[2 and 3] of this section;

(2) Any moneys received from grants or which are given, donated, or contributed to the fund from any source;

(3) Any moneys received as fees authorized under subsections 3 through 9[2 and 3] of this section;

(4) Any moneys received as interest on deposits or as income on approved investments of the fund;

(5) Any moneys obtained from any other available source. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the coordinating board for early childhood fund at the end of the biennium shall not revert to the credit of the general revenue fund.

11. There is hereby created the Early Childhood Health and Education Trust Fund which shall consist of all moneys collected as provided in sections 149.017 and 149.161, less any reduction allowed in section 149.021. Interest and moneys earned on the fund shall be credited to the fund.

12. No more than eight percent of the moneys received by the early childhood health and education trust fund shall be used for administrative expenses. Eligible administrative expenses shall include only those reasonable and necessary for:

(1) Salaries, fringe benefits, expenses, and equipment of staff employed by the coordinating board for early childhood;

(2) Expenses associated with cost sharing of salaries, fringe benefits, expenses, and equipment of staff employed or contracted by the coordinating board for early childhood from any other state department or agency of the state;

(3) Expenses of the coordinating board for early childhood associated with contracting with not-for-profit entities;

(4) Expenses of the coordinating board for early childhood associated with audits and outcome evaluations of programs and activities funded under this section;

(5) Expenses of grantees associated with meeting administrative requirements of grants established by the coordinating board for early childhood;

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No more than 40% of administrative expenses shall be expended on items (1) through (4) of this subsection.

13. Moneys in the funds may be invested by the state treasurer, and any income therefrom shall be deposited to the credit of the fund. Any moneys credited to and placed in the early childhood health and education trust fund shall be appropriated and used only for purposes which are authorized by this section and shall not be subject to the provisions of section 33.080.

14. The net proceeds from the moneys collected as provided in sections 149.017 and 149.161 shall constitute new and additional funding for the activities, initiatives, and programs funded by the coordinating board for early childhood and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

15. Beginning January 1, 2017, the department of elementary and secondary education and the coordinating board for early childhood may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This subsection and chapter 536 are nonseverable from one another, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017 shall be invalid and void.

149.017. 1. Beginning January 1, 2017, in addition to the tax levied upon the sale of cigarettes in this state pursuant to section 149.015, a tax shall be levied upon the sale of cigarettes applied a tax at an amount equal to twenty-five mills per cigarette.

2. The tax shall be evidenced by stamps in the same manner as cigarettes stamped pursuant to sections 149.015 and 149.021. Stamped cigarettes in the possession of a wholesaler or retailer before any phase of the additional tax under subsection 1 of this section is imposed, shall not be subject to such phase of the additional tax before retail sale.

3. The tax on any cigarettes contained in packages of four, ten, twenty or similar quantities to be used solely for distribution as samples shall be computed on a per cigarette basis at the rate set forth in this section, and payment of the tax shall be remitted to the director at such time and in such manner as he may prescribe.

4. The provisions of section 149.065 notwithstanding, all moneys collected as a result of the taxes imposed by this section and section 149.161 shall be credited to and placed in the early childhood health and education trust fund established by section 210.102 as said moneys are received. All of the moneys from the taxes imposed by this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the early childhood health and education trust fund.

5. The additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section and section 149.161 may be paid from moneys appropriated from the early childhood health and education trust fund for that purpose, not to exceed one and one half of one percent (1.5%) of the total moneys collected in that fiscal year. Collection and enforcement activities and initiatives that are paid for with moneys from the early childhood health and education trust fund shall be conducted in a fiscally responsible manner in order to maximize the net proceeds available for distribution pursuant to section 210.102. Moneys appropriated from the early childhood health and education trust fund pursuant to this subdivision shall not be used to pay costs that are not additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section;

6. The net proceeds from the taxes imposed by this section and section 149.161 shall constitute new and additional funding for the activities, initiatives, and programs described in section 210.102 and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

7. On an annual basis, the director of the department of revenue, in consultation with the director of health and senior services, shall determine whether the taxes imposed by this section and section 149.161 have resulted in a decrease in consumption of tobacco products and thereby directly caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320. If a reduction in the amount of moneys collected and deposited into any of those funds pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320, has been directly caused by the taxes imposed by this section and section 149.161, an amount equal to the amount of moneys that were not collected and deposited into that fund or funds or were not generated by the local tobacco taxes authorized by sections 66.340 and 210.320 because of the taxes imposed by this section and section 149.161 shall be transferred from the early childhood health and education trust fund pursuant to section 210.102 as follows: first, to the appropriate political subdivisions, and second to the appropriate fund or funds. The aggregate amount transferred to such funds and political subdivisions from the early childhood health and education trust fund for any year shall not exceed three percent of the total moneys collected pursuant to this section and section 149.161 during that same year.

149.161. Beginning on January 1, 2017, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, a tax shall be levied upon the first sale of tobacco products other than cigarettes within this state in the amount of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. The tax on tobacco products shall be at the rate of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. Licensed persons making first sales shall be allowed credit in accordance with the provisions of section 149.160.1. The additional tax levied by this section shall not apply to inventories of tobacco products in the possession of the retailer or wholesaler on December 31, 2016.

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196.1003. Requirements.

Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this Act shall do one of the following:

(a) become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

(b) (1) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts, (as such amounts are adjusted for inflation) —

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1999: $.0094241 per unit sold after the date of enactment of this Act;
2000: $.0104712 per unit sold;
for each of 2001 and 2002: $.0136125 per unit sold;
for each of 2003 through 2006: $.0167539 per unit sold;
for each of 2007 and each year thereafter: $.0188482 per unit sold.

(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances —

(A) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (i) in the order in which they were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment) had it been a participating manufacturer, the percentage determined in subdivision (D) of the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(C) to the extent not released from escrow under subparagraphs (A) or (B), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

(D) The amount in subdivision (B) of the excess released from escrow shall be: for units sold during the year ending on December 31, 2017, eighty percent; for units sold during the year ending on December 31, 2018, sixty percent; for units sold during the year ending on December 31, 2019, forty percent; for units sold during the year ending on December 31, 2020, twenty percent; for units sold during all years ending on or after December 31, 2021, zero percent.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails [in any year] to place into escrow the funds required under this section shall

(A) be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;

(B) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

(C) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years.

Each failure to make an annual deposit required under this section shall constitute a separate violation. Any tobacco product manufacturer that violates the provisions of this section shall pay the State's cost and attorney's fees incurred during a successful prosecution under this section.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-084)**

**Subject**

Initiative petition from Edward Greim regarding a proposed amendment to Chapters 149, 196, and 210 of the Revised Statutes of Missouri. (Received August 19, 2015)

**Date**

September 8, 2015

**Description**

This proposal would amend Chapters 149, 196, and 210 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Edward Greim** provided information as a proponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

The proposal amends Section 196.1003, RSMo, enacted pursuant to the State's tobacco settlement agreement. Amending this section has the potential to lead to litigation threatening the State's tobacco settlement payments, with potential unknown costs.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** (DESE) indicated the proposal appears to provide for an increase in the tax levied upon the sale of cigarettes. All moneys collected shall be credited to and placed in the early childhood health and education trust fund. The proposal also appears to create the coordinating board for early childhood within the department of elementary and secondary education. With restrictions, proceeds from the additional cigarette tax would provide for the operations of the coordinating board. Our department has no means to calculate the potential of these proceeds. Any funds would be additional monies to early childhood education.

Officials from the **Department of Higher Education** indicated this initiative petition would have no impact on their department.

Officials from the **Department of Health and Senior Services** (DHSS) indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated their department would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** (DOR) indicated this petition will have a fiscal impact of $75,006 for FY 2017 on their department, creating additional expense for IT consultants.

**Section 149.017**
Beginning January 1, 2017, the petition increases the tax on cigarettes by 25 mills per cigarette ($0.50 per pack of 20).

Stamped cigarettes in inventory prior to the effective dates of the increase and in possession of a wholesaler or retailer are not subject to the additional tax before retail sale. The petition also allows for up to a one and one-half percent collection fee of the total revenues collected in a fiscal year.

The legislation requires the Department, in consultation with the Department of Health & Senior Services, to annually determine if the taxes result in a decrease in consumption of tobacco products. The Departments must further determine if there are reductions in the revenue collected and deposited into the fair share fund, health initiatives fund, the state school moneys fund, or local tobacco taxes.

**Section 149.161**
Beginning on January 1, 2017, this section, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, levies a five percent tax upon the first sale of tobacco products other than cigarettes within this state. The legislation bases the five percent increase on the manufacturer's invoice price before discounts and deals. The person making the first sale within the state pays the tax. The additional tax shall not apply to inventories of tobacco products in possession of the wholesaler or retailer before January 1, 2017.

**Section 196.1003**
This section reduces the amount of the excess released from escrow as follows:

For units sold during the year ending on December 31, 2017 - 80 percent;
For units sold during the year ending on December 31, 2018 - 60 percent;
For units sold during the year ending on December 31, 2019 - 40 percent;
For units sold during the year ending on December 31, 2020 - 20 percent;
For units sold during all years ending on or after December 31, 2021, zero percent.

**Section 210.102**
This section creates the Early Childhood Health & Education Act. Beginning in 2017, the Coordinating Board for Early Childhood becomes a body corporate and politic under the purview of the Department of Elementary & Secondary Education. Subsection 11 creates the Early Childhood Health & Education Trust Fund and consists of revenues collected under sections 149.017 and 149.171, less any reduction allowed in section 149.021.

**Administrative Impact:**

**Excise Tax:**

The Early Childhood Health & Education Trust Fund requires changes to the SAGE 50 accounting system and cashiering records. The legislation also creates the requirement for a new form.

Officials from the **Department of Public Safety** indicated their department sees no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office. They assume DESE will cover any expenses of the one House member serving on the Coordinating Board for Early Childhood.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** (OA) indicated the proposal amends Sections 210.102 and 196.1003, RSMo, and adds Sections 149.017 and 149.161, RSMo.

Section 210.102, RSMo, moves the Coordinating Board for Early Childhood from the Children's Services Commission to DESE, effective January 1, 2017, changes the board membership and provides further guidance on funding and operations for the Board.

Section 149.017, RSMo, increases the cigarette tax by 25 mills per cigarette on 1/1/2017. Section 149.161, RSMo, levies an additional 5% tax on other tobacco products beginning 1/1/2017. These monies will go to the Early Childhood Health and Education Trust (ECHET) Fund established in Section 210.102, RSMo. DOR and DHSS must annually determine whether the new taxes have caused a reduction in consumption and therefore a reduction in the amount of money collected for the Fair Share Fund, the Health Initiatives Fund or the State School Moneys Fund and for local tobacco taxes. If a reduction in consumption is found, then up to 3% of the new revenue collected is to be distributed to the various funds and political subdivisions from the ECHET Fund to hold them harmless.

Section 196.1003, RSMo, changes escrow requirements for the tobacco Master Settlement Agreement, with provisions to direct potential civil penalties to the ECHET Fund. Because this language changes what was previously approved as a "qualifying statute", it could adversely impact future Nonparticipating Manufacturer (NPM) adjustment arbitrations.

FISCAL IMPACT:

Cigarette Tax

In fiscal year (FY) 15, there was $81.7 million in cigarette excise taxes collected. OA assumes that the average pack of cigarettes retails for $4.50, translating to roughly 480.9 million packs sold in Missouri. OA further assumes that cigarette sales have a (0.8) elasticity. Therefore, OA estimates a tax increase of 25 mills per cigarette in January 2017 will increase the "Early Childhood Health and Education Fund" by $107.2 million in FY17 and $214.4 million once fully implemented in FY18.

There is no way to truly know what impact these tax increases will have on demand due to smoking cessation efforts, other state and federal regulations, and the increase in sales of e-cigarettes. However, OA estimates that the tax increase will decrease the Fair Share Fund by $0.8 million in FY17 and $1.6 million in FY18 and thereafter, the Health Initiatives fund by $0.8 million in FY17 and $1.6 million in FY18 and thereafter, and the State School Moneys Fund by $1.7 million in FY17 and $3.5 million in FY18 and thereafter.

Further, since cigarette sales will decrease slightly, General Revenue will be reduced by $5.0 million, the School District Trust Fund will be reduced by $1.7 million, and local sales tax will be reduced by $7.1 million once fully implemented in FY18, from the loss of sales tax.

Other Tobacco Products

In FY15, there was $17.7 million in other tobacco product excise taxes collected. OA assumes that the average unit retails for $4.09, translating to roughly $176.9 million in wholesales in Missouri. OA further assumes that other tobacco product sales have a (0.8) elasticity. Therefore, OA estimates this proposal will increase the "Early Childhood Health and Education Trust Fund" by $4.0 million in FY17 and $7.9 million once fully implemented in FY18.

There is no way to truly know what impact this tax increase will have on demand due to cessation efforts, other state, federal, and local regulations, and the introduction of alternative products. However, OA estimates that this tax increase will decrease the Health Initiatives Fund by $0.3 million in FY17 and $0.6 million once fully implemented in FY18.

Further, since other tobacco product sales will decrease slightly, General Revenue will be reduced by $190,000, the School District Trust Fund will be reduced by $62,000, and local sales tax will be reduced by $260,000 once fully implemented in FY18, from the loss of sales tax.

Master Settlement Agreement (Section 196.1003)

The escrow changes should not impact state revenues. When civil penalties are redirected to the ECHET Fund, it would be an unknown loss of potential general revenue to the state.

Total Impact

This proposal will increase the "Early Childhood Health and Education Trust Fund" by $222.3 million once fully implemented in FY18. This proposal will also decrease the Fair Share Fund by $1.6 million, the Health Initiatives Fund by $2.2 million, and the State School Moneys Fund by $3.5 million once fully implemented in FY18.

In addition, due to lost sales tax revenue, General Revenue will be reduced by $5.2 million, the School District Trust Fund will be reduced by $1.8 million, and local sales tax will be reduced by $7.4 million once fully implemented in FY18.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated the initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated that there are no estimated costs or savings to report from their county for this initiative petition.

Officials from **Jasper County** indicated no appreciable effect on county government.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

**Edward Greim** provided the following information as a proponent of this initiative petition.

Graves Garrett LLC

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August 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: *Fiscal Note in Initiative Petitions 83 & 84*

To Whom It May Concern:

Based on the information contained in this letter and the attached letter from Tom Kruckemeyer, we propose the following fiscal note summary:

> Estimated additional revenue to state government is $222 million annually with limited estimated implementation costs or savings. The revenue will fund only programs and services allowed by the proposal. The proposal is estimated to result in no net costs or savings to local governmental entities.

**Introduction**

The initiative allows 460,000 children to receive the early health screenings they need to grow and thrive and the early childhood development experiences that will prepare them for long-term educational success. These programs have important trickle-down effects that result in increased revenue and decreased costs at the state and local level. The initiative is accomplished by funding grants across the state to improve early childhood health and education. Funding for grants is provided by a tobacco tax, conservatively resulting in $222 million in direct state revenue, while yielding important public health benefits.

**Early Childhood Delivers Big Benefits**

Missouri enrolls fewer children in its state preschool program than any neighboring state, and funding for programs like Parents as Teachers has been slashed in half. All Missourians benefit

from investments in early childhood education: children start school ready to succeed; parents are able to keep good jobs and earn higher incomes; and taxpayers save money because early childhood education lowers drop-out rates, reduces crime and cuts the cost of social services. Despite clear evidence showing investing in early learning is one of the smartest investments we can make, year after year we battle with the Missouri General Assembly to fund quality early childhood education. Missouri is the 38th worst state for public pre-K funding. In 2012, the General Assembly cut $13.2 million from early childhood programs, and Parents as Teachers remains $19 million behind its 2009 funding.

Traditional thought has long emphasized the relationship between early childhood education and academic success, but researchers now are finding that preschool does not have a substantial effect on increasing IQs but rather develops a child's "soft skills" and can have a profound effect on adult earning potential especially for disadvantaged kids.

Evidence shows that non-cognitive skills matter. Through activities like finger painting, playing with blocks, and interacting with other students, children learn how to control impulses, keep anger in check, stay on task, listen and follow curiosity. These soft skills are basic, but important tools needed to learn, find and keep a job and just manage everyday life. Most children gain these skills at home from their parents, but disadvantaged kids often miss the window of opportunity, which are the critical years before Kindergarten.

A literature of empirical evidence shows strong outcome effects for kids who attend pre-school. Using cost-benefit analyses, researchers have found a link between preschool attendance and reduced crime, fewer teen pregnancies, higher rates of college attendance and less need for public assistance. Cost-benefit studies show that pre-school provides the best value and produces more net benefits to society than increased classroom time or job training programs.

*Evidence from the Perry Preschool Program*

The most widely cited early childhood intervention occurred in Ypsilanti, Michigan during the 60s. Children with low IQ scores and a low socioeconomic index were invited to participate in the Perry Preschool Program. Using a coin toss, researchers divided students into two groups, a treatment group and a control group. Starting at age three the "treatment" kids got 2.5 hours of preschool a day and weekly home visits for two years. The "control" kids did not participate in either of the services. Researchers interviewed both groups at ages 15, 19, 27 and 40 and asked them questions about life events like school, work, marriage, parenting and incarceration. The following chart shows the major findings of the study.



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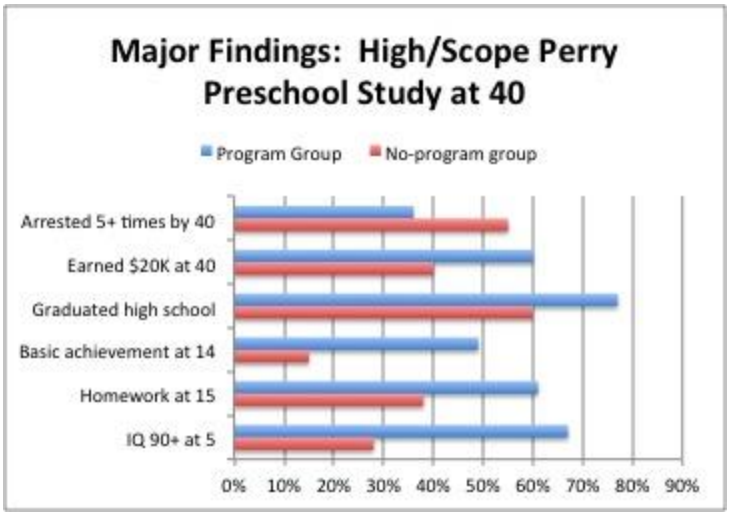


Source: Lifetime Effects: The HighScope Perry Preschool Study Through Age 40 (2005)

The pre-school girls went farther in school, earned higher GPAs, and received less special education than girls from the control group. Boys benefitted as well, but the boys who did not receive the preschool intervention were 2.3 times more likely to get arrested. The cost-savings alone from just the crime reduction demonstrated success.

With increased scrutiny over government spending, cost-benefit analysis gives policy analysts a tool to separate productive programs from ones that yield no social gains. A recent cost-benefit study that used a wider variety of assumptions and applied more rigorous accounting rules, estimated a return rate of about 7-10%. By monetizing social crime, the researchers were able to estimate that for every dollar invested in preschool, society earned back $30 to $300 dollars over the course of a lifetime (Heckman, Moon, Pinto, Savelyev, & Yavitz, 2010).

*Abecedarian and Chicago Studies*

Other studies confirmed the results of the Perry Preschool Project. The Carolina Abecedarian project in the 70s randomly assigned infants into intervention and control groups. The intervention group received full-day childcare from birth through Kindergarten. Intervention kids scored higher in reading and math, completed more education, were older when their first child was born and the mothers of intervention kids progressed farther in school and made more money than the control mothers. Intervention kids even smoked less.

A full-day five-year Pre-K program, while effective, would likely be cost-prohibitive for any state budget; however, the findings proved that early intervention does make a difference. And evidence suggests that a less expensive program could produce similar outcomes (Barnett & Masse, 2007).



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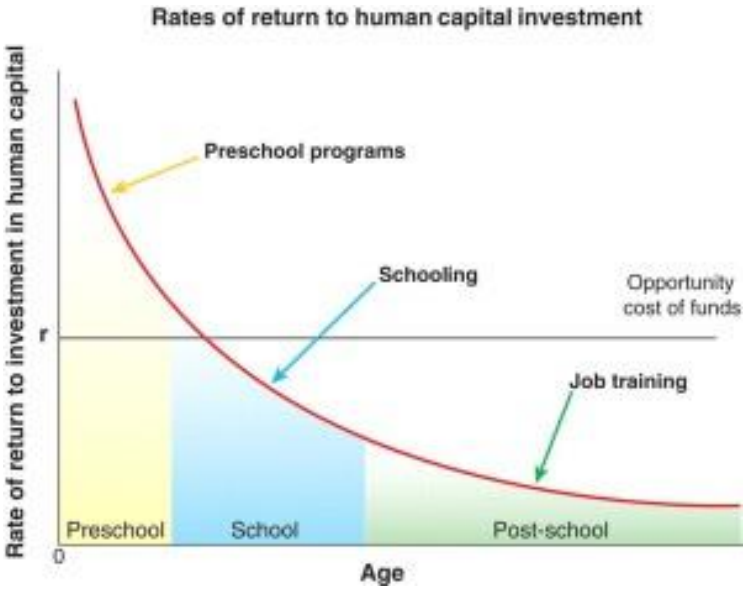
Just as Abecedarian kids earned higher wages than the control group, researchers found similar results from participants of the Chicago Child-Parent Program. The Chicago program targeted disadvantaged kids and provided a Headstart type intervention from ages three to nine. A cost-benefit analysis indicated for every dollar invested, the program produced seven in return. The largest impact was earning capacity, but Chicago kids were also less likely to need special education and less likely to commit crimes (Temple & Reynolds, 2007).

Much like with the Perry Program, the Chicago program demonstrated the relationship between early education, higher wages and crime reduction. Again it was the non-cognitive soft-skill development that made the difference. Second chance efforts like GED and job training provide fewer benefits and struggle to lift people out of poverty (Heckman & Masterov, 2007).




Source: Heckman, The Review of Agricultural Economics (2007)

What the Perry, Abecedarian and Chicago programs show is that pre-school helps kids develop soft-skills that make it easier to gain cognitive skills later and can lead to better jobs and a better quality of life. This in turn lessens the burden on government resources for remedial education, criminal justice and job-training programs.

Investing in human capital through access to finger-paints and story time may appear far-reaching, but multiple studies now point to early intervention as the cheapest, most effective way to prepare kids for the workforce and reduce crime. As labor force growth wanes and the demand for skilled workers increases, these studies suggest that a pipeline that begins at pre-school has great potential to produce big benefits to society in the long run.



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Present value of Abecedarian benefits and costs per child, (2002)

Table 1
Present value of Abecedarian benefits and costs per child (2002 dollars)

| | Discount rate (%) | | |
|---|---|---|---|
| | 3 | 5 | 7 |
| Program cost (net) | $35,864 | $34,599 | $33,421 |
| Program benefits | | | |
| Part. earnings | 37,531 | 16,460 | 6376 |
| Earnings of future generations | 5722 | 1586 | 479 |
| Maternal earnings | 68,728 | 48,496 | 35,560 |
| K-12 education | 8836 | 7375 | 6205 |
| Smoking/health | 17,781 | 4166 | 1008 |
| Higher education costs | −8128 | −5621 | −3920 |
| AFDC | 196 | 129 | 85 |
| Total benefits | $130,666 | $72,591 | $45,793 |
| Net present value | $94,802 | $37,992 | $12,372 |

**Reducing the Harmful Effects of Tobacco**

Tobacco tax increases offer a win-win-win solution for states as they work to balance budgets while preserving essential public services. Tobacco tax increases are one of the most effective ways to reduce smoking and other tobacco use, especially among kids. Every state that has significantly increased its cigarette tax has enjoyed substantial increases in revenue, even while reducing smoking. Higher tobacco taxes also save money by reducing tobacco-related health care costs, including Medicaid expenses. States can realize even greater health benefits and cost savings by allocating some of the revenue to programs that prevent children from smoking and help smokers quit.

National and state polls consistently have found overwhelming public support for tobacco tax increases. Polls also show that, when it comes to balancing budgets, voters prefer raising tobacco taxes to other tax increases or cutting crucial programs such as education and public safety.

Tobacco use causes approximately $3.03 billion in annual health care expenditures in Missouri. Smoking specifically causes over $500 million in annual costs for the Missouri Medicaid program. The initiative petition would increase the tax on cigarettes by $0.50 per pack and would increase the tax on other tobacco products by 5%. By conservative estimates, those tax increases

would raise approximately $222 million in new state revenue to improve early childhood health and education programs. New state revenue is the amount of additional new revenue over the first full year after the effective date. The state will collect less new revenue to the extent that the rate increase does not apply to all cigarettes and other tobacco products held in wholesaler and retailer inventories on the effective date. This fiscal projection was derived using a price elasticity of demand for cigarettes of -0.8, even though the weight of credible academic literature suggests a conservative estimate for the price elasticity of demand for cigarettes is -0.4.

Tax increases of less than roughly 25 cents per pack or 10% of the average state pack price do not produce significant public health benefits or cost savings because the cigarette companies can easily offset the beneficial impact of such small increases with temporary price cuts, coupons, and other promotional discounting. Splitting a tax rate increase into separate, smaller increases in successive years will similarly diminish or eliminate the public health benefits and related cost savings (as well as reduce the amount of new revenues).

In addition to raising new revenue, the tax increase would have an immediate public health benefit. Each 10% cigarette price increase reduces youth smoking by 6.5%. Each 10% cigarette price increase reduces adult smoking by 2%. The total expected reduction in smoking consumption as a result of a 10% price increase is 4%. It is conservatively estimated that the initiative petition would decrease youth smoking by 6% in Missouri.

There would also be a fiscal benefit to the citizens of the state from the improved public health. As of 2014, the CDC estimated 11,000 annual average smoking-attributable deaths in Missouri. 127,500 Missouri Youth aged 0-17 are projected to die from smoking. Approximately 22.1% of Missouri adults smoke. Approximately 14.9% of Missouri high school students smoke. The average Missouri resident's state and federal tax burden from smoking-caused government expenditures is $588 per household. Approximately one of every six pregnant women smokes, a rate significantly higher than the national average. Smoking during pregnancy increases the risk for preterm delivery, stillbirth, low birth weight and Sudden Infant Death Syndrome.
In recent years, almost every state and the federal government have increased tobacco taxes. Missouri is a notable exception. The average state cigarette tax is currently $1.60 per pack, but rates vary widely from 17 cents in Missouri to $4.35 in New York. On April 1, 2009, the federal cigarette tax increased by 62 cents, to $1.01 per pack.

As of July 1, 2015, Missouri's cigarette tax was less than one-third of any of its border states: IL - $ 1.98; IA - $1.36; KS - $1.29; AR - $1.15; OK - $1.03; NE - $0.64; TN - $0.62; KY - $0.60. Moreover, Missouri's 17-cent per pack tax on cigarettes is the lowest in the country. The real value of the cigarette tax is decreasing. As a percentage of the overall Missouri State Budget, Missouri's tobacco taxes have decreased from 1.036% in 2000 to 0.464% in 2015. See MO Executive Budget Books & MO Office of Administration.



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Every day 3,000 kids try their first cigarette and another 700 kids become regular smokers. There are more than 250 thousand new underage smokers each year. One third will eventually die from their addiction. Smoking has declined in every state where the tobacco tax has been increased.

Ongoing reductions in state smoking levels will, over time, gradually erode state cigarette tax revenues (in the absence of any new rate increases). But those declines are more predictable and less volatile than many other state revenue sources, such as state income tax or corporate tax revenues (which can drop sharply during recessions). In addition, the smoking declines that reduce tobacco tax revenues will simultaneously produce much larger reductions in government and private sector smoking-caused costs. See the Campaign for Tobacco-Free Kids factsheet, *Tobacco Tax Increases are a Reliable Source of Substantial New State Revenue*, http://tobaccofreekids.org/research/factsheets/pdf/0303.pdf.

For other ways states can increase revenues (and promote public health) other than just raising its cigarette tax, see the Campaign factsheet, *The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

For more on sources and calculations, see http://www.tobaccofreekids.org/research/factsheets/pdf/0281.pdf

**Additional Information on Tobacco Product Tax Increases**

*Raising State Cigarette Taxes Always Increases State Revenues and Always Reduces Smoking*, http://tobaccofreekids.org/research/factsheets/pdf/0098.pdf.

*Responses to Misleading and Inaccurate Cigarette Company Arguments Against State Tobacco Tax Increases*, http://tobaccofreekids.org/research/factsheets/pdf/0227.pdf.

*State Cigarette Excise Tax Rates & Rankings*, http://tobaccofreekids.org/research/factsheets/pdf/0097.pdf.

*Top Combined State-Local Cigarette Tax Rates (State plus County plus City)*, http://tobaccofreekids.org/research/factsheets/pdf/0267.pdf.

*State Cigarette Tax Increases Benefit Lower-Income Smokers and Families*, http://tobaccofreekids.org/research/factsheets/pdf/0147.pdf.

*The Best Way to Tax Smokeless Tobacco*, http://tobaccofreekids.org/research/factsheets/pdf/0282.pdf.

*How to Make State Cigar Tax Rates Fair and Effective*, http://tobaccofreekids.org/research/factsheets/pdf/0335.pdf.



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*State Benefits from Increasing Smokeless Tobacco Tax Rates*, http://tobaccofreekids.org/research/factsheets/pdf/0180.pdf.

*The Case for High-Tech Cigarette Tax Stamps*, http://tobaccofreekids.org/research/factsheets/pdf/0310.pdf.

*State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion*, http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf.

*The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

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Sincerely,

Edward D. Greim
Partner, Graves Garrett, LLC



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Tom Kruckemeyer
Missouri Budget Project
3534 Washington Ave
St. Louis, Missouri 63103

August 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

To Whom It May Concern:

I currently work as the Director of Fiscal Policy and Chief Economist at the Missouri Budget Project, a nonprofit, objective, public policy analysis organization that provides independent research on complex state policy issues and how they impact the state budget. I hold a B.A. in Economics and History and an M.A. in Economics from the University of Missouri-St. Louis. I also hold an M.A. Political Science from the University of Missouri-Columbia. I worked in the Missouri Division of Budget from 1978 to 2004, where I served as the chief economist. In the course of both my positions at the Missouri Division of Budget as well as my current position, I have routinely projected the fiscal impact of tax changes.

In my experience, it is a conservative, generally accepted practice to project the revenue generated from a proposed cigarette tax by estimating an average price per cigarette (or price per pack), estimating a uniform price elasticity of demand, and to assume that the tax will result in a penny-for-penny increase in the cost of cigarettes.

Upon information and belief, the Office of Administration usually estimates the price elasticity of demand for cigarettes as -0.8. This estimate means that a 10% increase in the cost of cigarettes results in an 8% reduction in the quantity of cigarettes sold. A price elasticity of demand of -0.8 is a conservative but reasonable estimate for the price elasticity of demand of a product such as cigarettes. Notably, even with a 50 cent increase in Missouri's cigarette tax, Missouri's cigarette tax will remain lower than many of its contiguous states, in particular the states that border major metropolitan areas, Illinois and Kansas.

Additionally, the Office of Administration's method for estimating cigarette tax revenue is conservative because it assumes a penny-for-penny price increase in the cost of cigarettes as a result of the tax. In practice, whether the entire tax increase will result in a 50 cent increase in the prices of cigarettes is unknown because the market for cigarettes is competitive. Moreover, regardless of whether the Office of Administration estimates that the demand for cigarettes will remain flat or decrease due to societal trends, the overall fiscal impact is largely the same. An estimate of the decrease in future tax collections due to decreased smoking from societal trends is not essential to the findings in the fiscal note that this particular tax will result in a net increase to state revenue with no net cost to local governments.

If the Office of Administration decides to use the same assumptions in projecting the revenue for other tobacco products ("OTP") as it does for cigarettes, it is my opinion that the resulting collection estimate would be conservative but appropriate. Recent trends suggest that the revenue generated from the tax on other tobacco products is increasing.

Based on generally accepted methods for estimating the fiscal impact of a proposed tax, I estimate that the phased-in 50 cent cigarette tax increase will result in approximately 90 million dollars of revenue in calendar years 2017 and 2018. I estimate that the cigarette tax will result in approximately 150 million dollars of revenue in calendar years 2019 and 2020. I estimate that the cigarette tax will result in approximately 206 million dollars of revenue in calendar year 2021. In comparison, I estimate that an immediate 50 cent cigarette tax increase will result in approximately 214 million dollars of revenue in calendar year 2017. These estimates assume a 1% yearly reduction in the state's smoking level. I estimate the 5% increase in the tax on non-cigarette tobacco products will result in approximately 8 million dollars of revenue annually. There may be a small decrease in revenue collection for each phase of the additional tax due to lags associated with the implementation and collection of taxes.

These taxes are expected to result in limited implementation costs to the state. The costs associated with administering the Early Childhood Education and Health Trust Fund will primarily be borne by the Trust Fund. Nonetheless it is proper and reasonable to consider additional costs of administering the cigarette tax increase, which may include fixed costs like salaries as well as additional marginal costs, such as costs associated with stamping cigarettes. All state government costs are estimated to be offset by additional revenue increases.

Local governments will receive revenue from the tax to offset any potential decrease in local tax revenue. Based on a price elasticity of demand of -0.8, local revenue may decrease, but any such decrease will be by an amount less than $500,000. By any reasonable estimate, 3% of the Early Childhood Education and Health Trust Fund will exceed the decrease in revenue associated with local tobacco taxes. Accordingly, any such decrease will be offset as a result local revenue from the transfer of funds to localities with local tobacco taxes. Additionally, while direct local revenue is zero, there are positive indirect effects the may result in additional revenue to local governments.

Sincerely,

/s/

Tom Kruckemeyer
Director of Fiscal Policy & Chief
Economist, Missouri Budget Project

The State Auditor's office did not receive a response from the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College**.

**Fiscal Note Summary**

Estimated additional revenue to state government is $200 million to $222 million annually, with limited estimated implementation costs and potential unknown litigation costs. The revenue will fund only programs and services allowed by the proposal. The fiscal impact to local governmental entities is unknown.

16-083

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

August 19, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Edward Greim regarding a proposed statutory amendment to Chapters 210 & 149, version 3 (2016-083)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Edward Greim on August 19, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

RECEIVED
AUG 19 2015
STATE AUDITOR'S OFFICE

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-083

County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do □ do not □ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Address of Affiant

_____
Printed Name of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My commission expires _____

RECEIVED
2015 AUG 19 AM 9:34
SECRETARY OF STATE

16-083

NOTICE: You are advised that the proposed law changes, repeals, or modifies by implication, or may be construed to change, repeal or modify by implication, the following provisions of the Missouri Revised Statutes — Sections 66.340, 66.350, 149.015, 149.021, 149.065, 149.160, 210.102, and 210.320. The proposed law enacts two new sections, to be known as sections 149.017 and 149.161.

*Be it enacted by the people of the State of Missouri:*

Section 210.102 of the Revised Statutes of Missouri is amended and sections 149.017 and 149.161 are enacted, to read as follows:

210.102. 1. Sections 149.017 and 149.161, and certain amendments to 210.102, shall be referred to as the Early Childhood Health and Education Act, with the purpose of supporting and improving early childhood health and education through regulation of tobacco sellers. This Act:

(1) Creates the Early Childhood Health and Education Trust Fund in order to support and improve early childhood health and education across the state;

(2) Reforms the Coordinating Board for Early Childhood to administer the Early Childhood Health and Education Trust Fund and provide grants that support and improve early childhood health and education; and

(3) Funds the Early Childhood Health and Education Trust Fund through revenue derived from the sale of tobacco products.

All of the provisions of this act are severable. If any provision of this act is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this act shall be and remain valid and in full force and effect.

2. It shall be the duty of the Missouri children's services commission to:

(1) Make recommendations which will encourage greater interagency coordination, cooperation, more effective utilization of existing resources and less duplication of effort in activities of state agencies which affect the legal rights and well-being of children in Missouri;

(2) Develop an integrated state plan for the care provided to children in this state through state programs;

(3) Develop a plan to improve the quality of children's programs statewide. Such plan shall include, but not be limited to:

(a) Methods for promoting geographic availability and financial accessibility for all children and families in need of such services;

(b) Program recommendations for children's services which include child development, education, supervision, health and social services;

(4) Design and implement evaluation of the activities of the commission in fulfilling the duties as set out in this section;

(5) Report annually to the governor with five copies each to the house of representatives and senate about its activities including, but not limited to the following:

(a) A general description of the activities pertaining to children of each state agency having a member on the commission;

(b) A general description of the plans and goals, as they affect children, of each state agency having a member on the commission;

(c) Recommendations for statutory and appropriation initiatives to implement the integrated state plan;

(d) A report from the commission regarding the state of children in Missouri.

[2.]3. For years ending on or before December 31, 2016, [There is hereby established within the children's services commission] the "Coordinating Board for Early Childhood", which shall constitute a body corporate and politic, shall be established within the children's services commission, and shall include but not be limited to the following members:

(1) A representative from the governor's office;

(2) A representative from each of the following departments: health and senior services, mental health, social services, and elementary and secondary education;

(3) A representative of the judiciary;

(4) A representative of the family and community trust board (FACT);

(5) A representative from the head start program;

(6) Nine members appointed by the governor with the advice and consent of the senate who are representatives of the groups, such as business, philanthropy, civic groups, faith-based organizations, parent groups, advocacy organizations, early childhood service providers, and other stakeholders. The coordinating board may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers. The coordinating board shall elect from amongst its members a chairperson, vice chairperson, a secretary-reporter, and such other officers as it deems necessary. Members of the board shall serve without compensation but may be reimbursed for actual expenses necessary to the performance of their official duties for the board.

4. Beginning on January 1, 2017, the coordinating board for early childhood, which shall constitute a body corporate and politic, shall be established within the department of elementary and secondary education and shall include the following members:

(1) The director or the director's designee from each of the following departments: health and senior services, mental health, and social services;

16-083

(2) The commissioner or the commissioner's designee from the department of elementary and secondary education;

(3) Two members of the Missouri general assembly. One member shall be the chairman of the joint committee on education. One member shall be a member of the joint committee on education, shall be from a different party and different legislative chamber than the chairman of the joint committee on education, and shall be appointed by the elected leader, either the speaker of the house of representatives or the president pro tempore of the senate, of the member's legislative chamber;

(4) The director of the Missouri head start-state collaborative office;

(5) Six citizens, representing each of the following areas: early childhood education and development providers, local head start agencies, higher education, business, faith, and medicine. The Governor shall appoint, with the advice and consent of the senate, the three citizens representing the areas of medicine, business, and higher education. The state board of education shall appoint the citizens representing the areas of early childhood education and development providers, local head start agencies, and faith.

Citizens appointed under subdivision (5) shall serve a term of three years. Such citizens shall be eligible to serve two terms. Such citizens that serve a partial term of less than eighteen months shall be eligible to serve the partial term and two full terms. Such citizens that serve a partial term of more than eighteen months shall be eligible to serve the partial term and one full term.

[3.]5. The coordinating board for early childhood shall have the power to:

(1) Develop a comprehensive statewide long-range strategic plan for a cohesive early childhood system. The board shall review the plan each year and make amendments to the plan as it deems necessary. The board shall submit the plan to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of 2018 and each year thereafter;

(2) Confer with public and private entities for the purpose of promoting and improving the development of children from birth through age five of this state;

(3) Identify legislative recommendations to improve services for children from birth through age five;

(4)Promote coordination of existing services and programs across public and private entities;

(5) Promote research-based approaches to services and ongoing program evaluation;

(6) Identify service gaps and advise public and private entities on methods to close such gaps;

(7) Apply for and accept gifts, grants, appropriations, loans, or contributions to the coordinating board for early childhood fund from any source, public or private, and enter into contracts or other transactions with any federal or state agency, any private organizations, or any other source in furtherance of the purpose of subsections 3 through 15[2 and 3] of this section, and take any and all actions necessary to avail itself of such aid and cooperation;

(8) Direct disbursements and grants from the coordinating board for early childhood fund and the early childhood health and education trust fund as provided in this section;

(9) Administer the coordinating board for early childhood fund and the early childhood health and education trust fund [and invest any portion of the moneys not required for immediate disbursement in obligations of the United States or any agency or instrumentality of the United States, in obligations of the state of Missouri and its political subdivisions, in certificates of deposit and time deposits, or other obligations of banks and savings and loan associations, or in such other obligations as may be prescribed by the board];

(10) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal with real or personal property or any interests therein, wherever situated;

(11) Sell, convey, lease, exchange, transfer or otherwise dispose of all or any of its property or any interest therein, wherever situated;

(12) Employ and fix the compensation of an executive director and such other agents or employees as it considers necessary;

(13) Adopt, alter, or repeal by its own bylaws, rules, and regulations governing the manner in which its business may be transacted;

(14) Adopt and use an official seal;

(15) Assess or charge fees as the board determines to be reasonable to carry out its purposes;

(16) Make all expenditures which are incident and necessary to carry out its purposes;

(17) Sue and be sued in its official name;

(18) Take such action, enter into such agreements, and exercise all functions necessary or appropriate to carry out the duties and purposes set forth in this section;

(19) Contract with one or more not-for-profits to meet the requirements of this section;

(20) Provide technical assistance to grantees;

(21) Coordinate with parents, community leaders, local governments, and public and private entities to improve the quality of and increase access to early childhood development programs in communities throughout the state; and

(22) Pursue public and private partnership opportunities that are consistent with the objectives of subsection 6 of this section.

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6. Any grants awarded by the coordinating board for early childhood shall accomplish one or more of the following objectives:

(1) Increasing access to existing quality early childhood development programs;

(2) Improving the quality of early childhood development programs;

(3) Increasing access to preventive health care and health and developmental screenings for children ages birth through five;

(4) Offering parent and family support and education concerning prenatal development, early child development, numeracy, and literacy;

(5) Providing professional development and training for early childhood development providers;

(6) Increasing coordination of early childhood development programs and public information about the importance of early childhood development;

(7) Providing evidenced-based smoking cessation programs for pregnant mothers.

7. The coordinating board for early childhood shall consider the following nonexclusive factors when awarding grants as provided in this section:

(1) Whether the project or activities will improve outcomes for children ages birth through five, consistent with the objectives of this section;

(2) Whether the project or activity leverages matching dollars;

(3) Whether the project or activity addresses needs identified by the local community; and

(4) The sustainability of the project or activity.

8. The coordinating board for early childhood shall establish accountability and audit requirements for all grant recipients, including requirements that success be measured by outcomes for children and families.

9. It shall be the duty of the coordinating board for early childhood to:

(1) Establish and maintain a conflict of interest policy for its members and staff;

(2) Prepare an annual report describing the activities of the board and a description of outcomes for children and families achieved by the board and grant recipients, including a list of all grant recipients and the amount of any grants awarded to such recipients. The board shall submit the report to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of each year, beginning in 2019, and shall provide a copy of the report to the secretary of state; and

(3) Ensure a fair and equitable distribution of funds collected as provided under sections 149.017 and 149.161 based on the established residency population of children ages birth through five.

10. There is hereby created the "Coordinating Board for Early Childhood Fund" which shall consist of the following:

(1) Any moneys appropriated by the general assembly for use by the board in carrying out the powers set out in subsections 3 through 9[2 and 3] of this section;

(2) Any moneys received from grants or which are given, donated, or contributed to the fund from any source;

(3) Any moneys received as fees authorized under subsections 3 through 9[2 and 3] of this section;

(4) Any moneys received as interest on deposits or as income on approved investments of the fund;

(5) Any moneys obtained from any other available source. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the coordinating board for early childhood fund at the end of the biennium shall not revert to the credit of the general revenue fund.

11. There is hereby created the Early Childhood Health and Education Trust Fund which shall consist of all moneys collected as provided in sections 149.017 and 149.161, less any reduction allowed in section 149.021. Interest and moneys earned on the fund shall be credited to the fund.

12. No more than eight percent of the moneys received by the early childhood health and education trust fund shall be used for administrative expenses. Eligible administrative expenses shall include only those reasonable and necessary for:

(1) Salaries, fringe benefits, expenses, and equipment of staff employed by the coordinating board for early childhood;

(2) Expenses associated with cost sharing of salaries, fringe benefits, expenses, and equipment of staff employed or contracted by the coordinating board for early childhood from any other state department or agency of the state;

(3) Expenses of the coordinating board for early childhood associated with contracting with not-for-profit entities;

(4) Expenses of the coordinating board for early childhood associated with audits and outcome evaluations of programs and activities funded under this section;

(5) Expenses of grantees associated with meeting administrative requirements of grants established by the coordinating board for early childhood;

No more than 40% of administrative expenses shall be expended on items (1) through (4) of this subsection.

16-083

13. Moneys in the funds may be invested by the state treasurer, and any income therefrom shall be deposited to the credit of the fund. Any moneys credited to and placed in the early childhood health and education trust fund shall be appropriated and used only for purposes which are authorized by this section and shall not be subject to the provisions of section 33.080.

14. The net proceeds from the moneys collected as provided in sections 149.017 and 149.161 shall constitute new and additional funding for the activities, initiatives, and programs funded by the coordinating board for early childhood and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

15. Beginning January 1, 2017, the department of elementary and secondary education and the coordinating board for early childhood may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This subsection and chapter 536 are nonseverable from one another, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017 shall be invalid and void.

149.017. 1. Beginning January 1, 2017, in addition to the tax levied upon the sale of cigarettes in this state pursuant to section 149.015, a tax shall be levied upon the sale of cigarettes applied at an amount equal to twenty-five mills per cigarette.

2. The tax shall be evidenced by stamps in the same manner as cigarettes stamped pursuant to sections 149.015 and 149.021. Stamped cigarettes in the possession of a wholesaler or retailer before any phase of the additional tax under subsection 1 of this section is imposed, shall not be subject to such phase of the additional tax before retail sale.

3. The tax on any cigarettes contained in packages of four, ten, twenty or similar quantities to be used solely for distribution as samples shall be computed on a per cigarette basis at the rate set forth in this section, and payment of the tax shall be remitted to the director at such time and in such manner as he may prescribe.

4. The provisions of section 149.065 notwithstanding, all moneys collected as a result of the taxes imposed by this section and section 149.161 shall be credited to and placed in the early childhood health and education trust fund established by section 210.102 as said moneys are received. All of the moneys from the taxes imposed by this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the early childhood health and education trust fund.

5. The additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section and section 149.161 may be paid from moneys appropriated from the early childhood health and education trust fund for that purpose, not to exceed one and one half of one percent (1.5%) of the total moneys collected in that fiscal year. Collection and enforcement activities and initiatives that are paid for with moneys from the early childhood health and education trust fund shall be conducted in a fiscally responsible manner in order to maximize the net proceeds available for distribution pursuant to section 210.102. Moneys appropriated from the early childhood health and education trust fund pursuant to this subdivision shall not be used to pay costs that are not additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section;

6. The net proceeds from the taxes imposed by this section and section 149.161 shall constitute new and additional funding for the activities, initiatives, and programs described in section 210.102 and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

7. On an annual basis, the director of the department of revenue, in consultation with the director of health and senior services, shall determine whether the taxes imposed by this section and section 149.161 have resulted in a decrease in consumption of tobacco products and thereby directly caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320. If a reduction in the amount of moneys collected and deposited into any of those funds pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320, has been directly caused by the taxes imposed by this section and section 149.161, an amount equal to the amount of moneys that were not collected and deposited into that fund or funds or were not generated by the local tobacco taxes authorized by sections 66.340 and 210.320 because of the taxes imposed by this section and section 149.161 shall be transferred from the early childhood health and education trust fund pursuant to section 210.102 as follows: first, to the appropriate political subdivisions, and second to the appropriate fund or funds. The aggregate amount transferred to such funds and political subdivisions from the early childhood health and education trust fund for any year shall not exceed three percent of the total moneys collected pursuant to this section and section 149.161 during that same year.

149.161. Beginning on January 1, 2017, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, a tax shall be levied upon the first sale of tobacco products other than cigarettes within this state in the amount of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. The tax on tobacco products shall be at the rate of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. Licensed persons making first sales shall be allowed credit in accordance with the provisions of section 149.160.1. The additional tax levied by this section shall not apply to inventories of tobacco products in the possession of the retailer or wholesaler on December 31, 2016.

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**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-083)**

**Subject**

Initiative petition from Edward Greim regarding a proposed amendment to Chapters 149 and 210 of the Revised Statutes of Missouri. (Received August 19, 2015)

**Date**

September 8, 2015

**Description**

This proposal would amend Chapters 149 and 210 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Edward Greim** provided information as a proponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** (DESE) indicated the proposal appears to provide for an increase in the tax levied upon the sale of cigarettes. All moneys collected shall be credited to and placed in the early childhood health and education trust fund. The proposal also appears to create the coordinating board for early childhood within the department of elementary and secondary education. With restrictions, proceeds from the additional cigarette tax would provide for the operations of the coordinating board. Our department has no means to calculate the potential of these proceeds. Any funds would be additional monies to early childhood education.

Officials from the **Department of Higher Education** indicated this initiative petition would have no impact on their department.

Officials from the **Department of Health and Senior Services** (DHSS) indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated their department would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** (DOR) indicated this petition will have a fiscal impact of $75,006 for FY 2017 on their department, creating additional expense for IT consultants.

**Section 149.017**
Beginning January 1, 2017, the legislation increases the tax on cigarettes to 25 mills per cigarette ($0.50 per pack of 20).

Stamped cigarettes in inventory prior to the effective dates of the increase and in possession of a wholesaler or retailer are not subject to the additional tax before retail sale. The petition also allows for up to a one and one-half percent collection fee of the total revenues collected in a fiscal year.

The legislation requires the Department, in consultation with the Department of Health & Senior Services, to annually determine if the taxes result in a decrease in consumption of tobacco products. The Departments must further determine if there are reductions in the revenue collected and deposited into the fair share fund, health initiatives fund, the state school moneys fund, or local tobacco taxes.

**Section 149.161**
Beginning on January 1, 2017, this section, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, levies a five percent tax upon the first sale of tobacco products other than cigarettes within this state. The legislation bases the five percent increase on the manufacturer's invoice price before discounts and deals. The person making the first sale within the state pays the tax. The additional tax shall not apply to inventories of tobacco products in possession of the wholesaler or retailer before January 1, 2017.

**Section 210.102**
This section creates the Early Childhood Health & Education Act. Beginning in 2017, the Coordinating Board for Early Childhood becomes a body corporate and politic under the purview of the Department of Elementary & Secondary Education. Subsection 11 creates the Early Childhood Health & Education Trust Fund and consists of revenues collected under sections 149.017 and 149.171, less any reduction allowed in section 149.021.

**Administrative Impact:**
**Excise Tax:**
The Early Childhood Health & Education Trust Fund requires changes to the SAGE 50 accounting system and cashiering records. The legislation also creates the requirement for a new form.

Officials from the **Department of Public Safety** indicated their department sees no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office. They assume DESE will cover any expenses of the one House member serving on the Coordinating Board for Early Childhood.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** (OA) indicated the proposal amends Section 210.102, RSMo, and adds Sections 149.017 and 149.161, RSMo.

Section 210.102, RSMo, moves the Coordinating Board for Early Childhood from the Children's Services Commission to DESE, effective January 1, 2017, changes the board membership and provides further guidance on funding and operations for the Board.

Section 149.017, RSMo, increases the cigarette tax by 25 mills per cigarette on 1/1/2017. Section 149.161, RSMo, levies an additional 5% tax on other tobacco products beginning 1/1/2017. These monies will go to the Early Childhood Health and Education Trust (ECHET) Fund established in Section 210.102, RSMo. DOR and DHSS must annually determine whether the new taxes have caused a reduction in consumption and therefore a reduction in the amount of money collected for the Fair Share Fund, the Health Initiatives Fund or the State School Moneys Fund and for local tobacco taxes. If a reduction in consumption is found, then up to 3% of the new revenue collected is to be distributed to the various funds and political subdivisions from the ECHET Fund to hold them harmless.

FISCAL IMPACT:

Cigarette Tax

In fiscal year (FY) 15, there was $81.7 million in cigarette excise taxes collected. OA assumes that the average pack of cigarettes retails for $4.50, translating to roughly 480.9 million packs sold in Missouri. OA further assumes that cigarette sales have a (0.8) elasticity. Therefore, OA estimates a tax increase of 25 mills per cigarette in January 2017 will increase the "Early Childhood Health and Education Fund" by $107.2 million in FY17 and $214.4 million once fully implemented in FY18.

There is no way to truly know what impact these tax increases will have on demand due to smoking cessation efforts, other state and federal regulations, and the increase in sales of e-cigarettes. However, OA estimates that the tax increase will decrease the Fair Share Fund by $0.8 million in FY17 and $1.6 million in FY18 and thereafter, the Health Initiatives fund by $0.8 million in FY17 and $1.6 million in FY18 and thereafter, and the State School Moneys Fund by $1.7 million in FY17 and $3.5 million in FY18 and thereafter.

Further, since cigarette sales will decrease slightly, General Revenue will be reduced by $5.0 million, the School District Trust Fund will be reduced by $1.7 million, and local

sales tax will be reduced by $7.1 million once fully implemented in FY18, from the loss of sales tax.

Other Tobacco Products

In FY15, there was $17.7 million in other tobacco product excise taxes collected. OA assumes that the average unit retails for $4.09, translating to roughly $176.9 million in wholesales in Missouri. OA further assumes that other tobacco product sales have a (0.8) elasticity. Therefore, OA estimates this proposal will increase the "Early Childhood Health and Education Trust Fund" by $4.0 million in FY17 and $7.9 million once fully implemented in FY18.

There is no way to truly know what impact this tax increase will have on demand due to cessation efforts, other state, federal, and local regulations, and the introduction of alternative products. However, OA estimates that this tax increase will decrease the Health Initiatives Fund by $0.3 million in FY17 and $0.6 million once fully implemented in FY18.

Further, since other tobacco product sales will decrease slightly, General Revenue will be reduced by $190,000, the School District Trust Fund will be reduced by $62,000, and local sales tax will be reduced by $260,000 once fully implemented in FY18, from the loss of sales tax.

Total Impact

This proposal will increase the "Early Childhood Health and Education Trust Fund" by $222.3 million once fully implemented in FY18. This proposal will also decrease the Fair Share Fund by $1.6 million, the Health Initiatives Fund by $2.2 million, and the State School Moneys Fund by $3.5 million once fully implemented in FY18.

In addition, due to lost sales tax revenue, General Revenue will be reduced by $5.2 million, the School District Trust Fund will be reduced by $1.8 million, and local sales tax will be reduced by $7.4 million once fully implemented in FY18.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot

measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated the initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated that there are no estimated costs or savings to report from their county for this initiative petition.

Officials from **Jasper County** indicated no appreciable effect on county government.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

**Edward Greim** provided the following information as a proponent of this initiative petition.

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August 28, 2015

Missouri State Auditor's Office
301 West High Street
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Jefferson City, Missouri 65102

Re: *Fiscal Note in Initiative Petitions 83 & 84*

To Whom It May Concern:

Based on the information contained in this letter and the attached letter from Tom Kruckemeyer, we propose the following fiscal note summary:

> Estimated additional revenue to state government is $222 million annually with limited estimated implementation costs or savings. The revenue will fund only programs and services allowed by the proposal. The proposal is estimated to result in no net costs or savings to local governmental entities.

**Introduction**

The initiative allows 460,000 children to receive the early health screenings they need to grow and thrive and the early childhood development experiences that will prepare them for long-term educational success. These programs have important trickle-down effects that result in increased revenue and decreased costs at the state and local level. The initiative is accomplished by funding grants across the state to improve early childhood health and education. Funding for grants is provided by a tobacco tax, conservatively resulting in $222 million in direct state revenue, while yielding important public health benefits.

**Early Childhood Delivers Big Benefits**

Missouri enrolls fewer children in its state preschool program than any neighboring state, and funding for programs like Parents as Teachers has been slashed in half. All Missourians benefit

from investments in early childhood education: children start school ready to succeed; parents are able to keep good jobs and earn higher incomes; and taxpayers save money because early childhood education lowers drop-out rates, reduces crime and cuts the cost of social services. Despite clear evidence showing investing in early learning is one of the smartest investments we can make, year after year we battle with the Missouri General Assembly to fund quality early childhood education. Missouri is the 38th worst state for public pre-K funding. In 2012, the General Assembly cut $13.2 million from early childhood programs, and Parents as Teachers remains $19 million behind its 2009 funding.

Traditional thought has long emphasized the relationship between early childhood education and academic success, but researchers now are finding that preschool does not have a substantial effect on increasing IQs but rather develops a child's "soft skills" and can have a profound effect on adult earning potential especially for disadvantaged kids.

Evidence shows that non-cognitive skills matter. Through activities like finger painting, playing with blocks, and interacting with other students, children learn how to control impulses, keep anger in check, stay on task, listen and follow curiosity. These soft skills are basic, but important tools needed to learn, find and keep a job and just manage everyday life. Most children gain these skills at home from their parents, but disadvantaged kids often miss the window of opportunity, which are the critical years before Kindergarten.

A literature of empirical evidence shows strong outcome effects for kids who attend pre-school. Using cost-benefit analyses, researchers have found a link between preschool attendance and reduced crime, fewer teen pregnancies, higher rates of college attendance and less need for public assistance. Cost-benefit studies show that pre-school provides the best value and produces more net benefits to society than increased classroom time or job training programs.

*Evidence from the Perry Preschool Program*

The most widely cited early childhood intervention occurred in Ypsilanti, Michigan during the 60s. Children with low IQ scores and a low socioeconomic index were invited to participate in the Perry Preschool Program. Using a coin toss, researchers divided students into two groups, a treatment group and a control group. Starting at age three the "treatment" kids got 2.5 hours of preschool a day and weekly home visits for two years. The "control" kids did not participate in either of the services. Researchers interviewed both groups at ages 15, 19, 27 and 40 and asked them questions about life events like school, work, marriage, parenting and incarceration. The following chart shows the major findings of the study.



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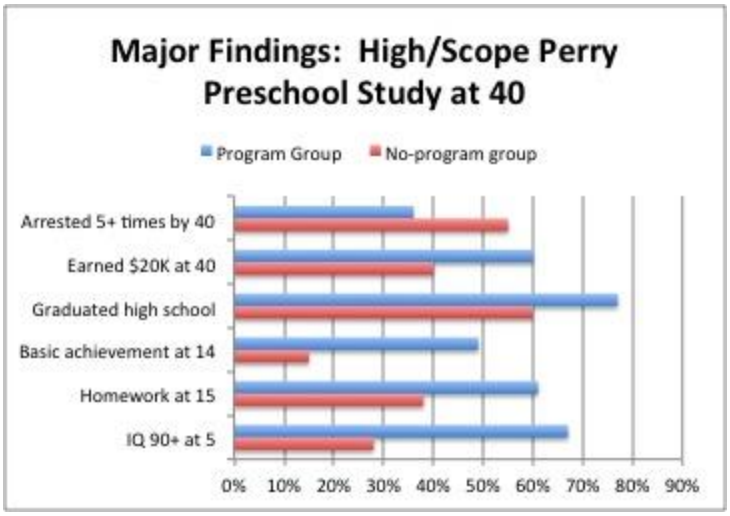


Source: Lifetime Effects: The HighScope Perry Preschool Study Through Age 40 (2005)

The pre-school girls went farther in school, earned higher GPAs, and received less special education than girls from the control group. Boys benefitted as well, but the boys who did not receive the preschool intervention were 2.3 times more likely to get arrested. The cost-savings alone from just the crime reduction demonstrated success.

With increased scrutiny over government spending, cost-benefit analysis gives policy analysts a tool to separate productive programs from ones that yield no social gains. A recent cost-benefit study that used a wider variety of assumptions and applied more rigorous accounting rules, estimated a return rate of about 7-10%. By monetizing social crime, the researchers were able to estimate that for every dollar invested in preschool, society earned back $30 to $300 dollars over the course of a lifetime (Heckman, Moon, Pinto, Savelyev, & Yavitz, 2010).

*Abecedarian and Chicago Studies*

Other studies confirmed the results of the Perry Preschool Project. The Carolina Abecedarian project in the 70s randomly assigned infants into intervention and control groups. The intervention group received full-day childcare from birth through Kindergarten. Intervention kids scored higher in reading and math, completed more education, were older when their first child was born and the mothers of intervention kids progressed farther in school and made more money than the control mothers. Intervention kids even smoked less.

A full-day five-year Pre-K program, while effective, would likely be cost-prohibitive for any state budget; however, the findings proved that early intervention does make a difference. And evidence suggests that a less expensive program could produce similar outcomes (Barnett & Masse, 2007).



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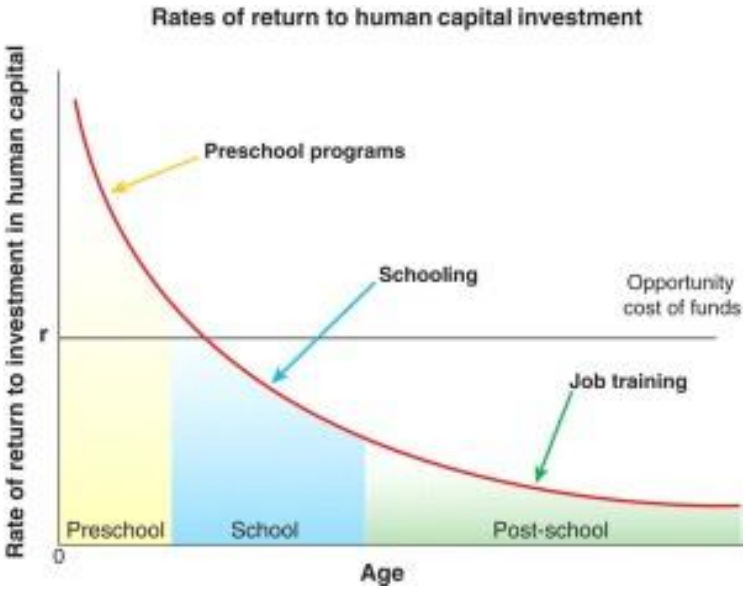
Just as Abecedarian kids earned higher wages than the control group, researchers found similar results from participants of the Chicago Child-Parent Program. The Chicago program targeted disadvantaged kids and provided a Headstart type intervention from ages three to nine. A cost-benefit analysis indicated for every dollar invested, the program produced seven in return. The largest impact was earning capacity, but Chicago kids were also less likely to need special education and less likely to commit crimes (Temple & Reynolds, 2007).

Much like with the Perry Program, the Chicago program demonstrated the relationship between early education, higher wages and crime reduction. Again it was the non-cognitive soft-skill development that made the difference. Second chance efforts like GED and job training provide fewer benefits and struggle to lift people out of poverty (Heckman & Masterov, 2007).




Source: Heckman, The Review of Agricultural Economics (2007)

What the Perry, Abecedarian and Chicago programs show is that pre-school helps kids develop soft-skills that make it easier to gain cognitive skills later and can lead to better jobs and a better quality of life. This in turn lessens the burden on government resources for remedial education, criminal justice and job-training programs.

Investing in human capital through access to finger-paints and story time may appear far-reaching, but multiple studies now point to early intervention as the cheapest, most effective way to prepare kids for the workforce and reduce crime. As labor force growth wanes and the demand for skilled workers increases, these studies suggest that a pipeline that begins at pre-school has great potential to produce big benefits to society in the long run.



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Present value of Abecedarian benefits and costs per child, (2002)

Table 1
Present value of Abecedarian benefits and costs per child (2002 dollars)

| | Discount rate (%) | | |
|---|---|---|---|
| | 3 | 5 | 7 |
| Program cost (net) | $35,864 | $34,599 | $33,421 |
| Program benefits | | | |
| Part. earnings | 37,531 | 16,460 | 6376 |
| Earnings of future generations | 5722 | 1586 | 479 |
| Maternal earnings | 68,728 | 48,496 | 35,560 |
| K-12 education | 8836 | 7375 | 6205 |
| Smoking/health | 17,781 | 4166 | 1008 |
| Higher education costs | −8128 | −5621 | −3920 |
| AFDC | 196 | 129 | 85 |
| Total benefits | $130,666 | $72,591 | $45,793 |
| Net present value | $94,802 | $37,992 | $12,372 |

**Reducing the Harmful Effects of Tobacco**

Tobacco tax increases offer a win-win-win solution for states as they work to balance budgets while preserving essential public services. Tobacco tax increases are one of the most effective ways to reduce smoking and other tobacco use, especially among kids. Every state that has significantly increased its cigarette tax has enjoyed substantial increases in revenue, even while reducing smoking. Higher tobacco taxes also save money by reducing tobacco-related health care costs, including Medicaid expenses. States can realize even greater health benefits and cost savings by allocating some of the revenue to programs that prevent children from smoking and help smokers quit.

National and state polls consistently have found overwhelming public support for tobacco tax increases. Polls also show that, when it comes to balancing budgets, voters prefer raising tobacco taxes to other tax increases or cutting crucial programs such as education and public safety.

Tobacco use causes approximately $3.03 billion in annual health care expenditures in Missouri. Smoking specifically causes over $500 million in annual costs for the Missouri Medicaid program. The initiative petition would increase the tax on cigarettes by $0.50 per pack and would increase the tax on other tobacco products by 5%. By conservative estimates, those tax increases

would raise approximately $222 million in new state revenue to improve early childhood health and education programs. New state revenue is the amount of additional new revenue over the first full year after the effective date. The state will collect less new revenue to the extent that the rate increase does not apply to all cigarettes and other tobacco products held in wholesaler and retailer inventories on the effective date. This fiscal projection was derived using a price elasticity of demand for cigarettes of -0.8, even though the weight of credible academic literature suggests a conservative estimate for the price elasticity of demand for cigarettes is -0.4.

Tax increases of less than roughly 25 cents per pack or 10% of the average state pack price do not produce significant public health benefits or cost savings because the cigarette companies can easily offset the beneficial impact of such small increases with temporary price cuts, coupons, and other promotional discounting. Splitting a tax rate increase into separate, smaller increases in successive years will similarly diminish or eliminate the public health benefits and related cost savings (as well as reduce the amount of new revenues).

In addition to raising new revenue, the tax increase would have an immediate public health benefit. Each 10% cigarette price increase reduces youth smoking by 6.5%. Each 10% cigarette price increase reduces adult smoking by 2%. The total expected reduction in smoking consumption as a result of a 10% price increase is 4%. It is conservatively estimated that the initiative petition would decrease youth smoking by 6% in Missouri.

There would also be a fiscal benefit to the citizens of the state from the improved public health. As of 2014, the CDC estimated 11,000 annual average smoking-attributable deaths in Missouri. 127,500 Missouri Youth aged 0-17 are projected to die from smoking. Approximately 22.1% of Missouri adults smoke. Approximately 14.9% of Missouri high school students smoke. The average Missouri resident's state and federal tax burden from smoking-caused government expenditures is $588 per household. Approximately one of every six pregnant women smokes, a rate significantly higher than the national average. Smoking during pregnancy increases the risk for preterm delivery, stillbirth, low birth weight and Sudden Infant Death Syndrome.
In recent years, almost every state and the federal government have increased tobacco taxes. Missouri is a notable exception. The average state cigarette tax is currently $1.60 per pack, but rates vary widely from 17 cents in Missouri to $4.35 in New York. On April 1, 2009, the federal cigarette tax increased by 62 cents, to $1.01 per pack.

As of July 1, 2015, Missouri's cigarette tax was less than one-third of any of its border states: IL - $ 1.98; IA - $1.36; KS - $1.29; AR - $1.15; OK - $1.03; NE - $0.64; TN - $0.62; KY - $0.60. Moreover, Missouri's 17-cent per pack tax on cigarettes is the lowest in the country. The real value of the cigarette tax is decreasing. As a percentage of the overall Missouri State Budget, Missouri's tobacco taxes have decreased from 1.036% in 2000 to 0.464% in 2015. See MO Executive Budget Books & MO Office of Administration.



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Every day 3,000 kids try their first cigarette and another 700 kids become regular smokers. There are more than 250 thousand new underage smokers each year. One third will eventually die from their addiction. Smoking has declined in every state where the tobacco tax has been increased.

Ongoing reductions in state smoking levels will, over time, gradually erode state cigarette tax revenues (in the absence of any new rate increases). But those declines are more predictable and less volatile than many other state revenue sources, such as state income tax or corporate tax revenues (which can drop sharply during recessions). In addition, the smoking declines that reduce tobacco tax revenues will simultaneously produce much larger reductions in government and private sector smoking-caused costs. See the Campaign for Tobacco-Free Kids factsheet, *Tobacco Tax Increases are a Reliable Source of Substantial New State Revenue*, http://tobaccofreekids.org/research/factsheets/pdf/0303.pdf.

For other ways states can increase revenues (and promote public health) other than just raising its cigarette tax, see the Campaign factsheet, *The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

For more on sources and calculations, see http://www.tobaccofreekids.org/research/factsheets/pdf/0281.pdf

**Additional Information on Tobacco Product Tax Increases**

*Raising State Cigarette Taxes Always Increases State Revenues and Always Reduces Smoking*, http://tobaccofreekids.org/research/factsheets/pdf/0098.pdf.

*Responses to Misleading and Inaccurate Cigarette Company Arguments Against State Tobacco Tax Increases*, http://tobaccofreekids.org/research/factsheets/pdf/0227.pdf.

*State Cigarette Excise Tax Rates & Rankings*, http://tobaccofreekids.org/research/factsheets/pdf/0097.pdf.

*Top Combined State-Local Cigarette Tax Rates (State plus County plus City)*, http://tobaccofreekids.org/research/factsheets/pdf/0267.pdf.

*State Cigarette Tax Increases Benefit Lower-Income Smokers and Families*, http://tobaccofreekids.org/research/factsheets/pdf/0147.pdf.

*The Best Way to Tax Smokeless Tobacco*, http://tobaccofreekids.org/research/factsheets/pdf/0282.pdf.

*How to Make State Cigar Tax Rates Fair and Effective*, http://tobaccofreekids.org/research/factsheets/pdf/0335.pdf.



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*State Benefits from Increasing Smokeless Tobacco Tax Rates*, http://tobaccofreekids.org/research/factsheets/pdf/0180.pdf.

*The Case for High-Tech Cigarette Tax Stamps*, http://tobaccofreekids.org/research/factsheets/pdf/0310.pdf.

*State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion*, http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf.

*The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

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Sincerely,

Edward D. Greim
Partner, Graves Garrett, LLC



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Tom Kruckemeyer
Missouri Budget Project
3534 Washington Ave
St. Louis, Missouri 63103

August 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

To Whom It May Concern:

I currently work as the Director of Fiscal Policy and Chief Economist at the Missouri Budget Project, a nonprofit, objective, public policy analysis organization that provides independent research on complex state policy issues and how they impact the state budget. I hold a B.A. in Economics and History and an M.A. in Economics from the University of Missouri-St. Louis. I also hold an M.A. Political Science from the University of Missouri-Columbia. I worked in the Missouri Division of Budget from 1978 to 2004, where I served as the chief economist. In the course of both my positions at the Missouri Division of Budget as well as my current position, I have routinely projected the fiscal impact of tax changes.

In my experience, it is a conservative, generally accepted practice to project the revenue generated from a proposed cigarette tax by estimating an average price per cigarette (or price per pack), estimating a uniform price elasticity of demand, and to assume that the tax will result in a penny-for-penny increase in the cost of cigarettes.

Upon information and belief, the Office of Administration usually estimates the price elasticity of demand for cigarettes as -0.8. This estimate means that a 10% increase in the cost of cigarettes results in an 8% reduction in the quantity of cigarettes sold. A price elasticity of demand of -0.8 is a conservative but reasonable estimate for the price elasticity of demand of a product such as cigarettes. Notably, even with a 50 cent increase in Missouri's cigarette tax, Missouri's cigarette tax will remain lower than many of its contiguous states, in particular the states that border major metropolitan areas, Illinois and Kansas.

Additionally, the Office of Administration's method for estimating cigarette tax revenue is conservative because it assumes a penny-for-penny price increase in the cost of cigarettes as a result of the tax. In practice, whether the entire tax increase will result in a 50 cent increase in the prices of cigarettes is unknown because the market for cigarettes is competitive. Moreover, regardless of whether the Office of Administration estimates that the demand for cigarettes will remain flat or decrease due to societal trends, the overall fiscal impact is largely the same. An estimate of the decrease in future tax collections due to decreased smoking from societal trends is not essential to the findings in the fiscal note that this particular tax will result in a net increase to state revenue with no net cost to local governments.

If the Office of Administration decides to use the same assumptions in projecting the revenue for other tobacco products ("OTP") as it does for cigarettes, it is my opinion that the resulting collection estimate would be conservative but appropriate. Recent trends suggest that the revenue generated from the tax on other tobacco products is increasing.

Based on generally accepted methods for estimating the fiscal impact of a proposed tax, I estimate that the phased-in 50 cent cigarette tax increase will result in approximately 90 million dollars of revenue in calendar years 2017 and 2018. I estimate that the cigarette tax will result in approximately 150 million dollars of revenue in calendar years 2019 and 2020. I estimate that the cigarette tax will result in approximately 206 million dollars of revenue in calendar year 2021. In comparison, I estimate that an immediate 50 cent cigarette tax increase will result in approximately 214 million dollars of revenue in calendar year 2017. These estimates assume a 1% yearly reduction in the state's smoking level. I estimate the 5% increase in the tax on non-cigarette tobacco products will result in approximately 8 million dollars of revenue annually. There may be a small decrease in revenue collection for each phase of the additional tax due to lags associated with the implementation and collection of taxes.

These taxes are expected to result in limited implementation costs to the state. The costs associated with administering the Early Childhood Education and Health Trust Fund will primarily be borne by the Trust Fund. Nonetheless it is proper and reasonable to consider additional costs of administering the cigarette tax increase, which may include fixed costs like salaries as well as additional marginal costs, such as costs associated with stamping cigarettes. All state government costs are estimated to be offset by additional revenue increases.

Local governments will receive revenue from the tax to offset any potential decrease in local tax revenue. Based on a price elasticity of demand of -0.8, local revenue may decrease, but any such decrease will be by an amount less than $500,000. By any reasonable estimate, 3% of the Early Childhood Education and Health Trust Fund will exceed the decrease in revenue associated with local tobacco taxes. Accordingly, any such decrease will be offset as a result local revenue from the transfer of funds to localities with local tobacco taxes. Additionally, while direct local revenue is zero, there are positive indirect effects the may result in additional revenue to local governments.

Sincerely,

/s/

Tom Kruckemeyer
Director of Fiscal Policy & Chief
Economist, Missouri Budget Project

The State Auditor's office did not receive a response from the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College**.

**Fiscal Note Summary**

Estimated additional revenue to state government is $200 million to $222 million annually, with limited estimated implementation costs. The revenue will fund only programs and services allowed by the proposal. The fiscal impact to local governmental entities is unknown.

16-082

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

August 19, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Edward Greim regarding a proposed statutory amendment to Chapters 210, 196, & 149, version 2 (2016-082)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Edward Greim on August 19, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

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AUG 19 2015
STATE AUDITORS OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-082

County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

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SECRETARY OF STATE

I am at least 18 years of age. I do □ do not □ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Address of Affiant

_____
Printed Name of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My commission expires _____

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NOTICE: You are advised that the proposed law changes, repeals, or modifies by implication, or may be construed to change, repeal or modify by implication, the following provisions of the Missouri Revised Statutes — Sections 66.340, 66.350, 149.015, 149.021, 149.065, 149.160, 196.1003, 210.102, and 210.320. The proposed law enacts two new sections, to be known as sections 149.017 and 149.161.

*Be it enacted by the people of the State of Missouri:*

Sections 210.102 and 196.1003 of the Revised Statutes of Missouri are amended and sections 149.017 and 149.161 are enacted, to read as follows:

210.102. 1. Sections 149.017 and 149.161, and certain amendments to 196.1003 and 210.102, shall be referred to as the Early Childhood Health and Education Act, with the purpose of supporting and improving early childhood health and education through regulation of tobacco manufacturers and sellers. This Act:

(1) Creates the Early Childhood Health and Education Trust Fund in order to support and improve early childhood health and education across the state;

(2) Reforms the Coordinating Board for Early Childhood to administer the Early Childhood Health and Education Trust Fund and provide grants that support and improve early childhood health and education; and

(3) Funds the Early Childhood Health and Education Trust Fund through increased regulations on tobacco manufacturers and sellers.

All of the provisions of this act are severable. If any provision of this act is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this act shall be and remain valid and in full force and effect.

2. It shall be the duty of the Missouri children's services commission to:

(1) Make recommendations which will encourage greater interagency coordination, cooperation, more effective utilization of existing resources and less duplication of effort in activities of state agencies which affect the legal rights and well-being of children in Missouri;

(2) Develop an integrated state plan for the care provided to children in this state through state programs;

(3) Develop a plan to improve the quality of children's programs statewide. Such plan shall include, but not be limited to:

(a) Methods for promoting geographic availability and financial accessibility for all children and families in need of such services;

(b) Program recommendations for children's services which include child development, education, supervision, health and social services;

(4) Design and implement evaluation of the activities of the commission in fulfilling the duties as set out in this section;

(5) Report annually to the governor with five copies each to the house of representatives and senate about its activities including, but not limited to the following:

(a) A general description of the activities pertaining to children of each state agency having a member on the commission;

(b) A general description of the plans and goals, as they affect children, of each state agency having a member on the commission;

(c) Recommendations for statutory and appropriation initiatives to implement the integrated state plan;

(d) A report from the commission regarding the state of children in Missouri.

[2.]3. For years ending on or before December 31, 2016, [There is hereby established within the children's services commission] the "Coordinating Board for Early Childhood", which shall constitute a body corporate and politic, shall be established within the children's services commission, and shall include but not be limited to the following members:

(1) A representative from the governor's office;

(2) A representative from each of the following departments: health and senior services, mental health, social services, and elementary and secondary education;

(3) A representative of the judiciary;

(4) A representative of the family and community trust board (FACT);

(5) A representative from the head start program;

(6) Nine members appointed by the governor with the advice and consent of the senate who are representatives of the groups, such as business, philanthropy, civic groups, faith-based organizations, parent groups, advocacy organizations, early childhood service providers, and other stakeholders. The coordinating board may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers. The coordinating board shall elect from amongst its members a chairperson, vice chairperson, a secretary-reporter, and such other officers as it deems necessary. Members of the board shall serve without compensation but may be reimbursed for actual expenses necessary to the performance of their official duties for the board.

4. Beginning on January 1, 2017, the coordinating board for early childhood, which shall constitute a body corporate and politic, shall be established within the department of elementary and secondary education and shall include the following members:

(1) The director or the director's designee from each of the following departments: health and senior services, mental health, and

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social services;

(2) The commissioner or the commissioner's designee from the department of elementary and secondary education;

(3) Two members of the Missouri general assembly. One member shall be the chairman of the joint committee on education. One member shall be a member of the joint committee on education, shall be from a different party and different legislative chamber than the chairman of the joint committee on education, and shall be appointed by the elected leader, either the speaker of the house of representatives or the president pro tempore of the senate, of the member's legislative chamber;

(4) The director of the Missouri head start-state collaborative office;

(5) Six citizens, representing each of the following areas: early childhood education and development providers, local head start agencies, higher education, business, faith, and medicine. The Governor shall appoint, with the advice and consent of the senate, the three citizens representing the areas of medicine, business, and higher education. The state board of education shall appoint the citizens representing the areas of early childhood education and development providers, local head start agencies, and faith.

Citizens appointed under subdivision (5) shall serve a term of three years. Such citizens shall be eligible to serve two terms. Such citizens that serve a partial term of less than eighteen months shall be eligible to serve the partial term and two full terms. Such citizens that serve a partial term of more than eighteen months shall be eligible to serve the partial term and one full term.

[3.]5. The coordinating board for early childhood shall have the power to:

(1) Develop a comprehensive statewide long-range strategic plan for a cohesive early childhood system. The board shall review the plan each year and make amendments to the plan as it deems necessary. The board shall submit the plan to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of 2018 and each year thereafter;

(2) Confer with public and private entities for the purpose of promoting and improving the development of children from birth through age five of this state;

(3) Identify legislative recommendations to improve services for children from birth through age five;

(4)Promote coordination of existing services and programs across public and private entities;

(5) Promote research-based approaches to services and ongoing program evaluation;

(6) Identify service gaps and advise public and private entities on methods to close such gaps;

(7) Apply for and accept gifts, grants, appropriations, loans, or contributions to the coordinating board for early childhood fund from any source, public or private, and enter into contracts or other transactions with any federal or state agency, any private organizations, or any other source in furtherance of the purpose of subsections 3 through 15[2 and 3] of this section, and take any and all actions necessary to avail itself of such aid and cooperation;

(8) Direct disbursements and grants from the coordinating board for early childhood fund and the early childhood health and education trust fund as provided in this section;

(9) Administer the coordinating board for early childhood fund and the early childhood health and education trust fund [and invest any portion of the moneys not required for immediate disbursement in obligations of the United States or any agency or instrumentality of the United States, in obligations of the state of Missouri and its political subdivisions, in certificates of deposit and time deposits, or other obligations of banks and savings and loan associations, or in such other obligations as may be prescribed by the board];

(10) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal with real or personal property or any interests therein, wherever situated;

(11) Sell, convey, lease, exchange, transfer or otherwise dispose of all or any of its property or any interest therein, wherever situated;

(12) Employ and fix the compensation of an executive director and such other agents or employees as it considers necessary;

(13) Adopt, alter, or repeal by its own bylaws, rules, and regulations governing the manner in which its business may be transacted;

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(14) Adopt and use an official seal;

(15) Assess or charge fees as the board determines to be reasonable to carry out its purposes;

(16) Make all expenditures which are incident and necessary to carry out its purposes;

(17) Sue and be sued in its official name;

(18) Take such action, enter into such agreements, and exercise all functions necessary or appropriate to carry out the duties and purposes set forth in this section;

(19) Contract with one or more not-for-profits to meet the requirements of this section;

(20) Provide technical assistance to grantees;

(21) Coordinate with parents, community leaders, local governments, and public and private entities to improve the quality of and increase access to early childhood development programs in communities throughout the state; and

16-082

(22) Pursue public and private partnership opportunities that are consistent with the objectives of subsection 6 of this section.

6. Any grants awarded by the coordinating board for early childhood shall accomplish one or more of the following objectives:

(1) Increasing access to existing quality early childhood development programs;

(2) Improving the quality of early childhood development programs;

(3) Increasing access to preventive health care and health and developmental screenings for children ages birth through five;

(4) Offering parent and family support and education concerning prenatal development, early child development, numeracy, and literacy;

(5) Providing professional development and training for early childhood development providers;

(6) Increasing coordination of early childhood development programs and public information about the importance of early childhood development;

(7) Providing evidenced-based smoking cessation programs for pregnant mothers.

7. The coordinating board for early childhood shall consider the following nonexclusive factors when awarding grants as provided in this section:

(1) Whether the project or activities will improve outcomes for children ages birth through five, consistent with the objectives of this section;

(2) Whether the project or activity leverages matching dollars;

(3) Whether the project or activity addresses needs identified by the local community; and

(4) The sustainability of the project or activity.

8. The coordinating board for early childhood shall establish accountability and audit requirements for all grant recipients, including requirements that success be measured by outcomes for children and families.

9. It shall be the duty of the coordinating board for early childhood to:

(1) Establish and maintain a conflict of interest policy for its members and staff;

(2) Prepare an annual report describing the activities of the board and a description of outcomes for children and families achieved by the board and grant recipients, including a list of all grant recipients and the amount of any grants awarded to such recipients. The board shall submit the report to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of each year, beginning in 2019, and shall provide a copy of the report to the secretary of state; and

(3) Ensure a fair and equitable distribution of funds collected as provided under sections 149.017 and 149.161 based on the established residency population of children ages birth through five.

10. There is hereby created the "Coordinating Board for Early Childhood Fund" which shall consist of the following:

(1) Any moneys appropriated by the general assembly for use by the board in carrying out the powers set out in subsections 3 through 9[2 and 3] of this section;

(2) Any moneys received from grants or which are given, donated, or contributed to the fund from any source;

(3) Any moneys received as fees authorized under subsections 3 through 9[2 and 3] of this section;

(4) Any moneys received as interest on deposits or as income on approved investments of the fund;

(5) Any moneys obtained from any other available source. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the coordinating board for early childhood fund at the end of the biennium shall not revert to the credit of the general revenue fund.

11. There is hereby created the Early Childhood Health and Education Trust Fund which shall consist of all moneys collected as provided in sections 149.017 and 149.161, less any reduction allowed in section 149.021. Interest and moneys earned on the fund shall be credited to the fund.

12. No more than eight percent of the moneys received by the early childhood health and education trust fund shall be used for administrative expenses. Eligible administrative expenses shall include only those reasonable and necessary for:

(1) Salaries, fringe benefits, expenses, and equipment of staff employed by the coordinating board for early childhood;

(2) Expenses associated with cost sharing of salaries, fringe benefits, expenses, and equipment of staff employed or contracted by the coordinating board for early childhood from any other state department or agency of the state;

(3) Expenses of the coordinating board for early childhood associated with contracting with not-for-profit entities;

(4) Expenses of the coordinating board for early childhood associated with audits and outcome evaluations of programs and activities funded under this section;

(5) Expenses of grantees associated with meeting administrative requirements of grants established by the coordinating board for early childhood;

K6-082

No more than 40% of administrative expenses shall be expended on items (1) through (4) of this subsection.

13. Moneys in the funds may be invested by the state treasurer, and any income therefrom shall be deposited to the credit of the fund. Any moneys credited to and placed in the early childhood health and education trust fund shall be appropriated and used only for purposes which are authorized by this section and shall not be subject to the provisions of section 33.080.

14. The net proceeds from the moneys collected as provided in sections 149.017 and 149.161 shall constitute new and additional funding for the activities, initiatives, and programs funded by the coordinating board for early childhood and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

15. Beginning January 1, 2017, the department of elementary and secondary education and the coordinating board for early childhood may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This subsection and chapter 536 are nonseverable from one another, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017 shall be invalid and void.

149.017. 1. In addition to the tax levied upon the sale of cigarettes in this state pursuant to section 149.015, a tax shall be levied upon the sale of cigarettes applied as follows:

(A) Beginning January 1, 2017, a tax at an amount equal to ten mills per cigarette;

(B) Beginning January 1, 2019, an additional tax at an amount equal to seven and one-half mills per cigarette; and,

(C) Beginning January 1, 2021, an additional tax at an amount equal to seven and one-half mills per cigarette.

2. The tax shall be evidenced by stamps in the same manner as cigarettes stamped pursuant to sections 149.015 and 149.021. Stamped cigarettes in the possession of a wholesaler or retailer before any phase of the additional tax under subsection 1 of this section is imposed, shall not be subject to such phase of the additional tax before retail sale.

3. The tax on any cigarettes contained in packages of four, ten, twenty or similar quantities to be used solely for distribution as samples shall be computed on a per cigarette basis at the rate set forth in this section, and payment of the tax shall be remitted to the director at such time and in such manner as he may prescribe.

4. The provisions of section 149.065 notwithstanding, all moneys collected as a result of the taxes imposed by this section and section 149.161 shall be credited to and placed in the early childhood health and education trust fund established by section 210.102 as said moneys are received. All of the moneys from the taxes imposed by this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the early childhood health and education trust fund.

5. The additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section and section 149.161 may be paid from moneys appropriated from the early childhood health and education trust fund for that purpose, not to exceed one and one half of one percent (1.5%) of the total moneys collected in that fiscal year. Collection and enforcement activities and initiatives that are paid for with moneys from the early childhood health and education trust fund shall be conducted in a fiscally responsible manner in order to maximize the net proceeds available for distribution pursuant to section 210.102. Moneys appropriated from the early childhood health and education trust fund pursuant to this subdivision shall not be used to pay costs that are not additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section;

6. The net proceeds from the taxes imposed by this section and section 149.161 shall constitute new and additional funding for the activities, initiatives, and programs described in section 210.102 and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

7. On an annual basis, the director of the department of revenue, in consultation with the director of health and senior services, shall determine whether the taxes imposed by this section and section 149.161 have resulted in a decrease in consumption of tobacco products and thereby directly caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320. If a reduction in the amount of moneys collected and deposited into any of those funds pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320, has been directly caused by the taxes imposed by this section and section 149.161, an amount equal to the amount of moneys that were not collected and deposited into that fund or funds or were not generated by the local tobacco taxes authorized by sections 66.340 and 210.320 because of the taxes imposed by this section and section 149.161 shall be transferred from the early childhood health and education trust fund pursuant to section 210.102 as follows: first, to the appropriate political subdivisions, and second to the appropriate fund or funds. The aggregate amount transferred to such funds and political subdivisions from the early childhood health and education trust fund for any year shall not exceed three percent of the total moneys collected pursuant to this section and section 149.161 during that same year.

149.161. Beginning on January 1, 2017, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, a tax shall be levied upon the first sale of tobacco products other than cigarettes within this state in the amount of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. The tax on tobacco products shall be at the rate of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. Licensed persons making first sales shall be allowed credit in accordance with the provisions of section 149.160.1. The additional tax levied by this section shall not apply to inventories of tobacco products in the possession of the retailer or wholesaler on December 31, 2016.

196.1003. Requirements.

Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this Act shall do one of the following:

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(a) become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

(b) (1) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts, (as such amounts are adjusted for inflation) —
1999: $.0094241 per unit sold after the date of enactment of this Act;
2000: $.0104712 per unit sold;
for each of 2001 and 2002: $.0136125 per unit sold;
for each of 2003 through 2006: $.0167539 per unit sold;
for each of 2007 and each year thereafter: $.0188482 per unit sold.

(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances —

(A) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (i) in the order in which they were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment) had it been a participating manufacturer, the percentage determined in subdivision (D) of the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(C) to the extent not released from escrow under subparagraphs (A) or (B), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

(D) The amount in subdivision (B) of the excess released from escrow shall be: for units sold during the year ending on December 31, 2017, eighty percent; for units sold during the year ending on December 31, 2018, sixty percent; for units sold during the year ending on December 31, 2019, forty percent; for units sold during the year ending on December 31, 2020, twenty percent; for units sold during all years ending on or after December 31, 2021, zero percent.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails [in any year] to place into escrow the funds required under this section shall

(A) be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;

(B) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

(C) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years.

Each failure to make an annual deposit required under this section shall constitute a separate violation. Any tobacco product manufacturer that violates the provisions of this section shall pay the State's cost and attorney's fees incurred during a successful prosecution under this section.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-082)**

**Subject**

Initiative petition from Edward Greim regarding a proposed amendment to Chapters 149, 196, and 210 of the Revised Statutes of Missouri. (Received August 19, 2015)

**Date**

September 8, 2015

**Description**

This proposal would amend Chapters 149, 196, and 210 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Edward Greim** provided information as a proponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

The proposal amends Section 196.1003, RSMo, enacted pursuant to the State's tobacco settlement agreement. Amending this section has the potential to lead to litigation threatening the State's tobacco settlement payments, with potential unknown costs.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** (DESE) indicated the proposal appears to provide for an increase in the tax levied upon the sale of cigarettes. All moneys collected shall be credited to and placed in the early childhood health and education trust fund. The proposal also appears to create the coordinating board for early childhood within the department of elementary and secondary education. With restrictions, proceeds from the additional cigarette tax would provide for the operations of the coordinating board. Our department has no means to calculate the potential of these proceeds. Any funds would be additional monies to early childhood education.

Officials from the **Department of Higher Education** indicated this initiative petition would have no impact on their department.

Officials from the **Department of Health and Senior Services** (DHSS) indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated their department would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** (DOR) indicated this petition will have a fiscal impact of $75,006 for FY 2017 on their department, creating additional expense for IT consultants.

**Section 149.017**
Beginning January 1, 2017, the petition increases the tax on cigarettes by 10 mills per cigarette ($0.20 per pack of 20). Beginning January 1, 2019, the petition applies an additional tax of seven and one-half mills per cigarette ($0.15 per pack of 20). Finally, beginning on January 1, 2021, the legislation increases the tax an additional seven and one-half mills per cigarette ($0.15 per pack of 20). The resultant tax increase at the end of the phase-in period is 50 cents per pack of 20 cigarettes.

Stamped cigarettes in inventory prior to the effective dates of the increase and in possession of a wholesaler or retailer are not subject to the additional tax before retail sale. The petition also allows for up to a one and one-half percent collection fee of the total revenues collected in a fiscal year.

The legislation requires the Department, in consultation with the Department of Health & Senior Services, to annually determine if the taxes result in a decrease in consumption of tobacco products. The Departments must further determine if there are reductions in the revenue collected and deposited into the fair share fund, health initiatives fund, the state school moneys fund, or local tobacco taxes.

**Section 149.161**
Beginning on January 1, 2017, this section, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, levies a five percent tax upon the first sale of tobacco products other than cigarettes within this state. The legislation bases the five percent increase on the manufacturer's invoice price before discounts and deals. The person making the first sale within the state pays the tax. The additional tax shall not apply to inventories of tobacco products in possession of the wholesaler or retailer before January 1, 2017.

**Section 196.1003**
This section reduces the amount of the excess released from escrow as follows:

For units sold during the year ending on December 31, 2017 - 80 percent;
For units sold during the year ending on December 31, 2018 - 60 percent;
For units sold during the year ending on December 31, 2019 - 40 percent;
For units sold during the year ending on December 31, 2020 - 20 percent;
For units sold during all years ending on or after December 31, 2021, zero percent.

**Section 210.102**
This section creates the Early Childhood Health & Education Act. Beginning in 2017, the Coordinating Board for Early Childhood becomes a body corporate and politic under the purview of the Department of Elementary & Secondary Education. Subsection 11 creates

the Early Childhood Health & Education Trust Fund and consists of revenues collected under sections 149.017 and 149.171, less any reduction allowed in section 149.021.

**Administrative Impact:**

**Excise Tax:**

The Early Childhood Health & Education Trust Fund requires changes to the SAGE 50 accounting system and cashiering records. The legislation also creates the requirement for a new form.

Officials from the **Department of Public Safety** indicated their department sees no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office. They assume DESE will cover any expenses of the one House member serving on the Coordinating Board for Early Childhood.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** (OA) indicated the proposal amends Sections 210.102 and 196.1003, RSMo, and adds Sections 149.017 and 149.161, RSMo.

Section 210.102, RSMo, moves the Coordinating Board for Early Childhood from the Children's Services Commission to DESE, effective January 1, 2017, changes the board membership and provides further guidance on funding and operations for the Board.

Section 149.017, RSMo, increases the cigarette tax by 10 mills per cigarette on 1/1/2017, another 7 ½ mills on 1/1/2019 and another 7 ½ mills 1/1/2021. Section 149.161, RSMo, levies an additional 5% tax on other tobacco products beginning 1/1/2017. These monies will go to the Early Childhood Health and Education Trust (ECHET) Fund established in Section 210.102, RSMo. DOR and DHSS must annually determine whether the new taxes have caused a reduction in consumption and therefore a reduction in the amount of money collected for the Fair Share Fund, the Health Initiatives Fund or the State School Moneys Fund and for local tobacco taxes. If a reduction in consumption is found, then up to 3% of the new revenue collected is to be distributed to the various funds and political subdivisions from the ECHET Fund to hold them harmless.

Section 196.1003, RSMo, changes escrow requirements for the tobacco Master Settlement Agreement, with provisions to direct potential civil penalties to the ECHET Fund. Because this language changes what was previously approved as a "qualifying

statute", it could adversely impact future Nonparticipating Manufacturer (NPM) adjustment arbitrations.

FISCAL IMPACT:

Cigarette Tax (Section 149.017)
In fiscal year (FY) 15, there was $81.7 million in cigarette excise taxes collected. OA assumes that the average pack of cigarettes retails for $4.50, translating to roughly 480.9 million packs sold in Missouri. OA further assumes that cigarette sales have a (0.8) elasticity. Therefore, OA estimates:

- The first tax increase of 10 mills per cigarette in January 2017 will increase the "Early Childhood Health and Education Trust Fund" by $45.0 million in FY17 and $90.1 million in FY18.
- The second tax increase of an additional 7.5 mills per cigarette in January of 2019 will increase the "Early Childhood Health and Education Trust Fund" by $121.94 million in FY19 and $153.8 million in FY20.
- The third tax increase of an additional 7.5 mills per cigarette in January of 2021 will increase the "Early Childhood Health and Education Trust Fund" by $184.1 million in FY21 and $214.4 million in FY22 and thereafter.

There is no way to truly know what impact these tax increases will have on demand due to smoking cessation efforts, other state and federal regulations, and the increase in sales of e-cigarettes. However, OA estimates:

- The first tax increase will decrease the Fair Share Fund by $0.3 million in FY17 and $0.7 million in FY18, the Health Initiatives Fund by $0.3 million in FY17 and $0.7 million in FY18, and the State School Moneys Fund by $0.7 million in FY17 and $1.5 million in FY18.
- The second tax increase will decrease the Fair Share Fund by $0.9 million in FY19 and $1.1 million in FY20, the Health Initiatives Fund by $0.9 million in FY19 and $1.1 million in FY20, and the State School Moneys Fund by $2.0 million in FY19 and $2.5 million in FY20.
- The third tax increase will decrease the Fair Share Fund by $1.3 million in FY21 and $1.6 million in FY22 and thereafter, the Health Initiatives Fund by $1.3 million in FY21 and $1.6 million in FY22 and thereafter, and the State School Moneys Fund by $3.0 million in FY21 and $3.5 million in FY22 and thereafter.

Further, since cigarette sales will decrease slightly, General Revenue will be reduced by $5.1 million, the School District Trust Fund will be reduced by $1.7 million, and local sales tax will be reduced by $7.2 million once fully implemented in FY22, from the loss of sales tax.

Other Tobacco Products (Section 149.161)
In FY15, there was $17.7 million in other tobacco product excise taxes collected. OA assumes that the average unit retails for $4.09, translating to roughly $176.9 million in wholesales in Missouri. OA further assumes that other tobacco product sales have a (0.8) elasticity. Therefore, OA estimates this proposal will increase the "Early Childhood

Health and Education Trust Fund" by $4.0 million in FY17 and $7.9 million once fully implemented in FY18.

There is no way to truly know what impact this tax increase will have on demand due to cessation efforts, other state, federal, and local regulations, and the introduction of alternative products. However, OA estimates that this tax increase will decrease the Health Initiatives Fund by $0.3 million in FY17 and $0.6 million once fully implemented in FY18.

Further, since other tobacco product sales will decrease slightly, General Revenue will be reduced by $190,000, the School District Trust Fund will be reduced by $62,000, and local sales tax will be reduced by $260,000 once fully implemented in FY18, from the loss of sales tax.

Master Settlement Agreement (Section 196.1003)
The escrow changes should not impact state revenues. When civil penalties are redirected to the ECHET Fund, it would be an unknown loss of potential general revenue to the state.

Total Impact
This proposal will increase the "Early Childhood Health and Education Trust Fund" by $222.3 million once fully implemented in FY22. This proposal will also decrease the Fair Share Fund by $1.6 million, the Health Initiatives Fund by $2.2 million, and the State School Moneys Fund by $3.5 million once fully implemented in FY22.

In addition, due to lost sales tax revenue, General Revenue will be reduced by $5.3 million, the School District Trust Fund will be reduced by $1.8 million, and local sales tax will be reduced by $7.5 million once fully implemented in FY22.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an

average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated the initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated that there are no estimated costs or savings to report from their county for this initiative petition.

Officials from **Jasper County** indicated no appreciable effect on county government.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

**Edward Greim** provided the following information as a proponent of this initiative petition.

Graves Garrett LLC

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August 28, 2015

Missouri State Auditor's Office
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Re: *Fiscal Note in Initiative Petitions 81, 82, 85 & 86*

To Whom It May Concern:

Based on the information contained in this letter and the attached letter from Tom Kruckemeyer, we propose the following fiscal note summary:

> Estimated additional revenue to state government is $98 million to $214 million annually with limited estimated implementation costs or savings. The revenue will fund only programs and services allowed by the proposal. The proposal is estimated to result in no net costs or savings to local governmental entities.

**Introduction**

The initiative allows 460,000 children to receive the early health screenings they need to grow and thrive and the early childhood development experiences that will prepare them for long-term educational success. These programs have important trickle-down effects that result in increased revenue and decreased costs at the state and local level. The initiative is accomplished by funding grants across the state to improve early childhood health and education. Funding for grants is provided by a tobacco tax, conservatively resulting in $214 million in direct state revenue, while yielding important public health benefits.

**Early Childhood Delivers Big Benefits**

Missouri enrolls fewer children in its state preschool program than any neighboring state, and funding for programs like Parents as Teachers has been slashed in half. All Missourians benefit

from investments in early childhood education: children start school ready to succeed; parents are able to keep good jobs and earn higher incomes; and taxpayers save money because early childhood education lowers drop-out rates, reduces crime and cuts the cost of social services. Despite clear evidence showing investing in early learning is one of the smartest investments we can make, year after year we battle with the Missouri General Assembly to fund quality early childhood education. Missouri is the 38th worst state for public pre-K funding. In 2012, the General Assembly cut $13.2 million from early childhood programs, and Parents as Teachers remains $19 million behind its 2009 funding.

Traditional thought has long emphasized the relationship between early childhood education and academic success, but researchers now are finding that preschool does not have a substantial effect on increasing IQs but rather develops a child's "soft skills" and can have a profound effect on adult earning potential especially for disadvantaged kids.

Evidence shows that non-cognitive skills matter. Through activities like finger painting, playing with blocks, and interacting with other students, children learn how to control impulses, keep anger in check, stay on task, listen and follow curiosity. These soft skills are basic, but important tools needed to learn, find and keep a job and just manage everyday life. Most children gain these skills at home from their parents, but disadvantaged kids often miss the window of opportunity, which are the critical years before Kindergarten.

A literature of empirical evidence shows strong outcome effects for kids who attend pre-school. Using cost-benefit analyses, researchers have found a link between preschool attendance and reduced crime, fewer teen pregnancies, higher rates of college attendance and less need for public assistance. Cost-benefit studies show that pre-school provides the best value and produces more net benefits to society than increased classroom time or job training programs.

*Evidence from the Perry Preschool Program*

The most widely cited early childhood intervention occurred in Ypsilanti, Michigan during the 60s. Children with low IQ scores and a low socioeconomic index were invited to participate in the Perry Preschool Program. Using a coin toss, researchers divided students into two groups, a treatment group and a control group. Starting at age three the "treatment" kids got 2.5 hours of preschool a day and weekly home visits for two years. The "control" kids did not participate in either of the services. Researchers interviewed both groups at ages 15, 19, 27 and 40 and asked them questions about life events like school, work, marriage, parenting and incarceration. The following chart shows the major findings of the study.



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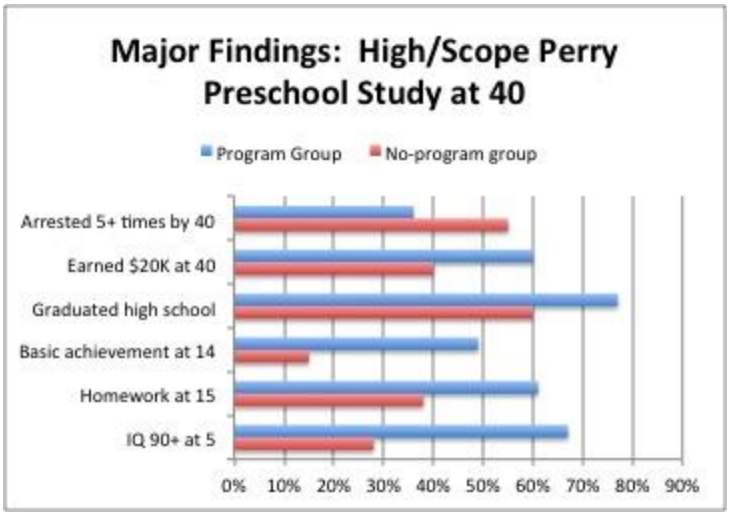


Source: Lifetime Effects: The HighScope Perry Preschool Study Through Age 40 (2005)

The pre-school girls went farther in school, earned higher GPAs, and received less special education than girls from the control group. Boys benefitted as well, but the boys who did not receive the preschool intervention were 2.3 times more likely to get arrested. The cost-savings alone from just the crime reduction demonstrated success.

With increased scrutiny over government spending, cost-benefit analysis gives policy analysts a tool to separate productive programs from ones that yield no social gains. A recent cost-benefit study that used a wider variety of assumptions and applied more rigorous accounting rules, estimated a return rate of about 7-10%. By monetizing social crime, the researchers were able to estimate that for every dollar invested in preschool, society earned back $30 to $300 dollars over the course of a lifetime (Heckman, Moon, Pinto, Savelyev, & Yavitz, 2010).

*Abecedarian and Chicago Studies*

Other studies confirmed the results of the Perry Preschool Project. The Carolina Abecedarian project in the 70s randomly assigned infants into intervention and control groups. The intervention group received full-day childcare from birth through Kindergarten. Intervention kids scored higher in reading and math, completed more education, were older when their first child was born and the mothers of intervention kids progressed farther in school and made more money than the control mothers. Intervention kids even smoked less.

A full-day five-year Pre-K program, while effective, would likely be cost-prohibitive for any state budget; however, the findings proved that early intervention does make a difference. And evidence suggests that a less expensive program could produce similar outcomes (Barnett & Masse, 2007).



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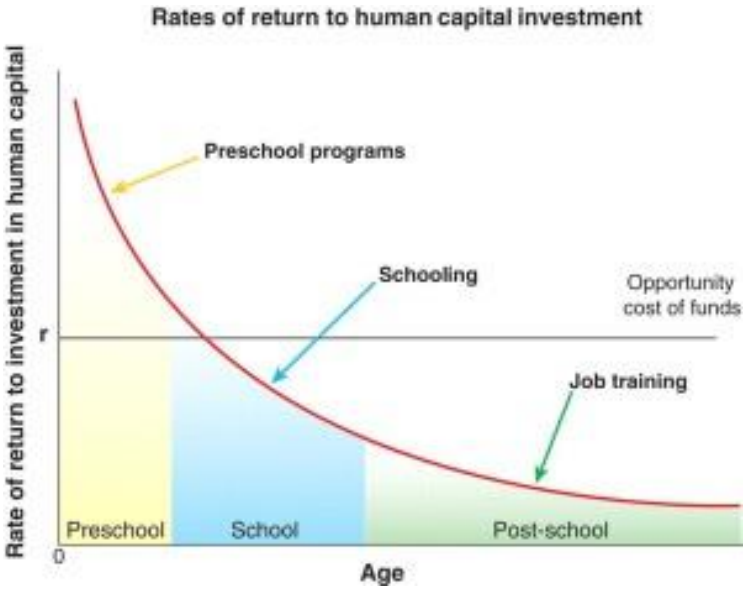
Just as Abecedarian kids earned higher wages than the control group, researchers found similar results from participants of the Chicago Child-Parent Program. The Chicago program targeted disadvantaged kids and provided a Headstart type intervention from ages three to nine. A cost-benefit analysis indicated for every dollar invested, the program produced seven in return. The largest impact was earning capacity, but Chicago kids were also less likely to need special education and less likely to commit crimes (Temple & Reynolds, 2007).

Much like with the Perry Program, the Chicago program demonstrated the relationship between early education, higher wages and crime reduction. Again it was the non-cognitive soft-skill development that made the difference. Second chance efforts like GED and job training provide fewer benefits and struggle to lift people out of poverty (Heckman & Masterov, 2007).




Source: Heckman, The Review of Agricultural Economics (2007)

What the Perry, Abecedarian and Chicago programs show is that pre-school helps kids develop soft-skills that make it easier to gain cognitive skills later and can lead to better jobs and a better quality of life. This in turn lessens the burden on government resources for remedial education, criminal justice and job-training programs.

Investing in human capital through access to finger-paints and story time may appear far-reaching, but multiple studies now point to early intervention as the cheapest, most effective way to prepare kids for the workforce and reduce crime. As labor force growth wanes and the demand for skilled workers increases, these studies suggest that a pipeline that begins at pre-school has great potential to produce big benefits to society in the long run.



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Present value of Abecedarian benefits and costs per child, (2002)

Table 1
Present value of Abecedarian benefits and costs per child (2002 dollars)

| | Discount rate (%) | | |
|---|---|---|---|
| | 3 | 5 | 7 |
| Program cost (net) | $35,864 | $34,599 | $33,421 |
| Program benefits | | | |
| Part. earnings | 37,531 | 16,460 | 6376 |
| Earnings of future generations | 5722 | 1586 | 479 |
| Maternal earnings | 68,728 | 48,496 | 35,560 |
| K-12 education | 8836 | 7375 | 6205 |
| Smoking/health | 17,781 | 4166 | 1008 |
| Higher education costs | −8128 | −5621 | −3920 |
| AFDC | 196 | 129 | 85 |
| Total benefits | $130,666 | $72,591 | $45,793 |
| Net present value | $94,802 | $37,992 | $12,372 |

**Reducing the Harmful Effects of Tobacco**

Tobacco tax increases offer a win-win-win solution for states as they work to balance budgets while preserving essential public services. Tobacco tax increases are one of the most effective ways to reduce smoking and other tobacco use, especially among kids. Every state that has significantly increased its cigarette tax has enjoyed substantial increases in revenue, even while reducing smoking. Higher tobacco taxes also save money by reducing tobacco-related health care costs, including Medicaid expenses. States can realize even greater health benefits and cost savings by allocating some of the revenue to programs that prevent children from smoking and help smokers quit.

National and state polls consistently have found overwhelming public support for tobacco tax increases. Polls also show that, when it comes to balancing budgets, voters prefer raising tobacco taxes to other tax increases or cutting crucial programs such as education and public safety.

Tobacco use causes approximately $3.03 billion in annual health care expenditures in Missouri. Smoking specifically causes over $500 million in annual costs for the Missouri Medicaid program. The initiative petition would increase the tax on cigarettes by $0.50 per pack and would increase the tax on other tobacco products by 5%. By conservative estimates, those tax increases

would raise approximately $214 million in new state revenue to improve early childhood health and education programs. New state annual revenue is the amount of additional new revenue over the first full year after the effective date of all phases of the additional tax. The state will collect less new revenue to the extent that the rate increase does not apply to all cigarettes and other tobacco products held in wholesaler and retailer inventories on the effective date. This fiscal projection was derived using a price elasticity of demand for cigarettes of -0.8, even though the weight of credible academic literature suggests a conservative estimate for the price elasticity of demand for cigarettes is -0.4.

Tax increases of less than roughly 25 cents per pack or 10% of the average state pack price do not produce significant public health benefits or cost savings because the cigarette companies can easily offset the beneficial impact of such small increases with temporary price cuts, coupons, and other promotional discounting. Splitting a tax rate increase into separate, smaller increases in successive years will similarly diminish or eliminate the public health benefits and related cost savings (as well as reduce the amount of new revenues).

In addition to raising new revenue, the tax increase would have an immediate public health benefit. Each 10% cigarette price increase reduces youth smoking by 6.5%. Each 10% cigarette price increase reduces adult smoking by 2%. The total expected reduction in smoking consumption as a result of a 10% price increase is 4%. It is conservatively estimated that the initiative petition would decrease youth smoking by 6% in Missouri.

There would also be a fiscal benefit to the citizens of the state from the improved public health. As of 2014, the CDC estimated 11,000 annual average smoking-attributable deaths in Missouri. 127,500 Missouri Youth aged 0-17 are projected to die from smoking. Approximately 22.1% of Missouri adults smoke. Approximately 14.9% of Missouri high school students smoke. The average Missouri resident's state and federal tax burden from smoking-caused government expenditures is $588 per household. Approximately one of every six pregnant women smokes, a rate significantly higher than the national average. Smoking during pregnancy increases the risk for preterm delivery, stillbirth, low birth weight and Sudden Infant Death Syndrome.
In recent years, almost every state and the federal government have increased tobacco taxes. Missouri is a notable exception. The average state cigarette tax is currently $1.60 per pack, but rates vary widely from 17 cents in Missouri to $4.35 in New York. On April 1, 2009, the federal cigarette tax increased by 62 cents, to $1.01 per pack.

As of July 1, 2015, Missouri's cigarette tax was less than one-third of any of its border states: IL - $ 1.98; IA - $1.36; KS - $1.29; AR - $1.15; OK - $1.03; NE - $0.64; TN - $0.62; KY - $0.60. Moreover, Missouri's 17-cent per pack tax on cigarettes is the lowest in the country. The real value of the cigarette tax is decreasing. As a percentage of the overall Missouri State Budget, Missouri's tobacco taxes have decreased from 1.036% in 2000 to 0.464% in 2015. See MO Executive Budget Books & MO Office of Administration.



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Every day 3,000 kids try their first cigarette and another 700 kids become regular smokers. There are more than 250 thousand new underage smokers each year. One third will eventually die from their addiction. Smoking has declined in every state where the tobacco tax has been increased.

Ongoing reductions in state smoking levels will, over time, gradually erode state cigarette tax revenues (in the absence of any new rate increases). But those declines are more predictable and less volatile than many other state revenue sources, such as state income tax or corporate tax revenues (which can drop sharply during recessions). In addition, the smoking declines that reduce tobacco tax revenues will simultaneously produce much larger reductions in government and private sector smoking-caused costs. See the Campaign for Tobacco-Free Kids factsheet, *Tobacco Tax Increases are a Reliable Source of Substantial New State Revenue*, http://tobaccofreekids.org/research/factsheets/pdf/0303.pdf.

For other ways states can increase revenues (and promote public health) other than just raising its cigarette tax, see the Campaign factsheet, *The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

For more on sources and calculations, see http://www.tobaccofreekids.org/research/factsheets/pdf/0281.pdf

**Additional Information on Tobacco Product Tax Increases**

*Raising State Cigarette Taxes Always Increases State Revenues and Always Reduces Smoking*, http://tobaccofreekids.org/research/factsheets/pdf/0098.pdf.

*Responses to Misleading and Inaccurate Cigarette Company Arguments Against State Tobacco Tax Increases*, http://tobaccofreekids.org/research/factsheets/pdf/0227.pdf.

*State Cigarette Excise Tax Rates & Rankings*, http://tobaccofreekids.org/research/factsheets/pdf/0097.pdf.

*Top Combined State-Local Cigarette Tax Rates (State plus County plus City)*, http://tobaccofreekids.org/research/factsheets/pdf/0267.pdf.

*State Cigarette Tax Increases Benefit Lower-Income Smokers and Families*, http://tobaccofreekids.org/research/factsheets/pdf/0147.pdf.

*The Best Way to Tax Smokeless Tobacco*, http://tobaccofreekids.org/research/factsheets/pdf/0282.pdf.

*How to Make State Cigar Tax Rates Fair and Effective*, http://tobaccofreekids.org/research/factsheets/pdf/0335.pdf.



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*State Benefits from Increasing Smokeless Tobacco Tax Rates*, http://tobaccofreekids.org/research/factsheets/pdf/0180.pdf.

*The Case for High-Tech Cigarette Tax Stamps*, http://tobaccofreekids.org/research/factsheets/pdf/0310.pdf.

*State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion*, http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf.

*The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

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Sincerely,

Edward D. Greim
Partner, Graves Garrett, LLC



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Tom Kruckemeyer
Missouri Budget Project
3534 Washington Ave
St. Louis, Missouri 63103

August 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

To Whom It May Concern:

I currently work as the Director of Fiscal Policy and Chief Economist at the Missouri Budget Project, a nonprofit, objective, public policy analysis organization that provides independent research on complex state policy issues and how they impact the state budget. I hold a B.A. in Economics and History and an M.A. in Economics from the University of Missouri-St. Louis. I also hold an M.A. Political Science from the University of Missouri-Columbia. I worked in the Missouri Division of Budget from 1978 to 2004, where I served as the chief economist. In the course of both my positions at the Missouri Division of Budget as well as my current position, I have routinely projected the fiscal impact of tax changes.

In my experience, it is a conservative, generally accepted practice to project the revenue generated from a proposed cigarette tax by estimating an average price per cigarette (or price per pack), estimating a uniform price elasticity of demand, and to assume that the tax will result in a penny-for-penny increase in the cost of cigarettes.

Upon information and belief, the Office of Administration usually estimates the price elasticity of demand for cigarettes as -0.8. This estimate means that a 10% increase in the cost of cigarettes results in an 8% reduction in the quantity of cigarettes sold. A price elasticity of demand of -0.8 is a conservative but reasonable estimate for the price elasticity of demand of a product such as cigarettes. Notably, even with a 50 cent increase in Missouri's cigarette tax, Missouri's cigarette tax will remain lower than many of its contiguous states, in particular the states that border major metropolitan areas, Illinois and Kansas.

Additionally, the Office of Administration's method for estimating cigarette tax revenue is conservative because it assumes a penny-for-penny price increase in the cost of cigarettes as a result of the tax. In practice, whether the entire tax increase will result in a 50 cent increase in the prices of cigarettes is unknown because the market for cigarettes is competitive. Moreover, regardless of whether the Office of Administration estimates that the demand for cigarettes will remain flat or decrease due to societal trends, the overall fiscal impact is largely the same. An estimate of the decrease in future tax collections due to decreased smoking from societal trends is not essential to the findings in the fiscal note that this particular tax will result in a net increase to state revenue with no net cost to local governments.

If the Office of Administration decides to use the same assumptions in projecting the revenue for other tobacco products ("OTP") as it does for cigarettes, it is my opinion that the resulting collection estimate would be conservative but appropriate. Recent trends suggest that the revenue generated from the tax on other tobacco products is increasing.

Based on generally accepted methods for estimating the fiscal impact of a proposed tax, I estimate that the phased-in 50 cent cigarette tax increase will result in approximately 90 million dollars of revenue in calendar years 2017 and 2018. I estimate that the cigarette tax will result in approximately 150 million dollars of revenue in calendar years 2019 and 2020. I estimate that the cigarette tax will result in approximately 206 million dollars of revenue in calendar year 2021. In comparison, I estimate that an immediate 50 cent cigarette tax increase will result in approximately 214 million dollars of revenue in calendar year 2017. These estimates assume a 1% yearly reduction in the state's smoking level. I estimate the 5% increase in the tax on non-cigarette tobacco products will result in approximately 8 million dollars of revenue annually. There may be a small decrease in revenue collection for each phase of the additional tax due to lags associated with the implementation and collection of taxes.

These taxes are expected to result in limited implementation costs to the state. The costs associated with administering the Early Childhood Education and Health Trust Fund will primarily be borne by the Trust Fund. Nonetheless it is proper and reasonable to consider additional costs of administering the cigarette tax increase, which may include fixed costs like salaries as well as additional marginal costs, such as costs associated with stamping cigarettes. All state government costs are estimated to be offset by additional revenue increases.

Local governments will receive revenue from the tax to offset any potential decrease in local tax revenue. Based on a price elasticity of demand of -0.8, local revenue may decrease, but any such decrease will be by an amount less than $500,000. By any reasonable estimate, 3% of the Early Childhood Education and Health Trust Fund will exceed the decrease in revenue associated with local tobacco taxes. Accordingly, any such decrease will be offset as a result local revenue from the transfer of funds to localities with local tobacco taxes. Additionally, while direct local revenue is zero, there are positive indirect effects the may result in additional revenue to local governments.

Sincerely,

/s/

Tom Kruckemeyer
Director of Fiscal Policy & Chief
Economist, Missouri Budget Project

The State Auditor's office did not receive a response from the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College**.

**Fiscal Note Summary**

When cigarette and tobacco tax increases are fully implemented, estimated additional revenue to state government is $200 million to $214 million annually, with limited estimated implementation costs and potential unknown litigation costs. The revenue will fund only programs and services allowed by the proposal. The fiscal impact to local governmental entities is unknown.

16-081

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

August 19, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Edward Greim regarding a proposed statutory amendment to Chapters 210 & 149, version 1 (2016-081)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Edward Greim on August 19, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

RECEIVED
AUG 19 2015
STATE AUDITORS OFFICE

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-081

County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

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SECRETARY OF STATE

I am at least 18 years of age. I do □ do not □ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Address of Affiant

_____
Printed Name of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My commission expires _____

16-081

NOTICE: You are advised that the proposed law changes, repeals, or modifies by implication, or may be construed to change, repeal or modify by implication, the following provisions of the Missouri Revised Statutes — Sections 66.340, 66.350, 149.015, 149.021, 149.065, 149.160, 210.102, and 210.320. The proposed law enacts two new sections, to be known as sections 149.017 and 149.161.

*Be it enacted by the people of the State of Missouri:*

Section 210.102 of the Revised Statutes of Missouri is amended and sections 149.017 and 149.161 are enacted, to read as follows:

210.102. 1. Sections 149.017 and 149.161, and certain amendments to 210.102, shall be referred to as the Early Childhood Health and Education Act, with the purpose of supporting and improving early childhood health and education through regulation of tobacco sellers. This Act:

(1) Creates the Early Childhood Health and Education Trust Fund in order to support and improve early childhood health and education across the state;

(2) Reforms the Coordinating Board for Early Childhood to administer the Early Childhood Health and Education Trust Fund and provide grants that support and improve early childhood health and education; and

(3) Funds the Early Childhood Health and Education Trust Fund through revenue derived from the sale of tobacco products.

All of the provisions of this act are severable. If any provision of this act is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this act shall be and remain valid and in full force and effect.

2. It shall be the duty of the Missouri children's services commission to:

(1) Make recommendations which will encourage greater interagency coordination, cooperation, more effective utilization of existing resources and less duplication of effort in activities of state agencies which affect the legal rights and well-being of children in Missouri;

(2) Develop an integrated state plan for the care provided to children in this state through state programs;

(3) Develop a plan to improve the quality of children's programs statewide. Such plan shall include, but not be limited to:

(a) Methods for promoting geographic availability and financial accessibility for all children and families in need of such services;

(b) Program recommendations for children's services which include child development, education, supervision, health and social services;

(4) Design and implement evaluation of the activities of the commission in fulfilling the duties as set out in this section;

(5) Report annually to the governor with five copies each to the house of representatives and senate about its activities including, but not limited to the following:

(a) A general description of the activities pertaining to children of each state agency having a member on the commission;

(b) A general description of the plans and goals, as they affect children, of each state agency having a member on the commission;

(c) Recommendations for statutory and appropriation initiatives to implement the integrated state plan;

(d) A report from the commission regarding the state of children in Missouri.

[2.]3. For years ending on or before December 31, 2016, [There is hereby established within the children's services commission] the "Coordinating Board for Early Childhood", which shall constitute a body corporate and politic, shall be established within the children's services commission, and shall include but not be limited to the following members:

(1) A representative from the governor's office;

(2) A representative from each of the following departments: health and senior services, mental health, social services, and elementary and secondary education;

(3) A representative of the judiciary;

(4) A representative of the family and community trust board (FACT);

(5) A representative from the head start program;

(6) Nine members appointed by the governor with the advice and consent of the senate who are representatives of the groups, such as business, philanthropy, civic groups, faith-based organizations, parent groups, advocacy organizations, early childhood service providers, and other stakeholders. The coordinating board may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers. The coordinating board shall elect from amongst its members a chairperson, vice chairperson, a secretary-reporter, and such other officers as it deems necessary. Members of the board shall serve without compensation but may be reimbursed for actual expenses necessary to the performance of their official duties for the board.

4. Beginning on January 1, 2017, the coordinating board for early childhood, which shall constitute a body corporate and politic, shall be established within the department of elementary and secondary education and shall include the following members:

(1) The director or the director's designee from each of the following departments: health and senior services, mental health, and social services;

16-081

(2) The commissioner or the commissioner's designee from the department of elementary and secondary education;

(3) Two members of the Missouri general assembly. One member shall be the chairman of the joint committee on education. One member shall be a member of the joint committee on education, shall be from a different party and different legislative chamber than the chairman of the joint committee on education, and shall be appointed by the elected leader, either the speaker of the house of representatives or the president pro tempore of the senate, of the member's legislative chamber;

(4) The director of the Missouri head start-state collaborative office;

(5) Six citizens, representing each of the following areas: early childhood education and development providers, local head start agencies, higher education, business, faith, and medicine. The Governor shall appoint, with the advice and consent of the senate, the three citizens representing the areas of medicine, business, and higher education. The state board of education shall appoint the citizens representing the areas of early childhood education and development providers, local head start agencies, and faith.

Citizens appointed under subdivision (5) shall serve a term of three years. Such citizens shall be eligible to serve two terms. Such citizens that serve a partial term of less than eighteen months shall be eligible to serve the partial term and two full terms. Such citizens that serve a partial term of more than eighteen months shall be eligible to serve the partial term and one full term.

[3.]5. The coordinating board for early childhood shall have the power to:

(1) Develop a comprehensive statewide long-range strategic plan for a cohesive early childhood system. The board shall review the plan each year and make amendments to the plan as it deems necessary. The board shall submit the plan to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of 2018 and each year thereafter;

(2) Confer with public and private entities for the purpose of promoting and improving the development of children from birth through age five of this state;

(3) Identify legislative recommendations to improve services for children from birth through age five;

(4)Promote coordination of existing services and programs across public and private entities;

(5) Promote research-based approaches to services and ongoing program evaluation;

(6) Identify service gaps and advise public and private entities on methods to close such gaps;

(7) Apply for and accept gifts, grants, appropriations, loans, or contributions to the coordinating board for early childhood fund from any source, public or private, and enter into contracts or other transactions with any federal or state agency, any private organizations, or any other source in furtherance of the purpose of subsections 3 through 15[2 and 3] of this section, and take any and all actions necessary to avail itself of such aid and cooperation;

(8) Direct disbursements and grants from the coordinating board for early childhood fund and the early childhood health and education trust fund as provided in this section;

(9) Administer the coordinating board for early childhood fund and the early childhood health and education trust fund [and invest any portion of the moneys not required for immediate disbursement in obligations of the United States or any agency or instrumentality of the United States, in obligations of the state of Missouri and its political subdivisions, in certificates of deposit and time deposits, or other obligations of banks and savings and loan associations, or in such other obligations as may be prescribed by the board];

(10) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal with real or personal property or any interests therein, wherever situated;

(11) Sell, convey, lease, exchange, transfer or otherwise dispose of all or any of its property or any interest therein, wherever situated;

(12) Employ and fix the compensation of an executive director and such other agents or employees as it considers necessary;

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(13) Adopt, alter, or repeal by its own bylaws, rules, and regulations governing the manner in which its business may be transacted;

(14) Adopt and use an official seal;

(15) Assess or charge fees as the board determines to be reasonable to carry out its purposes;

(16) Make all expenditures which are incident and necessary to carry out its purposes;

(17) Sue and be sued in its official name;

(18) Take such action, enter into such agreements, and exercise all functions necessary or appropriate to carry out the duties and purposes set forth in this section;

(19) Contract with one or more not-for-profits to meet the requirements of this section;

(20) Provide technical assistance to grantees;

(21) Coordinate with parents, community leaders, local governments, and public and private entities to improve the quality of and increase access to early childhood development programs in communities throughout the state; and

(22) Pursue public and private partnership opportunities that are consistent with the objectives of subsection 6 of this section.

6. Any grants awarded by the coordinating board for early childhood shall accomplish one or more of the following objectives:

(1) Increasing access to existing quality early childhood development programs;

(2) Improving the quality of early childhood development programs;

(3) Increasing access to preventive health care and health and developmental screenings for children ages birth through five;

(4) Offering parent and family support and education concerning prenatal development, early child development, numeracy, and literacy;

(5) Providing professional development and training for early childhood development providers;

(6) Increasing coordination of early childhood development programs and public information about the importance of early childhood development;

(7) Providing evidenced-based smoking cessation programs for pregnant mothers.

7. The coordinating board for early childhood shall consider the following nonexclusive factors when awarding grants as provided in this section:

(1) Whether the project or activities will improve outcomes for children ages birth through five, consistent with the objectives of this section;

(2) Whether the project or activity leverages matching dollars;

(3) Whether the project or activity addresses needs identified by the local community; and

(4) The sustainability of the project or activity.

8. The coordinating board for early childhood shall establish accountability and audit requirements for all grant recipients, including requirements that success be measured by outcomes for children and families.

9. It shall be the duty of the coordinating board for early childhood to:

(1) Establish and maintain a conflict of interest policy for its members and staff;

(2) Prepare an annual report describing the activities of the board and a description of outcomes for children and families achieved by the board and grant recipients, including a list of all grant recipients and the amount of any grants awarded to such recipients. The board shall submit the report to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of each year, beginning in 2019, and shall provide a copy of the report to the secretary of state; and

(3) Ensure a fair and equitable distribution of funds collected as provided under sections 149.017 and 149.161 based on the established residency population of children ages birth through five.

10. There is hereby created the "Coordinating Board for Early Childhood Fund" which shall consist of the following:

(1) Any moneys appropriated by the general assembly for use by the board in carrying out the powers set out in subsections 3 through 9[2 and 3] of this section;

(2) Any moneys received from grants or which are given, donated, or contributed to the fund from any source;

(3) Any moneys received as fees authorized under subsections 3 through 9[2 and 3] of this section;

(4) Any moneys received as interest on deposits or as income on approved investments of the fund;

(5) Any moneys obtained from any other available source. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the coordinating board for early childhood fund at the end of the biennium shall not revert to the credit of the general revenue fund.

11. There is hereby created the Early Childhood Health and Education Trust Fund which shall consist of all moneys collected as provided in sections 149.017 and 149.161, less any reduction allowed in section 149.021. Interest and moneys earned on the fund shall be credited to the fund.

12. No more than eight percent of the moneys received by the early childhood health and education trust fund shall be used for administrative expenses. Eligible administrative expenses shall include only those reasonable and necessary for:

(1) Salaries, fringe benefits, expenses, and equipment of staff employed by the coordinating board for early childhood;

(2) Expenses associated with cost sharing of salaries, fringe benefits, expenses, and equipment of staff employed or contracted by the coordinating board for early childhood from any other state department or agency of the state;

(3) Expenses of the coordinating board for early childhood associated with contracting with not-for-profit entities;

(4) Expenses of the coordinating board for early childhood associated with audits and outcome evaluations of programs and activities funded under this section;

(5) Expenses of grantees associated with meeting administrative requirements of grants established by the coordinating board for early childhood;

No more than 40% of administrative expenses shall be expended on items (1) through (4) of this subsection.

16-081

13. Moneys in the funds may be invested by the state treasurer, and any income therefrom shall be deposited to the credit of the fund. Any moneys credited to and placed in the early childhood health and education trust fund shall be appropriated and used only for purposes which are authorized by this section and shall not be subject to the provisions of section 33.080.

14. The net proceeds from the moneys collected as provided in sections 149.017 and 149.161 shall constitute new and additional funding for the activities, initiatives, and programs funded by the coordinating board for early childhood and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

15. Beginning January 1, 2017, the department of elementary and secondary education and the coordinating board for early childhood may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This subsection and chapter 536 are nonseverable from one another, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017 shall be invalid and void.

149.017. 1. In addition to the tax levied upon the sale of cigarettes in this state pursuant to section 149.015, a tax shall be levied upon the sale of cigarettes applied as follows:

(A) Beginning January 1, 2017, a tax at an amount equal to ten mills per cigarette;

(B) Beginning January 1, 2019, an additional tax at an amount equal to seven and one-half mills per cigarette; and,

(C) Beginning January 1, 2021, an additional tax at an amount equal to seven and one-half mills per cigarette.

2. The tax shall be evidenced by stamps in the same manner as cigarettes stamped pursuant to sections 149.015 and 149.021. Stamped cigarettes in the possession of a wholesaler or retailer before any phase of the additional tax under subsection 1 of this section is imposed, shall not be subject to such phase of the additional tax before retail sale.

3. The tax on any cigarettes contained in packages of four, ten, twenty or similar quantities to be used solely for distribution as samples shall be computed on a per cigarette basis at the rate set forth in this section, and payment of the tax shall be remitted to the director at such time and in such manner as he may prescribe.

4. The provisions of section 149.065 notwithstanding, all moneys collected as a result of the taxes imposed by this section and section 149.161 shall be credited to and placed in the early childhood health and education trust fund established by section 210.102 as said moneys are received. All of the moneys from the taxes imposed by this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the early childhood health and education trust fund.

5. The additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section and section 149.161 may be paid from moneys appropriated from the early childhood health and education trust fund for that purpose, not to exceed one and one half of one percent (1.5%) of the total moneys collected in that fiscal year. Collection and enforcement activities and initiatives that are paid for with moneys from the early childhood health and education trust fund shall be conducted in a fiscally responsible manner in order to maximize the net proceeds available for distribution pursuant to section 210.102. Moneys appropriated from the early childhood health and education trust fund pursuant to this subdivision shall not be used to pay costs that are not additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section;

6. The net proceeds from the taxes imposed by this section and section 149.161 shall constitute new and additional funding for the activities, initiatives, and programs described in section 210.102 and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

7. On an annual basis, the director of the department of revenue, in consultation with the director of health and senior services, shall determine whether the taxes imposed by this section and section 149.161 have resulted in a decrease in consumption of tobacco products and thereby directly caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320. If a reduction in the amount of moneys collected and deposited into any of those funds pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320, has been directly caused by the taxes imposed by this section and section 149.161, an amount equal to the amount of moneys that were not collected and deposited into that fund or funds or were not generated by the local tobacco taxes authorized by sections 66.340 and 210.320 because of the taxes imposed by this section and section 149.161 shall be transferred from the early childhood health and education trust fund pursuant to section 210.102 as follows: first, to the appropriate political subdivisions, and second to the appropriate fund or funds. The aggregate amount transferred to such funds and political subdivisions from the early childhood health and education trust fund for any year shall not exceed three percent of the total moneys collected pursuant to this section and section 149.161 during that same year.

149.161. Beginning on January 1, 2017, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, a tax shall be levied upon the first sale of tobacco products other than cigarettes within this state in the amount of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. The tax on tobacco products shall be at the rate of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. Licensed persons making first sales shall be allowed credit in accordance with the provisions of section 149.160.1. The additional tax levied by this section shall not apply to inventories of tobacco products in the possession of the retailer or wholesaler on December 31, 2016.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-081)**

**Subject**

Initiative petition from Edward Greim regarding a proposed amendment to Chapters 149 and 210 of the Revised Statutes of Missouri. (Received August 19, 2015)

**Date**

September 8, 2015

**Description**

This proposal would amend Chapters 149 and 210 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Edward Greim** provided information as a proponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** (DESE) indicated the proposal appears to provide for an increase in the tax levied upon the sale of cigarettes. All moneys collected shall be credited to and placed in the early childhood health and education trust fund. The proposal also appears to create the coordinating board for early childhood within the department of elementary and secondary education. With restrictions, proceeds from the additional cigarette tax would provide for the operations of the coordinating board. Our department has no means to calculate the potential of these proceeds. Any funds would be additional monies to early childhood education.

Officials from the **Department of Higher Education** indicated this initiative petition would have no impact on their department.

Officials from the **Department of Health and Senior Services** (DHSS) indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated their department would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** (DOR) indicated this petition will have a fiscal impact of $75,006 for FY 2017 on their department, creating additional expense for IT consultants.

**Section 149.017**
Beginning January 1, 2017, the petition increases the tax on cigarettes by 10 mills per cigarette ($0.20 per pack of 20). Beginning January 1, 2019, the petition applies an additional tax of seven and one-half mills per cigarette ($0.15 per pack of 20). Finally, beginning on January 1, 2021, the legislation increases the tax an additional seven and one-half mills per cigarette ($0.15 per pack of 20). The resultant tax increase at the end of the phase-in period is 50 cents per pack of 20 cigarettes.

Stamped cigarettes in inventory prior to the effective dates of the increase and in possession of a wholesaler or retailer are not subject to the additional tax before retail sale. The petition also allows for up to a one and one-half percent collection fee of the total revenues collected in a fiscal year.

The legislation requires the Department, in consultation with the Department of Health & Senior Services, to annually determine if the taxes result in a decrease in consumption of tobacco products. The Departments must further determine if there are reductions in the revenue collected and deposited into the fair share fund, health initiatives fund, the state school moneys fund, or local tobacco taxes.

**Section 149.161**
Beginning on January 1, 2017, this section, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, levies a five percent tax upon the first sale of tobacco products other than cigarettes within this state. The legislation bases the five percent increase on the manufacturer's invoice price before discounts and deals. The person making the first sale within the state pays the tax. The additional tax shall not apply to inventories of tobacco products in possession of the wholesaler or retailer before January 1, 2017.

**Section 210.102**
This section creates the Early Childhood Health & Education Act. Beginning in 2017, the Coordinating Board for Early Childhood becomes a body corporate and politic under the purview of the Department of Elementary & Secondary Education. Subsection 11 creates the Early Childhood Health & Education Trust Fund and consists of revenues collected under sections 149.017 and 149.171, less any reduction allowed in section 149.021.

**Administrative Impact:**
**Excise Tax:**
The Early Childhood Health & Education Trust Fund requires changes to the SAGE 50 accounting system and cashiering records. The legislation also creates the requirement for a new form.

Officials from the **Department of Public Safety** indicated their department sees no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office. They assume DESE will cover any expenses of the one House member serving on the Coordinating Board for Early Childhood.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** (OA) indicated the proposal amends Section 210.102, RSMo, and adds Sections 149.017 and 149.161, RSMo.

Section 210.102, RSMo, moves the Coordinating Board for Early Childhood from the Children's Services Commission to DESE, effective January 1, 2017, changes the board membership and provides further guidance on funding and operations for the Board.

Section 149.017, RSMo, increases the cigarette tax by 10 mills per cigarette on 1/1/2017, another 7 ½ mills on 1/1/2019 and another 7 ½ mills 1/1/2021. Section 149.161, RSMo, levies an additional 5% tax on other tobacco products beginning 1/1/2017. These monies will go to the Early Childhood Health and Education Trust (ECHET) Fund established in Section 210.102, RSMo. DOR and DHSS must annually determine whether the new taxes have caused a reduction in consumption and therefore a reduction in the amount of money collected for the Fair Share Fund, the Health Initiatives Fund or the State School Moneys Fund and for local tobacco taxes. If a reduction in consumption is found, then up to 3% of the new revenue collected is to be distributed to the various funds and political subdivisions from the ECHET Fund to hold them harmless.

FISCAL IMPACT:

Cigarette Tax (Section 149.017)

In fiscal year (FY) 15, there was $81.7 million in cigarette excise taxes collected. OA assumes that the average pack of cigarettes retails for $4.50, translating to roughly 480.9 million packs sold in Missouri. OA further assumes that cigarette sales have a (0.8) elasticity. Therefore, OA estimates:

- The first tax increase of 10 mills per cigarette in January 2017 will increase the "Early Childhood Health and Education Trust Fund" by $45.0 million in FY17 and $90.1 million in FY18.
- The second tax increase of an additional 7.5 mills per cigarette in January of 2019 will increase the "Early Childhood Health and Education Trust Fund" by $121.94 million in FY19 and $153.8 million in FY20.
- The third tax increase of an additional 7.5 mills per cigarette in January of 2021 will increase the "Early Childhood Health and Education Trust Fund" by $184.1 million in FY21 and $214.4 million in FY22 and thereafter.

There is no way to truly know what impact these tax increases will have on demand due to smoking cessation efforts, other state and federal regulations, and the increase in sales of e-cigarettes. However, OA estimates:

- The first tax increase will decrease the Fair Share Fund by $0.3 million in FY17 and $0.7 million in FY18, the Health Initiatives Fund by $0.3 million in FY17 and $0.7 million in FY18, and the State School Moneys Fund by $0.7 million in FY17 and $1.5 million in FY18.
- The second tax increase will decrease the Fair Share Fund by $0.9 million in FY19 and $1.1 million in FY20, the Health Initiatives Fund by $0.9 million in FY19 and $1.1 million in FY20, and the State School Moneys Fund by $2.0 million in FY19 and $2.5 million in FY20.
- The third tax increase will decrease the Fair Share Fund by $1.3 million in FY21 and $1.6 million in FY22 and thereafter, the Health Initiatives Fund by $1.3 million in FY21 and $1.6 million in FY22 and thereafter, and the State School Moneys Fund by $3.0 million in FY21 and $3.5 million in FY22 and thereafter.

Further, since cigarette sales will decrease slightly, General Revenue will be reduced by $5.1 million, the School District Trust Fund will be reduced by $1.7 million, and local sales tax will be reduced by $7.2 million once fully implemented in FY22, from the loss of sales tax.

Other Tobacco Products (Section 149.161)

In FY15, there was $17.7 million in other tobacco product excise taxes collected. OA assumes that the average unit retails for $4.09, translating to roughly $176.9 million in wholesales in Missouri. OA further assumes that other tobacco product sales have a (0.8) elasticity. Therefore, OA estimates this proposal will increase the "Early Childhood Health and Education Trust Fund" by $4.0 million in FY17 and $7.9 million once fully implemented in FY18.

There is no way to truly know what impact this tax increase will have on demand due to cessation efforts, other state, federal, and local regulations, and the introduction of alternative products. However, OA estimates that this tax increase will decrease the Health Initiatives Fund by $0.3 million in FY17 and $0.6 million once fully implemented in FY18.

Further, since other tobacco product sales will decrease slightly, General Revenue will be reduced by $190,000, the School District Trust Fund will be reduced by $62,000, and local sales tax will be reduced by $260,000 once fully implemented in FY18, from the loss of sales tax.

Total Impact

This proposal will increase the "Early Childhood Health and Education Trust Fund" by $222.3 million once fully implemented in FY22. This proposal will also decrease the Fair Share Fund by $1.6 million, the Health Initiatives Fund by $2.2 million, and the State School Moneys Fund by $3.5 million once fully implemented in FY22.

In addition, due to lost sales tax revenue, General Revenue will be reduced by $5.3 million, the School District Trust Fund will be reduced by $1.8 million, and local sales tax will be reduced by $7.5 million once fully implemented in FY22.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated the initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal would have no fiscal impact on their office.

Officials from **Greene County** indicated that there are no estimated costs or savings to report from their county for this initiative petition.

Officials from **Jasper County** indicated no appreciable effect on county government.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

**Edward Greim** provided the following information as a proponent of this initiative petition.

Graves Garrett LLC

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August 28, 2015

Missouri State Auditor's Office
301 West High Street
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Re: *Fiscal Note in Initiative Petitions 81, 82, 85 & 86*

To Whom It May Concern:

Based on the information contained in this letter and the attached letter from Tom Kruckemeyer, we propose the following fiscal note summary:

> Estimated additional revenue to state government is $98 million to $214 million annually with limited estimated implementation costs or savings. The revenue will fund only programs and services allowed by the proposal. The proposal is estimated to result in no net costs or savings to local governmental entities.

**Introduction**

The initiative allows 460,000 children to receive the early health screenings they need to grow and thrive and the early childhood development experiences that will prepare them for long-term educational success. These programs have important trickle-down effects that result in increased revenue and decreased costs at the state and local level. The initiative is accomplished by funding grants across the state to improve early childhood health and education. Funding for grants is provided by a tobacco tax, conservatively resulting in $214 million in direct state revenue, while yielding important public health benefits.

**Early Childhood Delivers Big Benefits**

Missouri enrolls fewer children in its state preschool program than any neighboring state, and funding for programs like Parents as Teachers has been slashed in half. All Missourians benefit

from investments in early childhood education: children start school ready to succeed; parents are able to keep good jobs and earn higher incomes; and taxpayers save money because early childhood education lowers drop-out rates, reduces crime and cuts the cost of social services. Despite clear evidence showing investing in early learning is one of the smartest investments we can make, year after year we battle with the Missouri General Assembly to fund quality early childhood education. Missouri is the 38th worst state for public pre-K funding. In 2012, the General Assembly cut $13.2 million from early childhood programs, and Parents as Teachers remains $19 million behind its 2009 funding.

Traditional thought has long emphasized the relationship between early childhood education and academic success, but researchers now are finding that preschool does not have a substantial effect on increasing IQs but rather develops a child's "soft skills" and can have a profound effect on adult earning potential especially for disadvantaged kids.

Evidence shows that non-cognitive skills matter. Through activities like finger painting, playing with blocks, and interacting with other students, children learn how to control impulses, keep anger in check, stay on task, listen and follow curiosity. These soft skills are basic, but important tools needed to learn, find and keep a job and just manage everyday life. Most children gain these skills at home from their parents, but disadvantaged kids often miss the window of opportunity, which are the critical years before Kindergarten.

A literature of empirical evidence shows strong outcome effects for kids who attend pre-school. Using cost-benefit analyses, researchers have found a link between preschool attendance and reduced crime, fewer teen pregnancies, higher rates of college attendance and less need for public assistance. Cost-benefit studies show that pre-school provides the best value and produces more net benefits to society than increased classroom time or job training programs.

*Evidence from the Perry Preschool Program*

The most widely cited early childhood intervention occurred in Ypsilanti, Michigan during the 60s. Children with low IQ scores and a low socioeconomic index were invited to participate in the Perry Preschool Program. Using a coin toss, researchers divided students into two groups, a treatment group and a control group. Starting at age three the "treatment" kids got 2.5 hours of preschool a day and weekly home visits for two years. The "control" kids did not participate in either of the services. Researchers interviewed both groups at ages 15, 19, 27 and 40 and asked them questions about life events like school, work, marriage, parenting and incarceration. The following chart shows the major findings of the study.



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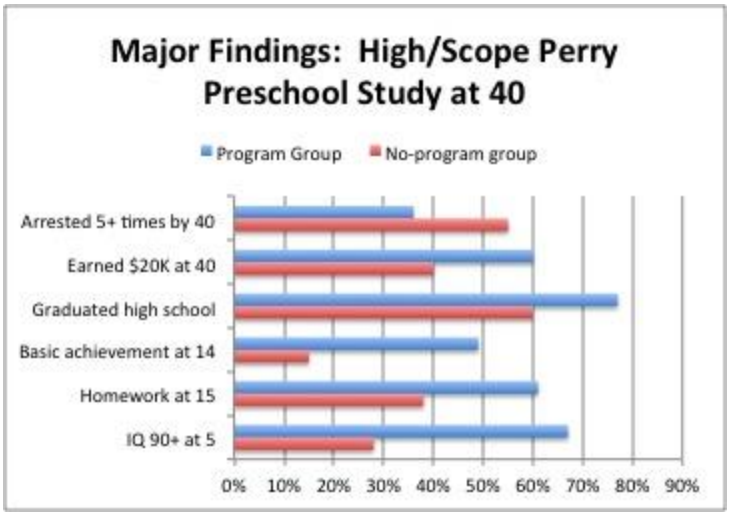


Source: Lifetime Effects: The HighScope Perry Preschool Study Through Age 40 (2005)

The pre-school girls went farther in school, earned higher GPAs, and received less special education than girls from the control group. Boys benefitted as well, but the boys who did not receive the preschool intervention were 2.3 times more likely to get arrested. The cost-savings alone from just the crime reduction demonstrated success.

With increased scrutiny over government spending, cost-benefit analysis gives policy analysts a tool to separate productive programs from ones that yield no social gains. A recent cost-benefit study that used a wider variety of assumptions and applied more rigorous accounting rules, estimated a return rate of about 7-10%. By monetizing social crime, the researchers were able to estimate that for every dollar invested in preschool, society earned back $30 to $300 dollars over the course of a lifetime (Heckman, Moon, Pinto, Savelyev, & Yavitz, 2010).

*Abecedarian and Chicago Studies*

Other studies confirmed the results of the Perry Preschool Project. The Carolina Abecedarian project in the 70s randomly assigned infants into intervention and control groups. The intervention group received full-day childcare from birth through Kindergarten. Intervention kids scored higher in reading and math, completed more education, were older when their first child was born and the mothers of intervention kids progressed farther in school and made more money than the control mothers. Intervention kids even smoked less.

A full-day five-year Pre-K program, while effective, would likely be cost-prohibitive for any state budget; however, the findings proved that early intervention does make a difference. And evidence suggests that a less expensive program could produce similar outcomes (Barnett & Masse, 2007).



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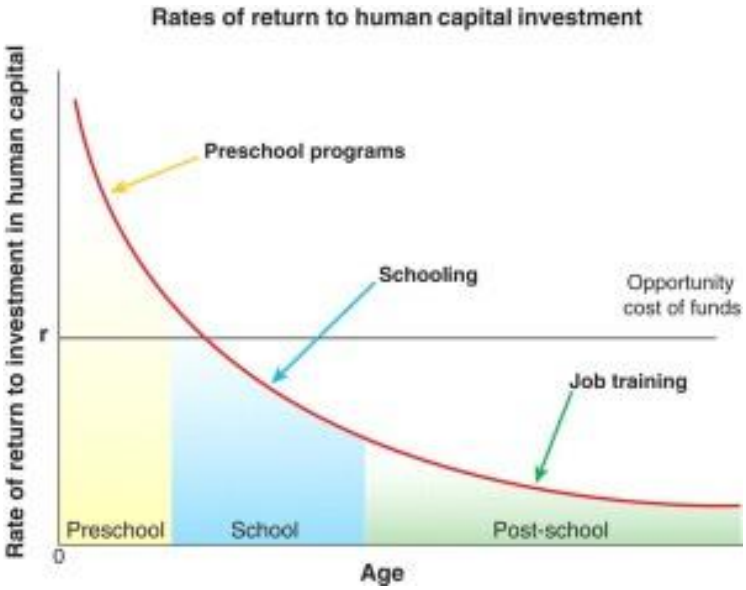
Just as Abecedarian kids earned higher wages than the control group, researchers found similar results from participants of the Chicago Child-Parent Program. The Chicago program targeted disadvantaged kids and provided a Headstart type intervention from ages three to nine. A cost-benefit analysis indicated for every dollar invested, the program produced seven in return. The largest impact was earning capacity, but Chicago kids were also less likely to need special education and less likely to commit crimes (Temple & Reynolds, 2007).

Much like with the Perry Program, the Chicago program demonstrated the relationship between early education, higher wages and crime reduction. Again it was the non-cognitive soft-skill development that made the difference. Second chance efforts like GED and job training provide fewer benefits and struggle to lift people out of poverty (Heckman & Masterov, 2007).




Source: Heckman, The Review of Agricultural Economics (2007)

What the Perry, Abecedarian and Chicago programs show is that pre-school helps kids develop soft-skills that make it easier to gain cognitive skills later and can lead to better jobs and a better quality of life. This in turn lessens the burden on government resources for remedial education, criminal justice and job-training programs.

Investing in human capital through access to finger-paints and story time may appear far-reaching, but multiple studies now point to early intervention as the cheapest, most effective way to prepare kids for the workforce and reduce crime. As labor force growth wanes and the demand for skilled workers increases, these studies suggest that a pipeline that begins at pre-school has great potential to produce big benefits to society in the long run.



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Present value of Abecedarian benefits and costs per child, (2002)

Table 1
Present value of Abecedarian benefits and costs per child (2002 dollars)

| | Discount rate (%) | | |
|---|---|---|---|
| | 3 | 5 | 7 |
| Program cost (net) | $35,864 | $34,599 | $33,421 |
| Program benefits | | | |
| Part. earnings | 37,531 | 16,460 | 6376 |
| Earnings of future generations | 5722 | 1586 | 479 |
| Maternal earnings | 68,728 | 48,496 | 35,560 |
| K-12 education | 8836 | 7375 | 6205 |
| Smoking/health | 17,781 | 4166 | 1008 |
| Higher education costs | −8128 | −5621 | −3920 |
| AFDC | 196 | 129 | 85 |
| Total benefits | $130,666 | $72,591 | $45,793 |
| Net present value | $94,802 | $37,992 | $12,372 |

**Reducing the Harmful Effects of Tobacco**

Tobacco tax increases offer a win-win-win solution for states as they work to balance budgets while preserving essential public services. Tobacco tax increases are one of the most effective ways to reduce smoking and other tobacco use, especially among kids. Every state that has significantly increased its cigarette tax has enjoyed substantial increases in revenue, even while reducing smoking. Higher tobacco taxes also save money by reducing tobacco-related health care costs, including Medicaid expenses. States can realize even greater health benefits and cost savings by allocating some of the revenue to programs that prevent children from smoking and help smokers quit.

National and state polls consistently have found overwhelming public support for tobacco tax increases. Polls also show that, when it comes to balancing budgets, voters prefer raising tobacco taxes to other tax increases or cutting crucial programs such as education and public safety.

Tobacco use causes approximately $3.03 billion in annual health care expenditures in Missouri. Smoking specifically causes over $500 million in annual costs for the Missouri Medicaid program. The initiative petition would increase the tax on cigarettes by $0.50 per pack and would increase the tax on other tobacco products by 5%. By conservative estimates, those tax increases

would raise approximately $214 million in new state revenue to improve early childhood health and education programs. New state annual revenue is the amount of additional new revenue over the first full year after the effective date of all phases of the additional tax. The state will collect less new revenue to the extent that the rate increase does not apply to all cigarettes and other tobacco products held in wholesaler and retailer inventories on the effective date. This fiscal projection was derived using a price elasticity of demand for cigarettes of -0.8, even though the weight of credible academic literature suggests a conservative estimate for the price elasticity of demand for cigarettes is -0.4.

Tax increases of less than roughly 25 cents per pack or 10% of the average state pack price do not produce significant public health benefits or cost savings because the cigarette companies can easily offset the beneficial impact of such small increases with temporary price cuts, coupons, and other promotional discounting. Splitting a tax rate increase into separate, smaller increases in successive years will similarly diminish or eliminate the public health benefits and related cost savings (as well as reduce the amount of new revenues).

In addition to raising new revenue, the tax increase would have an immediate public health benefit. Each 10% cigarette price increase reduces youth smoking by 6.5%. Each 10% cigarette price increase reduces adult smoking by 2%. The total expected reduction in smoking consumption as a result of a 10% price increase is 4%. It is conservatively estimated that the initiative petition would decrease youth smoking by 6% in Missouri.

There would also be a fiscal benefit to the citizens of the state from the improved public health. As of 2014, the CDC estimated 11,000 annual average smoking-attributable deaths in Missouri. 127,500 Missouri Youth aged 0-17 are projected to die from smoking. Approximately 22.1% of Missouri adults smoke. Approximately 14.9% of Missouri high school students smoke. The average Missouri resident's state and federal tax burden from smoking-caused government expenditures is $588 per household. Approximately one of every six pregnant women smokes, a rate significantly higher than the national average. Smoking during pregnancy increases the risk for preterm delivery, stillbirth, low birth weight and Sudden Infant Death Syndrome.
In recent years, almost every state and the federal government have increased tobacco taxes. Missouri is a notable exception. The average state cigarette tax is currently $1.60 per pack, but rates vary widely from 17 cents in Missouri to $4.35 in New York. On April 1, 2009, the federal cigarette tax increased by 62 cents, to $1.01 per pack.

As of July 1, 2015, Missouri's cigarette tax was less than one-third of any of its border states: IL - $ 1.98; IA - $1.36; KS - $1.29; AR - $1.15; OK - $1.03; NE - $0.64; TN - $0.62; KY - $0.60. Moreover, Missouri's 17-cent per pack tax on cigarettes is the lowest in the country. The real value of the cigarette tax is decreasing. As a percentage of the overall Missouri State Budget, Missouri's tobacco taxes have decreased from 1.036% in 2000 to 0.464% in 2015. See MO Executive Budget Books & MO Office of Administration.



1100 Main Street, Suite 2700 Kansas City, MO 64105 ph 816.256.3181 www.gravesgarrett.com

Every day 3,000 kids try their first cigarette and another 700 kids become regular smokers. There are more than 250 thousand new underage smokers each year. One third will eventually die from their addiction. Smoking has declined in every state where the tobacco tax has been increased.

Ongoing reductions in state smoking levels will, over time, gradually erode state cigarette tax revenues (in the absence of any new rate increases). But those declines are more predictable and less volatile than many other state revenue sources, such as state income tax or corporate tax revenues (which can drop sharply during recessions). In addition, the smoking declines that reduce tobacco tax revenues will simultaneously produce much larger reductions in government and private sector smoking-caused costs. See the Campaign for Tobacco-Free Kids factsheet, *Tobacco Tax Increases are a Reliable Source of Substantial New State Revenue*, http://tobaccofreekids.org/research/factsheets/pdf/0303.pdf.

For other ways states can increase revenues (and promote public health) other than just raising its cigarette tax, see the Campaign factsheet, *The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

For more on sources and calculations, see http://www.tobaccofreekids.org/research/factsheets/pdf/0281.pdf

**Additional Information on Tobacco Product Tax Increases**

*Raising State Cigarette Taxes Always Increases State Revenues and Always Reduces Smoking*, http://tobaccofreekids.org/research/factsheets/pdf/0098.pdf.

*Responses to Misleading and Inaccurate Cigarette Company Arguments Against State Tobacco Tax Increases*, http://tobaccofreekids.org/research/factsheets/pdf/0227.pdf.

*State Cigarette Excise Tax Rates & Rankings*, http://tobaccofreekids.org/research/factsheets/pdf/0097.pdf.

*Top Combined State-Local Cigarette Tax Rates (State plus County plus City)*, http://tobaccofreekids.org/research/factsheets/pdf/0267.pdf.

*State Cigarette Tax Increases Benefit Lower-Income Smokers and Families*, http://tobaccofreekids.org/research/factsheets/pdf/0147.pdf.

*The Best Way to Tax Smokeless Tobacco*, http://tobaccofreekids.org/research/factsheets/pdf/0282.pdf.

*How to Make State Cigar Tax Rates Fair and Effective*, http://tobaccofreekids.org/research/factsheets/pdf/0335.pdf.



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*State Benefits from Increasing Smokeless Tobacco Tax Rates*, http://tobaccofreekids.org/research/factsheets/pdf/0180.pdf.

*The Case for High-Tech Cigarette Tax Stamps*, http://tobaccofreekids.org/research/factsheets/pdf/0310.pdf.

*State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion*, http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf.

*The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf.

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Sincerely,

Edward D. Greim
Partner, Graves Garrett, LLC



1100 Main Street, Suite 2700 Kansas City, MO 64105 ph 816.256.3181 www.gravesgarrett.com

Tom Kruckemeyer
Missouri Budget Project
3534 Washington Ave
St. Louis, Missouri 63103

August 28, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

To Whom It May Concern:

I currently work as the Director of Fiscal Policy and Chief Economist at the Missouri Budget Project, a nonprofit, objective, public policy analysis organization that provides independent research on complex state policy issues and how they impact the state budget. I hold a B.A. in Economics and History and an M.A. in Economics from the University of Missouri-St. Louis. I also hold an M.A. Political Science from the University of Missouri-Columbia. I worked in the Missouri Division of Budget from 1978 to 2004, where I served as the chief economist. In the course of both my positions at the Missouri Division of Budget as well as my current position, I have routinely projected the fiscal impact of tax changes.

In my experience, it is a conservative, generally accepted practice to project the revenue generated from a proposed cigarette tax by estimating an average price per cigarette (or price per pack), estimating a uniform price elasticity of demand, and to assume that the tax will result in a penny-for-penny increase in the cost of cigarettes.

Upon information and belief, the Office of Administration usually estimates the price elasticity of demand for cigarettes as -0.8. This estimate means that a 10% increase in the cost of cigarettes results in an 8% reduction in the quantity of cigarettes sold. A price elasticity of demand of -0.8 is a conservative but reasonable estimate for the price elasticity of demand of a product such as cigarettes. Notably, even with a 50 cent increase in Missouri's cigarette tax, Missouri's cigarette tax will remain lower than many of its contiguous states, in particular the states that border major metropolitan areas, Illinois and Kansas.

Additionally, the Office of Administration's method for estimating cigarette tax revenue is conservative because it assumes a penny-for-penny price increase in the cost of cigarettes as a result of the tax. In practice, whether the entire tax increase will result in a 50 cent increase in the prices of cigarettes is unknown because the market for cigarettes is competitive. Moreover, regardless of whether the Office of Administration estimates that the demand for cigarettes will remain flat or decrease due to societal trends, the overall fiscal impact is largely the same. An estimate of the decrease in future tax collections due to decreased smoking from societal trends is not essential to the findings in the fiscal note that this particular tax will result in a net increase to state revenue with no net cost to local governments.

If the Office of Administration decides to use the same assumptions in projecting the revenue for other tobacco products ("OTP") as it does for cigarettes, it is my opinion that the resulting collection estimate would be conservative but appropriate. Recent trends suggest that the revenue generated from the tax on other tobacco products is increasing.

Based on generally accepted methods for estimating the fiscal impact of a proposed tax, I estimate that the phased-in 50 cent cigarette tax increase will result in approximately 90 million dollars of revenue in calendar years 2017 and 2018. I estimate that the cigarette tax will result in approximately 150 million dollars of revenue in calendar years 2019 and 2020. I estimate that the cigarette tax will result in approximately 206 million dollars of revenue in calendar year 2021. In comparison, I estimate that an immediate 50 cent cigarette tax increase will result in approximately 214 million dollars of revenue in calendar year 2017. These estimates assume a 1% yearly reduction in the state's smoking level. I estimate the 5% increase in the tax on non-cigarette tobacco products will result in approximately 8 million dollars of revenue annually. There may be a small decrease in revenue collection for each phase of the additional tax due to lags associated with the implementation and collection of taxes.

These taxes are expected to result in limited implementation costs to the state. The costs associated with administering the Early Childhood Education and Health Trust Fund will primarily be borne by the Trust Fund. Nonetheless it is proper and reasonable to consider additional costs of administering the cigarette tax increase, which may include fixed costs like salaries as well as additional marginal costs, such as costs associated with stamping cigarettes. All state government costs are estimated to be offset by additional revenue increases.

Local governments will receive revenue from the tax to offset any potential decrease in local tax revenue. Based on a price elasticity of demand of -0.8, local revenue may decrease, but any such decrease will be by an amount less than $500,000. By any reasonable estimate, 3% of the Early Childhood Education and Health Trust Fund will exceed the decrease in revenue associated with local tobacco taxes. Accordingly, any such decrease will be offset as a result local revenue from the transfer of funds to localities with local tobacco taxes. Additionally, while direct local revenue is zero, there are positive indirect effects the may result in additional revenue to local governments.

Sincerely,

/s/

Tom Kruckemeyer
Director of Fiscal Policy & Chief
Economist, Missouri Budget Project

The State Auditor's office did not receive a response from the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College**.

**Fiscal Note Summary**

When cigarette and tobacco tax increases are fully implemented, estimated additional revenue to state government is $200 million to $214 million annually, with limited estimated implementation costs. The revenue will fund only programs and services allowed by the proposal. The fiscal impact to local governmental entities is unknown.

16-080

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

August 17, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Chuck Hatfield regarding a proposed statutory amendment to Chapter 149, version 2

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Chuck Hatfield on August 17, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

RECEIVED
AUG 17 2015
STATE AUDITORS OFFICE

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-080

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI,

COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)
(Petition Circulator's Printed Name)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | Zip Code | Congr. Dist. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer _____.

RECEIVED
2015 AUG 17 AM 10:02
SECRETARY OF STATE

_____
Signature of Affiant (Person obtaining signatures)

_____
Street address of Affiant

_____
Printed Name of Affiant

_____
City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My commission expires:

16-080

Be it enacted by the people of the State of Missouri:

A new section to be known as section 149.017 is enacted to read as follows:

149.017. 1. In addition to the tax levied in subsection 1 of section 149.015, RSMo, an additional tax shall be levied upon the sale of cigarettes at an amount equal to six and one-half mills per cigarette on January 1, 2017, two and one-half mills per cigarette on January 1, 2019, and two and one-half mills per cigarette on January 1, 2021.

2. In addition to the tax levied in subsection 1 of section 149.160, RSMo, an additional tax of five percent of the manufacturer's invoice price before discounts and deals shall be levied on January 1, 2017 upon the first sale of tobacco products, other than cigarettes, within the state, and shall be paid by the person making the first sale within the state. Licensed persons making first sales within the state shall be allowed approved credit for returned merchandise provided the tax was paid on the returned merchandise and the purchaser was given a refund or credit. Such licensed person shall take such approved credit on the return for the month in which the purchaser was given the refund or credit.

3. The revenue generated in subsections 1 and 2 of this section, less any reduction allowed in section 149.021, RSMo, shall be deposited in the "Transportation Infrastructure Fund", which is hereby created in the state treasury, and used exclusively to fund transportation infrastructure. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys deposited in this fund, including any interest thereon, shall not revert to the credit of the general revenue fund at the end of the biennium. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. The additional six and one-half mills per cigarette tax levied in subsection 1 of this section and effective on January 1, 2017 shall not apply to inventories of cigarettes in the possession of the retailer and wholesaler on December 31, 2016. The additional two and one-half mills per cigarette tax levied in subsection 1 of this section and effective on January 1, 2019 shall not apply to inventories of cigarettes in the possession of the retailer and wholesaler on December 31, 2018. The additional two and one-half mills per cigarette tax levied in subsection 1 of this section and effective on January 1, 2021 shall not apply to inventories of cigarettes in the possession of the retailer and wholesaler on December 31, 2020.

5. The additional five percent tax levied in subsection 2 of this section shall not apply to inventories of tobacco products, other than cigarettes, in the possession of the retailer and wholesaler on December 31, 2016.

6. The additional taxes levied in subsections 1 and 2 of this section shall immediately, automatically and permanently be repealed and reduced to zero under any of the following events:

(1). In the event any tax or fee increase on some or all cigarettes or other tobacco products is officially certified to be placed on any local or statewide ballot by the Secretary of State or any other election official at any time; or

(2). In the event any provision of subsections 1 through 9 of this section is ruled null and void, invalid, unlawful, severable or unconstitutional for any reason by any state or federal court of law.

7. The provisions of subsection 6 of this section are specifically meant to include, but are not limited to, any tax increase on cigarettes or other tobacco products placed on any local or statewide ballot in Missouri at any time pursuant to chapters 115 and 116, RSMo, and Article III, sections 49 through 53, and Article XII of the Missouri Constitution or any local laws allowing submission of questions to the voters.

8. In the event any provision of subsections 6 and 7 of this section are triggered, the department of revenue shall automatically, immediately and permanently cease the application and collection of any of the taxes levied in subsections 1 and 2 of this section, and the department of revenue and the revisor of statutes shall automatically and immediately notify the public. The department of revenue shall authorize the state treasurer to make refunds for any erroneous payments or overpayments.

9. Notwithstanding the provisions of section 1.140, RSMo, or case law or rule to the contrary, the provisions of subsections 1 through 9 of this section are nonseverable. If any provision of subsections 1 through 9 of this section is held, in whole or in part, to be invalid, unlawful, or unconstitutional for any reason by any state or federal court of law, such decision shall invalidate and make void all of subsections 1 through 9 of this section.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-080)**

## Subject

Initiative petition from Chuck Hatfield regarding a proposed amendment to Chapter 149 of the Revised Statutes of Missouri. (Received August 17, 2015)

## Date

September 8, 2015

## Description

This proposal would amend Chapter 149 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Charles Andy Arnold** provided information as a proponent of the proposal to the State Auditor's office.

**Ronald J. Leone** provided information as a proponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated the proposal appears to provide for an increase in the tax levied upon the sale of cigarettes as well as an additional tax upon the first sale of tobacco products, other than cigarettes. Revenues generated shall be deposited in the "Transportation Infrastructure Fund". Their department has no means to calculate the potential of these proceeds. Any funds would be additional monies to the fund.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated their department would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated their department sees no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** (MoDOT) submitted the following:

**Excise Tax Increase for Cigarettes and Other Tobacco Products**

Cigarettes: 135% tax increase phased-in as follows:

- 13 cents per pack increase effective January 1, 2017
- 5 cents per pack increase effective January 1, 2019
- 5 cents per pack increase effective January 1, 2021

Tobacco: 50% tax increase, which increases the tax on other tobacco products by 5%, from 10% to 15% effective January 1, 2017

MoDOT estimates revenues for the first year (January 1, 2017 – December 31, 2017) of $65.2 million based on calendar year (CY) 2014 cigarette pack and other tobacco product sales (data pulled from the Missouri Department of Revenue monthly Tobacco Product Wholesalers Reports). One-hundred percent of the revenue generated from these tax increases would be deposited into the Transportation Infrastructure Fund, including accrued interest from existing cash balances.

MoDOT estimates a conservative 3.6 percent decline in cigarette pack sales and a 102.0 percent increase in other tobacco product sales each year. This assumption is based on the net change in cigarette pack sales and other tobacco product sales from CY 2013 – 2014.

**Assumptions and Fiscal Impact (In Millions)**

| | | |
|---|---|---|
| CY 2014 Cigarette Packs Sold | | 496.3 |
| CY 2014 Other Tobacco Product (OTP) Sales | | $175.8 |
| | | |
| **New Revenue (Based on CY 2014 sales):** | | |
| CY 2014 Cigarette Packs Sold | | 496.3 |
| Annual Cigarette Pack Sales Growth Rate Assumption | -3.6% | |
| CY 2015 Projected Cigarette Packs to be Sold | | 478.5 |
| CY 2016 Projected Cigarette Packs to be Sold | | 461.2 |
| CY 2017 Projected Cigarette Packs to be Sold | | 444.6 |
| CY 2017 Gross Excise Tax Increase Per Cigarette Pack | 13.0% | |
| Reduction for Purchasing Cigarette Pack Stamps (149.021, RSMo.) | 3.0% | |
| CY 2017 Net Excise Tax Increase Per Cigarette Pack | 12.6% | |
| CY 2017 Projected Cigarette Packs to be Sold | | 444.6 |
| CY 2017 Net Excise Tax Increase Per Cigarette Pack | | 12.6% |
| CY 2017 Net Cigarette Excise Tax Revenue Increase | | $56.1 |

**Assumptions and Fiscal Impact (In Millions)**

| | | |
|---|---|---|
| CY 2014 Other Tobacco Product (OTP) Sales | | $175.8 |
| Annual OTP Sales Growth Rate Assumption | 2.0% | |
| CY 2015 Projected OTP Sales | | $179.3 |
| CY 2016 Projected OTP Sales | | $182.9 |
| CY 2017 Projected OTP Sales | | $186.5 |
| CY 2017 Gross Excise Tax Increase for OTP Sales | 5.0% | |
| Reduction for OTP Tax Remittance (149.170, RSMo.) | 2.0% | |
| CY 2017 Net Excise Tax Increase for OTP Sales | 4.9% | |
| CY 2017 Projected OTP Sales | | $186.5 |
| CY 2017 Net Excise Tax Increase for OTP Sales | | 4.9% |
| CY 2017 Net OTP Excise Tax Revenue Increase | | $9.1 |
| CY 2017 Net Cigarette Excise Tax Revenue Increase | | $56.1 |
| CY 2017 Net OTP Excise Tax Revenue Increase | | $9.1 |
| **Estimated Revenue Deposited in Transportation Infrastructure Fund in First Year (1/1/17 - 12/31/17)** | | **$65.2** |

Officials from the **Office of Administration (OA)** indicated the proposal enacts Section 149.017, RSMo, which increases the cigarette tax by 6 ½ mills per cigarette on 1/1/2017, another 2 ½ mills on 1/1/19, and another 2 ½ mills 1/1/2021. In addition, taxes on other tobacco products are increased by 5%. The increased revenue will be deposited in the Transportation Infrastructure Fund.

Section 149.017.6, RSMo, also stipulates that, if any tax or fee increase on some or all cigarettes or other tobacco products is certified to be placed on any local or statewide

ballot or if any section of this proposal is ruled null and void, then the additional taxes levied under this proposal shall immediately be repealed and reduced to zero.

In fiscal year (FY) 2015, there was $81.7 million in cigarette excise taxes collected and $17.7 million in other tobacco product excise taxes collected. OA assumes that the average pack of cigarettes retails for $4.50, translating to roughly 480.9 million packs sold in Missouri and that the average other tobacco product unit retails for $4.09, translating to roughly $176.9 million in wholesales in Missouri. OA further assumes that cigarette sales and other tobacco product sales have a (0.8) elasticity. However, there is no way to truly know what impact these tax increases will have on demand due to smoking cessation efforts, other state and federal regulations, and the increase in sales of e-cigarettes and other substitute products.

Table 1 (below) shows OA estimates for the change in revenue due to the increased cigarette and other tobacco products tax increases. This includes revenue lost from reduced demand. Table 2 (below) shows the net impact for selected funds.

**Table 1: Revenue changes due to cigarette and other tobacco tax increases, by fiscal year**

| | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 |
|---|---|---|---|---|---|---|
| **Revenue gain to the Transportation Infrastructure Fund** | | | | | | |
| From increased cigarette tax | $29.6 | $59.3 | $70.3 | $81.4 | $92.2 | $103.1 |
| From increased other tobacco products tax | $4.0 | $7.9 | $7.9 | $7.9 | $7.9 | $7.9 |
| **Revenue loss from lower demand on initial cigarette tax** | | | | | | |
| Health Initiatives Fund | ($0.2) | ($0.4) | ($0.5) | ($0.6) | ($0.7) | ($0.8) |
| State Schools Money Fund | ($0.5) | ($1.0) | ($1.2) | ($1.3) | ($1.5) | ($1.7) |
| Fair Share Fund | ($0.2) | ($0.4) | ($0.5) | ($0.6) | ($0.7) | ($0.8) |
| **Revenue loss from reduced sales tax on cigarettes** | | | | | | |
| General Revenue | ($0.7) | ($1.4) | ($1.7) | ($1.9) | ($2.2) | ($2.4) |
| School District Trust Fund | ($0.2) | ($0.5) | ($0.6) | ($0.6) | ($0.7) | ($0.8) |
| Local Sales Tax | ($1.0) | ($2.0) | ($2.3) | ($2.7) | ($3.1) | ($3.4) |
| **Revenue loss from lower demand on initial other tobacco products tax** | | | | | | |
| Health Initiatives Fund | ($0.3) | ($0.6) | ($0.6) | ($0.6) | ($0.6) | ($0.6) |
| **Revenue loss from reduced sales tax on other tobacco products** | | | | | | |
| General Revenue | ($0.1) | ($0.2) | ($0.2) | ($0.2) | ($0.2) | ($0.2) |
| School District Trust Fund | ($0.0) | ($0.1) | ($0.1) | ($0.1) | ($0.1) | ($0.1) |
| Local Sales Tax | ($0.1) | ($0.3) | ($0.3) | ($0.3) | ($0.3) | ($0.3) |

*figures in $ million*

**Table 2: Net impact to Selected Funds, by fiscal year**

| | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 |
|---|---|---|---|---|---|---|
| **Revenue gain to the Transportation Infrastructure Fund** | | | | | | |
| Transportation Infrastructure Fund | $33.6 | $67.2 | $78.2 | $89.3 | $100.1 | $111.0 |
| **Revenue loss from lower demand on initial taxes** | | | | | | |
| Health Initiatives Fund | ($0.5) | ($1.0) | ($1.1) | ($1.2) | ($1.3) | ($1.4) |
| State Schools Money Fund | ($0.5) | ($1.0) | ($1.2) | ($1.3) | ($1.5) | ($1.7) |
| Fair Share Fund | ($0.2) | ($0.4) | ($0.5) | ($0.6) | ($0.7) | ($0.8) |
| **Revenue loss from reduced sales tax** | | | | | | |
| General Revenue | ($0.8) | ($1.6) | ($1.9) | ($2.1) | ($2.4) | ($2.6) |
| School District Trust Fund | ($0.2) | ($0.6) | ($0.7) | ($0.7) | ($0.8) | ($0.9) |
| Local Sales Tax | ($1.1) | ($2.3) | ($2.6) | ($3.0) | ($3.4) | ($3.7) |

*figures in $ million*

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated the initiative petition will not have any direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal will have no fiscal impact on their office.

Officials from **Greene County** indicated that there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Columbia** indicated the proposed petition does not appear to directly affect their city. Revenue raised from new tobacco taxes would be deposited to the state Transportation Infrastructure Fund which, unless allocated to pass-through programs, is likely to be used for state services.

On the other hand, subsection 6 appears to nullify the state tax if there are attempts to levy additional local tobacco taxes. That would seem to chill local interest and prevent new local revenue from that source.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

Officials from the **City of Raymore** indicated no fiscal impact.

**Charles Andy Arnold** provided the following information as a proponent of this initiative petition.

Arnold & Associates

*P. O. Box 161, Wright City, Missouri 63390*
*Email: caarnold@centurytel.net*
*Telephone: (314) 971-1000*

August 10, 2015

Ron Leone, Executive Director
Missouri Petroleum Marketers &
Convenience Store Association
205 East Capitol Avenue, Suite 200
Jefferson City, MO 65101

Re: Revenue Projections for a 135% increase in Missouri Cigarette Excise Tax & a 50% increase in Missouri Other Tobacco Products tax

Dear Ron:

Attached, please find three (3) Tables in support of your IP proposal. I prepared the attached Tables per the increases per the IP and it's minimal effect on overall tobacco sales in the state.

The calculations presented are based on static factors that impact sales based on historical and market conditions. At some point I may run a regression analysis including other factors, but that is not necessary at this time.

The revenues projected by Tables B and C show the following:

- Table B- 135% increase in cigarette excise tax will generate approximately $722 million new tax dollars over a 10-year period, total cigarette excise tax revenue over the period of approximately $1.5 billion.
- Table C- 50% increase in the OTP manufacturers invoice tax will generate approximately $98 million new tax dollars over a 10-year period, total OTP excise tax revenue over the period of approximately $333 million.

I used a static sales reduction factor for cigarette sales of 3.6% per year; and, a static sales increase factor for OTP of 2% per year.

You may use this letter and the attached Tables for your IP submission, or I can provide this to the SOS after you file.

Warmest Regards,

C. Andy Arnold

Charles A. Arnold

Attachments
CC: Craig Taylor

**Table A: Missouri Cigarette and Other Tobacco Products (OTP) Tax Revenue Collections (Net)**

| Calendar Year | Cigarette Tax Revenue | Percentage Change +/- | OTP Tax Revenue | Percentage Change +/- |
|---|---|---|---|---|
| 2004 | $98,815,335 | | $10,837,459 | |
| 2005 | $99,247,687 | 0.44% | $11,035,093 | 1.82% |
| 2006 | $99,873,124 | 0.63% | $11,448,194 | 3.74% |
| 2007 | $96,959,033 | -2.92% | $11,917,483 | 4.10% |
| 2008 | $97,150,389 | 0.20% | $12,214,822 | 2.49% |
| 2009 | $94,799,203 | -2.42% | $13,065,193 | 6.96% |
| 2010 | $91,151,815 | -3.85% | $15,011,542 | 14.90% |
| 2011 | $89,965,909 | -1.30% | $15,551,490 | 3.60% |
| 2012 | $88,609,044 | -1.51% | $16,308,821 | 4.87% |
| 2013 | $86,837,984 | -2.00% | $16,895,556 | 3.60% |
| 2014 | $82,301,596 | -5.22% | $17,225,213 | 1.95% |

*Source: Missouri Department Of Revenue Tobacco Product Wholesalers Reports (Forms 4916)*

## Table B: Revenue Projections for a 135% Increase in Missouri Cigarette Excise Tax Phased-in over 4-years

| | *Baseline Sales Year (Cigarettes) 2014 | | | | 23-Cents Cigarette Excise Tax Increase Phased-In Over 4-years | | | |
|---|---|---|---|---|---|---|---|---|
| | Total Stick Sales | Total Pack Sales | (17-cents) Net Excise Tax Per Pack | Net Cigarette Excise Tax Revenue | (13-cents) Net Cigarette Excise Tax Revenue | (5-cents) Net Cigarette Excise Tax Revenue | (5-Cents) Net Cigarette Excise Tax Revenue | Total Net Excise Tax Per Pack |
| | 9,926,538,347 | 496,326,917 | 0.165821343 | $82,301,596 | Net Excise Tax Per Pack | Net Excise Tax Per Pack | Net Excise Tax Per Pack | |
| | **Static Sales Reduction Factor | | | | 0.126100000 | 0.048500000 | 0.048500000 | |
| | 0.964 | | | | | | | |
| 2015 | 9,569,182,967 | 478,459,148 | 0.165821342 | $79,338,738 | | | | |
| 2016 | 9,224,692,380 | 461,234,619 | 0.165821343 | $76,482,544 | | | | |
| 2017 | 8,892,603,454 | 444,630,173 | 0.165821342 | $73,729,172 | $56,067,865 | | | $56,067,865 |
| 2018 | 8,572,469,730 | 428,623,487 | 0.165821342 | $71,074,922 | $54,049,422 | | | $54,049,422 |
| 2019 | 8,263,860,820 | 413,193,041 | 0.165821343 | $68,516,225 | $52,103,642 | $20,039,862 | | $72,143,504 |
| 2020 | 7,966,361,830 | 398,318,092 | 0.165821343 | $66,049,641 | $50,227,911 | $19,318,427 | | $69,546,338 |
| 2021 | 7,679,572,804 | 383,978,640 | 0.165821344 | $63,671,854 | $48,419,707 | $18,622,964 | $18,622,964 | $85,665,635 |
| 2022 | 7,403,108,183 | 370,155,409 | 0.165821343 | $61,379,667 | $46,676,597 | $17,952,537 | $17,952,537 | $82,581,671 |
| 2023 | 7,136,596,288 | 356,829,814 | 0.165821343 | $59,169,999 | $44,996,240 | $17,306,246 | $17,306,246 | $79,608,732 |
| 2024 | 6,879,678,822 | 343,983,941 | 0.165821343 | $57,039,879 | $43,376,375 | $16,683,221 | $16,683,221 | $76,742,817 |
| 2025 | 6,632,010,384 | 331,600,519 | 0.165821342 | $54,986,443 | $41,814,825 | $16,082,625 | $16,082,625 | $73,980,075 |
| 2026 | 6,393,258,010 | 319,662,901 | 0.165821344 | $53,006,932 | $40,309,492 | $15,503,651 | $15,503,651 | $71,316,794 |
| | | | | $784,446,016 | $478,042,076 | $141,509,533 | $102,151,244 | $721,702,853 |

**Notes:**

*Baseline Sales Year data from Missouri Department of Revenue monthly Tobacco Product Wholesalers Reports (Form 4916)

**Missouri Cigarette sales have declined an average of 3.6% per year since 2013

**Assumption:** A static decline of 3.6% in cigarette sales is projected for the tax increase contemplated.

## Table C: Revenue Projections for a 50% Increase in Missouri Other Tobacco Products Excise Tax

| | *Baseline Sales Year For OTP- 2014 | | |
|---|---|---|---|
| | MFG Invoice Price | Net 10% OTP Tax Revenue Collected | (5% Increase) Net OTP Excise Tax Revenue |
| | $175,767,480 | $17,225,213 | |
| | **Static Sales Increase Factor | | |
| | 1.02 | | |
| 2015 | $179,282,830 | $17,569,717 | |
| 2016 | $182,868,487 | $17,921,112 | |
| 2017 | $186,525,857 | $18,279,534 | $8,956,972 |
| 2018 | $190,256,374 | $18,645,125 | $9,136,111 |
| 2019 | $194,061,501 | $19,018,027 | $9,318,833 |
| 2020 | $197,942,731 | $19,398,388 | $9,505,210 |
| 2021 | $201,901,586 | $19,786,355 | $9,695,314 |
| 2022 | $205,939,618 | $20,182,083 | $9,889,221 |
| 2023 | $210,058,410 | $20,585,724 | $10,087,005 |
| 2024 | $214,259,578 | $20,997,439 | $10,288,745 |
| 2025 | $218,544,770 | $21,417,387 | $10,494,520 |
| 2026 | $222,915,665 | $21,845,735 | $10,704,410 |
| | | $235,646,626 | $98,076,341 |

**Notes:**

*Baseline Sales Year data from Missouri Department of Revenue monthly Tobacco Product Wholesalers Reports (Form 4916)

**Missouri OTP sales have increased an average of 2% per year since 2013

**Assumptions:** A static increase of 2% in OTP sales is projected for the tax increase contemplated.

**Ronald J. Leone** provided the following information as a proponent of this initiative petition.

# FOR IMMEDIATE RELEASE

**CONTACT:**

Ronald J. Leone, Executive Director
Missouri Petroleum Marketers & Convenience Store Association (MPCA)
205 East Capitol Avenue, Suite 200, Jefferson City, MO 65101
Cell: 573.864.5189
Email: ron@mpca.org
Office: 573.635.7117, ext. 16

## *RETAILERS SUPPORT REASONABLE TOBACCO TAX INCREASE TO HELP FUND TRANSPORTATION*

**Jefferson City, MO, August 17, 2015** - After successfully opposing three (3) outrageous and unfair statewide tobacco tax increases, today the Missouri Petroleum Marketers & Convenience Store Association (MPCA) is filing two (2) nearly identical versions of an initiative petition (IP) that allows the people to vote on a 135% cigarette tax increase and 50% tax increase on other tobacco products (OTP).

The first IP uses the new funds generated to fund transportation. The second IP simply places the new funds into general revenue (GR). Either IP would be put to a vote of the people on November 8, 2016 and would be effective on January 1, 2017.

Over the first 10 years, either IP is projected to generate total new revenues of more than $800 million.

"These IPs accomplish three (3) critical goals: they raise more than $800 million in new tax revenues over the first ten (10) years that can be used to help fund a critical state need; they protect consumers from outrageous and unfair tax increases; and they allow Missouri retailers to maintain the competitive tax advantage we have over our 8 border-states", said Ronald J. Leone, Executive Director of MPCA.

"Since 2002, common-sense, conservative Missouri voters have defeated three (3) outrageous and unfair tobacco tax increases. MPCA believes that the voters would support a reasonable and fair but still substantial 135% tobacco tax increase", Leone continued.

"If a reasonable tobacco tax increase would have been proposed back in 2002, as MPCA publicly urged, we would have raised more than a $1 billion in new revenues to date. It's never too late to seek a reasonable but still substantial tobacco tax increase that the voters will actually support", Leone concluded.

## IP Summary

►**Cigarettes: 149.017.1.** 135% tax increase on cigarettes (23¢ per pack) phased-in as follows: 13¢ per pack on 1/1/17; 5¢ per pack on 1/1/19; and 5¢ per pack on 1/1/21.

Once fully phased-in, the total tax will be 40¢ per pack - 17¢ per pack existing tax + 23¢ per pack proposed by the IP.

►**Tobacco: 149.017.2.** 50% tax increase on "other tobacco products" (OTP, from 10% to 15%) effective 1/1/17. No phase-in.

► **How Much Revenue Is Generated & Where It Goes: 149.107.3.** In the first IP, the new funds generated would be used to fund transportation. In the second IP, the new funds generated are placed into general revenue (GR).

Over the first 10 years, either IP is projected to generate total new revenues of more than $800 million.

Please see the detailed revenue projection tables attached hereto.

►**No Floor Tax: 149.017.4 & 149.017.5.** The tax increases apply only to new purchases and not to cigarette and tobacco inventories.

►**Roll Back: 149.017.6, 149.017.7 & 149.017.8.** MPCA is worried about getting hit with a second or even third tobacco tax increase after the IP passes. Thus, we've included a "roll back" provision which states if another tobacco tax increase is pursued by IP in the future then this 135% cigarette tax increase and 50% OTP tax increase would automatically and immediately be repealed and reduced to zero. This means the new IP group would be starting from the current tax of 17¢ per pack, and not 40¢ per pack, and from 10% and not 15% on OTP.

►**Package Deal: 149.017.9.** Nonseverability clause. The IPs are a package deal and the individual provisions can't be repealed or ruled unconstitutional by a court of law.

**- END -**

**Table A: Missouri Cigarette and Other Tobacco Products (OTP) Tax Revenue Collections (Net)**

| Calendar Year | Cigarette Tax Revenue | Percentage Change +/- | OTP Tax Revenue | Percentage Change +/- |
|---|---|---|---|---|
| 2004 | $98,815,335 | | $10,837,459 | |
| 2005 | $99,247,687 | 0.44% | $11,035,093 | 1.82% |
| 2006 | $99,873,124 | 0.63% | $11,448,194 | 3.74% |
| 2007 | $96,959,033 | -2.92% | $11,917,483 | 4.10% |
| 2008 | $97,150,389 | 0.20% | $12,214,822 | 2.49% |
| 2009 | $94,799,203 | -2.42% | $13,065,193 | 6.96% |
| 2010 | $91,151,815 | -3.85% | $15,011,542 | 14.90% |
| 2011 | $89,965,909 | -1.30% | $15,551,490 | 3.60% |
| 2012 | $88,609,044 | -1.51% | $16,308,821 | 4.87% |
| 2013 | $86,837,984 | -2.00% | $16,895,556 | 3.60% |
| 2014 | $82,301,596 | -5.22% | $17,225,213 | 1.95% |

*Source: Missouri Department Of Revenue Tobacco Product Wholesalers Reports (Forms 4916)*

## Table B: Revenue Projections for a 135% Increase in Missouri Cigarette Excise Tax Phased-in over 4-years

| | *Baseline Sales Year (Cigarettes) 2014 | | | | 23-Cents Cigarette Excise Tax Increase Phased-In Over 4-years | | | |
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| | Total Stick Sales | Total Pack Sales | (17-cents) Net Excise Tax Per Pack | Net Cigarette Excise Tax Revenue | (13-cents) Net Cigarette Excise Tax Revenue | (5-cents) Net Cigarette Excise Tax Revenue | (5-Cents) Net Cigarette Excise Tax Revenue | Total Net Excise Tax Per Pack |
| | 9,926,538,347 | 496,326,917 | 0.165821343 | $82,301,596 | | | | |
| | **Static Sales Reduction Factor | | | | Net Excise Tax Per Pack | Net Excise Tax Per Pack | Net Excise Tax Per Pack | |
| | 0.964 | | | | 0.126100000 | 0.048500000 | 0.048500000 | |
| 2015 | 9,569,182,967 | 478,459,148 | 0.165821342 | $79,338,738 | | | | |
| 2016 | 9,224,692,380 | 461,234,619 | 0.165821343 | $76,482,544 | | | | |
| 2017 | 8,892,603,454 | 444,630,173 | 0.165821342 | $73,729,172 | $56,067,865 | | | $56,067,865 |
| 2018 | 8,572,469,730 | 428,623,487 | 0.165821342 | $71,074,922 | $54,049,422 | | | $54,049,422 |
| 2019 | 8,263,860,820 | 413,193,041 | 0.165821343 | $68,516,225 | $52,103,642 | $20,039,862 | | $72,143,504 |
| 2020 | 7,966,361,830 | 398,318,092 | 0.165821343 | $66,049,641 | $50,227,911 | $19,318,427 | | $69,546,338 |
| 2021 | 7,679,572,804 | 383,978,640 | 0.165821344 | $63,671,854 | $48,419,707 | $18,622,964 | $18,622,964 | $85,665,635 |
| 2022 | 7,403,108,183 | 370,155,409 | 0.165821343 | $61,379,667 | $46,676,597 | $17,952,537 | $17,952,537 | $82,581,671 |
| 2023 | 7,136,596,288 | 356,829,814 | 0.165821343 | $59,169,999 | $44,996,240 | $17,306,246 | $17,306,246 | $79,608,732 |
| 2024 | 6,879,678,822 | 343,983,941 | 0.165821343 | $57,039,879 | $43,376,375 | $16,683,221 | $16,683,221 | $76,742,817 |
| 2025 | 6,632,010,384 | 331,600,519 | 0.165821342 | $54,986,443 | $41,814,825 | $16,082,625 | $16,082,625 | $73,980,075 |
| 2026 | 6,393,258,010 | 319,662,901 | 0.165821344 | $53,006,932 | $40,309,492 | $15,503,651 | $15,503,651 | $71,316,794 |
| | | | | $784,446,016 | $478,042,076 | $141,509,533 | $102,151,244 | $721,702,853 |

**Notes:**

*Baseline Sales Year data from Missouri Department of Revenue monthly Tobacco Product Wholesalers Reports (Form 4916)

**Missouri Cigarette sales have declined an average of 3.6% per year since 2013

**Assumption:** A static decline of 3.6% in cigarette sales is projected for the tax increase contemplated.

## Table C: Revenue Projections for a 50% Increase in Missouri Other Tobacco Products Excise Tax

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| | **Static Sales Increase Factor | | |
| | 1.02 | | |
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| 2016 | $182,868,487 | $17,921,112 | |
| 2017 | $186,525,857 | $18,279,534 | $8,956,972 |
| 2018 | $190,256,374 | $18,645,125 | $9,136,111 |
| 2019 | $194,061,501 | $19,018,027 | $9,318,833 |
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| 2021 | $201,901,586 | $19,786,355 | $9,695,314 |
| 2022 | $205,939,618 | $20,182,083 | $9,889,221 |
| 2023 | $210,058,410 | $20,585,724 | $10,087,005 |
| 2024 | $214,259,578 | $20,997,439 | $10,288,745 |
| 2025 | $218,544,770 | $21,417,387 | $10,494,520 |
| 2026 | $222,915,665 | $21,845,735 | $10,704,410 |
| | | $235,646,626 | $98,076,341 |

**Notes:**

*Baseline Sales Year data from Missouri Department of Revenue monthly Tobacco Product Wholesalers Reports (Form 4916)

**Missouri OTP sales have increased an average of 2% per year since 2013

**Assumptions:** A static increase of 2% in OTP sales is projected for the tax increase contemplated.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College**.

**Fiscal Note Summary**

State government revenue will increase by approximately $95 million to $103 million annually when cigarette and tobacco tax increases are fully implemented, with the new revenue earmarked for transportation infrastructure. Local government revenues could decrease approximately $3 million annually due to decreased cigarette and tobacco sales.

16-079

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

August 17, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Chuck Hatfield regarding a proposed statutory amendment to Chapter 149, version 1 (2016-079)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Chuck Hatfield on August 17, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

RECEIVED
AUG 17 2015
STATE AUDITORS OFFICE

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-079

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI,

COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)
(Petition Circulator's Printed Name)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | Zip Code | Congr. Dist. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer _____.

RECEIVED
2016 AUG 17 AM 10:00
SECRETARY OF STATE

_____ _____
Signature of Affiant (Person obtaining signatures) Street address of Affiant

_____ _____
Printed Name of Affiant City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____ Notary Public (Seal)
Signature of Notary

_____ My commission expires:
Address of Notary

16-079

Be it enacted by the people of the State of Missouri:

A new section to be known as section 149.017 is enacted to read as follows:

149.017. 1. In addition to the tax levied in subsection 1 of section 149.015, RSMo, an additional tax shall be levied upon the sale of cigarettes at an amount equal to six and one-half mills per cigarette on January 1, 2017, two and one-half mills per cigarette on January 1, 2019, and two and one-half mills per cigarette on January 1, 2021.

2. In addition to the tax levied in subsection 1 of section 149.160, RSMo, an additional tax of five percent of the manufacturer's invoice price before discounts and deals shall be levied on January 1, 2017 upon the first sale of tobacco products, other than cigarettes, within the state, and shall be paid by the person making the first sale within the state. Licensed persons making first sales within the state shall be allowed approved credit for returned merchandise provided the tax was paid on the returned merchandise and the purchaser was given a refund or credit. Such licensed person shall take such approved credit on the return for the month in which the purchaser was given the refund or credit.

3. The revenue generated in subsections 1 and 2 of this section, less any reduction allowed in section 149.021, RSMo, shall be deposited in the general revenue fund.

4. The additional six and one-half mills per cigarette tax levied in subsection 1 of this section and effective on January 1, 2017 shall not apply to inventories of cigarettes in the possession of the retailer and wholesaler on December 31, 2016. The additional two and one-half mills per cigarette tax levied in subsection 1 of this section and effective on January 1, 2019 shall not apply to inventories of cigarettes in the possession of the retailer and wholesaler on December 31, 2018. The additional two and one-half mills per cigarette tax levied in subsection 1 of this section and effective on January 1, 2021 shall not apply to inventories of cigarettes in the possession of the retailer and wholesaler on December 31, 2020.

5. The additional five percent tax levied in subsection two of this section shall not apply to inventories of tobacco products, other than cigarettes, in the possession of the retailer and wholesaler on December 31, 2016.

6. The additional taxes levied in subsections 1 and 2 of this section shall immediately, automatically and permanently be repealed and reduced to zero under any of the following events:

(1). In the event any tax or fee increase on some or all cigarettes or other tobacco products is officially certified to be placed on any local or statewide ballot by the Secretary of State or any other election official at any time; or

(2). In the event any provision of subsections 1 through 9 of this section is ruled null and void, invalid, unlawful, severable or unconstitutional for any reason by any state or federal court of law.

7. The provisions of subsection 6 of this section are specifically meant to include, but are not limited to, any tax increase on cigarettes or other tobacco products placed on any local or statewide ballot in Missouri at any time pursuant to chapters 115 and 116, RSMo, and Article III, sections 49 through 53, and Article XII of the Missouri Constitution or any local laws allowing submission of questions to the voters.

8. In the event any provision of subsections 6 and 7 of this section are triggered, the department of revenue shall automatically, immediately and permanently cease the application and collection of any of the taxes levied in subsections 1 and 2 of this section, and the department of revenue and the revisor of statutes shall automatically and immediately notify the public. The department of revenue shall authorize the state treasurer to make refunds for any erroneous payments or overpayments.

9. Notwithstanding the provisions of section 1.140, RSMo, or case law or rule to the contrary, the provisions of subsections 1 through 9 of this section are nonseverable. If any provision of subsections 1 through 9 of this section is held, in whole or in part, to be invalid, unlawful, or unconstitutional for any reason by any state or federal court of law, such decision shall invalidate and make void all of subsections 1 through 9 of this section.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-079)**

## Subject

Initiative petition from Chuck Hatfield regarding a proposed amendment to Chapter 149 of the Revised Statutes of Missouri. (Received August 17, 2015)

## Date

September 8, 2015

## Description

This proposal would amend Chapter 149 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Charles Andy Arnold** provided information as a proponent of the proposal to the State Auditor's office.

**Ronald J. Leone** provided information as a proponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated the proposal appears to provide for an increase in the tax levied upon the sale of cigarettes as well as an additional tax upon the first sale of tobacco products, other than cigarettes. Revenues generated shall be deposited in the general revenue. Their department has no means to calculate the potential of these proceeds. Any funds would be additional monies to general revenue.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated their department would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated their department sees no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated their department anticipates no fiscal impact from this initiative petition.

Officials from the **Office of Administration (OA)** indicated the proposal enacts Section 149.017, RSMo, which increases the cigarette tax by 6 ½ mills per cigarette on 1/1/2017, another 2 ½ mills on 1/1/19, and another 2 ½ mills 1/1/2021. In addition, taxes on other tobacco products are increased by 5%. The increased revenue will be deposited in the General Revenue Fund.

Section 149.017.6, RSMo, also stipulates that, if any tax or fee increase on some or all cigarettes or other tobacco products is certified to be placed on any local or statewide ballot or if any section of this proposal is ruled null and void, then the additional taxes levied under this proposal shall immediately be repealed and reduced to zero.

In fiscal year (FY) 2015, there was $81.7 million in cigarette excise taxes collected and $17.7 million in other tobacco product excise taxes collected. OA assumes that the average pack of cigarettes retails for $4.50, translating to roughly 480.9 million packs sold in Missouri and that the average other tobacco product unit retails for $4.09, translating to roughly $176.9 million in wholesales in Missouri. OA further assumes that cigarette sales and other tobacco product sales have a (0.8) elasticity. However, there is no way to truly know what impact these tax increases will have on demand due to smoking cessation efforts, other state and federal regulations, and the increase in sales of e-cigarettes and other substitute products.

Table 1 (below) shows OA estimates for the reduced revenue caused by a decrease in demand from the additional taxes on cigarettes and other tobacco products, while Table 2 (below) shows the net impact to the General Revenue Fund.

OA estimates this proposal will increase the General Revenue Fund by $108.4 million when fully implemented in FY 2022.

**Table 1: Revenue loss due to decreased demand, by fiscal year**

| | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 |
|---|---|---|---|---|---|---|
| **Revenue loss from lower demand on initial cigarette tax** | | | | | | |
| Health Initiatives Fund | ($0.2) | ($0.4) | ($0.5) | ($0.6) | ($0.7) | ($0.8) |
| State Schools Money Fund | ($0.5) | ($1.0) | ($1.2) | ($1.3) | ($1.5) | ($1.7) |
| Fair Share Fund | ($0.2) | ($0.4) | ($0.5) | ($0.6) | ($0.7) | ($0.8) |
| **Revenue loss from reduced sales tax on cigarettes** | | | | | | |
| School District Trust Fund | ($0.2) | ($0.5) | ($0.6) | ($0.6) | ($0.7) | ($0.8) |
| Local Sales Tax | ($1.0) | ($2.0) | ($2.3) | ($2.7) | ($3.1) | ($3.4) |
| **Revenue loss from lower demand on initial other tobacco products tax** | | | | | | |
| Health Initiatives Fund | ($0.3) | ($0.6) | ($0.6) | ($0.6) | ($0.6) | ($0.6) |
| **Revenue loss from reduced sales tax on other tobacco products** | | | | | | |
| School District Trust Fund | ($0.0) | ($0.1) | ($0.1) | ($0.1) | ($0.1) | ($0.1) |
| Local Sales Tax | ($0.1) | ($0.3) | ($0.3) | ($0.3) | ($0.3) | ($0.3) |
| **Net Impact** | | | | | | |
| Health Initiatives Fund | ($0.5) | ($1.0) | ($1.1) | ($1.2) | ($1.3) | ($1.4) |
| State Schools Money Fund | ($0.5) | ($1.0) | ($1.2) | ($1.3) | ($1.5) | ($1.7) |
| Fair Share Fund | ($0.2) | ($0.4) | ($0.5) | ($0.6) | ($0.7) | ($0.8) |
| School District Trust Fund | ($0.2) | ($0.6) | ($0.7) | ($0.7) | ($0.8) | ($0.9) |
| Local Sales Tax | ($1.1) | ($2.3) | ($2.6) | ($3.0) | ($3.4) | ($3.7) |

*figures in $ million*

**Table 2: Net impact to General Revenue Fund, by fiscal year**

| | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 |
|---|---|---|---|---|---|---|
| **Cigarette Tax** | | | | | | |
| Increased revenue from additional tax | $29.6 | $59.3 | $70.3 | $81.4 | $92.2 | $103.1 |
| Decreased revenue from lost sales tax | ($0.7) | ($1.4) | ($1.7) | ($1.9) | ($2.2) | ($2.4) |
| **Other Tobacco Products** | | | | | | |
| Increased revenue from additional tax | $4.0 | $7.9 | $7.9 | $7.9 | $7.9 | $7.9 |
| Decreased revenue from lost sales tax | ($0.1) | ($0.2) | ($0.2) | ($0.2) | ($0.2) | ($0.2) |
| **Net impact to General Revenue** | $32.8 | $65.6 | $76.3 | $87.2 | $97.7 | $108.4 |

*figures in $ million*

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated the initiative petition will not have any direct impact on their office.

Officials from the **State Treasurer's office** indicated this proposal will have no fiscal impact on their office.

Officials from **Greene County** indicated that there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Columbia** indicated the proposed petition does not appear to directly affect their city. Revenue raised from new tobacco taxes would be deposited to the state General Revenue Fund which, unless allocated to pass-through programs, is likely to be used for state services.

On the other hand, subsection 6 appears to nullify the state tax if there are attempts to levy additional local tobacco taxes. That would seem to chill local interest and prevent new local revenue from that source.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

Officials from the **City of Raymore** indicated no fiscal impact.

**Charles Andy Arnold** provided the following information as a proponent of this initiative petition.

Arnold & Associates

*P. O. Box 161, Wright City, Missouri 63390*
*Email: caarnold@centurytel.net*
*Telephone: (314) 971-1000*

August 10, 2015

Ron Leone, Executive Director
Missouri Petroleum Marketers &
Convenience Store Association
205 East Capitol Avenue, Suite 200
Jefferson City, MO 65101

Re: Revenue Projections for a 135% increase in Missouri Cigarette Excise Tax & a 50% increase in Missouri Other Tobacco Products tax

Dear Ron:

Attached, please find three (3) Tables in support of your IP proposal. I prepared the attached Tables per the increases per the IP and it's minimal effect on overall tobacco sales in the state.

The calculations presented are based on static factors that impact sales based on historical and market conditions. At some point I may run a regression analysis including other factors, but that is not necessary at this time.

The revenues projected by Tables B and C show the following:

- Table B- 135% increase in cigarette excise tax will generate approximately $722 million new tax dollars over a 10-year period, total cigarette excise tax revenue over the period of approximately $1.5 billion.
- Table C- 50% increase in the OTP manufacturers invoice tax will generate approximately $98 million new tax dollars over a 10-year period, total OTP excise tax revenue over the period of approximately $333 million.

I used a static sales reduction factor for cigarette sales of 3.6% per year; and, a static sales increase factor for OTP of 2% per year.

You may use this letter and the attached Tables for your IP submission, or I can provide this to the SOS after you file.

Warmest Regards,

C. Andy Arnold

Charles A. Arnold

Attachments
CC: Craig Taylor

**Table A: Missouri Cigarette and Other Tobacco Products (OTP) Tax Revenue Collections (Net)**

| Calendar Year | Cigarette Tax Revenue | Percentage Change +/- | OTP Tax Revenue | Percentage Change +/- |
|---|---|---|---|---|
| 2004 | $98,815,335 | | $10,837,459 | |
| 2005 | $99,247,687 | 0.44% | $11,035,093 | 1.82% |
| 2006 | $99,873,124 | 0.63% | $11,448,194 | 3.74% |
| 2007 | $96,959,033 | -2.92% | $11,917,483 | 4.10% |
| 2008 | $97,150,389 | 0.20% | $12,214,822 | 2.49% |
| 2009 | $94,799,203 | -2.42% | $13,065,193 | 6.96% |
| 2010 | $91,151,815 | -3.85% | $15,011,542 | 14.90% |
| 2011 | $89,965,909 | -1.30% | $15,551,490 | 3.60% |
| 2012 | $88,609,044 | -1.51% | $16,308,821 | 4.87% |
| 2013 | $86,837,984 | -2.00% | $16,895,556 | 3.60% |
| 2014 | $82,301,596 | -5.22% | $17,225,213 | 1.95% |

*Source: Missouri Department Of Revenue Tobacco Product Wholesalers Reports (Forms 4916)*

## Table B: Revenue Projections for a 135% Increase in Missouri Cigarette Excise Tax Phased-in over 4-years

| | *Baseline Sales Year (Cigarettes) 2014 | | | | 23-Cents Cigarette Excise Tax Increase Phased-In Over 4-years | | | |
|---|---|---|---|---|---|---|---|---|
| | Total Stick Sales | Total Pack Sales | (17-cents) Net Excise Tax Per Pack | Net Cigarette Excise Tax Revenue | (13-cents) Net Cigarette Excise Tax Revenue | (5-cents) Net Cigarette Excise Tax Revenue | (5-Cents) Net Cigarette Excise Tax Revenue | Total Net Excise Tax Per Pack |
| | 9,926,538,347 | 496,326,917 | 0.165821343 | $82,301,596 | Net Excise Tax Per Pack | Net Excise Tax Per Pack | Net Excise Tax Per Pack | |
| | **Static Sales Reduction Factor | | | | 0.126100000 | 0.048500000 | 0.048500000 | |
| | 0.964 | | | | | | | |
| 2015 | 9,569,182,967 | 478,459,148 | 0.165821342 | $79,338,738 | | | | |
| 2016 | 9,224,692,380 | 461,234,619 | 0.165821343 | $76,482,544 | | | | |
| 2017 | 8,892,603,454 | 444,630,173 | 0.165821342 | $73,729,172 | $56,067,865 | | | $56,067,865 |
| 2018 | 8,572,469,730 | 428,623,487 | 0.165821342 | $71,074,922 | $54,049,422 | | | $54,049,422 |
| 2019 | 8,263,860,820 | 413,193,041 | 0.165821343 | $68,516,225 | $52,103,642 | $20,039,862 | | $72,143,504 |
| 2020 | 7,966,361,830 | 398,318,092 | 0.165821343 | $66,049,641 | $50,227,911 | $19,318,427 | | $69,546,338 |
| 2021 | 7,679,572,804 | 383,978,640 | 0.165821344 | $63,671,854 | $48,419,707 | $18,622,964 | $18,622,964 | $85,665,635 |
| 2022 | 7,403,108,183 | 370,155,409 | 0.165821343 | $61,379,667 | $46,676,597 | $17,952,537 | $17,952,537 | $82,581,671 |
| 2023 | 7,136,596,288 | 356,829,814 | 0.165821343 | $59,169,999 | $44,996,240 | $17,306,246 | $17,306,246 | $79,608,732 |
| 2024 | 6,879,678,822 | 343,983,941 | 0.165821343 | $57,039,879 | $43,376,375 | $16,683,221 | $16,683,221 | $76,742,817 |
| 2025 | 6,632,010,384 | 331,600,519 | 0.165821342 | $54,986,443 | $41,814,825 | $16,082,625 | $16,082,625 | $73,980,075 |
| 2026 | 6,393,258,010 | 319,662,901 | 0.165821344 | $53,006,932 | $40,309,492 | $15,503,651 | $15,503,651 | $71,316,794 |
| | | | | $784,446,016 | $478,042,076 | $141,509,533 | $102,151,244 | $721,702,853 |

**Notes:**

*Baseline Sales Year data from Missouri Department of Revenue monthly Tobacco Product Wholesalers Reports (Form 4916)

**Missouri Cigarette sales have declined an average of 3.6% per year since 2013

**Assumption:** A static decline of 3.6% in cigarette sales is projected for the tax increase contemplated.

## Table C: Revenue Projections for a 50% Increase in Missouri Other Tobacco Products Excise Tax

| | *Baseline Sales Year For OTP- 2014 | | |
|---|---|---|---|
| | MFG Invoice Price | Net 10% OTP Tax Revenue Collected | (5% Increase) Net OTP Excise Tax Revenue |
| | $175,767,480 | $17,225,213 | |
| | **Static Sales Increase Factor | | |
| | 1.02 | | |
| 2015 | $179,282,830 | $17,569,717 | |
| 2016 | $182,868,487 | $17,921,112 | |
| 2017 | $186,525,857 | $18,279,534 | $8,956,972 |
| 2018 | $190,256,374 | $18,645,125 | $9,136,111 |
| 2019 | $194,061,501 | $19,018,027 | $9,318,833 |
| 2020 | $197,942,731 | $19,398,388 | $9,505,210 |
| 2021 | $201,901,586 | $19,786,355 | $9,695,314 |
| 2022 | $205,939,618 | $20,182,083 | $9,889,221 |
| 2023 | $210,058,410 | $20,585,724 | $10,087,005 |
| 2024 | $214,259,578 | $20,997,439 | $10,288,745 |
| 2025 | $218,544,770 | $21,417,387 | $10,494,520 |
| 2026 | $222,915,665 | $21,845,735 | $10,704,410 |
| | | $235,646,626 | $98,076,341 |

**Notes:**

*Baseline Sales Year data from Missouri Department of Revenue monthly Tobacco Product Wholesalers Reports (Form 4916)

**Missouri OTP sales have increased an average of 2% per year since 2013

**Assumptions:** A static increase of 2% in OTP sales is projected for the tax increase contemplated.

**Ronald J. Leone** provided the following information as a proponent of this initiative petition.

# FOR IMMEDIATE RELEASE

**CONTACT:**

Ronald J. Leone, Executive Director
Missouri Petroleum Marketers & Convenience Store Association (MPCA)
205 East Capitol Avenue, Suite 200, Jefferson City, MO 65101
Cell: 573.864.5189
Email: ron@mpca.org
Office: 573.635.7117, ext. 16

## *RETAILERS SUPPORT REASONABLE TOBACCO TAX INCREASE TO HELP FUND TRANSPORTATION*

**Jefferson City, MO, August 17, 2015** - After successfully opposing three (3) outrageous and unfair statewide tobacco tax increases, today the Missouri Petroleum Marketers & Convenience Store Association (MPCA) is filing two (2) nearly identical versions of an initiative petition (IP) that allows the people to vote on a 135% cigarette tax increase and 50% tax increase on other tobacco products (OTP).

The first IP uses the new funds generated to fund transportation. The second IP simply places the new funds into general revenue (GR). Either IP would be put to a vote of the people on November 8, 2016 and would be effective on January 1, 2017.

Over the first 10 years, either IP is projected to generate total new revenues of more than $800 million.

"These IPs accomplish three (3) critical goals: they raise more than $800 million in new tax revenues over the first ten (10) years that can be used to help fund a critical state need; they protect consumers from outrageous and unfair tax increases; and they allow Missouri retailers to maintain the competitive tax advantage we have over our 8 border-states", said Ronald J. Leone, Executive Director of MPCA.

"Since 2002, common-sense, conservative Missouri voters have defeated three (3) outrageous and unfair tobacco tax increases. MPCA believes that the voters would support a reasonable and fair but still substantial 135% tobacco tax increase", Leone continued.

"If a reasonable tobacco tax increase would have been proposed back in 2002, as MPCA publicly urged, we would have raised more than a $1 billion in new revenues to date. It's never too late to seek a reasonable but still substantial tobacco tax increase that the voters will actually support", Leone concluded.

## IP Summary

►**Cigarettes: 149.017.1.** 135% tax increase on cigarettes (23¢ per pack) phased-in as follows: 13¢ per pack on 1/1/17; 5¢ per pack on 1/1/19; and 5¢ per pack on 1/1/21.

Once fully phased-in, the total tax will be 40¢ per pack - 17¢ per pack existing tax + 23¢ per pack proposed by the IP.

►**Tobacco: 149.017.2.** 50% tax increase on "other tobacco products" (OTP, from 10% to 15%) effective 1/1/17. No phase-in.

► **How Much Revenue Is Generated & Where It Goes: 149.107.3.** In the first IP, the new funds generated would be used to fund transportation. In the second IP, the new funds generated are placed into general revenue (GR).

Over the first 10 years, either IP is projected to generate total new revenues of more than $800 million.

Please see the detailed revenue projection tables attached hereto.

►**No Floor Tax: 149.017.4 & 149.017.5.** The tax increases apply only to new purchases and not to cigarette and tobacco inventories.

►**Roll Back: 149.017.6, 149.017.7 & 149.017.8.** MPCA is worried about getting hit with a second or even third tobacco tax increase after the IP passes. Thus, we've included a "roll back" provision which states if another tobacco tax increase is pursued by IP in the future then this 135% cigarette tax increase and 50% OTP tax increase would automatically and immediately be repealed and reduced to zero. This means the new IP group would be starting from the current tax of 17¢ per pack, and not 40¢ per pack, and from 10% and not 15% on OTP.

►**Package Deal: 149.017.9.** Nonseverability clause. The IPs are a package deal and the individual provisions can't be repealed or ruled unconstitutional by a court of law.

**- END -**

**Table A: Missouri Cigarette and Other Tobacco Products (OTP) Tax Revenue Collections (Net)**

| Calendar Year | Cigarette Tax Revenue | Percentage Change +/- | OTP Tax Revenue | Percentage Change +/- |
|---|---|---|---|---|
| 2004 | $98,815,335 | | $10,837,459 | |
| 2005 | $99,247,687 | 0.44% | $11,035,093 | 1.82% |
| 2006 | $99,873,124 | 0.63% | $11,448,194 | 3.74% |
| 2007 | $96,959,033 | -2.92% | $11,917,483 | 4.10% |
| 2008 | $97,150,389 | 0.20% | $12,214,822 | 2.49% |
| 2009 | $94,799,203 | -2.42% | $13,065,193 | 6.96% |
| 2010 | $91,151,815 | -3.85% | $15,011,542 | 14.90% |
| 2011 | $89,965,909 | -1.30% | $15,551,490 | 3.60% |
| 2012 | $88,609,044 | -1.51% | $16,308,821 | 4.87% |
| 2013 | $86,837,984 | -2.00% | $16,895,556 | 3.60% |
| 2014 | $82,301,596 | -5.22% | $17,225,213 | 1.95% |

*Source: Missouri Department Of Revenue Tobacco Product Wholesalers Reports (Forms 4916)*

## Table B: Revenue Projections for a 135% Increase in Missouri Cigarette Excise Tax Phased-in over 4-years

| | *Baseline Sales Year (Cigarettes) 2014 | | | | 23-Cents Cigarette Excise Tax Increase Phased-In Over 4-years | | | |
|---|---|---|---|---|---|---|---|---|
| | Total Stick Sales | Total Pack Sales | (17-cents) Net Excise Tax Per Pack | Net Cigarette Excise Tax Revenue | (13-cents) Net Cigarette Excise Tax Revenue | (5-cents) Net Cigarette Excise Tax Revenue | (5-Cents) Net Cigarette Excise Tax Revenue | Total Net Excise Tax Per Pack |
| | 9,926,538,347 | 496,326,917 | 0.165821343 | $82,301,596 | | | | |
| | **Static Sales Reduction Factor | | | | Net Excise Tax Per Pack | Net Excise Tax Per Pack | Net Excise Tax Per Pack | |
| | 0.964 | | | | 0.126100000 | 0.048500000 | 0.048500000 | |
| 2015 | 9,569,182,967 | 478,459,148 | 0.165821342 | $79,338,738 | | | | |
| 2016 | 9,224,692,380 | 461,234,619 | 0.165821343 | $76,482,544 | | | | |
| 2017 | 8,892,603,454 | 444,630,173 | 0.165821342 | $73,729,172 | $56,067,865 | | | $56,067,865 |
| 2018 | 8,572,469,730 | 428,623,487 | 0.165821342 | $71,074,922 | $54,049,422 | | | $54,049,422 |
| 2019 | 8,263,860,820 | 413,193,041 | 0.165821343 | $68,516,225 | $52,103,642 | $20,039,862 | | $72,143,504 |
| 2020 | 7,966,361,830 | 398,318,092 | 0.165821343 | $66,049,641 | $50,227,911 | $19,318,427 | | $69,546,338 |
| 2021 | 7,679,572,804 | 383,978,640 | 0.165821344 | $63,671,854 | $48,419,707 | $18,622,964 | $18,622,964 | $85,665,635 |
| 2022 | 7,403,108,183 | 370,155,409 | 0.165821343 | $61,379,667 | $46,676,597 | $17,952,537 | $17,952,537 | $82,581,671 |
| 2023 | 7,136,596,288 | 356,829,814 | 0.165821343 | $59,169,999 | $44,996,240 | $17,306,246 | $17,306,246 | $79,608,732 |
| 2024 | 6,879,678,822 | 343,983,941 | 0.165821343 | $57,039,879 | $43,376,375 | $16,683,221 | $16,683,221 | $76,742,817 |
| 2025 | 6,632,010,384 | 331,600,519 | 0.165821342 | $54,986,443 | $41,814,825 | $16,082,625 | $16,082,625 | $73,980,075 |
| 2026 | 6,393,258,010 | 319,662,901 | 0.165821344 | $53,006,932 | $40,309,492 | $15,503,651 | $15,503,651 | $71,316,794 |
| | | | | $784,446,016 | $478,042,076 | $141,509,533 | $102,151,244 | $721,702,853 |

**Notes:**

*Baseline Sales Year data from Missouri Department of Revenue monthly Tobacco Product Wholesalers Reports (Form 4916)

**Missouri Cigarette sales have declined an average of 3.6% per year since 2013

**Assumption:** A static decline of 3.6% in cigarette sales is projected for the tax increase contemplated.

## Table C: Revenue Projections for a 50% Increase in Missouri Other Tobacco Products Excise Tax

| | *Baseline Sales Year For OTP- 2014 | | |
|---|---|---|---|
| | MFG Invoice Price | Net 10% OTP Tax Revenue Collected | (5% Increase) Net OTP Excise Tax Revenue |
| | $175,767,480 | $17,225,213 | |
| | **Static Sales Increase Factor | | |
| | 1.02 | | |
| 2015 | $179,282,830 | $17,569,717 | |
| 2016 | $182,868,487 | $17,921,112 | |
| 2017 | $186,525,857 | $18,279,534 | $8,956,972 |
| 2018 | $190,256,374 | $18,645,125 | $9,136,111 |
| 2019 | $194,061,501 | $19,018,027 | $9,318,833 |
| 2020 | $197,942,731 | $19,398,388 | $9,505,210 |
| 2021 | $201,901,586 | $19,786,355 | $9,695,314 |
| 2022 | $205,939,618 | $20,182,083 | $9,889,221 |
| 2023 | $210,058,410 | $20,585,724 | $10,087,005 |
| 2024 | $214,259,578 | $20,997,439 | $10,288,745 |
| 2025 | $218,544,770 | $21,417,387 | $10,494,520 |
| 2026 | $222,915,665 | $21,845,735 | $10,704,410 |
| | | $235,646,626 | $98,076,341 |

**Notes:**

*Baseline Sales Year data from Missouri Department of Revenue monthly Tobacco Product Wholesalers Reports (Form 4916)

**Missouri OTP sales have increased an average of 2% per year since 2013

**Assumptions:** A static increase of 2% in OTP sales is projected for the tax increase contemplated.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College**.

**Fiscal Note Summary**

State government revenue will increase by approximately $95 million to $103 million annually when cigarette and tobacco tax increases are fully implemented. Local government revenues could decrease approximately $3 million annually due to decreased cigarette and tobacco sales.

16-078

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

August 10, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Edward Greim regarding a proposed statutory amendment to Chapters 210, 196, & 149, version 6 (2016-078)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Edward Greim on August 7, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

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STATE AUDITORS OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-078

County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
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| 15. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

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I am at least 18 years of age. I do □ do not □ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____ Signature of Affiant (Person obtaining signatures)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

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NOTICE: You are advised that the proposed law changes, repeals, or modifies by implication, or may be construed to change, repeal or modify by implication, the following provisions of the Missouri Revised Statutes — Sections 66.340, 66.350, 149.015, 149.021, 149.065, 149.160, 196.1003, 210.102, and 210.320. The proposed law enacts three new sections, to be known as sections 149.017, 149.018, and 149.161.

*Be it enacted by the people of the State of Missouri:*

Sections 210.102 and 196.1003 of the Revised Statutes of Missouri are amended and sections 149.017, 149.018 and 149.161 are enacted, to read as follows:

210.102. 1. Sections 149.017, 149.018, and 149.161, and certain amendments to 196.1003 and 210.102, shall be referred to as the Early Childhood Health and Education Act, with the purpose of supporting and improving early childhood health and education through regulation of tobacco manufacturers and sellers. This Act:

(1) Creates the Early Childhood Health and Education Trust Fund in order to support and improve early childhood health and education across the state;

(2) Reforms the Coordinating Board for Early Childhood to administer the Early Childhood Health and Education Trust Fund and provide grants that support and improve early childhood health and education; and

(3) Funds the Early Childhood Health and Education Trust Fund through increased regulations on tobacco manufacturers and sellers.

All of the provisions of this act are severable. If any provision of this act is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this act shall be and remain valid and in full force and effect.

2. It shall be the duty of the Missouri children's services commission to:

(1) Make recommendations which will encourage greater interagency coordination, cooperation, more effective utilization of existing resources and less duplication of effort in activities of state agencies which affect the legal rights and well-being of children in Missouri;

(2) Develop an integrated state plan for the care provided to children in this state through state programs;

(3) Develop a plan to improve the quality of children's programs statewide. Such plan shall include, but not be limited to:

(a) Methods for promoting geographic availability and financial accessibility for all children and families in need of such services;

(b) Program recommendations for children's services which include child development, education, supervision, health and social services;

(4) Design and implement evaluation of the activities of the commission in fulfilling the duties as set out in this section;

(5) Report annually to the governor with five copies each to the house of representatives and senate about its activities including, but not limited to the following:

(a) A general description of the activities pertaining to children of each state agency having a member on the commission;

(b) A general description of the plans and goals, as they affect children, of each state agency having a member on the commission;

(c) Recommendations for statutory and appropriation initiatives to implement the integrated state plan;

(d) A report from the commission regarding the state of children in Missouri.

[2.]3. For years ending on or before December 31, 2016, [There is hereby established within the children's services commission] the "Coordinating Board for Early Childhood", which shall constitute a body corporate and politic, shall be established within the children's services commission, and shall include but not be limited to the following members:

(1) A representative from the governor's office;

(2) A representative from each of the following departments: health and senior services, mental health, social services, and elementary and secondary education;

(3) A representative of the judiciary;

(4) A representative of the family and community trust board (FACT);

(5) A representative from the head start program;

(6) Nine members appointed by the governor with the advice and consent of the senate who are representatives of the groups, such as business, philanthropy, civic groups, faith-based organizations, parent groups, advocacy organizations, early childhood service providers, and other stakeholders. The coordinating board may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers. The coordinating board shall elect from amongst its members a chairperson, vice chairperson, a secretary-reporter, and such other officers as it deems necessary. Members of the board shall serve without compensation but may be reimbursed for actual expenses necessary to the performance of their official duties for the board.

4. Beginning on January 1, 2017, the coordinating board for early childhood, which shall constitute a body corporate and politic, shall be established within the department of elementary and secondary education and shall include the following members:

(1) The director or the director's designee from each of the following departments: health and senior services, mental health, and

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social services;

(2) The commissioner or the commissioner's designee from the department of elementary and secondary education;

(3) Two members of the Missouri general assembly. One member shall be the chairman of the joint committee on education. One member shall be a member of the joint committee on education, shall be from a different party and different legislative chamber than the chairman of the joint committee on education, and shall be appointed by the elected leader, either the speaker of the house of representatives or the president pro tempore of the senate, of the member's legislative chamber;

(4) The director of the Missouri head start-state collaborative office;

(5) Six citizens, representing each of the following areas: early childhood education and development providers, local head start agencies, higher education, business, faith, and medicine. The Governor shall appoint, with the advice and consent of the senate, the three citizens representing the areas of medicine, business, and higher education. The state board of education shall appoint the citizens representing the areas of early childhood education and development providers, local head start agencies, and faith.

Citizens appointed under subdivision (5) shall serve a term of three years. Such citizens shall be eligible to serve two terms. Such citizens that serve a partial term of less than eighteen months shall be eligible to serve the partial term and two full terms. Such citizens that serve a partial term of more than eighteen months shall be eligible to serve the partial term and one full term.

[3.]5. The coordinating board for early childhood shall have the power to:

(1) Develop a comprehensive statewide long-range strategic plan for a cohesive early childhood system. The board shall review the plan each year and make amendments to the plan as it deems necessary. The board shall submit the plan to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of 2018 and each year thereafter;

(2) Confer with public and private entities for the purpose of promoting and improving the development of children from birth through age five of this state;

(3) Identify legislative recommendations to improve services for children from birth through age five;

(4)Promote coordination of existing services and programs across public and private entities;

(5) Promote research-based approaches to services and ongoing program evaluation;

(6) Identify service gaps and advise public and private entities on methods to close such gaps;

(7) Apply for and accept gifts, grants, appropriations, loans, or contributions to the coordinating board for early childhood fund from any source, public or private, and enter into contracts or other transactions with any federal or state agency, any private organizations, or any other source in furtherance of the purpose of subsections 3 through 15[2 and 3] of this section, and take any and all actions necessary to avail itself of such aid and cooperation;

(8) Direct disbursements and grants from the coordinating board for early childhood fund and the early childhood health and education trust fund as provided in this section;

(9) Administer the coordinating board for early childhood fund and the early childhood health and education trust fund [and invest any portion of the moneys not required for immediate disbursement in obligations of the United States or any agency or instrumentality of the United States, in obligations of the state of Missouri and its political subdivisions, in certificates of deposit and time deposits, or other obligations of banks and savings and loan associations, or in such other obligations as may be prescribed by the board];

(10) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal with real or personal property or any interests therein, wherever situated;

(11) Sell, convey, lease, exchange, transfer or otherwise dispose of all or any of its property or any interest therein, wherever situated;

(12) Employ and fix the compensation of an executive director and such other agents or employees as it considers necessary;

(13) Adopt, alter, or repeal by its own bylaws, rules, and regulations governing the manner in which its business may be transacted;

(14) Adopt and use an official seal;

(15) Assess or charge fees as the board determines to be reasonable to carry out its purposes;

(16) Make all expenditures which are incident and necessary to carry out its purposes;

(17) Sue and be sued in its official name;

(18) Take such action, enter into such agreements, and exercise all functions necessary or appropriate to carry out the duties and purposes set forth in this section;

(19) Contract with one or more not-for-profits to meet the requirements of this section;

(20) Provide technical assistance to grantees;

(21) Coordinate with parents, community leaders, local governments, and public and private entities to improve the quality of and increase access to early childhood development programs in communities throughout the state; and

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SECRETARY OF STATE

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(22) Pursue public and private partnership opportunities that are consistent with the objectives of subsection 6 of this section.

6. Any grants awarded by the coordinating board for early childhood shall accomplish one or more of the following objectives:

(1) Increasing access to existing quality early childhood development programs;

(2) Improving the quality of early childhood development programs;

(3) Increasing access to preventive health care and health and developmental screenings for children ages birth through five;

(4) Offering parent and family support and education concerning prenatal development, early child development, numeracy, and literacy;

(5) Providing professional development and training for early childhood development providers;

(6) Increasing coordination of early childhood development programs and public information about the importance of early childhood development;

(7) Providing evidenced-based smoking cessation programs for pregnant mothers.

7. The coordinating board for early childhood shall consider the following nonexclusive factors when awarding grants as provided in this section:

(1) Whether the project or activities will improve outcomes for children ages birth through five, consistent with the objectives of this section;

(2) Whether the project or activity leverages matching dollars;

(3) Whether the project or activity addresses needs identified by the local community; and

(4) The sustainability of the project or activity.

8. The coordinating board for early childhood shall establish accountability and audit requirements for all grant recipients, including requirements that success be measured by outcomes for children and families.

9. It shall be the duty of the coordinating board for early childhood to:

(1) Establish and maintain a conflict of interest policy for its members and staff;

(2) Prepare an annual report describing the activities of the board and a description of outcomes for children and families achieved by the board and grant recipients, including a list of all grant recipients and the amount of any grants awarded to such recipients. The board shall submit the report to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of each year, beginning in 2019, and shall provide a copy of the report to the secretary of state; and

(3) Ensure a fair and equitable distribution of funds collected as provided under sections 149.017 and 149.161 based on the established residency population of children ages birth through five.

10. There is hereby created the Coordinating Board for Early Childhood Fund which shall consist of the following:

(1) Any moneys appropriated by the general assembly for use by the board in carrying out the powers set out in subsections 3 through 9[2 and 3] of this section;

(2) Any moneys received from grants or which are given, donated, or contributed to the fund from any source;

(3) Any moneys received as fees authorized under subsections 3 through 9[2 and 3] of this section;

(4) Any moneys received as interest on deposits or as income on approved investments of the fund;

(5) Any moneys obtained from any other available source. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the coordinating board for early childhood fund at the end of the biennium shall not revert to the credit of the general revenue fund.

11. There is hereby created the Early Childhood Health and Education Trust Fund which shall consist of all moneys collected as provided in sections 149.017 and 149.161. Interest and moneys earned on the fund shall be credited to the fund.

12. No more than eight percent of the moneys received by the early childhood health and education trust fund shall be used for administrative expenses. Eligible administrative expenses shall include only those reasonable and necessary for:

(1) Salaries, fringe benefits, expenses, and equipment of staff employed by the coordinating board for early childhood;

(2) Expenses associated with cost sharing of salaries, fringe benefits, expenses, and equipment of staff employed or contracted by the coordinating board for early childhood from any other state department or agency of the state;

(3) Expenses of the coordinating board for early childhood associated with contracting with not-for-profit entities;

(4) Expenses of the coordinating board for early childhood associated with audits and outcome evaluations of programs and activities funded under this section;

(5) Expenses of grantees associated with meeting administrative requirements of grants established by the coordinating board for early childhood;

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No more than 40% of administrative expenses shall be expended on items (1) through (4) of this subsection.

13. Moneys in the funds may be invested by the state treasurer, and any income therefrom shall be deposited to the credit of the fund. Any moneys credited to and placed in the early childhood health and education trust fund shall be appropriated and used only for purposes which are authorized by this section and shall not be subject to the provisions of section 33.080.

14. The net proceeds from the moneys collected as provided in sections 149.017 and 149.161 shall constitute new and additional funding for the activities, initiatives, and programs funded by the coordinating board for early childhood and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

15. Beginning January 1, 2017, the department of elementary and secondary education and the coordinating board for early childhood may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This subsection and chapter 536 are nonseverable from one another, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017 shall be invalid and void.

149.017. 1. In addition to the tax levied upon the sale of cigarettes in this state pursuant to section 149.015, a tax shall be levied upon the sale of cigarettes applied as follows:

(A) Beginning January 1, 2017, a tax at an amount equal to ten mills per cigarette;

(B) Beginning January 1, 2019, an additional tax at an amount equal to seven and one-half mills per cigarette; and,

(C) Beginning January 1, 2021, an additional tax at an amount equal to seven and one-half mills per cigarette.

2. The tax shall be evidenced by stamps in the same manner as cigarettes stamped pursuant to sections 149.015 and 149.021. Stamped cigarettes in the possession of a retailer before any phase of the additional tax under subsection 1 of this section is imposed, shall not be subject to such phase of the additional tax before retail sale.

3. The tax on any cigarettes contained in packages of four, ten, twenty or similar quantities to be used solely for distribution as samples shall be computed on a per cigarette basis at the rate set forth in this section, and payment of the tax shall be remitted to the director at such time and in such manner as he may prescribe.

4. The provisions of section 149.065 notwithstanding, all moneys collected as a result of the taxes imposed by this section and section 149.161 shall be credited to and placed in the early childhood health and education trust fund established by section 210.102 as said moneys are received. All of the moneys from the taxes imposed by this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the early childhood health and education trust fund.

5. The additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section and section 149.161 may be paid from moneys appropriated from the early childhood health and education trust fund for that purpose, not to exceed one and one half of one percent (1.5%) of the total moneys collected in that fiscal year. Collection and enforcement activities and initiatives that are paid for with moneys from the early childhood health and education trust fund shall be conducted in a fiscally responsible manner in order to maximize the net proceeds available for distribution pursuant to section 210.102. Moneys appropriated from the early childhood health and education trust fund pursuant to this subdivision shall not be used to pay costs that are not additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section;

6. The net proceeds from the taxes imposed by this section and section 149.161 shall constitute new and additional funding for the activities, initiatives, and programs described in section 210.102 and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

7. On an annual basis, the director of the department of revenue, in consultation with the director of health and senior services, shall determine whether the taxes imposed by this section and section 149.161 have resulted in a decrease in consumption of tobacco products and thereby directly caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320. If a reduction in the amount of moneys collected and deposited into any of those funds pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320, has been directly caused by the taxes imposed by this section and section 149.161, an amount equal to the amount of moneys that were not collected and deposited into that fund or funds or were not generated by the local tobacco taxes authorized by sections 66.340 and 210.320 because of the taxes imposed by this section and section 149.161 shall be transferred from the early childhood health and education trust fund pursuant to section 210.102 to the appropriate fund or funds of political subdivisions. The aggregate amount transferred to such funds and political subdivisions from the early childhood health and education trust fund for any year shall not exceed three percent of the total moneys collected pursuant to this section and section 149.161 during that same year.

149.018. In the event a tax other than the taxes imposed by sections 149.015, 149.017, 149.160, and 149.161 is authorized to be imposed upon the sale of cigarettes and tobacco products by a constitutional or statutory statewide ballot measure submitted by initiative petition, and the initial effective date for all or any part of such tax is after January 1, 2017, but before January 1, 2021, the additional taxes imposed pursuant to sections 149.017 and 149.161 shall be suspended from being imposed and collected to the extent the new tax is imposed and collected. On an annual basis, the director of the department of revenue shall estimate the amount of additional tax suspended pursuant to this section.

149.161. Beginning on January 1, 2017, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, a tax shall be levied upon the first sale of tobacco products other than cigarettes within this state in the amount of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. The tax on tobacco products shall be at the rate of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. Licensed persons making first sales shall be allowed credit in accordance with the provisions of section 149.160.1.

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196.1003. Requirements.

Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this Act shall do one of the following:

(a) become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

(b) (1) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts, (as such amounts are adjusted for inflation) —
1999: $.0094241 per unit sold after the date of enactment of this Act;
2000: $.0104712 per unit sold;
for each of 2001 and 2002: $.0136125 per unit sold;
for each of 2003 through 2006: $.0167539 per unit sold;
for each of 2007 and each year thereafter: $.0188482 per unit sold.

(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances —

(A) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (i) in the order in which they were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment) had it been a participating manufacturer, the percentage determined in subdivision (D) of the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(C) to the extent not released from escrow under subparagraphs (A) or (B), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

(D) The amount in subdivision (B) of the excess released from escrow shall be: for units sold during the year ending on December 31, 2017, eighty percent; for units sold during the year ending on December 31, 2018, sixty percent; for units sold during the year ending on December 31, 2019, forty percent; for units sold during the year ending on December 31, 2020, twenty percent; for units sold during all years ending on or after December 31, 2021, zero percent.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails [in any year] to place into escrow the funds required under this section shall

(A) be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;

(B) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

(C) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years.

Each failure to make an annual deposit required under this section shall constitute a separate violation. Any tobacco product manufacturer that violates the provisions of this section shall pay the State's cost and attorney's fees incurred during a successful prosecution under this section.

16-077

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

August 10, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Edward Greim regarding a proposed statutory amendment to Chapters 210 & 149, version 5 (2016-077)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Edward Greim on August 7, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

RECEIVED
AUG 10 2015
STATE AUDITORS OFFICE

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-077

County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do □ do not □ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____ Signature of Affiant (Person obtaining signatures)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

RECEIVED 2015 AUG 17 PM 1:44

16-077

NOTICE: You are advised that the proposed law changes, repeals, or modifies by implication, or may be construed to change, repeal or modify by implication, the following provisions of the Missouri Revised Statutes — Sections 66.340, 66.350, 149.015, 149.021, 149.065, 149.160, 210.102, and 210.320. The proposed law enacts three new sections, to be known as sections 149.017, 149.018, and 149.161.

*Be it enacted by the people of the State of Missouri:*

Section 210.102 of the Revised Statutes of Missouri is amended and sections 149.017, 149.018 and 149.161 are enacted, to read as follows:

210.102. 1. Sections 149.017, 149.018, and 149.161, and certain amendments to 210.102, shall be referred to as the Early Childhood Health and Education Act, with the purpose of supporting and improving early childhood health and education through regulation of tobacco sellers. This Act:

(1) Creates the Early Childhood Health and Education Trust Fund in order to support and improve early childhood health and education across the state;

(2) Reforms the Coordinating Board for Early Childhood to administer the Early Childhood Health and Education Trust Fund and provide grants that support and improve early childhood health and education; and

(3) Funds the Early Childhood Health and Education Trust Fund through revenue derived from the sale of tobacco products.

All of the provisions of this act are severable. If any provision of this act is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this act shall be and remain valid and in full force and effect.

2. It shall be the duty of the Missouri children's services commission to:

(1) Make recommendations which will encourage greater interagency coordination, cooperation, more effective utilization of existing resources and less duplication of effort in activities of state agencies which affect the legal rights and well-being of children in Missouri;

(2) Develop an integrated state plan for the care provided to children in this state through state programs;

(3) Develop a plan to improve the quality of children's programs statewide. Such plan shall include, but not be limited to:

(a) Methods for promoting geographic availability and financial accessibility for all children and families in need of such services;

(b) Program recommendations for children's services which include child development, education, supervision, health and social services;

(4) Design and implement evaluation of the activities of the commission in fulfilling the duties as set out in this section;

(5) Report annually to the governor with five copies each to the house of representatives and senate about its activities including, but not limited to the following:

(a) A general description of the activities pertaining to children of each state agency having a member on the commission;

(b) A general description of the plans and goals, as they affect children, of each state agency having a member on the commission;

(c) Recommendations for statutory and appropriation initiatives to implement the integrated state plan;

(d) A report from the commission regarding the state of children in Missouri.

[2.]3. For years ending on or before December 31, 2016, [There is hereby established within the children's services commission] the "Coordinating Board for Early Childhood", which shall constitute a body corporate and politic, shall be established within the children's services commission, and shall include but not be limited to the following members:

(1) A representative from the governor's office;

(2) A representative from each of the following departments: health and senior services, mental health, social services, and elementary and secondary education;

(3) A representative of the judiciary;

(4) A representative of the family and community trust board (FACT);

(5) A representative from the head start program;

(6) Nine members appointed by the governor with the advice and consent of the senate who are representatives of the groups, such as business, philanthropy, civic groups, faith-based organizations, parent groups, advocacy organizations, early childhood service providers, and other stakeholders. The coordinating board may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers. The coordinating board shall elect from amongst its members a chairperson, vice chairperson, a secretary-reporter, and such other officers as it deems necessary. Members of the board shall serve without compensation but may be reimbursed for actual expenses necessary to the performance of their official duties for the board.

4. Beginning on January 1, 2017, the coordinating board for early childhood, which shall constitute a body corporate and politic, shall be established within the department of elementary and secondary education and shall include the following members:

(1) The director or the director's designee from each of the following departments: health and senior services, mental health, and social services;

16-077

(2) The commissioner or the commissioner's designee from the department of elementary and secondary education;

(3) Two members of the Missouri general assembly. One member shall be the chairman of the joint committee on education. One member shall be a member of the joint committee on education, shall be from a different party and different legislative chamber than the chairman of the joint committee on education, and shall be appointed by the elected leader, either the speaker of the house of representatives or the president pro tempore of the senate, of the member's legislative chamber;

(4) The director of the Missouri head start-state collaborative office;

(5) Six citizens, representing each of the following areas: early childhood education and development providers, local head start agencies, higher education, business, faith, and medicine. The Governor shall appoint, with the advice and consent of the senate, the three citizens representing the areas of medicine, business, and higher education. The state board of education shall appoint the citizens representing the areas of early childhood education and development providers, local head start agencies, and faith.

Citizens appointed under subdivision (5) shall serve a term of three years. Such citizens shall be eligible to serve two terms. Such citizens that serve a partial term of less than eighteen months shall be eligible to serve the partial term and two full terms. Such citizens that serve a partial term of more than eighteen months shall be eligible to serve the partial term and one full term.

[3.]5. The coordinating board for early childhood shall have the power to:

(1) Develop a comprehensive statewide long-range strategic plan for a cohesive early childhood system. The board shall review the plan each year and make amendments to the plan as it deems necessary. The board shall submit the plan to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of 2018 and each year thereafter;

(2) Confer with public and private entities for the purpose of promoting and improving the development of children from birth through age five of this state;

(3) Identify legislative recommendations to improve services for children from birth through age five;

(4)Promote coordination of existing services and programs across public and private entities;

(5) Promote research-based approaches to services and ongoing program evaluation;

(6) Identify service gaps and advise public and private entities on methods to close such gaps;

(7) Apply for and accept gifts, grants, appropriations, loans, or contributions to the coordinating board for early childhood fund from any source, public or private, and enter into contracts or other transactions with any federal or state agency, any private organizations, or any other source in furtherance of the purpose of subsections 3 through 15[2 and 3] of this section, and take any and all actions necessary to avail itself of such aid and cooperation;

(8) Direct disbursements and grants from the coordinating board for early childhood fund and the early childhood health and education trust fund as provided in this section;

(9) Administer the coordinating board for early childhood fund and the early childhood health and education trust fund [and invest any portion of the moneys not required for immediate disbursement in obligations of the United States or any agency or instrumentality of the United States, in obligations of the state of Missouri and its political subdivisions, in certificates of deposit and time deposits, or other obligations of banks and savings and loan associations, or in such other obligations as may be prescribed by the board];

(10) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal with real or personal property or any interests therein, wherever situated;

(11) Sell, convey, lease, exchange, transfer or otherwise dispose of all or any of its property or any interest therein, wherever situated;

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(12) Employ and fix the compensation of an executive director and such other agents or employees as it considers necessary;

(13) Adopt, alter, or repeal by its own bylaws, rules, and regulations governing the manner in which its business may be transacted;

(14) Adopt and use an official seal;

(15) Assess or charge fees as the board determines to be reasonable to carry out its purposes;

(16) Make all expenditures which are incident and necessary to carry out its purposes;

(17) Sue and be sued in its official name;

(18) Take such action, enter into such agreements, and exercise all functions necessary or appropriate to carry out the duties and purposes set forth in this section;

(19) Contract with one or more not-for-profits to meet the requirements of this section;

(20) Provide technical assistance to grantees;

(21) Coordinate with parents, community leaders, local governments, and public and private entities to improve the quality of and increase access to early childhood development programs in communities throughout the state; and

(22) Pursue public and private partnership opportunities that are consistent with the objectives of subsection 6 of this section.

16-077

6. Any grants awarded by the coordinating board for early childhood shall accomplish one or more of the following objectives:

(1) Increasing access to existing quality early childhood development programs;

(2) Improving the quality of early childhood development programs;

(3) Increasing access to preventive health care and health and developmental screenings for children ages birth through five;

(4) Offering parent and family support and education concerning prenatal development, early child development, numeracy, and literacy;

(5) Providing professional development and training for early childhood development providers;

(6) Increasing coordination of early childhood development programs and public information about the importance of early childhood development;

(7) Providing evidenced-based smoking cessation programs for pregnant mothers.

7. The coordinating board for early childhood shall consider the following nonexclusive factors when awarding grants as provided in this section:

(1) Whether the project or activities will improve outcomes for children ages birth through five, consistent with the objectives of this section;

(2) Whether the project or activity leverages matching dollars;

(3) Whether the project or activity addresses needs identified by the local community; and

(4) The sustainability of the project or activity.

8. The coordinating board for early childhood shall establish accountability and audit requirements for all grant recipients, including requirements that success be measured by outcomes for children and families.

9. It shall be the duty of the coordinating board for early childhood to:

(1) Establish and maintain a conflict of interest policy for its members and staff;

(2) Prepare an annual report describing the activities of the board and a description of outcomes for children and families achieved by the board and grant recipients, including a list of all grant recipients and the amount of any grants awarded to such recipients. The board shall submit the report to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of each year, beginning in 2019, and shall provide a copy of the report to the secretary of state; and

(3) Ensure a fair and equitable distribution of funds collected as provided under sections 149.017 and 149.161 based on the established residency population of children ages birth through five.

10. There is hereby created the Coordinating Board for Early Childhood Fund which shall consist of the following:

(1) Any moneys appropriated by the general assembly for use by the board in carrying out the powers set out in subsections 3 through 9[2 and 3] of this section;

(2) Any moneys received from grants or which are given, donated, or contributed to the fund from any source;

(3) Any moneys received as fees authorized under subsections 3 through 9[2 and 3] of this section;

(4) Any moneys received as interest on deposits or as income on approved investments of the fund;

(5) Any moneys obtained from any other available source. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the coordinating board for early childhood fund at the end of the biennium shall not revert to the credit of the general revenue fund.

11. There is hereby created the Early Childhood Health and Education Trust Fund which shall consist of all moneys collected as provided in sections 149.017 and 149.161. Interest and moneys earned on the fund shall be credited to the fund.

12. No more than eight percent of the moneys received by the early childhood health and education trust fund shall be used for administrative expenses. Eligible administrative expenses shall include only those reasonable and necessary for:

(1) Salaries, fringe benefits, expenses, and equipment of staff employed by the coordinating board for early childhood;

(2) Expenses associated with cost sharing of salaries, fringe benefits, expenses, and equipment of staff employed or contracted by the coordinating board for early childhood from any other state department or agency of the state;

(3) Expenses of the coordinating board for early childhood associated with contracting with not-for-profit entities;

(4) Expenses of the coordinating board for early childhood associated with audits and outcome evaluations of programs and activities funded under this section;

(5) Expenses of grantees associated with meeting administrative requirements of grants established by the coordinating board for early childhood;

No more than 40% of administrative expenses shall be expended on items (1) through (4) of this subsection.

16-077

13. Moneys in the funds may be invested by the state treasurer, and any income therefrom shall be deposited to the credit of the fund. Any moneys credited to and placed in the early childhood health and education trust fund shall be appropriated and used only for purposes which are authorized by this section and shall not be subject to the provisions of section 33.080.

14. The net proceeds from the moneys collected as provided in sections 149.017 and 149.161 shall constitute new and additional funding for the activities, initiatives, and programs funded by the coordinating board for early childhood and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

15. Beginning January 1, 2017, the department of elementary and secondary education and the coordinating board for early childhood may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This subsection and chapter 536 are nonseverable from one another, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017 shall be invalid and void.

149.017. 1. In addition to the tax levied upon the sale of cigarettes in this state pursuant to section 149.015, a tax shall be levied upon the sale of cigarettes applied as follows:

(A) Beginning January 1, 2017, a tax at an amount equal to ten mills per cigarette;

(B) Beginning January 1, 2019, an additional tax at an amount equal to seven and one-half mills per cigarette; and,

(C) Beginning January 1, 2021, an additional tax at an amount equal to seven and one-half mills per cigarette.

2. The tax shall be evidenced by stamps in the same manner as cigarettes stamped pursuant to sections 149.015 and 149.021. Stamped cigarettes in the possession of a retailer before any phase of the additional tax under subsection 1 of this section is imposed, shall not be subject to such phase of the additional tax before retail sale.

3. The tax on any cigarettes contained in packages of four, ten, twenty or similar quantities to be used solely for distribution as samples shall be computed on a per cigarette basis at the rate set forth in this section, and payment of the tax shall be remitted to the director at such time and in such manner as he may prescribe.

4. The provisions of section 149.065 notwithstanding, all moneys collected as a result of the taxes imposed by this section and section 149.161 shall be credited to and placed in the early childhood health and education trust fund established by section 210.102 as said moneys are received. All of the moneys from the taxes imposed by this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the early childhood health and education trust fund.

5. The additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section and section 149.161 may be paid from moneys appropriated from the early childhood health and education trust fund for that purpose, not to exceed one and one half of one percent (1.5%) of the total moneys collected in that fiscal year. Collection and enforcement activities and initiatives that are paid for with moneys from the early childhood health and education trust fund shall be conducted in a fiscally responsible manner in order to maximize the net proceeds available for distribution pursuant to section 210.102. Moneys appropriated from the early childhood health and education trust fund pursuant to this subdivision shall not be used to pay costs that are not additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section;

6. The net proceeds from the taxes imposed by this section and section 149.161 shall constitute new and additional funding for the activities, initiatives, and programs described in section 210.102 and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

7. On an annual basis, the director of the department of revenue, in consultation with the director of health and senior services, shall determine whether the taxes imposed by this section and section 149.161 have resulted in a decrease in consumption of tobacco products and thereby directly caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320. If a reduction in the amount of moneys collected and deposited into any of those funds pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320, has been directly caused by the taxes imposed by this section and section 149.161, an amount equal to the amount of moneys that were not collected and deposited into that fund or funds or were not generated by the local tobacco taxes authorized by sections 66.340 and 210.320 because of the taxes imposed by this section and section 149.161 shall be transferred from the early childhood health and education trust fund pursuant to section 210.102 to the appropriate fund or funds or political subdivisions. The aggregate amount transferred to such funds and political subdivisions from the early childhood health and education trust fund for any year shall not exceed three percent of the total moneys collected pursuant to this section and section 149.161 during that same year.

149.018. In the event a tax other than the taxes imposed by sections 149.015, 149.017, 149.160, and 149.161 is authorized to be imposed upon the sale of cigarettes and tobacco products by a constitutional or statutory statewide ballot measure submitted by initiative petition, and the initial effective date for all or any part of such tax is after January 1, 2017, but before January 1, 2021, the additional taxes imposed pursuant to sections 149.017 and 149.161 shall be suspended from being imposed and collected to the extent the new tax is imposed and collected. On an annual basis, the director of the department of revenue shall estimate the amount of additional tax suspended pursuant to this section.

149.161. Beginning on January 1, 2017, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, a tax shall be levied upon the first sale of tobacco products other than cigarettes within this state in the amount of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. The tax on tobacco products shall be at the rate of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. Licensed persons making first sales shall be allowed credit in accordance with the provisions of section 149.160.1.

16-076

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

August 10, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Edward Greim regarding a proposed statutory amendment to Chapters 210, 196, & 149, version 4 (2016-076)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Edward Greim on August 7, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

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STATE AUDITORS OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-076

County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do □ do not □ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

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_____ _____
Signature of Affiant (Person obtaining signatures) Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____ _____
Signature of Notary Address of Notary

Notary Public (Seal) My commission expires _____

16-076

NOTICE: You are advised that the proposed law changes, repeals, or modifies by implication, or may be construed to change, repeal or modify by implication, the following provisions of the Missouri Revised Statutes — Sections 66.340, 66.350, 149.015, 149.021, 149.065, 149.160, 196.1003, 210.102, and 210.320. The proposed law enacts two new sections, to be known as sections 149.017 and 149.161.

*Be it enacted by the people of the State of Missouri:*

Sections 210.102 and 196.1003 of the Revised Statutes of Missouri are amended and sections 149.017 and 149.161 are enacted, to read as follows:

210.102. 1. Sections 149.017 and 149.161, and certain amendments to 196.1003 and 210.102, shall be referred to as the Early Childhood Health and Education Act, with the purpose of supporting and improving early childhood health and education through regulation of tobacco manufacturers and sellers. This Act:

(1) Creates the Early Childhood Health and Education Trust Fund in order to support and improve early childhood health and education across the state;

(2) Reforms the Coordinating Board for Early Childhood to administer the Early Childhood Health and Education Trust Fund and provide grants that support and improve early childhood health and education; and

(3) Funds the Early Childhood Health and Education Trust Fund through increased regulations on tobacco manufacturers and sellers.

All of the provisions of this act are severable. If any provision of this act is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this act shall be and remain valid and in full force and effect.

2. It shall be the duty of the Missouri children's services commission to:

(1) Make recommendations which will encourage greater interagency coordination, cooperation, more effective utilization of existing resources and less duplication of effort in activities of state agencies which affect the legal rights and well-being of children in Missouri;

(2) Develop an integrated state plan for the care provided to children in this state through state programs;

(3) Develop a plan to improve the quality of children's programs statewide. Such plan shall include, but not be limited to:

(a) Methods for promoting geographic availability and financial accessibility for all children and families in need of such services;

(b) Program recommendations for children's services which include child development, education, supervision, health and social services;

(4) Design and implement evaluation of the activities of the commission in fulfilling the duties as set out in this section;

(5) Report annually to the governor with five copies each to the house of representatives and senate about its activities including, but not limited to the following:

(a) A general description of the activities pertaining to children of each state agency having a member on the commission;

(b) A general description of the plans and goals, as they affect children, of each state agency having a member on the commission;

(c) Recommendations for statutory and appropriation initiatives to implement the integrated state plan;

(d) A report from the commission regarding the state of children in Missouri.

[2.]3. For years ending on or before December 31, 2016, [There is hereby established within the children's services commission] the "Coordinating Board for Early Childhood", which shall constitute a body corporate and politic, shall be established within the children's services commission, and shall include but not be limited to the following members:

(1) A representative from the governor's office;

(2) A representative from each of the following departments: health and senior services, mental health, social services, and elementary and secondary education;

(3) A representative of the judiciary;

(4) A representative of the family and community trust board (FACT);

(5) A representative from the head start program;

(6) Nine members appointed by the governor with the advice and consent of the senate who are representatives of the groups, such as business, philanthropy, civic groups, faith-based organizations, parent groups, advocacy organizations, early childhood service providers, and other stakeholders. The coordinating board may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers. The coordinating board shall elect from amongst its members a chairperson, vice chairperson, a secretary-reporter, and such other officers as it deems necessary. Members of the board shall serve without compensation but may be reimbursed for actual expenses necessary to the performance of their official duties for the board.

4. Beginning on January 1, 2017, the coordinating board for early childhood, which shall constitute a body corporate and politic, shall be established within the department of elementary and secondary education and shall include the following members:

(1) The director or the director's designee from each of the following departments: health and senior services, mental health, and

16-076

social services;

(2) The commissioner or the commissioner's designee from the department of elementary and secondary education;

(3) Two members of the Missouri general assembly. One member shall be the chairman of the joint committee on education. One member shall be a member of the joint committee on education, shall be from a different party and different legislative chamber than the chairman of the joint committee on education, and shall be appointed by the elected leader, either the speaker of the house of representatives or the president pro tempore of the senate, of the member's legislative chamber;

(4) The director of the Missouri head start-state collaborative office;

(5) Six citizens, representing each of the following areas: early childhood education and development providers, local Head Start agencies, higher education, business, faith, and medicine. The Governor shall appoint, with the advice and consent of the senate, the three citizens representing the areas of medicine, business, and higher education. The state board of education shall appoint the citizens representing the areas of early childhood education and development providers, local Head Start agencies, and faith.

Citizens appointed under subdivision (5) shall serve a term of three years. Such citizens shall be eligible to serve two terms. Such citizens that serve a partial term of less than eighteen months shall be eligible to serve the partial term and two full terms. Such citizens that serve a partial term of more than eighteen months shall be eligible to serve the partial term and one full term.

[3.]5. The coordinating board for early childhood shall have the power to:

(1) Develop a comprehensive statewide long-range strategic plan for a cohesive early childhood system. The board shall review the plan each year and make amendments to the plan as it deems necessary. The board shall submit the plan to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of 2018 and each year thereafter;

(2) Confer with public and private entities for the purpose of promoting and improving the development of children from birth through age five of this state;

(3) Identify legislative recommendations to improve services for children from birth through age five;

(4)Promote coordination of existing services and programs across public and private entities;

(5) Promote research-based approaches to services and ongoing program evaluation;

(6) Identify service gaps and advise public and private entities on methods to close such gaps;

(7) Apply for and accept gifts, grants, appropriations, loans, or contributions to the coordinating board for early childhood fund from any source, public or private, and enter into contracts or other transactions with any federal or state agency, any private organizations, or any other source in furtherance of the purpose of subsections 3 through 15[2 and 3] of this section, and take any and all actions necessary to avail itself of such aid and cooperation;

(8) Direct disbursements and grants from the coordinating board for early childhood fund and the early childhood health and education trust fund as provided in this section;

(9) Administer the coordinating board for early childhood fund and the early childhood health and education trust fund [and invest any portion of the moneys not required for immediate disbursement in obligations of the United States or any agency or instrumentality of the United States, in obligations of the state of Missouri and its political subdivisions, in certificates of deposit and time deposits, or other obligations of banks and savings and loan associations, or in such other obligations as may be prescribed by the board];

(10) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal with real or personal property or any interests therein, wherever situated;

(11) Sell, convey, lease, exchange, transfer or otherwise dispose of all or any of its property or any interest therein, wherever situated;

(12) Employ and fix the compensation of an executive director and such other agents or employees as it considers necessary;

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SECRETARY OF STATE

(13) Adopt, alter, or repeal by its own bylaws, rules, and regulations governing the manner in which its business may be transacted;

(14) Adopt and use an official seal;

(15) Assess or charge fees as the board determines to be reasonable to carry out its purposes;

(16) Make all expenditures which are incident and necessary to carry out its purposes;

(17) Sue and be sued in its official name;

(18) Take such action, enter into such agreements, and exercise all functions necessary or appropriate to carry out the duties and purposes set forth in this section;

(19) Contract with one or more not-for-profits to meet the requirements of this section;

(20) Provide technical assistance to grantees;

(21) Coordinate with parents, community leaders, local governments, and public and private entities to improve the quality of and increase access to early childhood development programs in communities throughout the state; and

(22) Pursue public and private partnership opportunities that are consistent with the objectives of subsection 6 of this section.

6. Any grants awarded by the coordinating board for early childhood shall accomplish one or more of the following objectives:

(1) Increasing access to existing quality early childhood development programs;

(2) Improving the quality of early childhood development programs;

(3) Increasing access to preventive health care and health and developmental screenings for children ages birth through five;

(4) Offering parent and family support and education concerning prenatal development, early child development, numeracy, and literacy;

(5) Providing professional development and training for early childhood development providers;

(6) Increasing coordination of early childhood development programs and public information about the importance of early childhood development;

(7) Providing evidenced-based smoking cessation programs for pregnant mothers.

7. The coordinating board for early childhood shall consider the following nonexclusive factors when awarding grants as provided in this section:

(1) Whether the project or activities will improve outcomes for children ages birth through five, consistent with the objectives of this section;

(2) Whether the project or activity leverages matching dollars;

(3) Whether the project or activity addresses needs identified by the local community; and

(4) The sustainability of the project or activity.

8. The coordinating board for early childhood shall establish accountability and audit requirements for all grant recipients, including requirements that success be measured by outcomes for children and families.

9. It shall be the duty of the coordinating board for early childhood to:

(1) Establish and maintain a conflict of interest policy for its members and staff;

(2) Prepare an annual report describing the activities of the board and a description of outcomes for children and families achieved by the board and grant recipients, including a list of all grant recipients and the amount of any grants awarded to such recipients. The board shall submit the report to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of each year, beginning in 2019, and shall provide a copy of the report to the secretary of state; and

(3) Ensure a fair and equitable distribution of funds collected as provided under sections 149.017 and 149.161 based on the established residency population of children ages birth through five.

10. There is hereby created the Coordinating Board for Early Childhood Fund which shall consist of the following:

(1) Any moneys appropriated by the general assembly for use by the board in carrying out the powers set out in subsections 3 through 9[2 and 3] of this section;

(2) Any moneys received from grants or which are given, donated, or contributed to the fund from any source;

(3) Any moneys received as fees authorized under subsections 3 through 9[2 and 3] of this section;

(4) Any moneys received as interest on deposits or as income on approved investments of the fund;

(5) Any moneys obtained from any other available source. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the coordinating board for early childhood fund at the end of the biennium shall not revert to the credit of the general revenue fund.

11. There is hereby created the Early Childhood Health and Education Trust Fund which shall consist of all moneys collected as provided in sections 149.017 and 149.161. Interest and moneys earned on the fund shall be credited to the fund.

12. No more than eight percent of the moneys received by the early childhood health and education trust fund shall be used for administrative expenses. Eligible administrative expenses shall include only those reasonable and necessary for:

(1) Salaries, fringe benefits, expenses, and equipment of staff employed by the coordinating board for early childhood;

(2) Expenses associated with cost sharing of salaries, fringe benefits, expenses, and equipment of staff employed or contracted by the coordinating board for early childhood from any other state department or agency of the state;

(3) Expenses of the coordinating board for early childhood associated with contracting with not-for-profit entities;

(4) Expenses of the coordinating board for early childhood associated with audits and outcome evaluations of programs and activities funded under this section;

(5) Expenses of grantees associated with meeting administrative requirements of grants established by the coordinating board for early childhood;

No more than 40% of administrative expenses shall be expended on items (1) through (4) of this subsection.

13. Moneys in the funds may be invested by the state treasurer, and any income therefrom shall be deposited to the credit of the fund. Any moneys credited to and placed in the early childhood health and education trust fund shall be appropriated and used only for purposes which are authorized by this section and shall not be subject to the provisions of section 33.080.

14. The net proceeds from the moneys collected as provided in sections 149.017 and 149.161 shall constitute new and additional funding for the activities, initiatives, and programs funded by the coordinating board for early childhood and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

15. Beginning January 1, 2017, the department of elementary and secondary education and the coordinating board for early childhood may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This subsection and chapter 536 are nonseverable from one another, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017 shall be invalid and void.

149.017. 1. Beginning January 1, 2017, in addition to the tax levied upon the sale of cigarettes in this state pursuant to section 149.015, a tax shall be levied upon the sale of cigarettes applied a tax at an amount equal to twenty-five mills per cigarette.

2. The tax shall be evidenced by stamps in the same manner as cigarettes stamped pursuant to sections 149.015 and 149.021. Stamped cigarettes in the possession of a retailer before any phase of the additional tax under subsection 1 of this section is imposed, shall not be subject to such phase of the additional tax before retail sale.

3. The tax on any cigarettes contained in packages of four, ten, twenty or similar quantities to be used solely for distribution as samples shall be computed on a per cigarette basis at the rate set forth in this section, and payment of the tax shall be remitted to the director at such time and in such manner as he may prescribe.

4. The provisions of section 149.065 notwithstanding, all moneys collected as a result of the taxes imposed by this section and section 149.161 shall be credited to and placed in the early childhood health and education trust fund established by section 210.102 as said moneys are received. All of the moneys from the taxes imposed by this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the early childhood health and education trust fund.

5. The additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section and section 149.161 may be paid from moneys appropriated from the early childhood health and education trust fund for that purpose, not to exceed one and one half of one percent (1.5%) of the total moneys collected in that fiscal year. Collection and enforcement activities and initiatives that are paid for with moneys from the early childhood health and education trust fund shall be conducted in a fiscally responsible manner in order to maximize the net proceeds available for distribution pursuant to section 210.102. Moneys appropriated from the early childhood health and education trust fund pursuant to this subdivision shall not be used to pay costs that are not additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section;

6. The net proceeds from the taxes imposed by this section and section 149.161 shall constitute new and additional funding for the activities, initiatives, and programs described in section 210.102 and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

7. On an annual basis, the director of the department of revenue, in consultation with the director of health and senior services, shall determine whether the taxes imposed by this section and section 149.161 have resulted in a decrease in consumption of tobacco products and thereby directly caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320. If a reduction in the amount of moneys collected and deposited into any of those funds pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320, has been directly caused by the taxes imposed by this section and section 149.161, an amount equal to the amount of moneys that were not collected and deposited into that fund or funds or were not generated by the local tobacco taxes authorized by sections 66.340 and 210.320 because of the taxes imposed by this section and section 149.161 may be appropriated by the General Assembly from the early childhood health and education trust fund pursuant to section 210.102 to the appropriate fund or funds or political subdivisions. The aggregate amount appropriated to such funds and political subdivisions from the early childhood health and education trust fund for any year shall not exceed three percent of the total moneys collected pursuant to this section and section 149.161 during that same year.

149.161. Beginning on January 1, 2017, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, a tax shall be levied upon the first sale of tobacco products other than cigarettes within this state in the amount of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. The tax on tobacco products shall be at the rate of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. Licensed persons making first sales shall be allowed credit in accordance with the provisions of section 149.160.1.

196.1003. Requirements.

Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this Act shall do one of the following:

(a) become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

(b) (1) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts, (as such amounts are adjusted for inflation) —
1999: $.0094241 per unit sold after the date of enactment of this Act;
2000: $.0104712 per unit sold:

16-076

for each of 2001 and 2002: $.0136125 per unit sold;
for each of 2003 through 2006: $.0167539 per unit sold;
for each of 2007 and each year thereafter: $.0188482 per unit sold.

(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances —

(A) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (i) in the order in which they were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment) had it been a participating manufacturer, the percentage determined in subdivision (D) of the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(C) to the extent not released from escrow under subparagraphs (A) or (B), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

(D) The amount in subdivision (B) of the excess released from escrow shall be: for units sold during the year ending on December 31, 2017, eighty percent; for units sold during the year ending on December 31, 2018, sixty percent; for units sold during the year ending on December 31, 2019, forty percent; for units sold during the year ending on December 31, 2020, twenty percent; for units sold during all years ending on or after December 31, 2021, zero percent.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails [in any year] to place into escrow the funds required under this section shall

(A) be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;

(B) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

(C) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years.

Each failure to make an annual deposit required under this section shall constitute a separate violation. Any tobacco product manufacturer that violates the provisions of this section shall pay the State's cost and attorney's fees incurred during a successful prosecution under this section.

16-075

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

August 10, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Edward Greim regarding a proposed statutory amendment to Chapters 210 & 149, version 3 (2016-075)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Edward Greim on August 7, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

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STATE AUDITORS OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-075

County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

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I am at least 18 years of age. I do □ do not □ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____ _____
Signature of Affiant (Person obtaining signatures) Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____ _____
Signature of Notary Address of Notary

Notary Public (Seal) My commission expires _____

16-075

NOTICE: You are advised that the proposed law changes, repeals, or modifies by implication, or may be construed to change, repeal or modify by implication, the following provisions of the Missouri Revised Statutes — Sections 66.340, 66.350, 149.015, 149.021, 149.065, 149.160, 210.102, and 210.320. The proposed law enacts two new sections, to be known as sections 149.017 and 149.161.

*Be it enacted by the people of the State of Missouri:*

Section 210.102 of the Revised Statutes of Missouri is amended and sections 149.017 and 149.161 are enacted, to read as follows:

210.102. 1. Sections 149.017 and 149.161, and certain amendments to 210.102, shall be referred to as the Early Childhood Health and Education Act, with the purpose of supporting and improving early childhood health and education through regulation of tobacco sellers. This Act:

(1) Creates the Early Childhood Health and Education Trust Fund in order to support and improve early childhood health and education across the state;

(2) Reforms the Coordinating Board for Early Childhood to administer the Early Childhood Health and Education Trust Fund and provide grants that support and improve early childhood health and education; and

(3) Funds the Early Childhood Health and Education Trust Fund through revenue derived from the sale of tobacco products.

All of the provisions of this act are severable. If any provision of this act is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this act shall be and remain valid and in full force and effect.

2. It shall be the duty of the Missouri children's services commission to:

(1) Make recommendations which will encourage greater interagency coordination, cooperation, more effective utilization of existing resources and less duplication of effort in activities of state agencies which affect the legal rights and well-being of children in Missouri;

(2) Develop an integrated state plan for the care provided to children in this state through state programs;

(3) Develop a plan to improve the quality of children's programs statewide. Such plan shall include, but not be limited to:

(a) Methods for promoting geographic availability and financial accessibility for all children and families in need of such services;

(b) Program recommendations for children's services which include child development, education, supervision, health and social services;

(4) Design and implement evaluation of the activities of the commission in fulfilling the duties as set out in this section;

(5) Report annually to the governor with five copies each to the house of representatives and senate about its activities including, but not limited to the following:

(a) A general description of the activities pertaining to children of each state agency having a member on the commission;

(b) A general description of the plans and goals, as they affect children, of each state agency having a member on the commission;

(c) Recommendations for statutory and appropriation initiatives to implement the integrated state plan;

(d) A report from the commission regarding the state of children in Missouri.

[2.]3. For years ending on or before December 31, 2016, [There is hereby established within the children's services commission] the "Coordinating Board for Early Childhood", which shall constitute a body corporate and politic, shall be established within the children's services commission, and shall include but not be limited to the following members:

(1) A representative from the governor's office;

(2) A representative from each of the following departments: health and senior services, mental health, social services, and elementary and secondary education;

(3) A representative of the judiciary;

(4) A representative of the family and community trust board (FACT);

(5) A representative from the head start program;

(6) Nine members appointed by the governor with the advice and consent of the senate who are representatives of the groups, such as business, philanthropy, civic groups, faith-based organizations, parent groups, advocacy organizations, early childhood service providers, and other stakeholders. The coordinating board may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers. The coordinating board shall elect from amongst its members a chairperson, vice chairperson, a secretary-reporter, and such other officers as it deems necessary. Members of the board shall serve without compensation but may be reimbursed for actual expenses necessary to the performance of their official duties for the board.

4. Beginning on January 1, 2017, the coordinating board for early childhood, which shall constitute a body corporate and politic, shall be established within the department of elementary and secondary education and shall include the following members:

(1) The director or the director's designee from each of the following departments: health and senior services, mental health, and social services;

16-075

(2) The commissioner or the commissioner's designee from the department of elementary and secondary education;

(3) Two members of the Missouri general assembly. One member shall be the chairman of the joint committee on education. One member shall be a member of the joint committee on education, shall be from a different party and different legislative chamber than the chairman of the joint committee on education, and shall be appointed by the elected leader, either the speaker of the house of representatives or the president pro tempore of the senate, of the member's legislative chamber;

(4) The director of the Missouri head start-state collaborative office;

(5) Six citizens, representing each of the following areas: early childhood education and development providers, local head start agencies, higher education, business, faith, and medicine. The Governor shall appoint, with the advice and consent of the senate, the three citizens representing the areas of medicine, business, and higher education. The state board of education shall appoint the citizens representing the areas of early childhood education and development providers, local head start agencies, and faith.

Citizens appointed under subdivision (5) shall serve a term of three years. Such citizens shall be eligible to serve two terms. Such citizens that serve a partial term of less than eighteen months shall be eligible to serve the partial term and two full terms. Such citizens that serve a partial term of more than eighteen months shall be eligible to serve the partial term and one full term.

[3.]5. The coordinating board for early childhood shall have the power to:

(1) Develop a comprehensive statewide long-range strategic plan for a cohesive early childhood system. The board shall review the plan each year and make amendments to the plan as it deems necessary. The board shall submit the plan to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of 2018 and each year thereafter;

(2) Confer with public and private entities for the purpose of promoting and improving the development of children from birth through age five of this state;

(3) Identify legislative recommendations to improve services for children from birth through age five;

(4)Promote coordination of existing services and programs across public and private entities;

(5) Promote research-based approaches to services and ongoing program evaluation;

(6) Identify service gaps and advise public and private entities on methods to close such gaps;

(7) Apply for and accept gifts, grants, appropriations, loans, or contributions to the coordinating board for early childhood fund from any source, public or private, and enter into contracts or other transactions with any federal or state agency, any private organizations, or any other source in furtherance of the purpose of subsections 3 through 15[2 and 3] of this section, and take any and all actions necessary to avail itself of such aid and cooperation;

(8) Direct disbursements and grants from the coordinating board for early childhood fund and the early childhood health and education trust fund as provided in this section;

(9) Administer the coordinating board for early childhood fund and the early childhood health and education trust fund [and invest any portion of the moneys not required for immediate disbursement in obligations of the United States or any agency or instrumentality of the United States, in obligations of the state of Missouri and its political subdivisions, in certificates of deposit and time deposits, or other obligations of banks and savings and loan associations, or in such other obligations as may be prescribed by the board];

(10) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal with real or personal property or any interests therein, wherever situated;

(11) Sell, convey, lease, exchange, transfer or otherwise dispose of all or any of its property or any interest therein, wherever situated;

(12) Employ and fix the compensation of an executive director and such other agents or employees as it considers necessary;

(13) Adopt, alter, or repeal by its own bylaws, rules, and regulations governing the manner in which its business may be transacted;

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(14) Adopt and use an official seal;

(15) Assess or charge fees as the board determines to be reasonable to carry out its purposes;

(16) Make all expenditures which are incident and necessary to carry out its purposes;

(17) Sue and be sued in its official name;

(18) Take such action, enter into such agreements, and exercise all functions necessary or appropriate to carry out the duties and purposes set forth in this section;

(19) Contract with one or more not-for-profits to meet the requirements of this section;

(20) Provide technical assistance to grantees;

(21) Coordinate with parents, community leaders, local governments, and public and private entities to improve the quality of and increase access to early childhood development programs in communities throughout the state; and

(22) Pursue public and private partnership opportunities that are consistent with the objectives of subsection 6 of this section.

6. Any grants awarded by the coordinating board for early childhood shall accomplish one or more of the following objectives:

(1) Increasing access to existing quality early childhood development programs;

(2) Improving the quality of early childhood development programs;

(3) Increasing access to preventive health care and health and developmental screenings for children ages birth through five;

(4) Offering parent and family support and education concerning prenatal development, early child development, numeracy, and literacy;

(5) Providing professional development and training for early childhood development providers;

(6) Increasing coordination of early childhood development programs and public information about the importance of early childhood development;

(7) Providing evidenced-based smoking cessation programs for pregnant mothers.

7. The coordinating board for early childhood shall consider the following nonexclusive factors when awarding grants as provided in this section:

(1) Whether the project or activities will improve outcomes for children ages birth through five, consistent with the objectives of this section;

(2) Whether the project or activity leverages matching dollars;

(3) Whether the project or activity addresses needs identified by the local community; and

(4) The sustainability of the project or activity.

8. The coordinating board for early childhood shall establish accountability and audit requirements for all grant recipients, including requirements that success be measured by outcomes for children and families.

9. It shall be the duty of the coordinating board for early childhood to:

(1) Establish and maintain a conflict of interest policy for its members and staff;

(2) Prepare an annual report describing the activities of the board and a description of outcomes for children and families achieved by the board and grant recipients, including a list of all grant recipients and the amount of any grants awarded to such recipients. The board shall submit the report to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of each year, beginning in 2019, and shall provide a copy of the report to the secretary of state; and

(3) Ensure a fair and equitable distribution of funds collected as provided under sections 149.017 and 149.161 based on the established residency population of children ages birth through five.

10. There is hereby created the Coordinating Board for Early Childhood Fund which shall consist of the following:

(1) Any moneys appropriated by the general assembly for use by the board in carrying out the powers set out in subsections 3 through 9[2 and 3] of this section;

(2) Any moneys received from grants or which are given, donated, or contributed to the fund from any source;

(3) Any moneys received as fees authorized under subsections 3 through 9[2 and 3] of this section;

(4) Any moneys received as interest on deposits or as income on approved investments of the fund;

(5) Any moneys obtained from any other available source. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the coordinating board for early childhood fund at the end of the biennium shall not revert to the credit of the general revenue fund.

11. There is hereby created the Early Childhood Health and Education Trust Fund which shall consist of all moneys collected as provided in sections 149.017 and 149.161. Interest and moneys earned on the fund shall be credited to the fund.

12. No more than eight percent of the moneys received by the early childhood health and education trust fund shall be used for administrative expenses. Eligible administrative expenses shall include only those reasonable and necessary for:

(1) Salaries, fringe benefits, expenses, and equipment of staff employed by the coordinating board for early childhood;

(2) Expenses associated with cost sharing of salaries, fringe benefits, expenses, and equipment of staff employed or contracted by the coordinating board for early childhood from any other state department or agency of the state;

(3) Expenses of the coordinating board for early childhood associated with contracting with not-for-profit entities;

(4) Expenses of the coordinating board for early childhood associated with audits and outcome evaluations of programs and activities funded under this section;

(5) Expenses of grantees associated with meeting administrative requirements of grants established by the coordinating board for early childhood;

No more than 40% of administrative expenses shall be expended on items (1) through (4) of this subsection.

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13. Moneys in the funds may be invested by the state treasurer, and any income therefrom shall be deposited to the credit of the fund. Any moneys credited to and placed in the early childhood health and education trust fund shall be appropriated and used only for purposes which are authorized by this section and shall not be subject to the provisions of section 33.080.

14. The net proceeds from the moneys collected as provided in sections 149.017 and 149.161 shall constitute new and additional funding for the activities, initiatives, and programs funded by the coordinating board for early childhood and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

15. Beginning January 1, 2017, the department of elementary and secondary education and the coordinating board for early childhood may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This subsection and chapter 536 are nonseverable from one another, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017 shall be invalid and void.

149.017. 1. Beginning January 1, 2017, in addition to the tax levied upon the sale of cigarettes in this state pursuant to section 149.015, a tax shall be levied upon the sale of cigarettes applied at an amount equal to twenty-five mills per cigarette.

2. The tax shall be evidenced by stamps in the same manner as cigarettes stamped pursuant to sections 149.015 and 149.021. Stamped cigarettes in the possession of a retailer before any phase of the additional tax under subsection 1 of this section is imposed, shall not be subject to such phase of the additional tax before retail sale.

3. The tax on any cigarettes contained in packages of four, ten, twenty or similar quantities to be used solely for distribution as samples shall be computed on a per cigarette basis at the rate set forth in this section, and payment of the tax shall be remitted to the director at such time and in such manner as he may prescribe.

4. The provisions of section 149.065 notwithstanding, all moneys collected as a result of the taxes imposed by this section and section 149.161 shall be credited to and placed in the early childhood health and education trust fund established by section 210.102 as said moneys are received. All of the moneys from the taxes imposed by this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the early childhood health and education trust fund.

5. The additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section and section 149.161 may be paid from moneys appropriated from the early childhood health and education trust fund for that purpose, not to exceed one and one half of one percent (1.5%) of the total moneys collected in that fiscal year. Collection and enforcement activities and initiatives that are paid for with moneys from the early childhood health and education trust fund shall be conducted in a fiscally responsible manner in order to maximize the net proceeds available for distribution pursuant to section 210.102. Moneys appropriated from the early childhood health and education trust fund pursuant to this subdivision shall not be used to pay costs that are not additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section;

6. The net proceeds from the taxes imposed by this section and section 149.161 shall constitute new and additional funding for the activities, initiatives, and programs described in section 210.102 and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

7. On an annual basis, the director of the department of revenue, in consultation with the director of health and senior services, shall determine whether the taxes imposed by this section and section 149.161 have resulted in a decrease in consumption of tobacco products and thereby directly caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320. If a reduction in the amount of moneys collected and deposited into any of those funds pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320, has been directly caused by the taxes imposed by this section and section 149.161, an amount equal to the amount of moneys that were not collected and deposited into that fund or funds or were not generated by the local tobacco taxes authorized by sections 66.340 and 210.320 because of the taxes imposed by this section and section 149.161 may be appropriated by the General Assembly from the early childhood health and education trust fund pursuant to section 210.102 to the appropriate fund or funds or political subdivisions. The aggregate amount appropriated to such funds and political subdivisions from the early childhood health and education trust fund for any year shall not exceed three percent of the total moneys collected pursuant to this section and section 149.161 during that same year.

149.161. Beginning on January 1, 2017, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, a tax shall be levied upon the first sale of tobacco products other than cigarettes within this state in the amount of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. The tax on tobacco products shall be at the rate of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. Licensed persons making first sales shall be allowed credit in accordance with the provisions of section 149.160.1.

16-074

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

August 10, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Edward Greim regarding a proposed statutory amendment to Chapters 210, 196, & 149, version 2 (2016-074)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Edward Greim on August 7, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

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STATE AUDITORS OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

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County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do □ do not □ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____ Signature of Affiant (Person obtaining signatures)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

16-074

NOTICE: You are advised that the proposed law changes, repeals, or modifies by implication, or may be construed to change, repeal or modify by implication, the following provisions of the Missouri Revised Statutes — Sections 66.340, 66.350, 149.015, 149.021, 149.065, 149.160, 196.1003, 210.102, and 210.320. The proposed law enacts two new sections, to be known as sections 149.017 and 149.161.

*Be it enacted by the people of the State of Missouri:*

Sections 210.102 and 196.1003 of the Revised Statutes of Missouri are amended and sections 149.017 and 149.161 are enacted, to read as follows:

210.102. 1. Sections 149.017 and 149.161, and certain amendments to 196.1003 and 210.102, shall be referred to as the Early Childhood Health and Education Act, with the purpose of supporting and improving early childhood health and education through regulation of tobacco manufacturers and sellers. This Act:

(1) Creates the Early Childhood Health and Education Trust Fund in order to support and improve early childhood health and education across the state;

(2) Reforms the Coordinating Board for Early Childhood to administer the Early Childhood Health and Education Trust Fund and provide grants that support and improve early childhood health and education; and

(3) Funds the Early Childhood Health and Education Trust Fund through increased regulations on tobacco manufacturers and sellers.

All of the provisions of this act are severable. If any provision of this act is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this act shall be and remain valid and in full force and effect.

2. It shall be the duty of the Missouri children's services commission to:

(1) Make recommendations which will encourage greater interagency coordination, cooperation, more effective utilization of existing resources and less duplication of effort in activities of state agencies which affect the legal rights and well-being of children in Missouri;

(2) Develop an integrated state plan for the care provided to children in this state through state programs;

(3) Develop a plan to improve the quality of children's programs statewide. Such plan shall include, but not be limited to:

(a) Methods for promoting geographic availability and financial accessibility for all children and families in need of such services;

(b) Program recommendations for children's services which include child development, education, supervision, health and social services;

(4) Design and implement evaluation of the activities of the commission in fulfilling the duties as set out in this section;

(5) Report annually to the governor with five copies each to the house of representatives and senate about its activities including, but not limited to the following:

(a) A general description of the activities pertaining to children of each state agency having a member on the commission;

(b) A general description of the plans and goals, as they affect children, of each state agency having a member on the commission;

(c) Recommendations for statutory and appropriation initiatives to implement the integrated state plan;

(d) A report from the commission regarding the state of children in Missouri.

[2.]3. For years ending on or before December 31, 2016, [There is hereby established within the children's services commission] the "Coordinating Board for Early Childhood", which shall constitute a body corporate and politic, shall be established within the children's services commission, and shall include but not be limited to the following members:

(1) A representative from the governor's office;

(2) A representative from each of the following departments: health and senior services, mental health, social services, and elementary and secondary education;

(3) A representative of the judiciary;

(4) A representative of the family and community trust board (FACT);

(5) A representative from the head start program;

(6) Nine members appointed by the governor with the advice and consent of the senate who are representatives of the groups, such as business, philanthropy, civic groups, faith-based organizations, parent groups, advocacy organizations, early childhood service providers, and other stakeholders. The coordinating board may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers. The coordinating board shall elect from amongst its members a chairperson, vice chairperson, a secretary-reporter, and such other officers as it deems necessary. Members of the board shall serve without compensation but may be reimbursed for actual expenses necessary to the performance of their official duties for the board.

4. Beginning on January 1, 2017, the coordinating board for early childhood, which shall constitute a body corporate and politic, shall be established within the department of elementary and secondary education and shall include the following members:

(1) The director or the director's designee from each of the following departments: health and senior services, mental health, and

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social services;

(2) The commissioner or the commissioner's designee from the department of elementary and secondary education;

(3) Two members of the Missouri general assembly. One member shall be the chairman of the joint committee on education. One member shall be a member of the joint committee on education, shall be from a different party and different legislative chamber than the chairman of the joint committee on education, and shall be appointed by the elected leader, either the speaker of the house of representatives or the president pro tempore of the senate, of the member's legislative chamber;

(4) The director of the Missouri head start-state collaborative office;

(5) Six citizens, representing each of the following areas: early childhood education and development providers, local head start agencies, higher education, business, faith, and medicine. The Governor shall appoint, with the advice and consent of the senate, the three citizens representing the areas of medicine, business, and higher education. The state board of education shall appoint the citizens representing the areas of early childhood education and development providers, local head start agencies, and faith.

Citizens appointed under subdivision (5) shall serve a term of three years. Such citizens shall be eligible to serve two terms. Such citizens that serve a partial term of less than eighteen months shall be eligible to serve the partial term and two full terms. Such citizens that serve a partial term of more than eighteen months shall be eligible to serve the partial term and one full term.

[3.]5. The coordinating board for early childhood shall have the power to:

(1) Develop a comprehensive statewide long-range strategic plan for a cohesive early childhood system. The board shall review the plan each year and make amendments to the plan as it deems necessary. The board shall submit the plan to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of 2018 and each year thereafter;

(2) Confer with public and private entities for the purpose of promoting and improving the development of children from birth through age five of this state;

(3) Identify legislative recommendations to improve services for children from birth through age five;

(4)Promote coordination of existing services and programs across public and private entities;

(5) Promote research-based approaches to services and ongoing program evaluation;

(6) Identify service gaps and advise public and private entities on methods to close such gaps;

(7) Apply for and accept gifts, grants, appropriations, loans, or contributions to the coordinating board for early childhood fund from any source, public or private, and enter into contracts or other transactions with any federal or state agency, any private organizations, or any other source in furtherance of the purpose of subsections 3 through 15[2 and 3] of this section, and take any and all actions necessary to avail itself of such aid and cooperation;

(8) Direct disbursements and grants from the coordinating board for early childhood fund and the early childhood health and education trust fund as provided in this section;

(9) Administer the coordinating board for early childhood fund and the early childhood health and education trust fund [and invest any portion of the moneys not required for immediate disbursement in obligations of the United States or any agency or instrumentality of the United States, in obligations of the state of Missouri and its political subdivisions, in certificates of deposit and time deposits, or other obligations of banks and savings and loan associations, or in such other obligations as may be prescribed by the board];

(10) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal with real or personal property or any interests therein, wherever situated;

(11) Sell, convey, lease, exchange, transfer or otherwise dispose of all or any of its property or any interest therein, wherever situated;

(12) Employ and fix the compensation of an executive director and such other agents or employees as it considers necessary;

(13) Adopt, alter, or repeal by its own bylaws, rules, and regulations governing the manner in which its business may be transacted;

(14) Adopt and use an official seal;

(15) Assess or charge fees as the board determines to be reasonable to carry out its purposes;

(16) Make all expenditures which are incident and necessary to carry out its purposes;

(17) Sue and be sued in its official name;

(18) Take such action, enter into such agreements, and exercise all functions necessary or appropriate to carry out the duties and purposes set forth in this section;

(19) Contract with one or more not-for-profits to meet the requirements of this section;

(20) Provide technical assistance to grantees;

(21) Coordinate with parents, community leaders, local governments, and public and private entities to improve the quality of and increase access to early childhood development programs in communities throughout the state; and

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(22) Pursue public and private partnership opportunities that are consistent with the objectives of subsection 6 of this section.

6. Any grants awarded by the coordinating board for early childhood shall accomplish one or more of the following objectives:

(1) Increasing access to existing quality early childhood development programs;

(2) Improving the quality of early childhood development programs;

(3) Increasing access to preventive health care and health and developmental screenings for children ages birth through five;

(4) Offering parent and family support and education concerning prenatal development, early child development, numeracy, and literacy;

(5) Providing professional development and training for early childhood development providers;

(6) Increasing coordination of early childhood development programs and public information about the importance of early childhood development;

(7) Providing evidenced-based smoking cessation programs for pregnant mothers.

7. The coordinating board for early childhood shall consider the following nonexclusive factors when awarding grants as provided in this section:

(1) Whether the project or activities will improve outcomes for children ages birth through five, consistent with the objectives of this section;

(2) Whether the project or activity leverages matching dollars;

(3) Whether the project or activity addresses needs identified by the local community; and

(4) The sustainability of the project or activity.

8. The coordinating board for early childhood shall establish accountability and audit requirements for all grant recipients, including requirements that success be measured by outcomes for children and families.

9. It shall be the duty of the coordinating board for early childhood to:

(1) Establish and maintain a conflict of interest policy for its members and staff;

(2) Prepare an annual report describing the activities of the board and a description of outcomes for children and families achieved by the board and grant recipients, including a list of all grant recipients and the amount of any grants awarded to such recipients. The board shall submit the report to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of each year, beginning in 2019, and shall provide a copy of the report to the secretary of state; and

(3) Ensure a fair and equitable distribution of funds collected as provided under sections 149.017 and 149.161 based on the established residency population of children ages birth through five.

10. There is hereby created the Coordinating Board for Early Childhood Fund which shall consist of the following:

(1) Any moneys appropriated by the general assembly for use by the board in carrying out the powers set out in subsections 3 through 9[2 and 3] of this section;

(2) Any moneys received from grants or which are given, donated, or contributed to the fund from any source;

(3) Any moneys received as fees authorized under subsections 3 through 9[2 and 3] of this section;

(4) Any moneys received as interest on deposits or as income on approved investments of the fund;

(5) Any moneys obtained from any other available source. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the coordinating board for early childhood fund at the end of the biennium shall not revert to the credit of the general revenue fund.

11. There is hereby created the Early Childhood Health and Education Trust Fund which shall consist of all moneys collected as provided in sections 149.017 and 149.161. Interest and moneys earned on the fund shall be credited to the fund.

12. No more than eight percent of the moneys received by the early childhood health and education trust fund shall be used for administrative expenses. Eligible administrative expenses shall include only those reasonable and necessary for:

(1) Salaries, fringe benefits, expenses, and equipment of staff employed by the coordinating board for early childhood;

(2) Expenses associated with cost sharing of salaries, fringe benefits, expenses, and equipment of staff employed or contracted by the coordinating board for early childhood from any other state department or agency of the state;

(3) Expenses of the coordinating board for early childhood associated with contracting with not-for-profit entities;

(4) Expenses of the coordinating board for early childhood associated with audits and outcome evaluations of programs and activities funded under this section;

(5) Expenses of grantees associated with meeting administrative requirements of grants established by the coordinating board for early childhood;

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No more than 40% of administrative expenses shall be expended on items (1) through (4) of this subsection.

13. Moneys in the funds may be invested by the state treasurer, and any income therefrom shall be deposited to the credit of the fund. Any moneys credited to and placed in the early childhood health and education trust fund shall be appropriated and used only for purposes which are authorized by this section and shall not be subject to the provisions of section 33.080.

14. The net proceeds from the moneys collected as provided in sections 149.017 and 149.161 shall constitute new and additional funding for the activities, initiatives, and programs funded by the coordinating board for early childhood and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

15. Beginning January 1, 2017, the department of elementary and secondary education and the coordinating board for early childhood may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This subsection and chapter 536 are nonseverable from one another, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017 shall be invalid and void.

149.017. 1. In addition to the tax levied upon the sale of cigarettes in this state pursuant to section 149.015, a tax shall be levied upon the sale of cigarettes applied as follows:

(A) Beginning January 1, 2017, a tax at an amount equal to ten mills per cigarette;

(B) Beginning January 1, 2019, an additional tax at an amount equal to seven and one-half mills per cigarette; and,

(C) Beginning January 1, 2021, an additional tax at an amount equal to seven and one-half mills per cigarette.

2. The tax shall be evidenced by stamps in the same manner as cigarettes stamped pursuant to sections 149.015 and 149.021. Stamped cigarettes in the possession of a retailer before any phase of the additional tax under subsection 1 of this section is imposed, shall not be subject to such phase of the additional tax before retail sale.

3. The tax on any cigarettes contained in packages of four, ten, twenty or similar quantities to be used solely for distribution as samples shall be computed on a per cigarette basis at the rate set forth in this section, and payment of the tax shall be remitted to the director at such time and in such manner as he may prescribe.

4. The provisions of section 149.065 notwithstanding, all moneys collected as a result of the taxes imposed by this section and section 149.161 shall be credited to and placed in the early childhood health and education trust fund established by section 210.102 as said moneys are received. All of the moneys from the taxes imposed by this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the early childhood health and education trust fund.

5. The additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section and section 149.161 may be paid from moneys appropriated from the early childhood health and education trust fund for that purpose, not to exceed one and one half of one percent (1.5%) of the total moneys collected in that fiscal year. Collection and enforcement activities and initiatives that are paid for with moneys from the early childhood health and education trust fund shall be conducted in a fiscally responsible manner in order to maximize the net proceeds available for distribution pursuant to section 210.102. Moneys appropriated from the early childhood health and education trust fund pursuant to this subdivision shall not be used to pay costs that are not additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section;

6. The net proceeds from the taxes imposed by this section and section 149.161 shall constitute new and additional funding for the activities, initiatives, and programs described in section 210.102 and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

7. On an annual basis, the director of the department of revenue, in consultation with the director of health and senior services, shall determine whether the taxes imposed by this section and section 149.161 have resulted in a decrease in consumption of tobacco products and thereby directly caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320. If a reduction in the amount of moneys collected and deposited into any of those funds pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320, has been directly caused by the taxes imposed by this section and section 149.161, an amount equal to the amount of moneys that were not collected and deposited into that fund or funds or were not generated by the local tobacco taxes authorized by sections 66.340 and 210.320 because of the taxes imposed by this section and section 149.161 may be appropriated by the General Assembly from the early childhood health and education trust fund pursuant to section 210.102 to the appropriate fund or funds or political subdivisions. The aggregate amount appropriated to such funds and political subdivisions from the early childhood health and education trust fund for any year shall not exceed three percent of the total moneys collected pursuant to this section and section 149.161 during that same year.

149.161. Beginning on January 1, 2017, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, a tax shall be levied upon the first sale of tobacco products other than cigarettes within this state in the amount of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. The tax on tobacco products shall be at the rate of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. Licensed persons making first sales shall be allowed credit in accordance with the provisions of section 149.160.1.

196.1003. Requirements.

Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this Act shall do one of the following:

16-074

(a) become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

(b) (1) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts, (as such amounts are adjusted for inflation) —
1999: $.0094241 per unit sold after the date of enactment of this Act;
2000: $.0104712 per unit sold;
for each of 2001 and 2002: $.0136125 per unit sold;
for each of 2003 through 2006: $.0167539 per unit sold;
for each of 2007 and each year thereafter: $.0188482 per unit sold.

(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances —

(A) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (i) in the order in which they were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment) had it been a participating manufacturer, the percentage determined in subdivision (D) of the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(C) to the extent not released from escrow under subparagraphs (A) or (B), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

(D) The amount in subdivision (B) of the excess released from escrow shall be: for units sold during the year ending on December 31, 2017, eighty percent; for units sold during the year ending on December 31, 2018, sixty percent; for units sold during the year ending on December 31, 2019, forty percent; for units sold during the year ending on December 31, 2020, twenty percent; for units sold during all years ending on or after December 31, 2021, zero percent.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails [in any year] to place into escrow the funds required under this section shall

(A) be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;

(B) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this [subsection] requirement, may impose a civil penalty to be paid to the early childhood health and education trust fund established in section 210.102[State's general revenue fund] in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

(C) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years.

Each failure to make an annual deposit required under this section shall constitute a separate violation. Any tobacco product manufacturer that violates the provisions of this section shall pay the State's cost and attorney's fees incurred during a successful prosecution under this section.

16-073

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

August 10, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Edward Greim regarding a proposed statutory amendment to Chapters 210 & 149, version 1 (2016-073)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Edward Greim on August 7, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

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AUG 10 2015
STATE AUDITORS OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-073

County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(INSERT BALLOT TITLE HERE)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do □ do not □ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____ Signature of Affiant (Person obtaining signatures)

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 201__.

_____ Signature of Notary

_____ Address of Notary

Notary Public (Seal)

My commission expires _____

16-073

NOTICE: You are advised that the proposed law changes, repeals, or modifies by implication, or may be construed to change, repeal or modify by implication, the following provisions of the Missouri Revised Statutes — Sections 66.340, 66.350, 149.015, 149.021, 149.065, 149.160, 210.102, and 210.320. The proposed law enacts two new sections, to be known as sections 149.017 and 149.161.

*Be it enacted by the people of the State of Missouri:*

Section 210.102 of the Revised Statutes of Missouri is amended and sections 149.017 and 149.161 are enacted, to read as follows:

210.102. 1. Sections 149.017 and 149.161, and certain amendments to 210.102, shall be referred to as the Early Childhood Health and Education Act, with the purpose of supporting and improving early childhood health and education through regulation of tobacco sellers. This Act:

(1) Creates the Early Childhood Health and Education Trust Fund in order to support and improve early childhood health and education across the state;

(2) Reforms the Coordinating Board for Early Childhood to administer the Early Childhood Health and Education Trust Fund and provide grants that support and improve early childhood health and education; and

(3) Funds the Early Childhood Health and Education Trust Fund through revenue derived from the sale of tobacco products.

All of the provisions of this act are severable. If any provision of this act is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this act shall be and remain valid and in full force and effect.

2. It shall be the duty of the Missouri children's services commission to:

(1) Make recommendations which will encourage greater interagency coordination, cooperation, more effective utilization of existing resources and less duplication of effort in activities of state agencies which affect the legal rights and well-being of children in Missouri;

(2) Develop an integrated state plan for the care provided to children in this state through state programs;

(3) Develop a plan to improve the quality of children's programs statewide. Such plan shall include, but not be limited to:

(a) Methods for promoting geographic availability and financial accessibility for all children and families in need of such services;

(b) Program recommendations for children's services which include child development, education, supervision, health and social services;

(4) Design and implement evaluation of the activities of the commission in fulfilling the duties as set out in this section;

(5) Report annually to the governor with five copies each to the house of representatives and senate about its activities including, but not limited to the following:

(a) A general description of the activities pertaining to children of each state agency having a member on the commission;

(b) A general description of the plans and goals, as they affect children, of each state agency having a member on the commission;

(c) Recommendations for statutory and appropriation initiatives to implement the integrated state plan;

(d) A report from the commission regarding the state of children in Missouri.

[2.]3. For years ending on or before December 31, 2016, [There is hereby established within the children's services commission] the "Coordinating Board for Early Childhood", which shall constitute a body corporate and politic, shall be established within the children's services commission, and shall include but not be limited to the following members:

(1) A representative from the governor's office;

(2) A representative from each of the following departments: health and senior services, mental health, social services, and elementary and secondary education;

(3) A representative of the judiciary;

(4) A representative of the family and community trust board (FACT);

(5) A representative from the head start program;

(6) Nine members appointed by the governor with the advice and consent of the senate who are representatives of the groups, such as business, philanthropy, civic groups, faith-based organizations, parent groups, advocacy organizations, early childhood service providers, and other stakeholders. The coordinating board may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers. The coordinating board shall elect from amongst its members a chairperson, vice chairperson, a secretary-reporter, and such other officers as it deems necessary. Members of the board shall serve without compensation but may be reimbursed for actual expenses necessary to the performance of their official duties for the board.

4. Beginning on January 1, 2017, the coordinating board for early childhood, which shall constitute a body corporate and politic, shall be established within the department of elementary and secondary education and shall include the following members:

(1) The director or the director's designee from each of the following departments: health and senior services, mental health, and social services;

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(2) The commissioner or the commissioner's designee from the department of elementary and secondary education;

(3) Two members of the Missouri general assembly. One member shall be the chairman of the joint committee on education. One member shall be a member of the joint committee on education, shall be from a different party and different legislative chamber than the chairman of the joint committee on education, and shall be appointed by the elected leader, either the speaker of the house of representatives or the president pro tempore of the senate, of the member's legislative chamber;

(4) The director of the Missouri head start-state collaborative office;

(5) Six citizens, representing each of the following areas: early childhood education and development providers, local head start agencies, higher education, business, faith, and medicine. The Governor shall appoint, with the advice and consent of the senate, the three citizens representing the areas of medicine, business, and higher education. The state board of education shall appoint the citizens representing the areas of early childhood education and development providers, local head start agencies, and faith.

Citizens appointed under subdivision (5) shall serve a term of three years. Such citizens shall be eligible to serve two terms. Such citizens that serve a partial term of less than eighteen months shall be eligible to serve the partial term and two full terms. Such citizens that serve a partial term of more than eighteen months shall be eligible to serve the partial term and one full term.

[3.]5. The coordinating board for early childhood shall have the power to:

(1) Develop a comprehensive statewide long-range strategic plan for a cohesive early childhood system. The board shall review the plan each year and make amendments to the plan as it deems necessary. The board shall submit the plan to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of 2018 and each year thereafter;

(2) Confer with public and private entities for the purpose of promoting and improving the development of children from birth through age five of this state;

(3) Identify legislative recommendations to improve services for children from birth through age five;

(4)Promote coordination of existing services and programs across public and private entities;

(5) Promote research-based approaches to services and ongoing program evaluation;

(6) Identify service gaps and advise public and private entities on methods to close such gaps;

(7) Apply for and accept gifts, grants, appropriations, loans, or contributions to the coordinating board for early childhood fund from any source, public or private, and enter into contracts or other transactions with any federal or state agency, any private organizations, or any other source in furtherance of the purpose of subsections 3 through 15[2 and 3] of this section, and take any and all actions necessary to avail itself of such aid and cooperation;

(8) Direct disbursements and grants from the coordinating board for early childhood fund and the early childhood health and education trust fund as provided in this section;

(9) Administer the coordinating board for early childhood fund and the early childhood health and education trust fund [and invest any portion of the moneys not required for immediate disbursement in obligations of the United States or any agency or instrumentality of the United States, in obligations of the state of Missouri and its political subdivisions, in certificates of deposit and time deposits, or other obligations of banks and savings and loan associations, or in such other obligations as may be prescribed by the board];

(10) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal with real or personal property or any interests therein, wherever situated;

(11) Sell, convey, lease, exchange, transfer or otherwise dispose of all or any of its property or any interest therein, wherever situated;

(12) Employ and fix the compensation of an executive director and such other agents or employees as it considers necessary;

(13) Adopt, alter, or repeal by its own bylaws, rules, and regulations governing the manner in which its business may be transacted;

(14) Adopt and use an official seal;

(15) Assess or charge fees as the board determines to be reasonable to carry out its purposes;

(16) Make all expenditures which are incident and necessary to carry out its purposes;

(17) Sue and be sued in its official name;

(18) Take such action, enter into such agreements, and exercise all functions necessary or appropriate to carry out the duties and purposes set forth in this section;

(19) Contract with one or more not-for-profits to meet the requirements of this section;

(20) Provide technical assistance to grantees;

(21) Coordinate with parents, community leaders, local governments, and public and private entities to improve the quality of and increase access to early childhood development programs in communities throughout the state; and

(22) Pursue public and private partnership opportunities that are consistent with the objectives of subsection 6 of this section.

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6. Any grants awarded by the coordinating board for early childhood shall accomplish one or more of the following objectives:

(1) Increasing access to existing quality early childhood development programs;

(2) Improving the quality of early childhood development programs;

(3) Increasing access to preventive health care and health and developmental screenings for children ages birth through five;

(4) Offering parent and family support and education concerning prenatal development, early child development, numeracy, and literacy;

(5) Providing professional development and training for early childhood development providers;

(6) Increasing coordination of early childhood development programs and public information about the importance of early childhood development;

(7) Providing evidenced-based smoking cessation programs for pregnant mothers.

7. The coordinating board for early childhood shall consider the following nonexclusive factors when awarding grants as provided in this section:

(1) Whether the project or activities will improve outcomes for children ages birth through five, consistent with the objectives of this section;

(2) Whether the project or activity leverages matching dollars;

(3) Whether the project or activity addresses needs identified by the local community; and

(4) The sustainability of the project or activity.

8. The coordinating board for early childhood shall establish accountability and audit requirements for all grant recipients, including requirements that success be measured by outcomes for children and families.

9. It shall be the duty of the coordinating board for early childhood to:

(1) Establish and maintain a conflict of interest policy for its members and staff;

(2) Prepare an annual report describing the activities of the board and a description of outcomes for children and families achieved by the board and grant recipients, including a list of all grant recipients and the amount of any grants awarded to such recipients. The board shall submit the report to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on or before January fifteenth of each year, beginning in 2019, and shall provide a copy of the report to the secretary of state; and

(3) Ensure a fair and equitable distribution of funds collected as provided under sections 149.017 and 149.161 based on the established residency population of children ages birth through five.

10. There is hereby created the Coordinating Board for Early Childhood Fund which shall consist of the following:

(1) Any moneys appropriated by the general assembly for use by the board in carrying out the powers set out in subsections 3 through 9[2 and 3] of this section;

(2) Any moneys received from grants or which are given, donated, or contributed to the fund from any source;

(3) Any moneys received as fees authorized under subsections 3 through 9[2 and 3] of this section;

(4) Any moneys received as interest on deposits or as income on approved investments of the fund;

(5) Any moneys obtained from any other available source. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the coordinating board for early childhood fund at the end of the biennium shall not revert to the credit of the general revenue fund.

11. There is hereby created the Early Childhood Health and Education Trust Fund which shall consist of all moneys collected as provided in sections 149.017 and 149.161. Interest and moneys earned on the fund shall be credited to the fund.

12. No more than eight percent of the moneys received by the early childhood health and education trust fund shall be used for administrative expenses. Eligible administrative expenses shall include only those reasonable and necessary for:

(1) Salaries, fringe benefits, expenses, and equipment of staff employed by the coordinating board for early childhood;

(2) Expenses associated with cost sharing of salaries, fringe benefits, expenses, and equipment of staff employed or contracted by the coordinating board for early childhood from any other state department or agency of the state;

(3) Expenses of the coordinating board for early childhood associated with contracting with not-for-profit entities;

(4) Expenses of the coordinating board for early childhood associated with audits and outcome evaluations of programs and activities funded under this section;

(5) Expenses of grantees associated with meeting administrative requirements of grants established by the coordinating board for early childhood;

No more than 40% of administrative expenses shall be expended on items (1) through (4) of this subsection.

16-073

13. Moneys in the funds may be invested by the state treasurer, and any income therefrom shall be deposited to the credit of the fund. Any moneys credited to and placed in the early childhood health and education trust fund shall be appropriated and used only for purposes which are authorized by this section and shall not be subject to the provisions of section 33.080.

14. The net proceeds from the moneys collected as provided in sections 149.017 and 149.161 shall constitute new and additional funding for the activities, initiatives, and programs funded by the coordinating board for early childhood and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

15. Beginning January 1, 2017, the department of elementary and secondary education and the coordinating board for early childhood may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This subsection and chapter 536 are nonseverable from one another, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017 shall be invalid and void.

149.017. 1. In addition to the tax levied upon the sale of cigarettes in this state pursuant to section 149.015, a tax shall be levied upon the sale of cigarettes applied as follows:

(A) Beginning January 1, 2017, a tax at an amount equal to ten mills per cigarette;

(B) Beginning January 1, 2019, an additional tax at an amount equal to seven and one-half mills per cigarette; and,

(C) Beginning January 1, 2021, an additional tax at an amount equal to seven and one-half mills per cigarette.

2. The tax shall be evidenced by stamps in the same manner as cigarettes stamped pursuant to sections 149.015 and 149.021. Stamped cigarettes in the possession of a retailer before any phase of the additional tax under subsection 1 of this section is imposed, shall not be subject to such phase of the additional tax before retail sale.

3. The tax on any cigarettes contained in packages of four, ten, twenty or similar quantities to be used solely for distribution as samples shall be computed on a per cigarette basis at the rate set forth in this section, and payment of the tax shall be remitted to the director at such time and in such manner as he may prescribe.

4. The provisions of section 149.065 notwithstanding, all moneys collected as a result of the taxes imposed by this section and section 149.161 shall be credited to and placed in the early childhood health and education trust fund established by section 210.102 as said moneys are received. All of the moneys from the taxes imposed by this section shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury and shall be credited to and placed only in the early childhood health and education trust fund.

5. The additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section and section 149.161 may be paid from moneys appropriated from the early childhood health and education trust fund for that purpose, not to exceed one and one half of one percent (1.5%) of the total moneys collected in that fiscal year. Collection and enforcement activities and initiatives that are paid for with moneys from the early childhood health and education trust fund shall be conducted in a fiscally responsible manner in order to maximize the net proceeds available for distribution pursuant to section 210.102. Moneys appropriated from the early childhood health and education trust fund pursuant to this subdivision shall not be used to pay costs that are not additional actual costs incurred by the state in collecting and enforcing the taxes imposed by this section;

6. The net proceeds from the taxes imposed by this section and section 149.161 shall constitute new and additional funding for the activities, initiatives, and programs described in section 210.102 and shall not be used to replace existing funding as of July 1, 2016, for the same or similar activities, initiatives, and programs.

7. On an annual basis, the director of the department of revenue, in consultation with the director of health and senior services, shall determine whether the taxes imposed by this section and section 149.161 have resulted in a decrease in consumption of tobacco products and thereby directly caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320. If a reduction in the amount of moneys collected and deposited into any of those funds pursuant to chapter 149, RSMo or revenues generated from local tobacco taxes authorized under sections 66.340 and 210.320, has been directly caused by the taxes imposed by this section and section 149.161, an amount equal to the amount of moneys that were not collected and deposited into that fund or funds or were not generated by the local tobacco taxes authorized by sections 66.340 and 210.320 because of the taxes imposed by this section and section 149.161 shall be transferred from the early childhood health and education trust fund pursuant to section 210.102 to the appropriate fund or funds or political subdivisions. The aggregate amount transferred to such funds and political subdivisions from the early childhood health and education trust fund for any year shall not exceed three percent of the total moneys collected pursuant to this section and section 149.161 during that same year.

149.161. Beginning on January 1, 2017, in addition to the tax levied on the first sales of tobacco products other than cigarettes in section 149.160, a tax shall be levied upon the first sale of tobacco products other than cigarettes within this state in the amount of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. The tax on tobacco products shall be at the rate of five percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. Licensed persons making first sales shall be allowed credit in accordance with the provisions of section 149.160.1.

16-072

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

July 22, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Lara Granich regarding a proposed statutory amendment to Chapter 290, version 10 (2016-072)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Lara Granich on July 21, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

RECEIVED
JUL 22 2015
STATE AUDITORS OFFICE

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-072

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
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| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____

(Name of payer) Signature of Affiant (Person obtaining signatures)

_____

Printed Name of Affiant

_____

Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____

Signature of Notary

_____

Address of Notary (Street, City, State & Zip Code)

My commission expires _____.

16-072

# Statutory Amendment to Chapter 290, RSMo, Relating to the Minimum Wage, Version 10

*Be it enacted by the people of the State of Missouri:*

Sections 290.502, 290.512, and 290.527 are amended and a new section to be known as section 290.529 is enacted to read as follows:

§ 290.502. Minimum wage rate -- increase or decrease, when

1. Except as may be otherwise provided pursuant to sections 290.500 to 290.530, effective January 1, 2007, every employer shall pay to each employee wages at the rate of $ 6.50 per hour, or wages at the same rate or rates set under the provisions of federal law as the prevailing federal minimum wage applicable to those covered jobs in interstate commerce, whichever rate per hour is higher.

2. The minimum wage shall be increased or decreased on January 1, 2008, and on January 1 of successive years, by the increase or decrease in the cost of living. On September 30, 2007, and on each September 30 of each successive year, the director shall measure the increase or decrease in the cost of living by the percentage increase or decrease as of the preceding July over the level as of July of the immediately preceding year of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) or successor index as published by the U.S. Department of Labor or its successor agency, with the amount of the minimum wage increase or decrease rounded to the nearest five cents.

3. Except as may be otherwise provided pursuant to sections 290.500 to 290.530, notwithstanding subsection 1 of this section, effective January 1, 2017, every employer shall pay to each employee wages at the rate of $9.00 per hour, and effective January 1, 2018 at the rate of $10.00 per hour, and effective January 1, 2019 at the rate of $11.00 per hour, or wages at the same rate or rates set under the provisions of federal law as the prevailing federal minimum wage applicable to those covered jobs in interstate commerce, whichever rate per hour is higher. Thereafter, the minimum wage rate shall be increased or decreased on January 1, 2020, and on January 1 of successive years, per the method set forth in subsection 2 of this section; but, if the federal minimum wage rate is above or is thereafter increased above the minimum wage rate then in effect under this subsection, the higher federal rate shall become the minimum wage rate for as long as it remains higher and shall be increased or decreased per the method set forth in subsection 2.

4. Every employer that is a public body shall pay to its employees wages at the rates established by subsection 3 of this section only provided there are appropriations for wages at those rates. If appropriations are not provided, the public body shall continue to be subject to the requirements of subsections 1 and 2 of this section. As used in this subsection, a public body means the state of Missouri, or any officer, agency, department, bureau, or division, board or commission of the state, or any municipality, county, township, authority, district, or any other political subdivision of or within the state.

**§ 290.512. Gratuities, goods or services as part of wages, effect on minimum wage requirement**

1. No employer of any employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages in excess of fifty percent of the minimum wage rate specified in sections 290.500 to 290.530, however, total compensation for such employee shall total at least the minimum wage specified in sections 290.500 to 290.530, the difference being made up by the employer.

2. Notwithstanding subsection 1 of this section, effective January 1, 2017, no employer of any employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages in excess of sixty percent of the minimum wage rate specified in sections 290.500 to 290.530, and effective January 1, 2018 in excess of eighty percent of the minimum wage rate specified in sections 290.500 to 290.530, however, total compensation for such employee shall total at least the minimum wage specified in sections 290.500 to 290.530, the difference being made up by the employer. Effective January 1, 2019, all employers of employees who receive and retain compensation in the form of gratuities will be required to pay the full minimum wage specified in sections 290.500 to 290.530.

3. A public body that is the employer of an employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages at the rates established by subsection 2 of this section only provided there are appropriations for wages at those rates. If appropriations are not provided, the public body shall continue to be subject to the requirements of subsection 1 of this section. As used in this subsection, a public body is defined as in subsection 4 of section 290.502.

[2.] 4. If an employee receives and retains compensation in the form of goods or services as an incident of his employment and if he is not required to exercise any discretion in order to receive the goods or services, the employer is required to pay only the difference between the fair market value of the goods and services and the minimum wage otherwise required to be paid by sections 290.500 to 290.530. The fair market value of the goods and services shall be computed on a weekly basis. The director shall provide by regulation a method of valuing the goods and services received by any employee in lieu of the wages otherwise required to be paid under the provisions of sections 290.500 to 290.530. He shall also provide by regulation a method of determining those types of goods and services that are an incident of employment the receipt of which does not require any discretion on the part of the employee.

**§ 290.527. Action for underpayment of wages, employee may bring--limitation**

Any employer who pays any employee less wages than the wages to which the employee is entitled under or by virtue of sections 290.500 to 290.530 shall be liable to the employee affected for the full amount of the wage rate and an additional [equal] amount equal to twice the unpaid wages as liquidated damages, less any amount actually paid to the employee by the employer and for costs and such reasonable attorney fees as may be allowed by the court or jury. The employee may bring any legal action necessary to collect the claim. Any agreement between the employee and the employer to work for less than the wage rate shall be no defense to the action. All actions for the collection of any deficiency in wages shall be commenced within [two] three years of the accrual of the cause of action.

§ 290.529. Severability

All the provisions of sections 290.500 to 290.530 are severable. If any provision, including any section, subsection, subdivision, paragraph, sentence, or clause, of sections 290.500 to 290.530, or the application thereof to any person or circumstance, is found by a court of competent jurisdiction to be invalid, unconstitutional, or unconstitutionally enacted, such decision shall not affect other provisions or applications of sections 290.500 to 290.530 that can be given effect without the invalid, unconstitutional, or unconstitutionally enacted provision or application.

RECEIVED
2015 JUL 17

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-072)**

## Subject

Initiative petition from Lara Granich regarding a proposed amendment to Chapter 290 of the Revised Statutes of Missouri. (Received July 22, 2015)

## Date

August 11, 2015

## Description

This proposal would amend Chapter 290 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Lara Granich** provided information as a proponent of the proposal to the State Auditor's office.

**Edward D. Greim** provided information as an opponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated Section 290.502.3 (for each initiative petition) would require the department to increase wages for several employees each year assuming the money is appropriated for the increase. For each hourly increase proposed, they prepared the estimated increased expenditures on wages per year over the current wages expenditures.

Cost to increase:

- $9.00/hr = $915.20/yr
- $10.00/hr = $1,955.20/yr
- $11.00/hr = $3,995.20/yr

They calculated these increased costs by assuming full-time workers work an average of 2087 hours/year. They assumed part-time workers work an average of 20 hours/week for an average of 1040 hours/year.

Officials from the **Department of Elementary and Secondary Education** indicated the total estimated costs for all state funds will be $0 for FY (fiscal year) 2017, $7,078 for FY 2018, $87,363 for FY 2019, and $80,285 for FY 2020.

Officials from the **Department of Health and Senior Services** (DHSS) indicated the total estimated net cost for all state funds will be $5,658,266 for FY 2017, $24,757,841 for FY 2018, and $53,680,575 for FY 2019.

DHSS defers to the Office of Administration regarding the statewide fiscal impact of this proposed legislation relating to state employee wages.

Small Medicaid Home and Community Based Services (HCBS) vendors and providers would be required to ensure attendants are paid a minimum of $9.00 per hour for calendar year 2017, $10.00 per hour for calendar year 2018, and $11.00 per hour for calendar year 2019.

DHSS assumes HCBS providers and vendors would request an increase in the reimbursement rate to offset the higher minimum wage rate.

- The average growth in units of service per year from Fiscal Year 2012 to Fiscal Year 2014 is 9.39 percent. (Units are included from Agency Model Personal Care, Residential Care Facility Personal Care, Consumer Directed Services Personal Care, Adult Day Care, Independent Living Waiver Personal Care, Advanced Personal Care Agency Model, Advanced Personal Care Residential Care Facility, Basic In-Home Respite, Advanced Respite, Healthy Children and Youth Waiver Personal Care, Healthy Children and Youth Program Advanced Personal Care, AIDS Waiver Personal

Care, and Medically Fragile Adult Waiver Attendant Care .) Fiscal Year 2014 actual units of service (168,363,392) were multiplied times the 9.39 percent average growth rate, which yields an estimated 220,371,779 units of service for Fiscal Year 2017; 241,060,146 for Fiscal Year 2018; and 263,690,724 units for Fiscal Year 2019.

- Actual wage data for the individuals involved in delivery of units of service is not available, but DHSS has been advised that the current average wage for personal care attendants is $8.50 + $0.89 in taxes (taxes at 10.45 percent) equals $9.39 per hour, or $2.35 per 15 minute unit.
- The analysis determines the difference between the proposed unit rate for wages and taxes versus the current average wage rate for wages and taxes.
- Services would be reimbursed at the Federal Medical Assistance Percentage (FMAP) rate. For this estimate, DHSS is using FY 2016 blended rate of 36.68 percent General Revenue and 63.32 percent Federal.
- The implementation date is 1/1/2017 for $9.00 per hour for calendar year 2017; one-half of Fiscal Year 2017.
- The implementation date is 1/1/2018 for $10.00 per hour for calendar year 2018.
- The implementation date is 1/1/2019 for $11.00 per hour for calendar year 2019.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated they defer to the Office of Administration for response to this petition regarding their employee cost as it relates to raising the minimum wage.

With regard to other issues this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated they defer to the Office of Administration for the fiscal impact.

Officials from the **Department of Natural Resources** indicated the estimated total costs for salaries, fringe benefits, equipment and expenses for all state funds will be $111,081 for FY 2017, $273,155 for FY 2018, and $335,573 for FY 2019.

Section 290.502.3 would require the department to increase the minimum wage rate to $9.00 per hour effective January 1, 2017, to $10 per hour effective January 1, 2018, and to $11 per hour effective January 1, 2019, or to the wages at the same rate(s) set under the provisions of federal law as the prevailing federal minimum age applicable to those covered jobs in interstate commerce, whichever is higher the minimum wage shall be updated every January 1 thereafter.

Section 290.502.4 and 290.512.3 provides an exemption for public bodies from the provision of 290.502.3 if appropriations for wages at those rates are not provided.

Section 290.512.2 would require the department to increase minimum wage for employees that receive and retain gratuities so that total compensation is at least the minimum wage specified in 290.500 to 290.530. Effective January 1, 2017 the department would pay at least an excess of sixty percent of the minimum wage rate.

Effective January 1, 2018 the department would pay at least an excess of eighty percent of the minimum wage rate. Effective January 1, 2019 the department would pay the minimum wage.

Section 290.529 makes the provisions of sections 290.500 to 290.530 severable.

The department anticipates the cost of the proposed legislation to start at $111,081 annually for fiscal year 2017 and ultimately increase to $335,573 in fiscal year 2019.

This legislation requires the minimum wage to be reviewed and adjusted every January 1.

For full time employees throughout their department they compared their current hourly wage rate to the minimum wage rate in the proposed legislation, taking the difference by 2,080 hours multiplied by the fringe rate for full time staff.

Missouri State Parks employs between 500-750 seasonal positions each year. In order to reflect a full year of seasonal employment, they based on their analysis off of FY14 staffing levels and upgraded their hourly wage to January 1, 2015. They then analyzed each January 1 upgrade to minimum wage compared to the prior year estimate. They assumed the per fiscal year designated minimum wage amount would be greater than the federal minimum wage.

Missouri State Parks does employ staff that is eligible for tips. For those individuals, they are required to ensure that their total wage plus tips meet or exceed the established minimum wage rate for non-tip staff. Therefore, they assumed the same minimum wage for estimated impact as other staff.

Seasonal positions' fringe benefit rate is 7.65 percent.

They also made the assumption that the personal service appropriations would be adjusted according to the levels necessary to provide the increased minimum wages provided in the law.

Officials from the **Department of Corrections** indicated they defer to the Office of Administration.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department and defer to Office of Administration for impact as an employer.

Officials from the **Department of Revenue** indicated this petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they would not be able to determine the effect of this legislation, and would expect there would be a general response provided by OA/Personnel.

Officials from the **Department of Social Services** indicated they defer to the Office of Administration for the costs related to this petition.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated their cost calculations related to this initiative petition is as follows based on 15 part-time employees working 1,039 hours per year:

| | |
|---|---|
| 2017 @ $9.00/hr. | No impact |
| 2018 @ $10.00/hr. | No impact |
| 2019 @ $11.00/hr. | $15,585 annual |

Officials from the **Department of Conservation** indicated that this proposal, which would increase the minimum wage, would result in estimated additional annual cost to their department as follows: 1) an increase to $9/hour-$290,319; 2) an increase to $10/hour-$371,906; and 3) an increase to $11/hour-$481,557. This reflects pay increases necessary to increase hourly and salaried pay rates to the proposed new minimum wage.

Officials from the **Office of Administration (OA)** indicated the proposal amends Sections 290.502, 290.512, 290.527, and 290.529 RSMo.

Section 290.502, RSMo. increases the minimum wage to $9.00 per hour, beginning January 1, 2017 and by another $1.00 per hour each year until it reaches $11.00 per hour beginning January 1, 2019. Thereafter, the minimum wage will be adjusted annually based on the increase/decrease in the cost of living. The proposal would also phase in a requirement for employers of employees who receive and retain compensation in the form of gratuities to pay the full minimum wage by January 1, 2019.

Because no tax rates are affected, there is no direct impact on general and total state revenues. However, these proposals may have several indirect affects which could impact revenue collections by an unknown amount, including but not limited to:

- Increased wages for certain employees. According to the US Bureau of Labor Statistics, in 2013, Missouri had 73,000 hourly employees earning wages at or below the federal minimum wage;[1]
- Increased consumption by those employees;
- Lower overall employment (if employers choose to hold costs steady);
- Lower business investment (if employers' payrolls increase);
- Increased prices as firms pass–through labor costs.

[1] http://www.bls.gov/cps/minwage2013.pdf

This proposal will increase state personnel costs at various state agencies. However, the proposal makes the increase for public bodies subject to appropriation. The estimated cost of the minimum wage increases are:

| Fiscal Year | Wage Rate | Time period | General Revenue Cost (including fringe benefits) | Total Cost (including fringe benefits) |
|---|---|---|---|---|
| 2017 | $9.00/hr | January –June | $171,193 | $464,938 |
| 2018 | $9.00/hr | July – December | | |
| | $10.00/hr | January – June | $513,523 | $1,673,380 |
| 2019 | $10.00/hr | July – December | | |
| | $11.00/hr | January –June | $1,464,340 | $4,407,549 |

Sections 290.512, 290.527 and 290.529 RSMo. will not impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated the following is the estimated fiscal impact to their office for the years 2017 - 2019:

2017: $0
2018: $2,920
2019: $8,760

Officials from the **City of Columbia** provided the following cost estimates:

| Year of Increase | Min. Wage | Total all Employees | Incremental Increase from Previous Year |
|---|---|---|---|
| 1/17 | $9 | $ 945,659 | |
| 1/18 | $10 | $1,646,147 | $700,488 |
| 1/19 | $11 | $2,352,336 | $706,189 |

Assumption: Only impact is from minimum wage paid to employees and not from gratuities or value of goods and services.

Officials from the **City of Kansas City** indicated approximately 150 employees, mostly part time and seasonal employees, are currently paid less than $11.00. Under this initiative petition, there would be a salary increase to the city in the approximate amounts per year:

2017 ($9/hr) : $60,000
2018 ($10/hr): $113,000
2019 ($11/hr): $126,500

Officials from the **City of Raymore** indicated the sum effect on each year's proposal that will increase salary within the City's part-time seasonal staff will be $7,238.85 for CY 2017, $12,510,35 for CY 2018 (an increase of $5,271.50), and $19,525.72 for CY 2019 (an increase of $7,015.37).

The city has calculated the sum effect on each year's proposal that will increase salary within the city's part-time seasonal staff within each petition. At this time, the city is assuming that its proposed step chart will continue to be effected by the minimum wage and be adjusted every couple years to be competitive. However, there are many unknowns, and the city has simply included its part-time staff that will be effected.

Officials from the **City of St. Louis** indicated estimated annualized costs to the city of $116,601 for CY 2017, $211,138 for CY 2018, and $420,965 for CY 2019.

This initiative petition proposes an amendment Chapter 290, RSMo, to gradually raise the minimum wage starting at $9.00 per hour on January 1, 2017 to $11.00 per hour on January 1, 2019.

Subject to annual appropriation, this initiative petition would increase costs of salaries of city employees (both full and part-time) that would otherwise not be earning the wages at the levels specified in the proposed amendment. For these purposes, current employee wages are assumed to increase in accordance with existing employee pay plan provisions through 2016. The proposed amendment could also impact city revenues both positively and negatively. Should total wage base rise, employer based earnings and payroll taxes will increase accordingly. Likewise, any job losses that can be attributed to the wage increases will result in a decline in employer based and other tax revenues. The net impact of the changes in city workforce and wage base that would result from the proposed amendment is indeterminate at this time.

Officials from **University of Missouri** indicated they anticipate the legislative proposal would create an overall cost of between $20-25 million after all rate increases were implemented.

**Lara Granich** provided the following information as a proponent of this initiative petition.

August 5, 2015
Missouri State Auditor
Jefferson City, MO
Submitted via email to moaudit@auditor.mo.gov, fiscalnote@auditor.mo.gov

Re: Fiscal Impact Analysis of Minimum Wage Initiative Petitions

Version 4 (Increase to $9, then gradually to $13, tipped 60%)
Version 5 (Increase to $9, then gradually to $14, tipped 60%)
Version 6 (Increase to $9, then gradually to $15, tipped sub-minimum phased out)
Version 7 (Increase to $9, then gradually to $14, tipped sub-minimum phased out)
Version 8 (Increase to $9, then gradually to $13, tipped sub-minimum phased out)
Version 9 (Increase to $9, then gradually to $12, tipped sub-minimum phased out)
Version 10 (Increase to $9, then gradually to $11, tipped sub-minimum phased out)

This letter is from Lara Granich and Missouri Jobs with Justice Voter Action, proponents of the above-referenced initiative petitions. Pursuant to RSMo. Section 116.175, we write to submit the following fiscal impact information to assist your office in its analysis of the fiscal impact of the above mentioned seven proposed Minimum Wage Initiative Petitions.

Our analysis estimates the impact of the seven proposed initiative petitions on state and local sales and personal income tax revenue in Missouri. We follow the process that has been used in the past to estimate the impact of minimum initiative petitions on state and local sales and personal income tax, with some refinements. We also address certain claims that have been made by opponents in the past.

We are building on analysis provided for Versions 1-3 of this initiative. However, some of the analysis tools were unavailable to us in the timeframe for submitting these versions, and therefore we want to acknowledge some gaps in the information provided.

As these petitions exclude public workers, we do not include in our analysis an estimate of the impact on state and local payroll costs of the minimum wage increases.

## I. Estimate of Number of Workers Affected Statewide and the Impact on Their Wages

We estimate that, under the three versions of the petition, increases in total wages in the state will be as follows:

| Proposed Min Wage Level | Size of Increase* | Total Estimated Workers** | Workers Affected*** | Workers Affected as % of Total Workers | Total Wage Increase**** |
|---|---|---|---|---|---|
| $11.00 | $3.20 | 2,845,927 | 880,593 | 30.94% | $4,167,807,617 |
| $12.00 | $4.20 | 2,845,927 | 995,901 | 34.99% | $5,508,377,721 |
| $13.00 | $5.20 | 2,845,927 | 1,092,551 | 38.39% | ***** |
| $14.00 | $6.20 | 2,845,927 | 1,208,950 | 42.48% | ***** |
| $15.00 | $7.20 | 2,845,927 | 1,351,386 | 47.48% | $10,801,510,192 |

*Over the legislated MO 2015 minimum wage of $7.65 + assumed 2% cost of living adjustment to MO minimum wage

**Based on 2013 American Community Survey for the State of Missouri

***The number of wage and salary workers with an hourly wage below the proposed minimum. The hourly wages in 2013 were increased by 5.497%, to account for inflation between 2013 and 2016, prior to comparison with the proposed minimum.

****The hourly wage difference was multiplied by the number of hours worked per year. That amount was then multiplied by the relevant person weight and summed over all persons with hourly wages below the proposed minimum.

*****we were unable to access tools to weight appropriately for this level in the timeframe allowed for input

The wage impact of an increase in the minimum wage for the state of Missouri is calculated using the following procedure. The American Community Survey Public Use Micro Sample for the most recent year available (2013) for the state of Missouri was downloaded from the US Census Bureau. The American Community survey was chosen over the Current Population survey because the ACS has a significantly larger sample.

Calculations were effectuated only for those individuals earning less than the proposed minimum wage. It is likely that there would be indirect impacts on others who earn more than the proposed minimum wage, especially those who earn close to the proposed hourly amount. These estimates therefore are likely to be smaller than the actual impact of increasing the minimum wage to the proposed level.

All wage earners are included in this calculation. To be consistent with past estimates, public employees should have been excluded. Employees in the public sector were included because the American Community Survey does not have a published variable that allows for identification of public employees. This inclusion of public employees will have a minimal impact on our results.[1]

All wages from the 2013 survey were adjusted upward to account for inflation between the time of the survey and the time of measurement of the impact. Actual inflation was used for 2013 and 2014, and a slightly higher rate was used for assumed inflation in 2015. The 2015 Missouri Minimum wage of $7.65 was adjusted by the same factor prior to measuring the impact of a change to the proposed minimum wage in 2016.

After these adjustments, the resulting hourly wage of all employees was compared to the proposed minimum wage. Three proposed levels for the minimum wage were examined: $11, $12, and $15. If the proposed minimum wage was less than the inflation adjusted hourly earnings of an employee, then no impact was calculated. If the proposed

[1] For the Missouri's state employees, this can be validated by viewing the earnings of all state employees at: http://mapyourtaxes.mo.gov/MAP/Employees/. Larger counties and cities will also have almost all public employees earning more than the highest proposed minimum wage. Local public employees in small counties and towns may have some public employees who earn less than the highest proposed minimum.

minimum wage was more than the hourly earnings on an employee, then the difference between the inflation adjusted hourly earnings and the proposed minimum wage was calculated. That difference was multiplied by the number of hours the employee worked in the year to calculate the impact for that employee. The result was then multiplied by a weighting factor for that employee in the population. The total impact for the state of Missouri was calculated by repeating this process for every employee and adding the results.

The impact grows as the proposed minimum wage grows. 31% of the labor force would be directly impacted by an increase in the minimum wage to $11 in 2016, whereas 47% would be impacted if the minimum wage were increased to $15 per hour.

It should be emphasized that there is no reason to expect even a substantial increase in the minimum wage to reduce employment. No credible research has demonstrated a negative employment effect of increases in the minimum wage and there is substantial research to indicate that increases in the minimum wage have multiplier effects that increase the direct effects. For this reason and because of the likely increases in wages to individuals who earn above the proposed minimum wages, the impacts summarized in the table are likely to be low, relative to the total impact that would occur as a result of increasing the minimum wage to the proposed levels.

## II. Economic Literature on the Impact of Minimum Wage Increases on Employment

Next it is necessary to review the economic literature on the impact of minimum wage increases on employment. Opponents often claim that minimum wage increases may reduce employment in a state. If that is true, then those employment reductions would result in reductions in state income and sales tax revenue. However, review of the most credible recent empirical research on the minimum wage shows that increases in the minimum wage have had no discernible impact on employment. We thus conclude that it is not appropriate to project that the proposed initiative petitions would result in any detectable employment reduction, and resulting losses in income and sales tax revenue, or increases in unemployment-related costs to the state.

Economists have conducted hundreds of studies of the employment impact of the minimum wage. A recent meta-study – a formal statistical study of studies – by Doucouliagos and Stanley (2009) reviewed all the research conducted over the last three decades on the employment impact of minimum-wage increases on teenagers in the United States. The researchers concluded that the minimum wage has little or no discernible effect on the employment prospects of low-wage workers. Their study followed a rigorous, peer-reviewed procedure and has the advantage of using a set of predetermined, objective criteria for weighing the validity of statistical findings across studies with different results. (Source: Doucouliagos, Hristos and T. D. Stanley. 2009. “Publication Selection Bias in Minimum-Wage Research? A Meta-Regression Analysis.” British Journal of Industrial Relations,vol. 47, no. 2, pp. 406-428.)

Recent theoretical and empirical research emphasizes several explanations for the consistently negligible employment impacts of moderate increases in the minimum wage. First, relative to total wage costs, minimum-wage increases are small. Second, employers and workers appear to respond to minimum-wage increases in many ways that reduce the direct cost to employers and substantially reduce or eliminate the need to cut employment.

Probably the most important economic response to a higher minimum wage is a reduction in turnover. At higher wages, employers fill vacancies faster and retain employees longer, boosting total employment and average productivity per worker while reducing direct and indirect training costs. Dube, Lester, and Reich (2012), for example, examined the effect of the minimum wage on labor turnover among teens and restaurant workers. They find “...striking evidence that separations, new hires, and turnover rates for teens and restaurant workers fall substantially following a minimum wage increase...” (p. 2) Their findings, using nationally representative data, are consistent with local case studies of the

minimum wage and related "living wage" laws, including Dube, Naidu, and Reich's (2007) analysis of the San Francisco city-wide minimum wage; Fairris's (2005) study of local government contractors in Los Angeles; Howes (2005) on homecare workers in California; and Reich, Hall, and Jacobs (2005) on workers at the San Francisco airport. (Sources: Dube, Arindrajit, T. William Lester, and Michael Reich. 2012. "Minimum Wage Shocks, Employment Flows and Labor Market Frictions." Berkeley, CA: Institute for Research on Labor and Employment. http://escholarship.org/uc/item/76p927ks; Dube, Arindrajit, Suresh Naidu, and Michael Reich. 2007. "The Economic Effects of a Citywide Minimum Wage." *Industrial and Labor Relations Review*, vol. 60, no. 4, pp. 522-543; Fairris, David. 2005. "The Impact of Living Wages on Employers: A Control Group Analysis of the Los Angeles Ordinance." *Industrial Relations*, vol. 44, no. 1, pp. 84-105; Howes, Candace. 2005. "Living Wages and the Retention of Home Care Workers in San Francisco." *Industrial Relations*, vol. 44, 5 no. 1, pp. 139-163; Reich, Michael, Peter Hall, and Ken Jacobs. 2005. "Living Wage Policies at the San Francisco Airport: Impacts on Workers and Businesses." *Industrial Relations*, vol. 44, no. 1, pp. 106-138.)

Employers also appear to respond to increases in the minimum wage by taking measures to boost productivity. Hirsch, Kaufman, and Zelenska's (2011) study of the impact of the federal minimum-wage increase on 81 fast-food restaurants in Georgia and Alabama, for example, asked fast-food managers about the scope for efficiency improvements in response to the minimum-wage rise. About 90 percent of managers indicated that they planned to respond to the minimum-wage increase with increased performance standards such as "requiring a better attendance and on-time record, faster and more proficient performance of job duties, taking on additional tasks, and faster termination of poor performers." (p. 27) Roughly the same share of managers said that they sought to "boost morale" by presenting the minimum-wage increase as a "challenge to the store" and using this as a way "to energize employees to improve productivity." (pp. 28-29) Based on their interviews with store managers, the researchers concluded that a minimum-wage increase may function as a "catalyst or shock that forces managers to step out of the daily routine and think about where cost savings can occur." (p. 29) (Source: Hirsch, Barry T., Bruce Kaufman, and Tetyana Zelenska, "Minimum Wage Channels of Adjustment." IZA Discussion Paper No. 6132. Germany: Institute for the Study of Labor. http://www2.gsu.edu/~ecobth/IZA_HKZ_MinWageCoA_dp6132.pdf)

A higher minimum wage may also motivate workers to work harder, independently of any actions by employers to increase productivity. According to "efficiency wage" theory, wages above the competitive-market rate may elicit greater work effort for several reasons. As Carl Shapiro and Joseph Stiglitz (1984) have argued, higher pay increases the cost to workers of losing their job, potentially inducing greater effort from workers in order to reduce their chances of being fired. George Akerlof (1982), arguing from a more sociological point of view, has suggested that workers may see higher wages as a gift from employers, leading workers to reciprocate by working harder. (Sources: Shapiro, Carl and Joseph E. Stiglitz. 1984. "Equilibrium unemployment as a worker discipline device." *American Economic Review*, vol. 74, no. 3, pp. 433-444; Akerlof, George A. 1982. "Labor contracts as partial gift exchange." *Quarterly Journal of Economics*, vol. 97, no. 4, pp. 543-569.)

We therefore conclude that the proposed increase in the Missouri minimum wage would have no discernible impact on the employment levels of low-wage workers. Accordingly, we do not factor in reductions in employment, or any resulting decrease in sales tax or income tax. We also do not project any increased unemployment insurance costs – both because we do not project any resulting job losses, and additionally because unemployment insurance costs are paid for by employer premiums, and so are ultimately not a cost to the state.

### III. State and Local Sales and Personal Income Tax Revenue Impact of Raising the Minimum Wage

Based on the wage impact figures calculated above, and the understanding that the minimum wage increases would be unlikely to result in offsetting job losses, we next calculate the impact of the projected wage increases on state and local

sales and personal income tax revenue in Missouri. We project only the direct impact of the three minimum wage increase scenarios on such tax revenue. We do not attempt to project the additional impact through a GDP multiplier effect.

**Increase in Personal Income Tax Revenue and Sales Tax Revenue Due to Increased Wages Personal Income Tax Revenue.** In order to determine the projected increase in personal income tax revenues that would result directly from the increased wages, we had to develop assumptions about the effective income tax rates of the affected workers. We made the following assumptions with respect to the effective tax rate:

1. That 25% of affected workers can be claimed as a dependent on another party's Missouri income tax return and as a result would pay an effective tax rate of 6.0% on the increase in income;
2. That 50% of the affected workers would file as single taxpayers, would claim one deduction of $2,100, and would be entitled to a standard deduction of $5,800. This would result in an effective tax rate of 2.47%;
3. The remaining 25% would, we assumed, would pay no additional Missouri income tax. In light of these assumptions, the increased Missouri income tax revenue for each petition version can be calculated as follows: (total wage increase * 25% * 6.0%) + (total wage increase * 50% * 2.47%) + (total wage increase *25% * 0%).

**Sales Tax Revenue.** The State of Missouri imposes a 4.225% state sales tax on those items that are not exempt from the sales tax base. In addition, the average local sales tax rate is 2.95%. As a result, the average Missouri net sales tax rate is 7.175%. We have conservatively estimated that just 25% of the higher wages would be spent on the purchase of goods that are subject to state and local sales tax in Missouri.

Based upon the above assumptions, and the total wage increase calculations for each version of the petition, we estimate that the increase in state income tax revenue resulting from the increased wages would be as follows:

| Increase in Sales and Personal Income Tax from Increased Wages | | | | | | |
|---|---|---|---|---|---|---|
| **Proposed Min Wage Level** | **Total Wage Increase** | **State Sales Tax (4.225%)** | **Local Sales Tax Revenue (2.95%)** | **Total Sales Tax Revenue Increase** | **Personal Income Tax Revenue** | **Total Sales and Personal Income Tax Revenue Increase** |
| $11.00 | $4,167,807,617 | $44,022,468 | $30,737,581.17 | $74,760,049.13 | $113,989,538 | $188,749,587 |
| $12.00 | $5,508,377,721 | $58,182,240 | $40,624,285.69 | $98,806,525.38 | $150,654,131 | $249,460,656 |
| $13.00 | *We were unable to access a tool to weight calculations of the total wage increase for these levels in the timeframe allotted.* | | | | | |
| $14.00 | | | | | | |
| $15.00 | $10,801,510,192 | $114,090,951 | $79,661,137.67 | $193,752,089.08 | $295,421,304 | $489,173,393 |

Moreover, one often-cited authority on tax information, the Tax Foundation, reports that the average local sales tax rate in Missouri is even higher at 3.53%. See http://taxfoundation.org/article/state-and-local-sales-taxes-midyear-2012 If one uses this higher rate, total revenue increases additionally by hundreds of thousand dollars.

We hope that this information is useful to your office as your prepare your analyses of the petitions.

Respectfully submitted,
Lara Granich
Missouri Jobs with Justice Voter Action

**Edward D. Greim** provided the following information as an opponent of this initiative petition.

He writes on behalf of Robert Bonney. Mr. Bonney is the Chief Executive Officer of the Missouri Restaurant Association. Please consider this letter and the accompanying studies as his fiscal impact statement as an opponent of Initiative Petitions 2016-066, 2016-067, 2016-068, 2016-069, 2016-070, 2016-071 and 2016-072 (the "Initiative Petitions"). Initiative Petitions 2016-066 and 2016-067 appear to be substantially similar to the previously-submitted Initiative Petitions 2016-045, 2016-046 and 2016-047—which will cause significant negative impacts, if passed. Moreover, Initiative Petitions 2016-068, 2016-069, 2016-070, 2016-071 and 2016-072 only work to further negatively impact the Missouri economy by phasing out tipped wage percentages entirely. In short, any of these seven initiatives would have a substantial negative impact on state and local governments.

The two fiscal impact studies attached hereto were authored by Dr. David Macpherson, a nationally-recognized labor economist and expert on the impact of minimum wage increases. In reviewing previous minimum wage petitions, the Auditor's Office has previously found Dr. Macpherson's analyses to be helpful and persuasive.

The first study was prepared by Dr. Macpherson in June 2014 and details how a $10.10 per hour minimum wage would have impacted Missouri and the St. Louis area were it to have become effective in 2015. *See* Exhibit A. In addition to the estimated loss of nearly 15,000 jobs statewide, Dr. Macpherson estimated that the cost to taxpayers of a $10.10 minimum wage would be $87 million annually. While this study did not address the specific proposals in the Initiative Petitions, Dr. Macpherson's methodology applies directly to the impact of the proposed minimum wage increases.

The second fiscal study was reviewed and used by this office in evaluating earlier minimum wage proposals. It was prepared by Dr. Macpherson in March 2012 and details the impact of a statewide minimum wage increase to $8.25 per hour. This study is attached hereto as Exhibit B. In this study, Dr. Macpherson concluded that state and local entities would pay out $16 million in increased wages. What's more, Dr. Macpherson estimated that the net state and local fiscal impact would range from a loss of over $22 million to a loss of $13 million. While this study is now three years old, the analysis is pertinent to the proposed wage increase in the Initiative Petitions. Notably, using Dr. Macpherson's methodology, the heightened minimum wage proposals contained in the Initiative Petitions would have a substantially greater negative fiscal impact than that found in the 2012 study.

The proponents of the Initiative Petitions will likely rely on data sourced from political activist groups who claim increases in minimum wage only serve to create new taxable income. The reality is that such groups approach this issue with indisputable political bias. Further, that type of analysis is one-sided, disregarding the significant impact on Missouri businesses. True, some workers will collect increased wages, but no new money is created; Missouri businesses will be the source of the increase which will lower their taxable income and, from time to time, cause them to forego hiring or to cut employment. Regarding secondary employment and tax revenue effects, the Auditor must refrain from assessing only one half of the wage increase equation.

In addition, the most significant and most direct effect of a minimum wage increase is the amount of the increased wages that will actually be paid by state and local governments. As has been shown during prior efforts to increase the minimum wage, very few of the hundreds of state and local entities who actually employ minimum wage workers will take the time to provide fiscal impact estimates in response to the Auditor's requests. Further, the Auditor's requests are simply sent to a sample of governmental employers. The more appropriate method to calculate the fiscal impact of the wage increase is to use the actual number of minimum wage workers who work for state and local governments, as calculated by the United States Census Bureau's CPS. Rather than simply adding the sums reported in the scattershot and unreliable fiscal note responses from state and local entities, the Auditor should supplement them with broader analyses such as those of Dr. Macpherson. At the very least, the Auditor should state in the fiscal note summary that state and local impacts are "large" or "substantial," rather than simply reporting impacts of "at least" the few thousand dollars in costs that may or may not be reported by those local entities that take the time to respond to the Auditor's sampling.

Finally, the proponents of the Initiative Petitions may argue that the Auditor should abandon the state and local cost estimates altogether. The proponents will argue that a new provision they have inserted in the statute would make the increases apply only if "there are appropriations for wages at those [i.e., the newly-increased] rates." The proponents will urge the Auditor's Office to assume that legislators will not actually fund the increases, and that therefore there will be no cost to taxpayers. Setting aside unjustifiable projections about the political judgments of legislators, the provision is of uncertain legal effect and constitutionality. On the one hand, it may not change existing law, since arguably the legislature always has the power to reduce or increase appropriations. But it is also unclear whether the legislature has the power to fix wage rates within an appropriations bill, or whether a mere statutory petition can confer this type of power upon the legislature. The application of the requirement for a specific type and manner of appropriation is also unclear in the context of political subdivisions and other public bodies whose funds are generally not appropriated by the general assembly. These are just a few examples of the serious flaws with the proposal itself that may have to be addressed by the courts. Suffice it to say that as a matter of law, it would be insufficient and unfair for the Auditor's fiscal note or summary to simply assume that these legal issues do not exist, or to make a political judgment that legislators will not in fact fund any of the minimum wage increases at any level of state government. Such assumptions would only serve to artificially deflate the fiscal note and fiscal note summary by tens of millions of dollars.

June 2014

MISSOURI
Restaurant Association
*Eat Out Often!*

# The Impact of a $10.10 Minimum Wage on Jobs and Taxpayer Costs in Missouri

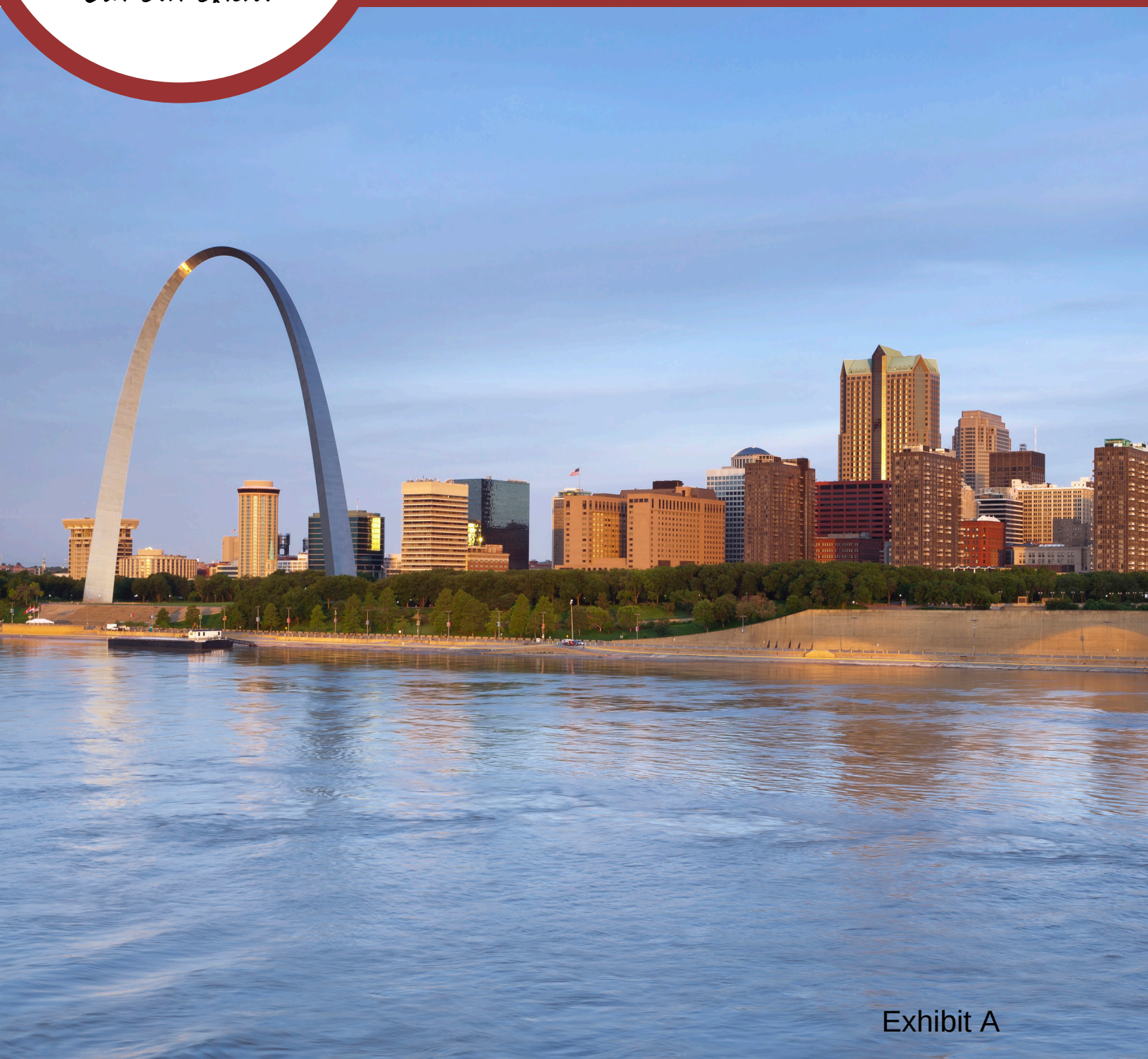

Exhibit A

# ABOUT THE MISSOURI RESTAURANT ASSOCIATION

With origins dating back to 1916, the Missouri Restaurant Association (MRA) is a statewide trade association representing over 1,500 member establishments. The association's membership is diverse, and includes full service, fast casual, and quick service restaurants, cafeterias, hotels, schools, institutions, contract feeders, and ancillary foodservice providers such as theme parks. The association has been successful in securing support from virtually every segment of the foodservice and hospitality industry.

MRA includes seven chapters as extensions of the parent organization, each with its own Officers, Board of Directors, and limited budget. The association is governed by a Board of Directors comprised of five Officers, 33 Directors, and each President of the seven affiliated chapters.

MRA is dedicated to serving the needs of the foodservice and hospitality industry, enhancing and improving its growth and development, assisting and educating its members in operating more effectively, improving the political and social environment in which the industry conducts business, for the benefit of its members, patrons, employees, and the well-being of the community.

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David A. Macpherson is the E.M. Stevens Professor of Economics at Trinity University. He received undergraduate and doctoral degrees in economics from Pennsylvania State University.

Dr. Macpherson has published over 60 articles in leading economics and real estate journals including Review of Economics and Statistics, Industrial and Labor Relations Review, Journal of Labor Economics, Journal of Human Resources, and Journal of Real Estate Economics and Finance. His research has been funded by a variety of entities including the National Science Foundation, Florida Legislature, and the National Association of Realtors. He is co-author of the undergraduate labor economics text, Contemporary Labor Economics, as well as the principles of economics text, Economics: Private and Public Choice. He is included in Who's Who in Economics, Fourth Edition, which includes the 1,200 most frequently cited economists.

# THE IMPACT OF A $10.10 MINIMUM WAGE ON JOBS AND TAXPAYER COSTS IN MISSOURI

June 2014

Economic Analysis by **Dr. David Macpherson**
**Trinity University**

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# EXECUTIVE SUMMARY

Missouri's minimum wage of $7.50 is linked to rise in most years with the inflation rate. But some state legislators and labor unions would like to raise that figure even higher. For instance, a recent labor union-organized bus tour in the state promoted a $10.10 minimum wage in St. Louis.

Proponents have enthusiastically pointed to the benefits of the $10.10 policy. But there's been far less discussion of the costs involved with a $10.10-an-hour minimum wage—both the cost on employment, and the cost to taxpayers.

In this study, labor economist David Macpherson of Trinity University uses Census Bureau data to estimate the impact on Missouri's labor market and budget from raising the minimum wage to $10.10 an hour. He also provides separate results for the St. Louis metropolitan area.

Dr. Macpherson's employment estimates follow the methodology used by the nonpartisan Congressional Budget Office in its report earlier this year estimating the impact of a $10.10 minimum wage nationwide, which in turn relied on 60 different empirical studies to formulate its estimates.

Statewide, he finds that over 15,000 jobs would be lost at the $10.10 wage level—with 9,300 of those jobs being held by women. In the St. Louis metropolitan area, approximately 4,800 jobs would be lost from a $10.10 minimum wage.

The cost to taxpayers would be significant: There are approximately 40,000 state and local employees whose wages would be affected by the $10.10 increase in Missouri, for a combined cost to taxpayers of $87 million annually.

Raising wages is an admirable goal, but the evidence suggests that accomplishing this goal with a blunt wage mandate could do more harm than good.

# RESULTS

The minimum wage is one of the most hotly-debated topics in the political world. Some legislators claim that a higher base wage will stimulate the economy; others claim that it will reduce jobs when affected employers can't offset the higher costs through higher prices.

Economists, who have studied the issue since the late 1940s, tend to take a skeptical view of minimum wage increases. Since the early 1990s, for instance, roughly 85 percent of the most credible research on the minimum wage points to job loss for less-skilled groups. The nonpartisan Congressional Budget Office (CBO), in an evaluation of President Obama's proposed $10.10 minimum wage increase, reviewed 60 different studies and concluded that the policy would eliminate 500,000 jobs if enacted.

The estimates that follow, of the employment impact of a higher minimum wage on Missouri's labor market, were performed by Dr. David Macpherson of Trinity University. Dr. Macpherson followed closely the methodology used by the CBO in its 2014 report. Dr. Macpherson also estimates the taxpayer costs of a higher minimum wage, as many state and local public employees will see their earnings increase when the minimum wage rises.

Dr. Macpherson's methodology is presented in detail in a technical appendix.

## Estimated Employment Effects of a $10.10 Minimum Wage in Missouri

Statewide, Dr. Macpherson finds that increasing the minimum wage to $10.10 would eliminate over 15,000 jobs—approximately 60 percent of which are jobs held by women. The bulk of the job losses would be concentrated among individuals with a high school degree or less, and among people who work in the retail or leisure & hospitality industries.

(Note: Totals have slight discrepancies due to rounding.)

**Estimates by Gender**

| | *Job Losses* |
|---|---|
| **Male** | 6,311 |
| **Female** | 9,364 |
| **TOTAL** | **15,705** |

**Estimates by Age**

| *Age* | *Job Loss* |
|---|---|
| **<=21** | 9,237 |
| **22-25** | 1,532 |
| **26-30** | 1,023 |
| **31-40** | 1,175 |
| **41-50** | 980 |
| **51 +** | 1,759 |

**Estimates by Race**

| *Race* | *Job Loss* |
|---|---|
| **White** | 13,299 |
| **Black or Other Race** | 2,406 |

# RESULTS CONTINUED

| Top Three Industries Affected | |
|---|---|
| *Industry* | *Job Loss* |
| **Retail Trade** | 3,835 |
| **Arts, Entertainment, Recreation, Accommodations, and Food Services** | 6,039 |
| **Healthcare** | 1,199 |

| Estimates by Education | |
|---|---|
| *Education* | *Job Loss* |
| **Less than High School** | 5,555 |
| **High School Grad, No College** | 4,921 |
| **Some College** | 4,428 |
| **Undergrad or Graduate Degree** | 802 |

## City-Specific Minimum Wage Employment Impacts

The city of St. Louis has been the subject of a number of protests calling for a higher minimum wage. Dr. Macpherson analyzed the employment impact of a $10.10 minimum wage in the St. Louis metropolitan area, providing breakouts by gender and education where the data permits. He estimates that the wage hike would eliminate approximately 5,000 jobs—just over half of which would be jobs held by women.

| Impact on St. Louis Metro Area of a $10.10 Minimum Wage | |
|---|---|
| *Gender* | *Job Loss* |
| **Male** | 2,033 |
| **Female** | 2,767 |
| **TOTAL** | **4,800** |
| *Race* | *Job Loss* |
| **White** | 3,641 |
| **Black or Other Race** | 1,158 |
| *Education* | *Job Loss* |
| **High School Grad or Less** | 3,097 |
| **Some College, Undergrad or Graduate Degree** | 1,703 |

# RESULTS CONTINUED

## Missouri Taxpayer Costs of a $10.10 Minimum Wage

Dr. Macpherson estimates that approximately forty thousand state & local public employees would be affected by a minimum wage increase to $10.10 an hour. These additional wage costs translate to new costs for state and local taxpayers. Following the methodology described in detail in the technical appendix, Dr. Macpherson estimates both the straight wage cost of a $10.10 minimum wage, as well as the total compensation cost with Social Security, Medicare, workers compensation, and unemployment insurance included. Statewide, taxpayers would shoulder an additional $87 million in costs if the base wage was increased to $10.10 an hour and public employees were covered by the new wage.

| Missouri Taxpayer Costs of a $10.10 Minimum Wage | |
|---|---|
| **# of State & Local Workers** | 304,588 |
| **# Affected By $10.10 MW** | 40,103 |
| **Annual Wage Cost** | $79,629,374 |
| **Annual Compensation Cost** | $87,004,355 |

*Note: Annual compensation costs include the cost of worker's compensation, FICA, and unemployment insurance benefits.*

MISSOURI Restaurant Association
Eat Out Often!

# TECHNICAL APPENDIX

## Estimating Employment Loss and the Cost to State and Local Government of an Increase in the Minimum Wage

**Dr. David Macpherson**
**E.M. Stevens Professor of Economics**
**Trinity University**

This paper describes how we estimate the employment loss and the cost to state and local governments of a proposed increase in the minimum wage effective on January 1, 2015.

## Data and Sample

First, we use data from the Current Population Survey (CPS) Outgoing Rotation Groups (ORG) from January 2011 through December 2013. For each worker in the sample, we calculate their wage rate. We also adjust the wage rate to reflect a forecast of wages in 2015. This is done in two steps. First, based on legislation enacted as of April 2014, we estimate the minimum wage that would be in effect in January 2015 for each state and city that we consider. If a state or city has an indexed minimum wage, we increase the January 2014 state or city minimum wage by the Congressional Budget Office (CBO) inflation forecast for 2014 of 1.7%.

Since we use data from 2011 through 2013, we also follow the CBO approach for forecasting what the wage distribution would be in 2015. This is done in two steps. First, we adjust wages observed prior to 2013 to reflect 2013 minimum wage legislation. For example, if the minimum wage in a state was $7.25 in 2011 and grew to $8.00 by 2013, anyone who earned between $7.25 and $8.00 in 2011 would have their wage increased to $8.00. After wages are adjusted to 2013 levels, we assume that all wages grow by 2.9% in 2014. Using the resulting 2015 distribution of wages, we adjust for minimum wage legislation that would increase the minimum between 2013 and 2015. Anyone earning a wage between the 2013 and 2015 minimum wage is assigned a wage matching the 2015 minimum wage.

After generating the forecast 2015 distribution of wages reflecting wage growth and existing minimum wage legislation, we identify workers who would be affected by additional changes to the 2015 minimum wage as those with wages between the predicted minimum wage legislated for 2015 (or up to $.25 below it) and the proposed minimum.

To estimate the number of affected workers, we take two steps. First, for each state, we estimate the number of affected workers for 2013. Second, we adjust the weights in the 2011 and 2012 data so that the state-specific number of affected workers implied by the 2011 and 2012 data matches that for 2013. This adjustment is designed to correct for the changing economic climate as the economy recovers from the great recession and to generate estimates that are as close as possible to the most recent data (2013). After we adjust the 2011 and 2012 weights, we estimate the number of affected workers by summing their earnings weights and dividing the total by 36 (the number of months of data).

[1] Also, following CBO, anyone earning up to $.25 less than the 2011 minimum wage would have their wage increased by the amount that the minimum wage increased (i.e. a $7.00 wage would be increased to $7.75 in this example). This approach is used to adjust for the fact that many workers round their answers when asked about their wage.

# TECHINCAL APPENDIX CONTINUED

## Employment Loss

To estimate employment loss, for each affected worker we compute:

**L = e *(Proposed Min Wage /Min Wage 2015 – 1)**

where e is an assumed elasticity of employment with respect to changes in the minimum wage, Min Wage 2015 is the minimum wage currently legislated for 2015, and Proposed Min Wage is the minimum wage that is being proposed for 2015. Thus, for example, if a worker is projected to earn the federal minimum of $7.25 in 2015, the expected reduction in employment resulting from a $10.10 minimum wage in 2015 if e=.45 is .45*(10.10/7.25 – 1) = .18. That is, for every 100 workers currently earning the federal minimum, the expectation is that 18 would lose a job if the minimum wage elasticity is .45.

To estimate the aggregate employment loss in the economy, we use earnings weights to sum L across workers. We also follow the Congressional Budget Office (2014) and use an elasticity of 0.15 for non-teenagers and 0.45 for teenagers.

## Cost to State and Local Government

We use the same data to estimate the cost to state and local government of a proposed minimum wage hike. We apply the same definition of affected workers described above and estimate the number of state and local government workers affected by a minimum wage hike. We do not, however, assume that there is any job loss for state and local workers as we do not have an appropriate elasticity estimate specific to state and local workers. To the extent that state or local governments reduce hours or employment in response tothe minimum wage hike, our estimate of the cost of the hike would be overstated.

To estimate the increase in annual payroll cost resulting from an increase in the minimum wage, we estimate the increase in annual cost for each worker as:

**(Proposed Min Wage-Min Wage 2015)*weekly hours*52**

We then multiply the increase in annual cost by the earnings weight for each worker and sum across workers. Since an increase in wages also requires increased employer contributions for Social Security, Medicare, workers' compensation and unemployment insurance, we apply an estimate of the payroll tax rate for these mandatory programs to calculate the additional cost for these programs.

For each state and city considered, we provide tables summarizing the number of affected workers, employment loss, and the distribution of employment loss by sex, education, race, age and industry. Given that we use three years of data, a rule of thumb for minimum sample size required to achieve a reasonably accurate estimate of the employment loss is to require at least 30,000 people be in the relevant category. For example, if there are fewer than 30,000 people projected to be in a particular industry category, the Bureau of Labor Statistics would not report the estimate due to a lack of reliability based on the variance of the estimate relative to its mean.

In addition to the estimate of employment loss, for each state or city considered, we estimate the number of state and local workers that would be affected by the minimum wage hike and the total annual cost to government in terms of wages and total compensation. As with the employment estimates, we advise caution in interpreting estimates that are based on fewer than 30,000 affected workers.

[3] Congressional Budget Office, "The Effects of a Minimum-Wage Increase on Employment and Family Income," February 2014.

[4] For workers paid by the hour the reported hourly wage was used. For workers who are not paid by the hour, we calculate the hourly wage by dividing usual weekly earnings by usual weekly hours. Overtime pay was calculated as time and one-half for hours above 40 hours for hourly workers.

[5] The assumed payroll tax for Medicare and Social Security is 7.65 percent. To estimate the payroll tax for workers' compensation and unemployment insurance, we use unpublished data from the 2010 Employer Cost of Employee Compensation database for state and local workers in the relevant region in 2010.

# FISCAL ANALYSIS
# OF
# PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

**Prepared for**

**Victor Allred versus Robin Carnahan and Thomas Schweich**
**Circuit Court of Cole County, Missouri**

**Prepared by**

**David A. Macpherson, Ph.D.**
**125 Park Drive**
**San Antonio, TX 78212**

**March 26, 2012**

Exhibit B

# FISCAL ANALYSIS
# OF
# PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

## I. Introduction

This report was undertaken at the request of counsel representing plaintiffs in the case of Victor Allred versus Robin Carnahan and Thomas Schweich. As part of the basis of the lawsuit, the plaintiffs allege that the fiscal note summaries for proposed statutory initiative petitions 2012-084 and 2012-085 are insufficient and unfair. I was asked by counsel to evaluate the fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085.

The results of my analysis indicate:

(1) labor costs to state and local government entities, based on state auditor fiscal notes, will rise by more than $1,352,182. A more inclusive estimate indicates that state and local government labor costs will increase by $16,003,712;

(2) unemployment benefit costs will rise by $4,397,510 during the first year of the minimum wage increase;

(3) individual income tax revenue will rise by at most $4,078,088;

(4) the loss in corporate income tax revenue could be as high as $9,243,105;

(5) state and local sales tax revenue will rise by at most $2,919,327;

(6) during the first year: state and local governments will incur increased costs of $20,401,222; the change in state and local government revenue will

range from -$2,245,690 to +$6,997,415; and the net state and local government fiscal impact will range from -$22,646,912 to -$13,403,807.

The report is organized as follows. My qualifications to prepare this report are contained in Section II. Section III describes the data and records I relied upon for this report. Section IV reviews the estimated fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085. A summary and my conclusions are provided in Section VI.

## II. Qualifications

I am currently the E.M. Stevens Professor of Economics at Trinity University in San Antonio, Texas. Previously, I was employed by Florida State University as Director of the Pepper Institute on Aging and Public Policy and the Rod and Hope Brim Eminent Scholar in Economics. I have taught both undergraduate and graduate Econometrics (statistical analysis of economic data), and Labor Economics. I have published over 50 articles in peer-reviewed professional journals.

I am currently serving on the editorial board of the *Journal of Forensic Economics*, which is a peer-reviewed journal. I have also served as a reviewer or 'referee' for 24 peer-reviewed journals, including the *Journal of Human Resources, Journal of Labor Economics, Quarterly Journal of Economics,* and the *Review of Economics and Statistics*. Based upon these experiences, I am very familiar with the scholarly and professional research process and the concept of peer review.

I have prepared numerous analyses and reports that use statistical methods as applied to specific questions. I have been responsible for developing the techniques and approaches required for these analyses. I routinely use computers and statistical software packages to assist me in my analytical work. I have been qualified as an expert witness on statistical analysis of employment discrimination and economic damages in state courts in Florida and Georgia and Federal Courts, and I have given expert testimony. I have prepared analyses and offered testimony on behalf of both plaintiffs and defendants.

Details of my qualifications are reflected in my current resume and legal cases, attached as Appendix A to the report.

## III. Data and Records

I reviewed the following materials in preparing this report.

- Plaintiff's Complaint
- Material cited in footnotes below.

## IV. Fiscal Impact

*A. Overview*

The proposed statutory initiative petitions 2012-084 and 2012-085 contain many elements in common. Both initiatives would increase the Missouri minimum wage to $8.25 per hour, alter the exemption for retail and service firms, raise the cash wage of tipped workers from 50% to 60% of the minimum wage, and increase the statute of limitation from two to three year for underpayment claims.

The initiatives differ in their linkage to the federal minimum wage. Initiative petition 2012-084 requires that the state minimum wage be automatically increased to the

federal minimum wage if it is higher than the state minimum wage. Initiative petition 2012-085 does not have such a linkage. It only requires that workers be paid the higher of the state minimum wage or the federal minimum wage. The linkage to the federal minimum wage will cause the state minimum wage to be higher under initiative petition 2012-084 over time. This is because the state minimum wage, in contrast to the federal minimum wage, is adjusted for inflation as measured by the Consumer Price Index.

An increase in the minimum wage in Missouri will affect state and local government entities in two ways. First, it will directly increase the cost of labor to state and local government entities. This will occur due to the increase in wages of state and local government workers earning between the existing minimum wage of $7.25 and the new minimum wage of $8.25.[1] In addition, workers laid off due to the minimum wage increase can collect unemployment benefits. The state government will bear the cost of unemployment benefits of these workers for the first 20 weeks. Second, state and local government may gain increased revenue through higher income tax and sales taxes paid by workers affected by the minimum wage who remain employed. However, state and local government will suffer reduced tax revenue to the extent the higher wage cost lowers profits of businesses.

The following sections estimate the cost and revenue effects to state and local government entities of the proposed minimum wage increase.

[1] Information about the minimum wage in Missouri is available at http://www.labor.mo.gov/DLS/minimumwage/.

*B. Direct Labor Cost Impact on State and Local Government Budgets*

There are two possible ways to measure the direct labor cost on state and local government budgets. First, one can use the information included in the fiscal notes prepared by the State Auditor regarding the proposed initiatives. It is important to note that the fiscal notes provide an incomplete and thus too low estimate of the direct labor cost. The fiscal notes indicate that the Office of Administration's (OA) Division of Personnel reported that as of September 2011 there were 834 state workers who would be affected by an increase of the minimum wage to $8.25 and the "approximate annual cost" would be more than $540,000.

This OA estimate excludes seasonal workers such as State Fair employees, State Parks Employees, and tax season staff. The Division of Revenue noted its labor cost would rise by $40,000. The Division of Natural Resources stated they have over 500 workers who would be affected by the increase, but did not provide an estimate of the cost. The State Fair hired 745 workers that would be affected, but no cost estimate was provided.

Thus, the cost to state government, based on the fiscal notes, would be more than $580,000.

The fiscal notes also provide an incomplete and thus too low measure of the cost to local government and public educational institutions. Many cities and educational institutions did not respond to Office of Auditor's survey or provide an estimate of the cost of the higher minimum wage. The City of Columbia, City of Jefferson, City of

Joseph, Linn State Technical College, and Metropolitan Community College did provide such an estimate. The total cost to these five institutions is $772,182.

Based on the fiscal notes, the cost to state and local government entities of the increase in the minimum wage to $8.25 will be more than $1,352,182.

Second, data from the U.S. Census Bureau's Current Population Survey (CPS) can also be used to calculate the cost of the increased labor cost to state and local government entities in Missouri. Using the data from January 2010 to December 2011 Outgoing Rotation Group (ORG) CPS, I calculated that 17,089 state and local government workers would be affected by the minimum wage increase. I defined affected workers as those individuals earning between $7.00 and $8.24 per hour. Though the minimum wage was $7.25 per hour during this period, I also included those workers reporting earnings of $7.00 to $7.24 since some individuals may round their wage rate. I calculated the annual wage cost for each state and local government worker (i) in the ORG CPS as:

$$Annual\ Wage\ Cost_i = (\$8.25 - current\ wage_i) * weekly\ hours_i * 52.$$[2]

The average annual wage cost increase was $870. I summed the cost over each worker (i) to obtain the total wage cost to state and local government entities in Missouri of $14,866,430.

The increased wage cost is not the only labor cost to state and local government entities of the minimum wage increase. Employers are required to pay 7.65% of their wage costs in Social Security and Medicare taxes. Thus, the total labor cost of the minimum wage increase will be 1.0765 times $14,866,430 or $16,003,712.

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[2] I assume that persons reporting an hourly wage rate between $7.00 and $7.24 are actually earning $7.25 per hour.

*C. Unemployment Benefit Impact*

The higher minimum wage will cause firms to reduce their level of employment.[3] As a result, the number of unemployed workers will increase. Thus, another important fiscal cost of the minimum wage increase is the cost of the unemployment insurance benefits for the workers laid off as a result of the minimum wage increase.

To calculate the cost to the unemployment benefits program, I first calculated the number of workers laid off. To do so, I calculated a probability of job loss for each affected Missouri worker (i) in the January 2010 to December 2011 ORG CPS:

$$Probability\ Job\ Loss_{\ i} = \frac{(\$8.25 - Current\ Wage_i)}{Current\ Wage_i} * elasticity_i.$$

I used the preferred employment elasticity (i.e., sensitivity of employment to wage changes) contained in Sabia and Burkhauser (2010), which was -0.6 for individuals aged 16 to 29 without a high school degree and -0.2 for all other individuals. The sole exception was for state and local government workers, where I assumed an elasticity of zero.[4] The sum across all affected workers yielded an estimated job loss of 5,745 jobs.

The next step was to calculate the weekly benefit for the average unemployed worker. Using the benefits calculator on the Missouri unemployment benefits web site and the wage income of average private-sector affected worker ($10,937), yields an average weekly benefit of $109.36[5]. The state of Missouri pays the first 20 weeks of benefits.[6] Thus, each eligible unemployed worker could receive a total of $2,187.20 in

[3] For a survey of research regarding the effect of the minimum wage on employment, see David Neumark and William L. Wascher, *Minimum Wages* (Cambridge, MA: MIT Press, 2008).
[4] Joseph J. Sabia and Richard V. Burkhauser, "Minimum Wages and Poverty: Will a $9.50 Federal Minimum Wage Really Help the Working Poor?" *Southern Economic Journal* (January 2010): 592-623.
[5] http://www.labor.mo.gov/DES/Claims/calculator.asp
[6] See http://www.labor.mo.gov/DES/Claims/

benefits paid for by the state of Missouri. These jobs are permanently eliminated and so it is appropriate to calculate the full amount of benefits for each worker.

Unemployment insurance, however, does not cover all unemployed workers. For example, it does not cover people who leave a job voluntarily, people looking for their first job, and re-entrants who previously left the labor force voluntarily. Furthermore, some individuals don't apply for benefits even though they are eligible. I assume that 35% of the unemployed workers will receive unemployment benefits based on analysis by Wenger (2001).[7]

The last step is to calculate the total cost to the Missouri unemployment benefits program. This done by multiplying the number of jobs lost (5,745) times the average benefit amount ($2,187.20) times the percent of unemployed individuals collecting benefits (35%). This calculation yields a figure of $4,397,510. This cost would be borne only during the first year of the minimum wage increase. The inflation adjustments in the minimum wage will also yield costs to the unemployment insurance program, but it is not possible to estimate the amount.

*D. Impact on State Income Tax Revenue*

The state of Missouri will gain increased revenue through higher income tax taxes paid by workers affected by the minimum wage who remain employed. However, it will

[7] Jeffery Wenger. "Divided We Fall: Deserving Workers Slip through America's Patchwork Unemployment Insurance System." *Economic Policy Institute*, 2001. Sabia and Burkhauser (2010) make the same assumption in their calculation of the amount of unemployment benefits generated by a minimum wage increase.

suffer reduced corporate income tax revenue to the extent the higher wage cost lowers profits of businesses.

To calculate the impact on individual income tax revenue, I again used data from January 2010 to December 2011 ORG CPS. I defined affected workers as those Missouri individuals earning between $7.00 and $8.24 per hour.[8] I used the following formula to estimate the change in income tax revenue:

$$\Delta Tax\ Revenue_i = (Tax_After_i - Tax_Before_i) - Prob_Job_Loss_i * Tax_Before_i,$$

where $Tax_After_i$ is the income tax paid by worker i after the minimum wage increase. $Tax_Before_i$ is the income tax paid by worker i after the minimum wage increase, and $Prob_Job_Loss_i$ is the probability of job loss for worker i. The first term shows the change in individual income tax revenue assuming no job loss and the second term shows the loss in tax revenue due to the employment loss caused by the minimum wage increase.

The income tax calculations were based on two assumptions.[9] First, the 50% percent of affected workers who were under the age 25 who were assumed to be dependents on another person's tax return. As a result, it was assumed that the affected workers' earnings were taxable at the maximum Missouri income tax rate of 6% both and after the minimum wage increase.[10] Second, all persons age 25 and older were assumed to be paying little or no income tax after exemptions and deductions. Thus, about 50% of the earnings increase will be taxed at a rate of 6%.

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[8] I again assume that persons reporting an hourly wage rate between $7.00 and $7.24 are actually earning $7.25 per hour. The annual earnings level was calculated as the worker's wage rate times usual weekly hours worked times 52.

[9] The same assumptions are used in the State Auditor's fiscal notes for the initiatives.

[10] This assumption will overstate the revenue increase as 20% of affected workers under the age 25 are living by themselves and some of these individuals will not be a dependent on another person's tax return.

The tax calculations reveal an increase in income tax revenue increase to the state. Assuming no workers were laid off by the minimum wage increase, income tax revenue would rise by $6,043,534. However, the state will lose $1,965,446 in income tax revenue due to the lost earnings of private-sector workers no longer employed due to the minimum wage hike.[11] Thus, the net increase in individual income tax revenue is $4,078,088.

Businesses have three options to respond to the higher labor costs of a higher minimum wage. They can reduce their profits, raise prices, or lay off workers. Based on the 2010-2011 ORG CPS data, the minimum wage increase will raise private-sector labor costs by $192,620,900 if employment levels are not reduced. However, labor costs will be lowered by $55,240,790 due to the reduction in employment. Thus, labor costs will, on net, rise by $137,380,110. These increased labor costs may be either passed on to consumers through higher prices or reduced profits or more likely some combination of higher prices and reduced profits. Assuming that businesses absorbed all of the higher costs through reduced profits, the corporate income tax revenue would fall by the Missouri corporate income tax of 6.25% times the rise in labor costs of $137,380,110 * 1.0765 (to account for employer-paid Social Security and Medicare taxes) or $9,243,106.[12] Alternatively, if half of the higher labor costs were passed on to consumers, then corporate income tax revenue would fall by $4,621,553.

[11] The probability of job loss was calculated in the same manner as in the prior section.
[12] The corporate income tax for Missouri is available at: http://dor.mo.gov/business/corporate/

*E. Impact on State and Local Sales Tax Revenue*

To calculate the impact on state and local sales tax revenue the following approach was undertaken.[13] First, the total increase in worker earnings, adjusted for employment reductions, was calculated using the 2010-2011 ORG CPS. This figure was $152,246,540. Second, the increase in Missouri taxable sales was calculated as 25% of the earnings increase or $38,061,635. Third, the increase in sales tax revenue was calculated by multiplying the taxable sales change times the average state and local rate of 7.67% or $2,919,327.[14]

The higher minimum wage may decrease sales tax revenue to the extent that it reduces business profits, which will lower spending by business owners.

## VI. Summary and Conclusions

I was asked by counsel to evaluate the fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085.

The results of my analysis indicate:

(1) labor costs to state and local government entities, based on state auditor fiscal notes, will rise by more than $1,352,182. A more inclusive estimate indicates that state and local government labor costs will increase by $16,003,712;

[13] The same general approach is used in the State Auditor's fiscal notes for the initiatives.
[14] The average rate comes from http://taxfoundation.org/news/show/27023.html

(2) unemployment benefit costs will rise by $4,397,510 during the first year of the minimum wage increase;

(3) individual income tax revenue will rise by at most $4,078,088;

(4) the loss in corporate income tax revenue could be as high as $9,243,105;

(5) state and local sales tax revenue will rise by at most $2,919,327;

(6) during the first year: state and local governments will incur increased costs of $20,401,222; the change in state and local government revenue will range from -$2,245,690 to +$6,997,415; and the net state and local government fiscal impact will range from -$22,646,912 to -$13,403,807.

**FISCAL ANALYSIS**
**OF**
**PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085**

David A. Macpherson

David A. Macpherson, Ph.D.
March 26, 2012

# Appendix A

## Resume and Testimony of David A. Macpherson, Ph.D.

# DAVID A. MACPHERSON

3/2012

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Ph.D., Economics, The Pennsylvania State University.
B.S., Economics, The Pennsylvania State University.

## Current Positions

E.M. Stevens Professor of Economics, Trinity University, 2009-
Research Fellow, Institute for the Study of Labor (IZA), Bonn, 2004-.

## Previous Positions

Rod and Hope Brim Eminent Scholar in Economics, FSU 2004-2009.
Director, Pepper Institute on Aging and Public Policy, FSU, 2003-2009.
Abba P. Lerner Professor of Economics, FSU, 2000-2009.
Professor, Department of Economics, Florida State University, 1996-2009.
Director of Research, Pepper Institute on Aging and Public Policy, FSU, 1995-2000.
Associate Professor, Department of Economics, Florida State University, 1993-1996.
Research Associate, Pepper Institute on Aging and Public Policy, FSU, 1993-2001, 2003-2009.
Visiting Associate Professor, Department of Economics, Florida State University, 1992-1993.
Research Affiliate, Pepper Institute on Aging and Public Policy, FSU, 1992-1993, 2001-2003.
Associate Professor, Department of Economics, Miami University, 1991-1993.
Assistant Professor, Department of Economics, Miami University, 1987-1991.

## Research Areas

Labor Economics, Labor Market Aspects of Pensions, Labor Unions, Racial and Gender Differences in the Labor Market, Minimum Wage, Deregulation.

**Teaching Areas**

Principles of Microeconomics and Macroeconomics, Intermediate Microeconomics, Money and Banking, Econometrics (undergraduate and graduate), Labor Economics and Labor Relations (undergraduate and graduate).

**Books**

*Economics: Private and Public Choice*, 14th edition, Southwestern: Cincinnati, OH, 2013, with James Gwartney, Richard Stroup, and Russell Sobel. Co-author on 10th, 11th, 12th, and 13th editions as well.

Instructor's Manual for *Economics: Private and Public Choice*, 14th edition, Southwestern: Cincinnati, OH, 2013. Author for instructor's manual for 10th, 11th, 12th, and 13th editions as well.

*Union Membership and Earnings Data Book: Compilations from the Current Population Survey (2011 Edition)*, Bureau of National Affairs, Washington, D.C., with Barry Hirsch.

Previous Editions: *Union Membership and Earnings Data Book: Compilations from the Current Population Survey* (Washington: Bureau of National Affairs, 1994-2010).

Tables derived from the *Data Book* are included in U.S. Department of Commerce, *Statistical Abstract of the United States 2011,* 130th Edition (Washington: GPO, 2011), Tables 663, 665; *Statistical Abstract of the United States 2010,* 129th Edition (Washington: GPO, 2010), Tables 648, 650; *Statistical Abstract of the United States 2009,* 128th Edition (Washington: GPO, 2009), Tables 642, 644; *Statistical Abstract of the United States 2008,* 127th Edition (Washington: GPO, 2008), Tables 642, 644; *Statistical Abstract of the United States 2007,* 126th Edition (Washington: GPO, 2006), Tables 645, 647; *Statistical Abstract of the United States 2006*, 125th Edition (Washington: GPO, 2005), Tables 647, 649; *Statistical Abstract 2004-2005*, Tables 638, 640; *Statistical Abstract 2003*, Tables 656, 658; *Statistical Abstract 2002*, Tables 628, 630; *Statistical Abstract 2001*, Tables 637, 639; *Statistical Abstract 2000*, Tables 712, 714; *Statistical Abstract 1999*, Tables 718, 720; *Statistical Abstract 1998*, Tables 712, 714; *Statistical Abstract 1997*, Tables 688, 690; *Statistical Abstract 1996*, Tables 681, 683; *Statistical Abstract 1995*, Tables 695, 697; and in U.S. Department of Commerce, *State and Metropolitan Area Data Book, 1997-98*, 5th Edition (Washington: GPO, 1998), Table A-22.

*Contemporary Labor Economics*, 9th edition, McGraw-Hill: New York, NY, 2010, with Campbell McConnell and Stanley Brue. Co-author on 5th, 6th, 7th, and 8th editions as well.

*Pensions and Productivity*, W.E. Upjohn Institute for Employment Research: Kalamazoo, MI, 1998, with Christopher Cornwell and Stuart Dorsey.

**Journal Publications (Economics)**

"Computing Lost Profits in Business Interruption Litigation: A General Model," *Journal of Business Valuation and Economic Loss Analysis*, forthcoming, with Stanley Stephenson and Gauri Prakash-Canjels.

"Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," *Southern Economic Journal*, forthcoming, April 2012, with William Even.

"Growth of Participant Direction in Defined Contribution Plans," April 2010, pp. 190-208, *Industrial Relations*, with William Even.

"Managing Risk Caused by Pension Investments in Company Stock," *National Tax Journal*, September 2009, pp. 439-453, with William Even.

"Pension Investments in Employer Stock," *Journal of Pension Economics and Finance*, March 2008, pp. 67-93, with William Even.

"Defined Contribution Plans and the Distribution of Pension Wealth," *Industrial Relations*, July 2007, pp. 551-581, with William Even.

"Lost Profits Damages to New Businesses: Adjusting for Survival," *Journal of Business Valuation and Economic Loss Analysis*, October 2006, pp. 1-12, with Stanley Stephenson.

"Determinants and Effects of Employer Matching Contributions in 401(k) Plans," *Industrial Relations*, July 2005, pp. 525-549, with William Even.

"When Will the Gender Gap in Retirement Income Narrow?" *Southern Economic Journal*, July 2004, pp. 182-200, with William Even.

"Company Stock in Pension Funds," *National Tax Journal*, June 2004, pp. 299-313, with William Even.

"Wages, Sorting on Skill, and the Racial Composition of Jobs," *Journal of Labor Economics*, January 2004, pp.189-210, with Barry Hirsch.

"Racial and Ethnic Differences in Pension Wealth," *Research in Labor Economics*, 2003, pp. 203-226, with William Even.

"Do Terminated Employees Catch Up? Evidence From the Displaced Worker Survey," *Journal of Forensic Economics*, Spring/Summer 2003, pp. 185-199, with Michael Piette.

"Union Membership and Coverage Database from the Current Population Survey: Note," *Industrial and Labor Relations Review*, January 2003, pp. 349-354, with Barry Hirsch.

"The Wage and Employment Dynamics of Minimum Wage Workers," *Southern Economic Journal,* January 2003, pp. 676-690, with William Even.

"State-Level Estimates of Union Density, 1964 to Present," *Monthly Labor Review*, July 2001, pp. 51-55, with Barry Hirsch and Wayne Vroman (accompanying data online).

"The Changing Distribution of Pension Coverage," *Industrial Relations*, April 2000, pp. 199-227, with William Even.

"Occupational Age Structure and Access for Older Workers," *Industrial and Labor Relations Review*, April 2000, pp. 401-418, with Barry Hirsch and Melissa Hardy.

"Earnings, Rents, and Competition in the Airline Labor Market," *Journal of Labor Economics*, January 2000, pp. 125-155, with Barry Hirsch.

"Estimating Wage Differentials: When Does Cost-of-Living Matter?" *Economic Inquiry*, October 1999, pp. 577-598, with Mike DuMond and Barry Hirsch.

"Worker's Compensation Recipency in Union and Nonunion Workplaces," *Industrial and Labor Relations Review*, January 1997, pp. 213-236, with Barry Hirsch and Michael DuMond.

"Pensions and Training," *Industrial Relations*, January 1997, pp. 81-96, with Stuart Dorsey.

"The Consequences of Indexing Minimum Wages," *Contemporary Economic Policy,* October 1996, pp. 67-77, with William Even.

"Employer Size and Labor Turnover: The Role of Pensions," *Industrial and Labor Relations Review*, July 1996, pp. 707-728, with William Even.

"The Consequences of Non-FICA Status in State and Local Pensions," *Proceedings of National Tax Association Meetings*, 1996, with William Even.

"Wages and Gender Composition: Why Do Women's Jobs Pay Less?" *Journal of Labor Economics*, July 1995, pp. 426-471, with Barry Hirsch.

"Employer Size and Compensation: The Role of Worker Characteristics," *Applied Economics*, September 1994, pp. 897-907, with William Even

"Gender Differences in Pensions," *Journal of Human Resources*, Spring 1994, pp. 555-587, with William Even.

"Why Did Male Pension Coverage Decline in the 1980s?", *Industrial and Labor Relations Review*, April 1994, pp. 439-453, with William Even.

"Unionism and Gross Employment Flows," *Southern Economic Journal*, January 1994, pp. 427-438, with Timothy Dunne.

"The Decline of Private-Sector Unionism and the Gender Wage Gap," *Journal of Human Resources*, Spring 1993, pp. 279-296, with William Even.

"Union Membership and Coverage Data Available From the Current Population Surveys: Note." *Industrial and Labor Relations Review*, April 1993, pp. 574-578, with Barry Hirsch.

"Employer-Provided Retiree Health Insurance: Who is Covered?" *Economics Letters*, May 1992, pp. 95-99.

"Union Wage Differentials and the Effects of Industry and Local Union Density: Evidence from the 1980s," *Journal of Labor Research*, Fall 1991, pp. 419-427, with Michael Curme.

"The Effects of Extended Families and Marital Status on Housing Consumption by Black Female-Headed Households," *Review of Black Political Economy*, Winter/Spring 1991, pp. 65-84, with James Stewart.

"The Impact of Unionism on Fringe Benefit Coverage," *Economics Letters*, May 1991, pp. 87-91, with William Even.

"A Note on Ownership and Performance in Manufacturing Firms," *Southern Economic Journal*, April 1991, pp. 1164-1169, with Timothy Dunne.

"Union Membership and Contract Coverage in the United States, 1983-1988," *Industrial and Labor Relations Review*, October 1990, pp. 5-33, with Michael Curme and Barry Hirsch.

"The Gender Gap in Pensions and Wages," *Review of Economics and Statistics*, May 1990, pp. 259-265, with William Even.

"The Effect of International Competition on Union and Nonunion Wages," *Industrial and Labor Relations Review*, April 1990, pp. 434-446, with James Stewart.

"Plant Size and the Decline of Unionism," *Economics Letters*, April 1990, pp. 393-398, with William Even.

"Trade Unions and Labor's Share in U.S. Manufacturing Industries," *International Journal of Industrial Organization*, March 1990, pp. 143-51.

"The Labor Force Participation and Earnings Profiles of Married Female Immigrants," *Quarterly Review of Economics and Business*, Autumn 1989, pp. 57-72, with James Stewart.

"The Labor Supply and School Attendance of Black Women in Extended and Nonextended Households," *American Economic Review Papers and Proceedings*, May 1989, pp. 71-74, with James Stewart.

"Self-Employment and Married Women," *Economics Letters*, December 1988, pp. 281-284.

"Unionism and the Dispersion of Wages Among Blue-Collar Women," *Journal of Labor Research*, Fall 1987, pp. 395-405, with James Stewart.

**Journal Publications (Real Estate and Insurance)**

"The Use of Post-Loss Assessments in Catastrophic Financing," *Risk Insurance and Management Review*, forthcoming, with Patrick Maroney, Charles Nyce, Kathleen McCullough, James W. Newman Jr., and Cassandra Cole.

"A Meta Analysis of Selling Price and Time on the Market," *Journal of Housing Research,* Issue 2010, pp. 139-152, with Stacy Sirmans and Lynn MacDonald.

"A Comparison of Hurricane Loss Models," *Journal of Insurance Issues*, Spring 2010, pp. 31-53, with Kathleen McCullough and Cassandra Cole.

"A Review of the Development of Residual Market Mechanisms in Florida," *Journal of Insurance Regulation*, Summer 2009, pp. 55-80, with Patrick Maroney, Charles Nyce, Kathleen McCullough, James W. Newman Jr., and Cassandra Cole.

"The History of Property Tax Capitalization in Real Estate," *Journal of Real Estate Literature*, Issue 3 2008, pp. 327-343, with Dean Gatzlaff and Stacy Sirmans.

"Horizontal and Vertical Inequity in Real Property Taxation," *Journal of Real Estate Literature*, Issue 2 2008, pp. 167-180, with Dean Gatzlaff and Stacy Sirmans.

"The Title Insurance Industry: Examining a Decade of Growth," *Journal of Insurance Regulation*, Summer 2007, pp. 23-51, with Randy Dumm and Stacy Sirmans.

"The Value of Housing Characteristics: A Meta Analysis" *Journal of Real Estate Finance and Economics*, November 2006, pp. 215-240, with Stacy Sirmans, Lynn MacDonald, and Emily Zeitz.

"The Composition of Hedonic Pricing Models," *Journal of Real Estate Literature*, Issue 1 2005, pp. 3-43, with Stacy Sirmans.

"The State of Affordable Housing," *Journal of Real Estate Literature*, Issue 2 2003, pp. 133-155, with Stacy Sirmans.

"Affinity Programs and Real Estate Brokerage," *Journal of Real Estate Research*, November-December 2001, pp. 337-351, with Stacy Sirmans.

"Neighborhood Diversity and House Price Appreciation," *Journal of Real Estate Finance and Economics*, January 2001, pp. 81-97, with Stacy Sirmans.

"Forecasting Seniors Housing Demand in Florida," *Journal of Real Estate Portfolio Management*, 1999, pp. 259-74, with G. Stacy Sirmans.

**Publications in Books**

"Improving Pension Coverage at Small Firms," with William Even, in *Overcoming Barriers to Entrepreneurship*, ed. Diana Furchtgott-Roth, Rowman & Littlefield, 2008.

"Measuring Union and Nonunion Wage Growth: Puzzles in Search of Solutions" with Barry Hirsch and Edward Schumacher, in *Changing Role of Unions: New Forms of Representation*, Phanindra Wunnava, M.E. Sharpe, 2004.

"Living Wage Laws and the Case for a Targeted Wage Subsidy," in *Living Wage Movements: Global Perspectives*, ed. Deborah M. Figart, Routledge, 2004.

"Benefits and Worker Productivity," with William Even, in *Benefits for the Workplace of Tomorrow,* eds. Olivia S. Mitchell, David S. Blitzstein, Michael S. Gordon, and Judith F. Mazo, University of Pennsylvania Press, 2003.

"Children's Effects on Women's Labor Market Attachment and Earnings," with William Even, in *Changes in Working Time in Canada and the United States*, eds. Susan Houseman and Alice Nakamura, W.E. Upjohn Institute, 2001.

"Downsizing and Life Course Consequences of Job Loss: The Effect of Age and Gender on Employment and Income Security," with Jill Quadagno, Jennifer Reid, and Lori Parham, in *Restructuring Work and the Life Course*, eds. Victor Marshall, Walter Heinz, Helga Krueger, and Anil Verma, University of Toronto Press, 2001.

"The Effect of a Job Loss on the Employment Experience, Benefits, and Retirement Savings of Bank Officers," with Jill Quadagno and Jennifer Keene, in *Ensuring Health and Income Security for an Aging Workforce*, ed. Peter P. Budetti, W.E. Upjohn Institute, 2001.

"Earnings and Employment in Trucking: Deregulating a Naturally Competitive Industry," with Barry Hirsch, in *Regulatory Reform and Labor Markets*, ed. James Peoples, Kluwer Publishers, 1998.

"Gender-Related Differences in Pension Coverage," with William Even, in *Women and Work: A Handbook*, Garland Publishing, New York, NY, 1996.

"The Pension Coverage of Young and Mature Workers", with William Even, in *Pension Coverage Issues for the '90s*, eds. Richard Hinz, John Turner, and Phyllis Fernandez, U.S. Government Printing Office, Washington, D.C, 1994.

**Working Papers (Economics)**

"Deferred Compensation vs. Efficiency Wages: An Experimental Test of Effort Provision and
Self-Selection," with Tim Salmon and Kislaya Prasad, under review, *Journal of Business and Economic Organization*

"What Do Unions Do to Pension Performance?" with William Even, September 2011, under revision

"Teacher Salaries, State Collective Bargaining Laws, and Union Coverage" March 2011, with Barry Hirsch and John Winters.

"The Effects of the 2007-2009 Federal Minimum Wage Increases on Teen Employment," with William Even, under revision, July 2010.

"Participant Direction in Defined Contribution Plans," April 2006, with William Even, under revision.

"Do Pensions Impede Phased Retirement?" September 2004, with William Even, under revision.

**Working Papers (Real Estate and Insurance)**

"An Empirical Analysis of Socio-Demographic Factors and the Mispricing of Homeowners Insurance in Florida," under review *Journal of Financial Services Research*, with Ronald Cheung, Charles Nyce, Kathleen McCullough, and Cassandra Cole.

"The Impact of No-Fault Legislation on Automobile Insurance Premiums," revised and resubmitted to *North American Actuarial Journal*, with Cassandra Cole, Kevin Eastman, Patrick Maroney, and Kathleen McCullough.

**Funded Projects**

Employment Policies Institute, 5/2010-7/2010, $16,500 (Trinity University portion), "Employment Effects of the 2007-2009 Federal Minimum Wage Increases," with William Even.

National Science Foundation, 9/2009-8/2012, $125,866 (Trinity University portion), "Incentives in the Workplace: An Experimental Examination of How Wage Differences Across Time and Among Peers Affect Productivity and Self-Selection," with Tim Salmon, Kislaya Prasad, and Hyejin Ku.

Florida Legislature, 10/2007-6/2009, $175,000, "Child Support Guidelines," with Stefan Norrbin and Thomas McCaleb.

Florida Legislature (through University of Florida), 12/2006-9/2007, $223,000, "Analysis of Save our Homes Amendment," with Dean Gatzlaff.

U.S. Administration on Aging (through University of South Florida), 5/2005-9/2007, $175,000, "Employment in the Long-Term Care Industry: The Importance of Recruitment and Retention," with William Even.

Florida Legislature, 2/2003-8/2004, $175,000, "Child Support Guidelines," with Stefan Norrbin and Thomas McCaleb.

Florida Department of Environmental Protection, 6/2002-2/2003, $94,157, "Affordability Index," with Stefan Norrbin and William Serow.

University of South Carolina, 4/2000-11/2000, $10,000, "Minority Homeownership in South Carolina," with Stacy Sirmans.

Florida Department of Business and Professional Regulation, 3/1999-6/1999, $21,739, "Forecasting Housing Demand in Florida," with Stacy Sirmans.

University of South Carolina, 4/1999-11/1999, $10,000, "Forecasting Housing Demand in South Carolina," with Stacy Sirmans.

Florida State University, 6/1999-8/1999, $7,500, "Support for Preparing ECO 2000 as a Web-Based Course."

TIAA-CREF, 8/1998-8/1999, $23,000, "Determinants of Savings in Supplemental Pension Plans: A Case Study of Pension Choices in Higher Education," with Melissa Hardy and Larry Hazelrigg.

Florida Department of Business and Professional Regulation, 4/1998-6/1998, $16,638, "Forecasting Seniors' Demand for Housing in Florida," with Stacy Sirmans.

Florida Department of Business and Professional Regulation, 12/1997-6/1998, $18,472, "Housing Price Appreciation in Orlando and Tampa," with Stacy Sirmans.

Florida State University, 6/1998-8/1998, $7,500, "Support for Preparing ECO 2000 as a Web-Assisted Course."

Florida Department of Business and Professional Regulation, 3/1997-6/1997, $17,898, "Minority Homeownership in Florida," with Stacy Sirmans.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 12/1996-8/1997, $20,000, "The Impact of Rising 401(k) Pension Coverage on Retirement Income," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 3/1996-6/1997, $15,000, "The Determinants of 401(k) Participation and Contribution Levels," with William Even.

Florida Department of Business and Professional Regulation, 4/1996-6/1996, $22,702, "Forecasting the Number of New Florida Real Estate Licensees," with Stacy Sirmans.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 3/1995-6/1996, $15,000, "Explaining the Decline in Pension Coverage of Less Educated Workers," with William Even.

Florida State University COFRS Grant, 6/1994-8/1994, $8,000, "The Relative Compensation and Quality of Public and Private Sector Workers."

W.E. Upjohn Institute for Employment Research, 3/1994-12/1995, $35,000, "Pensions and Productivity," with Stuart Dorsey and Christopher Cornwell.

Florida Division of Workers' Compensation, 1/94-12/1995, $100,000, "Worker's Compensation Recipency in Union and Nonunion Workplaces," part of a service contract titled "Research Partnership with the Division of Workers' Compensation," co-investigator (one of several).

University of Wisconsin Institute for Research on Poverty Small Grant Program, 7/1993-6/1994, $15,000, "Racial Composition, Wages, and Quality Sorting," with Barry Hirsch.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 7/1993-6/1993, $10,000, "Trends in Individual and Family Pension Coverage," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 6/1992-5/1993, $10,000, "The Pension Coverage of Young and Mature Workers," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration and American Society of Pension Actuaries, 6/1991-5/1992, $10,000, "A Conference on Current Pension Policy Issues," with William Even.

Miami University Faculty Research Grant, 6/1991-8/1991, $4,000, "Projected Growth in Retiree Health Insurance Liabilities."

Ohio Board of Regents Research Challenge Grant, 1/1990-12/1990, $4,980, "Proposal to Enhance the Data Library of the Center of Pension and Retirement Research," with William Even and Samuel Williamson.

Miami University Faculty Research Grant, 6/1990-8/1990, $4,000, "The Role of Firm Size in Pension Coverage and Options."

Miami University Faculty Research Grant, 6/1989-8/1989, $4,000, "Declining Unionism and the Gender Wage Gap," with William Even.

**Participation in National Meetings**

Panel Discussant, American Real Estate and Urban Economics Association/ASSA meetings, January 2008.

Presented, "Employee Turnover in the Long-Term Care Industry," at Academy Health Annual Research Meetings, June 2007.

Presented, "Participant Direction in Defined Contribution Pension Plans," at International Atlantic Economic Society meetings, October 2006.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at International Atlantic Economic Society meetings, October 2005.

Presented, "Replacing Earnings After Termination: Evidence from the Displaced Worker Survey," at the Allied Social Science Association/National Association of Forensic Economics, January 2002.

Presented, "Labor Market Transitions of Older Workers," at the Allied Social Science Association/Society of Government Economists meetings, January 1999.

Presented, "Why has the Loss in Pension Coverage Accelerated Among Less Educated Workers?" at the American Economic Association Meetings, 1995.

Presented, "Wages and Gender Composition: Why Do Women's Jobs Pay Less?" at the American Economic Association Meetings, 1994, with Barry Hirsch.

Presented, "Pensions, Labor Turnover, and Employer Size" at the American Economic Association Meetings, 1993, with William Even.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the American Economic Association meetings, 1992, with William Even.

**Participation in Regional Meetings**

Presented "Unions and Pension Performance: The Role of Pension Design," at Southern Economics Association meetings, November 2009.

Panel member, "Recent Federal Reserve Policy: An Evaluation" at Southern Economics Association meetings, November 2009.

Discussant, "Topics in Health Economics," at Southern Economics Association meetings, November 2009.

Discussant, "Teacher Pay, Principals, and Schooling," at Southern Economics Association meetings, November 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Western Economic Association meetings, July 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Eastern Economic Association meetings, February 2009.

Panel Discussant at the Southern Economic Association meetings, November 2008.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Southern Economic Association meetings, November 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Western Economic Association meetings, July 2008.

Chair "Pensions and Retirement" Session at Southern Economic Association meetings, November 2007.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Southern Economic Association meetings, November 2007.

Presented, "Participant Direction in Defined Contribution Pension Plans," at Southern Economic Association meetings, November 2006.

Panel Discussant, Southern Economic Association meetings, November 2005.

Presented, "Do Pensions Impede Phased Retirement?" at the Southern Economic Association meetings, November 2004.

Presented, "When Will the Gender Gap in Retirement Income Narrow?" at the Southern Economic Association meetings, November 2003.

Presented, "How Will the Growth of DC and 401(k) Plans Affect Pension Income?" at the Southern Economic Association meetings, November 2002.

Presented, "Racial Composition, Wages, and Quality Sorting," at the Southern Economic Association meetings, November 1999.

Presented, "Racial and Ethnic Differences in Pension Coverage and Benefit Levels," at the Southern Economic Association meetings, November 1998.

Presented, "Factors Influencing Participation and Contribution Levels in 401(k) Plans," at the Western Economics Association meetings, July 1998.

Presented, "Aging at Work: Employment Determination, Firm Strategies, and Public Policy in the United States," at the Western Economic Association meetings, July 1994.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Western Economic Association meetings, July 1992.

Presented "Plant Size and the Decline of Unionism," at the Southern Economic Association meetings, 1989, with William Even.

Panel Discussant, Southern Economic Association meetings, November 1989.

Presented "The Labor Force Participation and Earnings Profiles of Married Female Immigrants," at the Southern Economic Association meetings, November 1988.

Presented "Pensions, Screening, and the Gender Wage Gap," at the Southern Economic Association meetings, November 1988.

Session Chair and Panel Discussant at the Southern Economic Association meetings, November 1988.

**Participation in Invited Seminars, Conferences, and other Presentations**

Presented, "Teaching Macroeconomics During Troubled Times," at Creative Ideas for Your Basic Economics Course Conference at Florida State University, February 2012.

Presented, "Participant Direction in Defined Contribution Pension Plans," at Pennsylvania State University, April 2010.

Presented, "The Parallels Between the Japanese Economic Crisis of the 1990s and the US Today" at Creative Ideas for Your Basic Economics Course Conference at Florida State University, February 2010.

Chair "Minimum Wage & EITC" Session at Society of Labor Economists meetings, May 2009.

Presented "Participant Direction in Defined Contribution Plans," at Lehigh University, April 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Association of Private Enterprise Education meetings, April 2009.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Trinity University, October 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Georgia State University, April 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Association of Private Enterprise Education meetings, April 2008.
Presented, "Improving Pension Coverage at Small Firms," at Hudson Institute, May 2006.

Presented, "Participant Direction in Defined Contribution Plans," at Society of Labor Economics meetings, May 2006.

Presented, "Participant Direction in Defined Contribution Plans," at Association of Private Enterprise Education meetings, April 2006.

Presented, "Participant Direction in Defined Contribution Plans," at University of Wisconsin-Milwaukee, April 2006.

Invited Panel Participant for Pepper Foundation and Center Symposium on pension reform, Washington, DC, February 2006.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at West Virginia University, April 2005.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at the University of Kentucky, November 2004.

Presented, "The Causes and Consequences of Company Stock Holdings in Pension Funds," at the Federal Reserve Bank of Atlanta, April 2004.

Presented, "The Causes and Consequences of Company Stock Holdings in Pension Funds," at the University of Oklahoma, February 2004.

Presented, "Tracking Union and Nonunion Wages in the U.S.: Can the Evidence be Reconciled?" at the Middlebury Annual Conference on Economic Issues, April 2002.

Presented, "How Will the Growth of DC and 401(k) Plans Affect Pension Income?" at the Miami University Center for Pension and Retirement Research Conference, June 2001.

Presented, "Benefits and Worker Productivity," Benefits for the Workplace of Tomorrow Conference, Wharton School, University of Pennsylvania, May 2001.

Participant, Innovations in Managing the Financial Risks of Retirement Conference, Wharton School, University of Pennsylvania, May 2000.

Presented "Using Hi-Tech in Large Lectures," at Association of Private Enterprise Education meetings, April 2000.

Presented "Employee Participation in 401(k) Plans," at University of Wisconsin-Milwaukee, October 1999.

Presented "Gender, Race, and Ethnicity in the Labor Market," as part of the Smith Chair course in Labor Economics at Brigham Young University, September 1999.

Presented, "The Decline in Pension Coverage Among Less Educated Workers," at the Florida State University Economics Department Seminar Series, 1996.

Presented, "Children's Effects on Women's Labor Market Attachment and Earnings" at the Conference on the Changes in Working Time in Canada and the United States, Canadian Employment Research Forum, 1996.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" at the Ohio State University Economics Department Seminar Series, 1996.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" at the Florida State University Economics Department Seminar Series, 1995.

Presented, "Employer Size and Labor Turnover: The Role of Pensions," at Syracuse University, 1995.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" while visiting scholar at the Federal Reserve Bank of Cleveland, 1995.

Presented, "Trends in Individual and Household Pension Coverage," at the Miami University Center for Pension and Retirement Research Conference, 1994.

Presented, "Racial Composition, Quality Sorting, and the Black-White Wage Gap" at the University of Wisconsin, Institute for Research on Poverty, Small Grants Workshop, 1993, with Barry Hirsch.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Florida State University Economics Department Seminar Series, 1992.

Participant at National Bureau of Economic Research (NBER) Labor Studies meetings of the Summer Institute, 1992.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Miami University Conference on Current Pension Policy Issues, 1992.

Organizer and participant at conference on "Contemporary Issues in Pension Economics," hosted by the Center for Pension and Retirement Research, Miami University, 1990.

Presented "The Effect of International Competition on Union and Nonunion Wages," at the University of Cincinnati Seminar Series, 1987.

**Refereeing**

*Bulletin of Economic Research, Canadian Journal of Economics, Contemporary Economic Policy, Eastern Economics Journal, Economic Development and Cultural Change, Economic Inquiry, Industrial Relations, Industrial and Labor Relations Review, International Economic Review, Journal of Economics and Business, Journal of Human Resources, Journal of Labor Economics, Journal of Labor Research, Journal of Pension Economics and Finance, Labour Economics, Mid-American Journal of Business, Policy Studies Review, Quarterly Journal of Economics, Quarterly Review of Economics and Finance, Real Estate Economics,* Review *of Economics and Statistics, Social Science Quarterly, Southern Economic Journal*

Outside reviewer for Department of Economics, UNC-Greensboro, Georgia State University.

Promotion and tenure letters for candidates at Georgia State University, Kansas State University, Monmouth University, Ohio State University, University of Massachusetts, University of Southern California, and University of Wisconsin-Milwaukee.

**Honors and Awards**

Awarded sabbatical, Trinity, Fall 2011.

Nominated for FSU Award for Excellence in Undergraduate Teaching, Spring 2005.

Named Rod and Hope Brim Eminent Scholar in Economics, FSU, Fall 2004.

Research Fellow, Institute for the Study of Labor (IZA), Bonn, 2004-.

*Who's Who in Economics, Fourth Edition*, Mark Blaug and Howard Vane (eds), Edward Elgar Publishing, 2003, pp. 524 (selection criteria: one of the 1,200 most frequently cited economists in the years 1990-2000 using the Social Science Citation Index).

Awarded Abba Lerner named professorship, FSU, Spring 2000.

Awarded sabbatical, FSU, Spring 2000.

Received FSU Award for Excellence in Undergraduate Teaching, Spring 2000.

Received FSU Teaching Incentive Program Award, Fall 1995.

Nominated for FSU Award for Excellence in Undergraduate Teaching, Spring 1994.

Nominated for Outstanding Teaching Award, Associated Student Government, Miami University,1992.
Selected by the Miami University Sisters of Delta Gamma for a "Favorite Professor Award" in Fall 1990.

Honorary Member of Golden Key National Honor Society, Fall 1989.

Selected by the Sisters of Delta Gamma as "One of the twenty five most outstanding faculty members at Miami University" in Fall 1988.

**Service**

Vice President, Southern Economic Association, 2011-

Trinity University

Dick and Peggy Prassel Professor of Business Administration Search Committee, 2011
Faculty and Staff Compensation Committee, 2010-2011
Student Retention Committee, 2010

Florida State University

University and College Committees:

Member, GPC subcommittee for Marketing, Spring 2008.
Member, Graduate Policy Committee, Fall 2007-.
Chair, GPC subcommittee for Political Science, Fall 2006.
Member, Title IV Admissions Attendance Committee, Fall 2003-Spring 2004.
Member, College of Social Sciences Executive Committee, Fall 2003-.
Member, Ad Hoc Committee on COSS Technology, Spring 2003.
Member, Computing and Information Resource Committee, Fall 1999-.
Member, Academic and Policy Affairs Committee, Fall 1996-Spring 1998.

Economics Department Committees:

Member, Ad Hoc Committee on Economics 2000 Level Courses, Spring 1999.
Member, Undergraduate Economics Committee, Fall 1998-
Member, Economics Department Executive Committee, Fall 1994-Spring 1995, Fall 1996-Spring 1999, Fall 2000-.
Economics Department Library Representative, Fall 1993-.
Micro/Macroeconomics Seminar Coordinator, Fall 1993-Spring 1995, Fall 1998-Fall 1999, Fall 2001, Fall 2006-.

Comprehensive Examination Committees:

Member, Masters Comprehensive Exam Committee, Spring 1994.
Member, Ph.D. Labor Field Exam Committee, Fall 1992, Spring 1994, Fall 1994, Fall 1995, Fall 1996, Spring 1997, Spring 1998.
Chair, Masters Comprehensive Exam Committee, Fall 1994, Spring 1998.
Chair, Ph.D. Labor Field Exam Committee, Spring 1993-Fall 1993, Spring 1995, Spring 1996, Spring 2000, Spring 2001, Fall 2001.

Miami University

Computing Task Force, Department of Economics, 1991-92.
Recruiting Committee, Department of Economics, 1990-92.
Economics Club Advisor, 1988-1991.
Research Associate, Center for Pension and Retirement Research, 1988-92.
Delta Sigma Pi Chapter Advisor, 1988-89.
Student Finance Committee, Student Affairs Council, 1988-89.
Omicron Delta Epsilon Advisor, 1987-88.

**Theses, Extended Papers, and Dissertations**

Undergraduate Honors Thesis:

Chair, Leela Hebbar, 1995

Member, Nicole Cubies, 2006
Member, John Stutts, 2006
Member, Todd Crannell, 2000
Member, Mark Plotnick, 2000
Member, Bobby Pittman, 1998

MS Thesis and Extended Paper:

Chair, Maria Arce-Trigatti, 2009
Chair, George Holescko, 2000
Chair, J. Michael DuMond, 1994

Member, Shael Wolfson, 2000

Member, Lehr Eliason, 2000
Member, Steve Muri, 2000
Member, Ken Meier, 1998
Member, Tarteshia Williams, 1995
Member, Richard Page, 1994

PhD Dissertation:

Chair, James Farrell, 2009
Chair, Mark Keightley, 2008
Chair, Ali Al-Malki, 2007
Chair, Carter Doyle, 2005
Chair, Edward Wolpert, 1998
Chair, J. Michael DuMond, 1997

Member, Bogdan Daraban, 2007
Member, Russell Engel, 2007
Member, Li Feng, 2006
Member, Chuck Skipton, 2003
Member, Nicole Yurgin, 2003
Member, Jennifer Troyer, 1999
Member, Josefina Tranfa, 1999
Member, Shaliesh Bandarhi, 1998
Member, James Freeman, 1998
Member, Brian Nottage, 1998
Member, Ben Shippen, 1995
Member, Ed Schumacher, 1994

Outside Member, Stephanie Burge, Sociology, 2006
Outside Member, Reg Albritton, Special Education, 2005
Outside Member, Kim Shuey, Sociology, 2001
Outside Member, Andrea Willson, Sociology, 2001
Outside Member, Phyllis Keys, Finance, 1998

# David A. Macpherson

Depositions and Trial Testimony: 2008 to 2012

1. Angela Speed and Adrian Speed vs. Hertz Corporation
   Atty: Dawn Pompey Whitehurst; Brevard County, Florida; gave deposition; wrongful injury; 2008; Case No: 05-2005-CA-065447

2. Patricia Morrison vs. Anthony Mork and Microspine Surgery
   Atty: Steven Andrews; Walton County, Florida; testified at trial; wrongful injury; 2008; Case No: 06000249CA.

3. James Tomaselli vs. State of Florida, Department of Corrections
   Atty: Gordon Leech; Martin County, Florida; gave deposition; wrongful termination; 2008; Case No: 01-554-CA.

4. Russell Martin, et al. v. City of Atlanta, et al.
   Atty: Andrew Coffman; U.S. District Court, Northern District of Georgia, Atlanta 5Division; gave deposition; racial discrimination; 2008; Case CA File No: 1:07-cv-00326-BBM

5. McCabe, et al. v. Harmon Fruit, et al.
   Atty: Larry Perry; Polk County, Florida; gave deposition; wrongful death; 2008; Case 53-2005-CA-003612-0000-00

6. Thomas Faulkner v. Michael Chertoff and Department of Homeland Security
   Atty: John Davis; U.S. District Court; Northern District of Florida; gave deposition; wrongful termination; 2009; Case 4:08CV341-SPM/WCS

7. Matthew Debord and Tabitha Debord vs. G & S Material Service et al.
   Atty: Hubert Brown; U.S. District Court; Northern District of Florida; gave deposition; wrongful injury; 2009; Case 3:07cv365-LAC/MD

8. Jessica Loveday vs. USA
   Atty: Anthony Caggiano; U.S. District Court; Northern District of Florida; gave deposition; wrongful injury; 2009; Case 1:08cv205/SPM

9. Julia Keyes vs. AIG
   Atty: Larry Perry; Jackson County, Florida; gave deposition; wrongful injury; 2009; Case 08706CA

10. Estate of Linda DePuy vs. Broeseker et al.
    Atty: Steve Andrews; Leon County, Florida; gave deposition; wrongful death; 2009; Case 2007 CA 2509

11. Oliver and Sollman vs. VSoft Inc.
    Atty: Larry Pankey; U.S. District Court, Northern District of Georgia, Atlanta Division; gave deposition; age discrimination; 2009; Case CA File No: 1:09-CV-0185

12. Yolanda Young vs. Covington and Burling, LLP
    Atty: Latif Damon; U.S. District Court for the District of Columbia; gave deposition; racial discrimination; 2009; Case CA File No: 1:09-CV-0464 RBW

13. Deborah Suboh vs. Mark Bergeson et al.
    Atty: Stephanie Wright and Charlotte Perrell; Georgia, Dekalb County; Case 07A77585-5, gave deposition; legal malpractice; 2010.

14. Rolando Simmons vs. Davis and Peterson
    Atty: Hubert Brown; Florida, Calhoun County; Case 2008-0150-CA, gave deposition and testified at trial; medical malpractice; 2010.

15. Lorie J. Marshall, et al. vs. H & R Block Tax Services, Inc.
    Atty: Allan Steyer; U.S, U.S. District Court
    Southern District of Illinois; Case No. 3:08-CV591-MJR; gave deposition; consumer damages; 2010.

16. Daren Davis vs. Joseph Austin and Terry Roberts Work Site
    Atty: Anthony Caggiano; Florida, Osceola County; gave deposition; wrongful injury; 2010; Case 2006 CA 002997 AN

17. David Darrow vs. Adventist Health Systems/Sunbelt Inc.
    Atty: Anthony Caggiano; Florida, Orange County; gave deposition; wrongful injury; 2010; Case 48-2009-CA-004897-0

18. Samuel Gonzalez vs. Gurdev Singh Nijjar et al.
    Atty: Ramon Rodriguez; Texas, El Paso County; gave deposition; wrongful injury; 2010; Case 2007-011

19. John Davis vs. Devereux Foundation.
    Atty: Thomas Brown; Florida, Brevard County; gave deposition; wrongful injury; 2010; Case 99-15992-CA-F

20. Al Kowalski vs. et al. YellowPages.Com, LLC
    Atty: Peter Pearlman; U.S. District Court Southern District of New York; Case No. 10-7318 (PGG); gave deposition; consumer damages; 2011.

21. Christina Glover and Jason Glover vs. Publix Super Markets
    Atty: Phelicia Steill; Florida, Leon; Case No. 08 CA 2695; gave deposition; wrongful injury; 2011.

22. Lissette Cartagena and William Cartagena vs. Bracero et al.
    Atty: Thomas Brown; Florida, Orange County; Case No. 07-CA-2645 DIV 34; gave deposition and testified at trial; wrongful injury; 2011.

23. Lillie Conyers and James Conyers vs. Werner Enterprises et al.
    Atty: Thomas Brown; Florida, Jackson County; Case No. 09-1174-CA; gave deposition; wrongful injury; 2011.

24. Shannon McCants vs. Wackenhut Corporation
    Atty: Dawn Pompey Whitehurst; Duval County, Florida; gave deposition and testified at trial; wrongful death; 2011; Case No: 16-2008-CA-014834

25. Christina Whipple versus R.E.S.A, Inc.
    Atty: Susan Haney; Bexar County, Texas; gave deposition; business damages; 2011; Case No.: 2009-CI-17074

26. Daniel Plouffe, et al. versus General Motors, LLC
    Atty: Michael Pitt; Wayne County, Michigan; gave deposition; age discrimination; 2012; Case No.: Case No. 11-007645-CL

27. Johnny Cash versus State Farm
    Atty: Steven Andrews; Leon County, Florida; testified at trial; wrongful injury; 2012; Case No.: Case No. 10-CA-2429

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Higher Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College**.

**Fiscal Note Summary**

Increased state and local government expenses resulting from this proposal could exceed $86 million annually if funding is appropriated. State and local government tax revenue could increase by an estimated $188 million annually; however, employment decisions made by businesses could impact this estimate.

16-071

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

July 22, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Lara Granich regarding a proposed statutory amendment to Chapter 290, version 9 (2016-071)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Lara Granich on July 21, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

RECEIVED
JUL 22 2015
STATE AUDITORS OFFICE

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-071

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____
(Name of payer) Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.
Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____.

16-071

# Statutory Amendment to Chapter 290, RSMo, Relating to the Minimum Wage, Version 9

*Be it enacted by the people of the State of Missouri:*

Sections 290.502, 290.512, and 290.527 are amended and a new section to be known as section 290.529 is enacted to read as follows:

§ 290.502. Minimum wage rate -- increase or decrease, when

1. Except as may be otherwise provided pursuant to sections 290.500 to 290.530, effective January 1, 2007, every employer shall pay to each employee wages at the rate of $ 6.50 per hour, or wages at the same rate or rates set under the provisions of federal law as the prevailing federal minimum wage applicable to those covered jobs in interstate commerce, whichever rate per hour is higher.

2. The minimum wage shall be increased or decreased on January 1, 2008, and on January 1 of successive years, by the increase or decrease in the cost of living. On September 30, 2007, and on each September 30 of each successive year, the director shall measure the increase or decrease in the cost of living by the percentage increase or decrease as of the preceding July over the level as of July of the immediately preceding year of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) or successor index as published by the U.S. Department of Labor or its successor agency, with the amount of the minimum wage increase or decrease rounded to the nearest five cents.

3. Except as may be otherwise provided pursuant to sections 290.500 to 290.530, notwithstanding subsection 1 of this section, effective January 1, 2017, every employer shall pay to each employee wages at the rate of $9.00 per hour, and effective January 1, 2018 at the rate of $10.00 per hour, and effective January 1, 2019 at the rate of $11.00 per hour, and effective January 1, 2020 at the rate of $12.00 per hour, or wages at the same rate or rates set under the provisions of federal law as the prevailing federal minimum wage applicable to those covered jobs in interstate commerce, whichever rate per hour is higher. Thereafter, the minimum wage rate shall be increased or decreased on January 1, 2021, and on January 1 of successive years, per the method set forth in subsection 2 of this section; but, if the federal minimum wage rate is above or is thereafter increased above the minimum wage rate then in effect under this subsection, the higher federal rate shall become the minimum wage rate for as long as it remains higher and shall be increased or decreased per the method set forth in subsection 2.

4. Every employer that is a public body shall pay to its employees wages at the rates established by subsection 3 of this section only provided there are appropriations for wages at those rates. If appropriations are not provided, the public body shall continue to be subject to the requirements of subsections 1 and 2 of this section. As used in this subsection, a public body means the state of Missouri, or any officer, agency, department, bureau, or division, board or commission of the state, or any municipality, county, township, authority, district, or any other political subdivision of or within the state.

**§ 290.512. Gratuities, goods or services as part of wages, effect on minimum wage requirement**

1. No employer of any employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages in excess of fifty percent of the minimum wage rate specified in sections 290.500 to 290.530, however, total compensation for such employee shall total at least the minimum wage specified in sections 290.500 to 290.530, the difference being made up by the employer.

2. Notwithstanding subsection 1 of this section, effective January 1, 2017, no employer of any employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages in excess of sixty percent of the minimum wage rate specified in sections 290.500 to 290.530, and effective January 1, 2018 in excess of eighty percent of the minimum wage rate specified in sections 290.500 to 290.530, however, total compensation for such employee shall total at least the minimum wage specified in sections 290.500 to 290.530, the difference being made up by the employer. Effective January 1, 2019, all employers of employees who receive and retain compensation in the form of gratuities will be required to pay the full minimum wage specified in sections 290.500 to 290.530.

3. A public body that is the employer of an employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages at the rates established by subsection 2 of this section only provided there are appropriations for wages at those rates. If appropriations are not provided, the public body shall continue to be subject to the requirements of subsection 1 of this section. As used in this subsection, a public body is defined as in subsection 4 of section 290.502.

[2.] 4. If an employee receives and retains compensation in the form of goods or services as an incident of his employment and if he is not required to exercise any discretion in order to receive the goods or services, the employer is required to pay only the difference between the fair market value of the goods and services and the minimum wage otherwise required to be paid by sections 290.500 to 290.530. The fair market value of the goods and services shall be computed on a weekly basis. The director shall provide by regulation a method of valuing the goods and services received by any employee in lieu of the wages otherwise required to be paid under the provisions of sections 290.500 to 290.530. He shall also provide by regulation a method of determining those types of goods and services that are an incident of employment the receipt of which does not require any discretion on the part of the employee.

**§ 290.527. Action for underpayment of wages, employee may bring--limitation**

Any employer who pays any employee less wages than the wages to which the employee is entitled under or by virtue of sections 290.500 to 290.530 shall be liable to the employee affected for the full amount of the wage rate and an additional [equal] amount equal to twice the unpaid wages as liquidated damages, less any amount actually paid to the employee by the employer and for costs and such reasonable attorney fees as may be allowed by the court or jury. The employee may bring any legal action necessary to collect the claim. Any agreement between the employee and the employer to work for less than the wage rate shall be no defense to the action. All actions for the collection of any deficiency in wages shall be commenced within [two] three years of the accrual of the cause of action.

§ 290.529. Severability

All the provisions of sections 290.500 to 290.530 are severable. If any provision, including any section, subsection, subdivision, paragraph, sentence, or clause, of sections 290.500 to 290.530, or the application thereof to any person or circumstance, is found by a court of competent jurisdiction to be invalid, unconstitutional, or unconstitutionally enacted, such decision shall not affect other provisions or applications of sections 290.500 to 290.530 that can be given effect without the invalid, unconstitutional, or unconstitutionally enacted provision or application.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-071)**

**Subject**

Initiative petition from Lara Granich regarding a proposed amendment to Chapter 290 of the Revised Statutes of Missouri. (Received July 22, 2015)

**Date**

August 11, 2015

**Description**

This proposal would amend Chapter 290 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Lara Granich** provided information as a proponent of the proposal to the State Auditor's office.

**Edward D. Greim** provided information as an opponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated Section 290.502.3 (for each initiative petition) would require the department to increase wages for several employees each year assuming the money is appropriated for the increase. For each hourly increase proposed, they prepared the estimated increased expenditures on wages per year over the current wages expenditures.

Cost to increase:

- $9.00/hr = $915.20/yr
- $10.00/hr = $1,955.20/yr
- $11.00/hr = $3,995.20/yr
- $12.00/hr = $14,238.61/yr

They calculated these increased costs by assuming full-time workers work an average of 2087 hours/year. They assumed part-time workers work an average of 20 hours/week for an average of 1040 hours/year.

Officials from the **Department of Elementary and Secondary Education** indicated the total estimated costs for all state funds will be $0 for FY (fiscal year) 2017, $7,078 for FY 2018, $87,363 for FY 2019, $347,819 for FY 2020, and $267,534 for FY 2021.

Officials from the **Department of Health and Senior Services** (DHSS) indicated the total estimated net cost for all state funds will be $5,658,266 for FY 2017, $24,757,841 for FY 2018, $53,680,575 for FY 2019, and $87,815,607 for FY 2020.

DHSS defers to the Office of Administration regarding the statewide fiscal impact of this proposed legislation relating to state employee wages.

Small Medicaid Home and Community Based Services (HCBS) vendors and providers would be required to ensure attendants are paid a minimum of $9.00 per hour for calendar year 2017, $10.00 per hour for calendar year 2018, $11.00 per hour for calendar year 2019, and $12.00 per hour for calendar year 2020.

DHSS assumes HCBS providers and vendors would request an increase in the reimbursement rate to offset the higher minimum wage rate.

- The average growth in units of service per year from Fiscal Year 2012 to Fiscal Year 2014 is 9.39 percent. (Units are included from Agency Model Personal Care, Residential Care Facility Personal Care, Consumer Directed Services Personal Care, Adult Day Care, Independent Living Waiver Personal Care, Advanced Personal Care Agency Model, Advanced Personal Care Residential Care Facility, Basic In-Home Respite, Advanced Respite, Healthy Children and Youth Waiver Personal Care,

Healthy Children and Youth Program Advanced Personal Care, AIDS Waiver Personal Care, and Medically Fragile Adult Waiver Attendant Care .) Fiscal Year 2014 actual units of service (168,363,392) were multiplied times the 9.39 percent average growth rate, which yields an estimated 220,371,779 units of service for Fiscal Year 2017; 241,060,146 for Fiscal Year 2018; 263,690,724 units for Fiscal Year 2019; and 288,445,846 units for Fiscal Year 2020.

- Actual wage data for the individuals involved in delivery of units of service is not available, but DHSS has been advised that the current average wage for personal care attendants is $8.50 + $0.89 in taxes (taxes at 10.45 percent) equals $9.39 per hour, or $2.35 per 15 minute unit.
- The analysis determines the difference between the proposed unit rate for wages and taxes versus the current average wage rate for wages and taxes.
- Services would be reimbursed at the Federal Medical Assistance Percentage (FMAP) rate. For this estimate, DHSS is using FY 2016 blended rate of 36.68 percent General Revenue and 63.32 percent Federal.
- The implementation date is 1/1/2017 for $9.00 per hour for calendar year 2017; one-half of Fiscal Year 2017.
- The implementation date is 1/1/2018 for $10.00 per hour for calendar year 2018.
- The implementation date is 1/1/2019 for $11.00 per hour for calendar year 2019.
- The implementation date is 1/1/2020 for $12.00 per hour for calendar year 2020.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated they defer to the Office of Administration for response to this petition regarding their employee cost as it relates to raising the minimum wage.

With regard to other issues this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated they defer to the Office of Administration for the fiscal impact.

Officials from the **Department of Natural Resources** indicated the estimated total costs for salaries, fringe benefits, equipment and expenses for all state funds will be $111,081 for FY 2017, $273,155 for FY 2018, $335,573 for FY 2019, and $381,796 for FY 2020.

Section 290.502.3 would require the department to increase the minimum wage rate to $9.00 per hour effective January 1, 2017, to $10 per hour effective January 1, 2018, to $11 per hour effective January 1, 2019, and to $12 per hour effective January 1, 2020, or to the wages at the same rate(s) set under the provisions of federal law as the prevailing federal minimum age applicable to those covered jobs in interstate commerce, whichever is higher the minimum wage shall be updated every January 1 thereafter.

Section 290.502.4 and 290.512.3 provides an exemption for public bodies from the provision of 290.502.3 if appropriations for wages at those rates are not provided.

Section 290.512.2 would require the department to increase minimum wage for employees that receive and retain gratuities so that total compensation is at least the minimum wage specified in 290.500 to 290.530. Effective January 1, 2017 the department would pay at least an excess of sixty percent of the minimum wage rate. Effective January 1, 2018 the department would pay at least an excess of eighty percent of the minimum wage rate. Effective January 1, 2019 the department would pay the minimum wage.

Section 290.529 makes the provisions of sections 290.500 to 290.530 severable.

The department anticipates the cost of the proposed legislation to start at $111,081 annually for fiscal year 2017 and ultimately increase to $381,796 in fiscal year 2020.

This legislation requires the minimum wage to be reviewed and adjusted every January 1.

For full time employees throughout their department they compared their current hourly wage rate to the minimum wage rate in the proposed legislation, taking the difference by 2,080 hours multiplied by the fringe rate for full time staff.

Missouri State Parks employs between 500-750 seasonal positions each year. In order to reflect a full year of seasonal employment, they based on their analysis off of FY14 staffing levels and upgraded their hourly wage to January 1, 2015. They then analyzed each January 1 upgrade to minimum wage compared to the prior year estimate. They assumed the per fiscal year designated minimum wage amount would be greater than the federal minimum wage.

Missouri State Parks does employ staff that is eligible for tips. For those individuals, they are required to ensure that their total wage plus tips meet or exceed the established minimum wage rate for non-tip staff. Therefore, they assumed the same minimum wage for estimated impact as other staff.

Seasonal positions' fringe benefit rate is 7.65 percent. Full time staff would begin to be given minimum wage increases in fiscal year 2020.

They also made the assumption that the personal service appropriations would be adjusted according to the levels necessary to provide the increased minimum wages provided in the law.

Officials from the **Department of Corrections** indicated they defer to the Office of Administration.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department and defer to Office of Administration for impact as an employer.

Officials from the **Department of Revenue** indicated this petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they would not be able to determine the effect of this legislation, and would expect there would be a general response provided by OA/Personnel.

Officials from the **Department of Social Services** indicated they defer to the Office of Administration for the costs related to this petition.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated their cost calculations related to this initiative petition is as follows based on 15 part-time employees working 1,039 hours per year:

| | |
|---|---|
| 2017 @ $9.00/hr. | No impact |
| 2018 @ $10.00/hr. | No impact |
| 2019 @ $11.00/hr. | $15,585 annual |
| 2020 @ $12.00/hr. | $30,170 annual |

Officials from the **Department of Conservation** indicated that this proposal, which would increase the minimum wage, would result in estimated additional annual cost to their department as follows: 1) an increase to $9/hour-$290,319; 2) an increase to $10/hour-$371,906; 3) an increase to $11/hour-$481,557; and 4) an increase to $12/hour-$632,118. This reflects pay increases necessary to increase hourly and salaried pay rates to the proposed new minimum wage.

Officials from the **Office of Administration (OA)** indicated the proposal amends Sections 290.502, 290.512, 290.527, and 290.529 RSMo.

Section 290.502, RSMo. increases the minimum wage to $9.00 per hour, beginning January 1, 2017 and by another $1.00 per hour each year until it reaches $12.00 per hour beginning January 1, 2020. Thereafter, the minimum wage will be adjusted annually based on the increase/decrease in the cost of living. The proposal would also require employers of employees who receive and retain compensation in the form of gratuities to pay the full minimum wage by January 1, 2019.

Because no tax rates are affected, there is no direct impact on general and total state revenues. However, these proposals may have several indirect affects which could impact revenue collections by an unknown amount, including but not limited to:

- Increased wages for certain employees. According to the US Bureau of Labor Statistics, in 2013, Missouri had 73,000 hourly employees earning wages at or below the federal minimum wage;[1]
- Increased consumption by those employees;
- Lower overall employment (if employers choose to hold costs steady);
- Lower business investment (if employers' payrolls increase);
- Increased prices as firms pass–through labor costs.

This proposal will increase state personnel costs at various state agencies. However, the proposal makes the increase for public bodies subject to appropriation. The estimated cost of the minimum wage increases are:

| Fiscal Year | Wage Rate | Time period | General Revenue Cost (including fringe benefits) | Total Cost (including fringe benefits) |
|---|---|---|---|---|
| 2017 | $9.00/hr | January –June | $171,193 | $464,938 |
| 2018 | $9.00/hr | July – December | | |
| | $10.00/hr | January – June | $513,523 | $1,673,380 |
| 2019 | $10.00/hr | July – December | | |
| | $11.00/hr | January –June | $1,464,340 | $4,407,549 |
| 2020 | $11.00/hr | July – December | | |
| | $12.00/hr | January – June | $6,222,694 | $13,640,373 |

Sections 290.512, 290.527 and 290.529 RSMo. will not impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the

[1] http://www.bls.gov/cps/minwage2013.pdf

ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated the following is the estimated fiscal impact to their office for the years 2017 - 2019:

2017: $0
2018: $2,920
2019: $8,760

Officials from the **City of Columbia** provided the following cost estimates:

| Year of Increase | Min. Wage | Total all Employees | Incremental Increase from Previous Year |
|---|---|---|---|
| 1/17 | $9 | $ 945,659 | |
| 1/18 | $10 | $1,646,147 | $700,488 |
| 1/19 | $11 | $2,352,336 | $706,189 |
| 1/20 | $12 | $3,100,824 | $748,488 |

Assumption: Only impact is from minimum wage paid to employees and not from gratuities or value of goods and services.

Officials from the **City of Kansas City** indicated approximately 165 employees, mostly part time and seasonal employees, are currently paid less than $12.00. Under this initiative petition, there would be a salary increase to the city in the approximate amounts per year:

2017 ($9/hr) : $60,000
2018 ($10/hr): $113,000
2019 ($11/hr): $126,500
2020 ($12/hr): $140,000

Officials from the **City of Raymore** indicated the sum effect on each year's proposal that will increase salary within the City's part-time seasonal staff will be $7,238.85 for CY 2017, $12,510,35 for CY 2018 (an increase of $5,271.50), $19,525.72 for CY 2019 (an increase of $7,015.37), and $27,836.04 for CY 2020 (an increase of $8,310.32).

The city has calculated the sum effect on each year's proposal that will increase salary within the city's part-time seasonal staff within each petition. At this time, the city is assuming that its proposed step chart will continue to be effected by the minimum wage and be adjusted every couple years to be competitive. However, there are many unknowns, and the city has simply included its part-time staff that will be effected.

Officials from the **City of St. Louis** indicated estimated annualized costs to the city of $116,601 for CY 2017, $211,138 for CY 2018, $420,965 for CY 2019, and $706,298 for CY 2020.

This initiative petition proposes an amendment Chapter 290, RSMo, to gradually raise the minimum wage starting at $9.00 per hour on January 1, 2017 to $12.00 per hour on January 1, 2020.

Subject to annual appropriation, this initiative petition would increase costs of salaries of city employees (both full and part-time) that would otherwise not be earning the wages at the levels specified in the proposed amendment. For these purposes, current employee wages are assumed to increase in accordance with existing employee pay plan provisions through 2016. The proposed amendment could also impact city revenues both positively and negatively. Should total wage base rise, employer based earnings and payroll taxes will increase accordingly. Likewise, any job losses that can be attributed to the wage increases will result in a decline in employer based and other tax revenues. The net impact of the changes in city workforce and wage base that would result from the proposed amendment is indeterminate at this time.

Officials from **University of Missouri** indicated they anticipate the legislative proposal would create an overall cost of between $30-35 million after all rate increases were implemented.

**Lara Granich** provided the following information as a proponent of this initiative petition.

August 5, 2015
Missouri State Auditor
Jefferson City, MO
Submitted via email to moaudit@auditor.mo.gov, fiscalnote@auditor.mo.gov

Re: Fiscal Impact Analysis of Minimum Wage Initiative Petitions

Version 4 (Increase to $9, then gradually to $13, tipped 60%)
Version 5 (Increase to $9, then gradually to $14, tipped 60%)
Version 6 (Increase to $9, then gradually to $15, tipped sub-minimum phased out)
Version 7 (Increase to $9, then gradually to $14, tipped sub-minimum phased out)
Version 8 (Increase to $9, then gradually to $13, tipped sub-minimum phased out)
Version 9 (Increase to $9, then gradually to $12, tipped sub-minimum phased out)
Version 10 (Increase to $9, then gradually to $11, tipped sub-minimum phased out)

This letter is from Lara Granich and Missouri Jobs with Justice Voter Action, proponents of the above-referenced initiative petitions. Pursuant to RSMo. Section 116.175, we write to submit the following fiscal impact information to assist your office in its analysis of the fiscal impact of the above mentioned seven proposed Minimum Wage Initiative Petitions.

Our analysis estimates the impact of the seven proposed initiative petitions on state and local sales and personal income tax revenue in Missouri. We follow the process that has been used in the past to estimate the impact of minimum initiative petitions on state and local sales and personal income tax, with some refinements. We also address certain claims that have been made by opponents in the past.

We are building on analysis provided for Versions 1-3 of this initiative. However, some of the analysis tools were unavailable to us in the timeframe for submitting these versions, and therefore we want to acknowledge some gaps in the information provided.

As these petitions exclude public workers, we do not include in our analysis an estimate of the impact on state and local payroll costs of the minimum wage increases.

## I. Estimate of Number of Workers Affected Statewide and the Impact on Their Wages

We estimate that, under the three versions of the petition, increases in total wages in the state will be as follows:

| Proposed Min Wage Level | Size of Increase* | Total Estimated Workers** | Workers Affected*** | Workers Affected as % of Total Workers | Total Wage Increase**** |
|---|---|---|---|---|---|
| $11.00 | $3.20 | 2,845,927 | 880,593 | 30.94% | $4,167,807,617 |
| $12.00 | $4.20 | 2,845,927 | 995,901 | 34.99% | $5,508,377,721 |
| $13.00 | $5.20 | 2,845,927 | 1,092,551 | 38.39% | ***** |
| $14.00 | $6.20 | 2,845,927 | 1,208,950 | 42.48% | ***** |
| $15.00 | $7.20 | 2,845,927 | 1,351,386 | 47.48% | $10,801,510,192 |

*Over the legislated MO 2015 minimum wage of $7.65 + assumed 2% cost of living adjustment to MO minimum wage

**Based on 2013 American Community Survey for the State of Missouri

***The number of wage and salary workers with an hourly wage below the proposed minimum. The hourly wages in 2013 were increased by 5.497%, to account for inflation between 2013 and 2016, prior to comparison with the proposed minimum.

****The hourly wage difference was multiplied by the number of hours worked per year. That amount was then multiplied by the relevant person weight and summed over all persons with hourly wages below the proposed minimum.

*****we were unable to access tools to weight appropriately for this level in the timeframe allowed for input

The wage impact of an increase in the minimum wage for the state of Missouri is calculated using the following procedure. The American Community Survey Public Use Micro Sample for the most recent year available (2013) for the state of Missouri was downloaded from the US Census Bureau. The American Community survey was chosen over the Current Population survey because the ACS has a significantly larger sample.

Calculations were effectuated only for those individuals earning less than the proposed minimum wage. It is likely that there would be indirect impacts on others who earn more than the proposed minimum wage, especially those who earn close to the proposed hourly amount. These estimates therefore are likely to be smaller than the actual impact of increasing the minimum wage to the proposed level.

All wage earners are included in this calculation. To be consistent with past estimates, public employees should have been excluded. Employees in the public sector were included because the American Community Survey does not have a published variable that allows for identification of public employees. This inclusion of public employees will have a minimal impact on our results.[1]

All wages from the 2013 survey were adjusted upward to account for inflation between the time of the survey and the time of measurement of the impact. Actual inflation was used for 2013 and 2014, and a slightly higher rate was used for assumed inflation in 2015. The 2015 Missouri Minimum wage of $7.65 was adjusted by the same factor prior to measuring the impact of a change to the proposed minimum wage in 2016.

After these adjustments, the resulting hourly wage of all employees was compared to the proposed minimum wage. Three proposed levels for the minimum wage were examined: $11, $12, and $15. If the proposed minimum wage was less than the inflation adjusted hourly earnings of an employee, then no impact was calculated. If the proposed

[1] For the Missouri's state employees, this can be validated by viewing the earnings of all state employees at: http://mapyourtaxes.mo.gov/MAP/Employees/. Larger counties and cities will also have almost all public employees earning more than the highest proposed minimum wage. Local public employees in small counties and towns may have some public employees who earn less than the highest proposed minimum.

minimum wage was more than the hourly earnings on an employee, then the difference between the inflation adjusted hourly earnings and the proposed minimum wage was calculated. That difference was multiplied by the number of hours the employee worked in the year to calculate the impact for that employee. The result was then multiplied by a weighting factor for that employee in the population. The total impact for the state of Missouri was calculated by repeating this process for every employee and adding the results.

The impact grows as the proposed minimum wage grows. 31% of the labor force would be directly impacted by an increase in the minimum wage to $11 in 2016, whereas 47% would be impacted if the minimum wage were increased to $15 per hour.

It should be emphasized that there is no reason to expect even a substantial increase in the minimum wage to reduce employment. No credible research has demonstrated a negative employment effect of increases in the minimum wage and there is substantial research to indicate that increases in the minimum wage have multiplier effects that increase the direct effects. For this reason and because of the likely increases in wages to individuals who earn above the proposed minimum wages, the impacts summarized in the table are likely to be low, relative to the total impact that would occur as a result of increasing the minimum wage to the proposed levels.

## II. Economic Literature on the Impact of Minimum Wage Increases on Employment

Next it is necessary to review the economic literature on the impact of minimum wage increases on employment. Opponents often claim that minimum wage increases may reduce employment in a state. If that is true, then those employment reductions would result in reductions in state income and sales tax revenue. However, review of the most credible recent empirical research on the minimum wage shows that increases in the minimum wage have had no discernible impact on employment. We thus conclude that it is not appropriate to project that the proposed initiative petitions would result in any detectable employment reduction, and resulting losses in income and sales tax revenue, or increases in unemployment-related costs to the state.

Economists have conducted hundreds of studies of the employment impact of the minimum wage. A recent meta-study – a formal statistical study of studies – by Doucouliagos and Stanley (2009) reviewed all the research conducted over the last three decades on the employment impact of minimum-wage increases on teenagers in the United States. The researchers concluded that the minimum wage has little or no discernible effect on the employment prospects of low-wage workers. Their study followed a rigorous, peer-reviewed procedure and has the advantage of using a set of predetermined, objective criteria for weighing the validity of statistical findings across studies with different results. (Source: Doucouliagos, Hristos and T. D. Stanley. 2009. “Publication Selection Bias in Minimum-Wage Research? A Meta-Regression Analysis.” British Journal of Industrial Relations,vol. 47, no. 2, pp. 406-428.)

Recent theoretical and empirical research emphasizes several explanations for the consistently negligible employment impacts of moderate increases in the minimum wage. First, relative to total wage costs, minimum-wage increases are small. Second, employers and workers appear to respond to minimum-wage increases in many ways that reduce the direct cost to employers and substantially reduce or eliminate the need to cut employment.

Probably the most important economic response to a higher minimum wage is a reduction in turnover. At higher wages, employers fill vacancies faster and retain employees longer, boosting total employment and average productivity per worker while reducing direct and indirect training costs. Dube, Lester, and Reich (2012), for example, examined the effect of the minimum wage on labor turnover among teens and restaurant workers. They find “...striking evidence that separations, new hires, and turnover rates for teens and restaurant workers fall substantially following a minimum wage increase...” (p. 2) Their findings, using nationally representative data, are consistent with local case studies of the

minimum wage and related "living wage" laws, including Dube, Naidu, and Reich's (2007) analysis of the San Francisco city-wide minimum wage; Fairris's (2005) study of local government contractors in Los Angeles; Howes (2005) on homecare workers in California; and Reich, Hall, and Jacobs (2005) on workers at the San Francisco airport. (Sources: Dube, Arindrajit, T. William Lester, and Michael Reich. 2012. "Minimum Wage Shocks, Employment Flows and Labor Market Frictions." Berkeley, CA: Institute for Research on Labor and Employment. http://escholarship.org/uc/item/76p927ks; Dube, Arindrajit, Suresh Naidu, and Michael Reich. 2007. "The Economic Effects of a Citywide Minimum Wage." *Industrial and Labor Relations Review*, vol. 60, no. 4, pp. 522-543; Fairris, David. 2005. "The Impact of Living Wages on Employers: A Control Group Analysis of the Los Angeles Ordinance." *Industrial Relations*, vol. 44, no. 1, pp. 84-105; Howes, Candace. 2005. "Living Wages and the Retention of Home Care Workers in San Francisco." *Industrial Relations*, vol. 44, 5 no. 1, pp. 139-163; Reich, Michael, Peter Hall, and Ken Jacobs. 2005. "Living Wage Policies at the San Francisco Airport: Impacts on Workers and Businesses." *Industrial Relations*, vol. 44, no. 1, pp. 106-138.)

Employers also appear to respond to increases in the minimum wage by taking measures to boost productivity. Hirsch, Kaufman, and Zelenska's (2011) study of the impact of the federal minimum-wage increase on 81 fast-food restaurants in Georgia and Alabama, for example, asked fast-food managers about the scope for efficiency improvements in response to the minimum-wage rise. About 90 percent of managers indicated that they planned to respond to the minimum-wage increase with increased performance standards such as "requiring a better attendance and on-time record, faster and more proficient performance of job duties, taking on additional tasks, and faster termination of poor performers." (p. 27) Roughly the same share of managers said that they sought to "boost morale" by presenting the minimum-wage increase as a "challenge to the store" and using this as a way "to energize employees to improve productivity." (pp. 28-29) Based on their interviews with store managers, the researchers concluded that a minimum-wage increase may function as a "catalyst or shock that forces managers to step out of the daily routine and think about where cost savings can occur." (p. 29) (Source: Hirsch, Barry T., Bruce Kaufman, and Tetyana Zelenska, "Minimum Wage Channels of Adjustment." IZA Discussion Paper No. 6132. Germany: Institute for the Study of Labor. http://www2.gsu.edu/~ecobth/IZA_HKZ_MinWageCoA_dp6132.pdf)

A higher minimum wage may also motivate workers to work harder, independently of any actions by employers to increase productivity. According to "efficiency wage" theory, wages above the competitive-market rate may elicit greater work effort for several reasons. As Carl Shapiro and Joseph Stiglitz (1984) have argued, higher pay increases the cost to workers of losing their job, potentially inducing greater effort from workers in order to reduce their chances of being fired. George Akerlof (1982), arguing from a more sociological point of view, has suggested that workers may see higher wages as a gift from employers, leading workers to reciprocate by working harder. (Sources: Shapiro, Carl and Joseph E. Stiglitz. 1984. "Equilibrium unemployment as a worker discipline device." *American Economic Review*, vol. 74, no. 3, pp. 433-444; Akerlof, George A. 1982. "Labor contracts as partial gift exchange." *Quarterly Journal of Economics*, vol. 97, no. 4, pp. 543-569.)

We therefore conclude that the proposed increase in the Missouri minimum wage would have no discernible impact on the employment levels of low-wage workers. Accordingly, we do not factor in reductions in employment, or any resulting decrease in sales tax or income tax. We also do not project any increased unemployment insurance costs – both because we do not project any resulting job losses, and additionally because unemployment insurance costs are paid for by employer premiums, and so are ultimately not a cost to the state.

### III. State and Local Sales and Personal Income Tax Revenue Impact of Raising the Minimum Wage

Based on the wage impact figures calculated above, and the understanding that the minimum wage increases would be unlikely to result in offsetting job losses, we next calculate the impact of the projected wage increases on state and local

sales and personal income tax revenue in Missouri. We project only the direct impact of the three minimum wage increase scenarios on such tax revenue. We do not attempt to project the additional impact through a GDP multiplier effect.

**Increase in Personal Income Tax Revenue and Sales Tax Revenue Due to Increased Wages Personal Income Tax Revenue.** In order to determine the projected increase in personal income tax revenues that would result directly from the increased wages, we had to develop assumptions about the effective income tax rates of the affected workers. We made the following assumptions with respect to the effective tax rate:

1. That 25% of affected workers can be claimed as a dependent on another party's Missouri income tax return and as a result would pay an effective tax rate of 6.0% on the increase in income;
2. That 50% of the affected workers would file as single taxpayers, would claim one deduction of $2,100, and would be entitled to a standard deduction of $5,800. This would result in an effective tax rate of 2.47%;
3. The remaining 25% would, we assumed, would pay no additional Missouri income tax. In light of these assumptions, the increased Missouri income tax revenue for each petition version can be calculated as follows: (total wage increase * 25% * 6.0%) + (total wage increase * 50% * 2.47%) + (total wage increase *25% * 0%).

**Sales Tax Revenue.** The State of Missouri imposes a 4.225% state sales tax on those items that are not exempt from the sales tax base. In addition, the average local sales tax rate is 2.95%. As a result, the average Missouri net sales tax rate is 7.175%. We have conservatively estimated that just 25% of the higher wages would be spent on the purchase of goods that are subject to state and local sales tax in Missouri.

Based upon the above assumptions, and the total wage increase calculations for each version of the petition, we estimate that the increase in state income tax revenue resulting from the increased wages would be as follows:

| Increase in Sales and Personal Income Tax from Increased Wages | | | | | | |
|---|---|---|---|---|---|---|
| **Proposed Min Wage Level** | **Total Wage Increase** | **State Sales Tax (4.225%)** | **Local Sales Tax Revenue (2.95%)** | **Total Sales Tax Revenue Increase** | **Personal Income Tax Revenue** | **Total Sales and Personal Income Tax Revenue Increase** |
| $11.00 | $4,167,807,617 | $44,022,468 | $30,737,581.17 | $74,760,049.13 | $113,989,538 | $188,749,587 |
| $12.00 | $5,508,377,721 | $58,182,240 | $40,624,285.69 | $98,806,525.38 | $150,654,131 | $249,460,656 |
| $13.00 | *We were unable to access a tool to weight calculations of the total wage increase for these levels in the timeframe allotted.* | | | | | |
| $14.00 | | | | | | |
| $15.00 | $10,801,510,192 | $114,090,951 | $79,661,137.67 | $193,752,089.08 | $295,421,304 | $489,173,393 |

Moreover, one often-cited authority on tax information, the Tax Foundation, reports that the average local sales tax rate in Missouri is even higher at 3.53%. See http://taxfoundation.org/article/state-and-local-sales-taxes-midyear-2012 If one uses this higher rate, total revenue increases additionally by hundreds of thousand dollars.

We hope that this information is useful to your office as your prepare your analyses of the petitions.

Respectfully submitted,
Lara Granich
Missouri Jobs with Justice Voter Action

**Edward D. Greim** provided the following information as an opponent of this initiative petition.

He writes on behalf of Robert Bonney. Mr. Bonney is the Chief Executive Officer of the Missouri Restaurant Association. Please consider this letter and the accompanying studies as his fiscal impact statement as an opponent of Initiative Petitions 2016-066, 2016-067, 2016-068, 2016-069, 2016-070, 2016-071 and 2016-072 (the "Initiative Petitions"). Initiative Petitions 2016-066 and 2016-067 appear to be substantially similar to the previously-submitted Initiative Petitions 2016-045, 2016-046 and 2016-047—which will cause significant negative impacts, if passed. Moreover, Initiative Petitions 2016-068, 2016-069, 2016-070, 2016-071 and 2016-072 only work to further negatively impact the Missouri economy by phasing out tipped wage percentages entirely. In short, any of these seven initiatives would have a substantial negative impact on state and local governments.

The two fiscal impact studies attached hereto were authored by Dr. David Macpherson, a nationally-recognized labor economist and expert on the impact of minimum wage increases. In reviewing previous minimum wage petitions, the Auditor's Office has previously found Dr. Macpherson's analyses to be helpful and persuasive.

The first study was prepared by Dr. Macpherson in June 2014 and details how a $10.10 per hour minimum wage would have impacted Missouri and the St. Louis area were it to have become effective in 2015. *See* Exhibit A. In addition to the estimated loss of nearly 15,000 jobs statewide, Dr. Macpherson estimated that the cost to taxpayers of a $10.10 minimum wage would be $87 million annually. While this study did not address the specific proposals in the Initiative Petitions, Dr. Macpherson's methodology applies directly to the impact of the proposed minimum wage increases.

The second fiscal study was reviewed and used by this office in evaluating earlier minimum wage proposals. It was prepared by Dr. Macpherson in March 2012 and details the impact of a statewide minimum wage increase to $8.25 per hour. This study is attached hereto as Exhibit B. In this study, Dr. Macpherson concluded that state and local entities would pay out $16 million in increased wages. What's more, Dr. Macpherson estimated that the net state and local fiscal impact would range from a loss of over $22 million to a loss of $13 million. While this study is now three years old, the analysis is pertinent to the proposed wage increase in the Initiative Petitions. Notably, using Dr. Macpherson's methodology, the heightened minimum wage proposals contained in the Initiative Petitions would have a substantially greater negative fiscal impact than that found in the 2012 study.

The proponents of the Initiative Petitions will likely rely on data sourced from political activist groups who claim increases in minimum wage only serve to create new taxable income. The reality is that such groups approach this issue with indisputable political bias. Further, that type of analysis is one-sided, disregarding the significant impact on Missouri businesses. True, some workers will collect increased wages, but no new money is created; Missouri businesses will be the source of the increase which will lower their taxable income and, from time to time, cause them to forego hiring or to cut employment. Regarding secondary employment and tax revenue effects, the Auditor must refrain from assessing only one half of the wage increase equation.

In addition, the most significant and most direct effect of a minimum wage increase is the amount of the increased wages that will actually be paid by state and local governments. As has been shown during prior efforts to increase the minimum wage, very few of the hundreds of state and local entities who actually employ minimum wage workers will take the time to provide fiscal impact estimates in response to the Auditor's requests. Further, the Auditor's requests are simply sent to a sample of governmental employers. The more appropriate method to calculate the fiscal impact of the wage increase is to use the actual number of minimum wage workers who work for state and local governments, as calculated by the United States Census Bureau's CPS. Rather than simply adding the sums reported in the scattershot and unreliable fiscal note responses from state and local entities, the Auditor should supplement them with broader analyses such as those of Dr. Macpherson. At the very least, the Auditor should state in the fiscal note summary that state and local impacts are "large" or "substantial," rather than simply reporting impacts of "at least" the few thousand dollars in costs that may or may not be reported by those local entities that take the time to respond to the Auditor's sampling.

Finally, the proponents of the Initiative Petitions may argue that the Auditor should abandon the state and local cost estimates altogether. The proponents will argue that a new provision they have inserted in the statute would make the increases apply only if "there are appropriations for wages at those [i.e., the newly-increased] rates." The proponents will urge the Auditor's Office to assume that legislators will not actually fund the increases, and that therefore there will be no cost to taxpayers. Setting aside unjustifiable projections about the political judgments of legislators, the provision is of uncertain legal effect and constitutionality. On the one hand, it may not change existing law, since arguably the legislature always has the power to reduce or increase appropriations. But it is also unclear whether the legislature has the power to fix wage rates within an appropriations bill, or whether a mere statutory petition can confer this type of power upon the legislature. The application of the requirement for a specific type and manner of appropriation is also unclear in the context of political subdivisions and other public bodies whose funds are generally not appropriated by the general assembly. These are just a few examples of the serious flaws with the proposal itself that may have to be addressed by the courts. Suffice it to say that as a matter of law, it would be insufficient and unfair for the Auditor's fiscal note or summary to simply assume that these legal issues do not exist, or to make a political judgment that legislators will not in fact fund any of the minimum wage increases at any level of state government. Such assumptions would only serve to artificially deflate the fiscal note and fiscal note summary by tens of millions of dollars.

June 2014

MISSOURI
Restaurant Association
*Eat Out Often!*

# The Impact of a $10.10 Minimum Wage on Jobs and Taxpayer Costs in Missouri

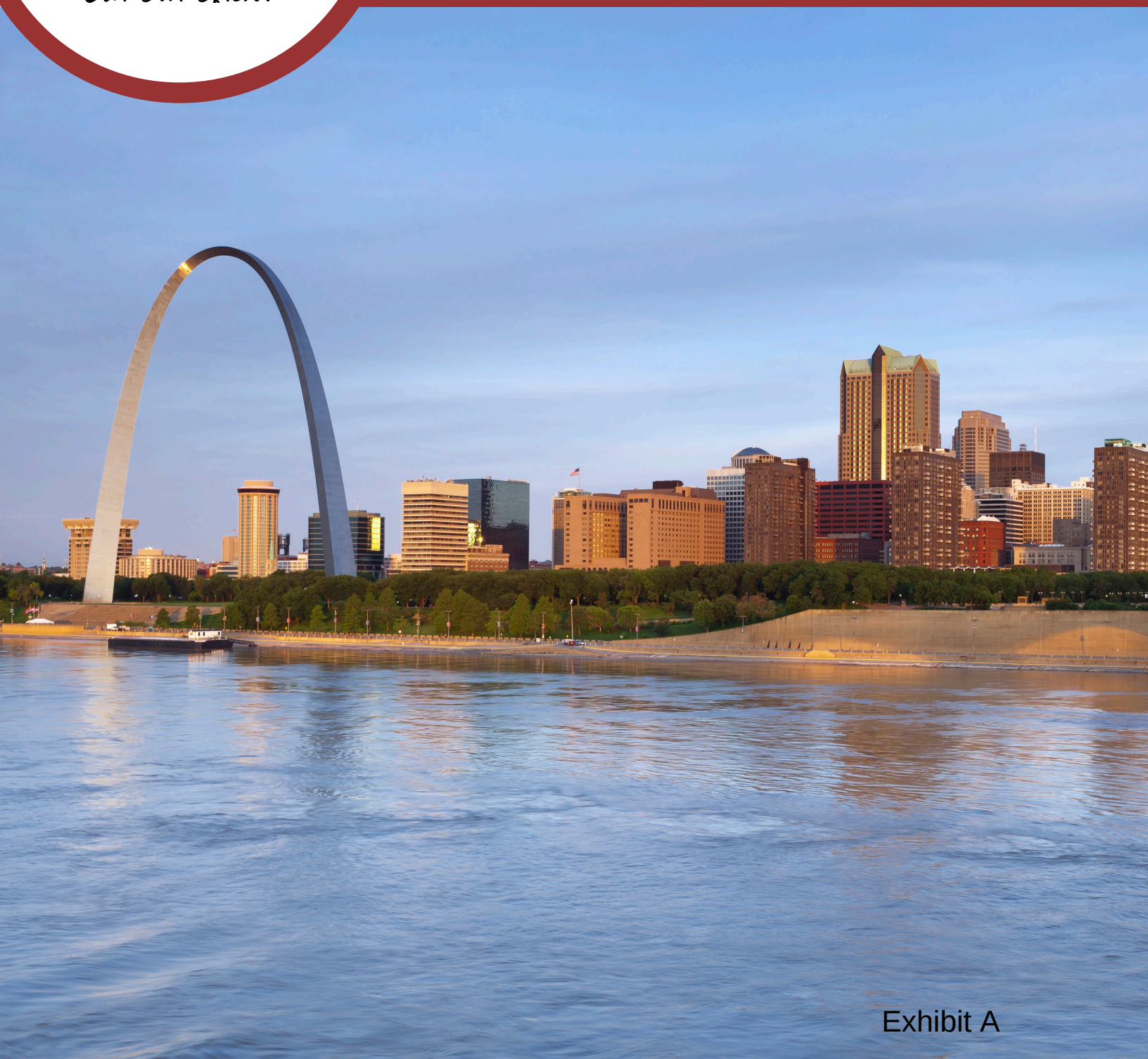

Exhibit A

# ABOUT THE MISSOURI RESTAURANT ASSOCIATION

With origins dating back to 1916, the Missouri Restaurant Association (MRA) is a statewide trade association representing over 1,500 member establishments. The association's membership is diverse, and includes full service, fast casual, and quick service restaurants, cafeterias, hotels, schools, institutions, contract feeders, and ancillary foodservice providers such as theme parks. The association has been successful in securing support from virtually every segment of the foodservice and hospitality industry.

MRA includes seven chapters as extensions of the parent organization, each with its own Officers, Board of Directors, and limited budget. The association is governed by a Board of Directors comprised of five Officers, 33 Directors, and each President of the seven affiliated chapters.

MRA is dedicated to serving the needs of the foodservice and hospitality industry, enhancing and improving its growth and development, assisting and educating its members in operating more effectively, improving the political and social environment in which the industry conducts business, for the benefit of its members, patrons, employees, and the well-being of the community.

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David A. Macpherson is the E.M. Stevens Professor of Economics at Trinity University. He received undergraduate and doctoral degrees in economics from Pennsylvania State University.

Dr. Macpherson has published over 60 articles in leading economics and real estate journals including Review of Economics and Statistics, Industrial and Labor Relations Review, Journal of Labor Economics, Journal of Human Resources, and Journal of Real Estate Economics and Finance. His research has been funded by a variety of entities including the National Science Foundation, Florida Legislature, and the National Association of Realtors. He is co-author of the undergraduate labor economics text, Contemporary Labor Economics, as well as the principles of economics text, Economics: Private and Public Choice. He is included in Who's Who in Economics, Fourth Edition, which includes the 1,200 most frequently cited economists.

# THE IMPACT OF A $10.10 MINIMUM WAGE ON JOBS AND TAXPAYER COSTS IN MISSOURI

June 2014

Economic Analysis by **Dr. David Macpherson**
**Trinity University**

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# EXECUTIVE SUMMARY

Missouri's minimum wage of $7.50 is linked to rise in most years with the inflation rate. But some state legislators and labor unions would like to raise that figure even higher. For instance, a recent labor union-organized bus tour in the state promoted a $10.10 minimum wage in St. Louis.

Proponents have enthusiastically pointed to the benefits of the $10.10 policy. But there's been far less discussion of the costs involved with a $10.10-an-hour minimum wage—both the cost on employment, and the cost to taxpayers.

In this study, labor economist David Macpherson of Trinity University uses Census Bureau data to estimate the impact on Missouri's labor market and budget from raising the minimum wage to $10.10 an hour. He also provides separate results for the St. Louis metropolitan area.

Dr. Macpherson's employment estimates follow the methodology used by the nonpartisan Congressional Budget Office in its report earlier this year estimating the impact of a $10.10 minimum wage nationwide, which in turn relied on 60 different empirical studies to formulate its estimates.

Statewide, he finds that over 15,000 jobs would be lost at the $10.10 wage level—with 9,300 of those jobs being held by women. In the St. Louis metropolitan area, approximately 4,800 jobs would be lost from a $10.10 minimum wage.

The cost to taxpayers would be significant: There are approximately 40,000 state and local employees whose wages would be affected by the $10.10 increase in Missouri, for a combined cost to taxpayers of $87 million annually.

Raising wages is an admirable goal, but the evidence suggests that accomplishing this goal with a blunt wage mandate could do more harm than good.

# RESULTS

The minimum wage is one of the most hotly-debated topics in the political world. Some legislators claim that a higher base wage will stimulate the economy; others claim that it will reduce jobs when affected employers can't offset the higher costs through higher prices.

Economists, who have studied the issue since the late 1940s, tend to take a skeptical view of minimum wage increases. Since the early 1990s, for instance, roughly 85 percent of the most credible research on the minimum wage points to job loss for less-skilled groups. The nonpartisan Congressional Budget Office (CBO), in an evaluation of President Obama's proposed $10.10 minimum wage increase, reviewed 60 different studies and concluded that the policy would eliminate 500,000 jobs if enacted.

The estimates that follow, of the employment impact of a higher minimum wage on Missouri's labor market, were performed by Dr. David Macpherson of Trinity University. Dr. Macpherson followed closely the methodology used by the CBO in its 2014 report. Dr. Macpherson also estimates the taxpayer costs of a higher minimum wage, as many state and local public employees will see their earnings increase when the minimum wage rises.

Dr. Macpherson's methodology is presented in detail in a technical appendix.

## Estimated Employment Effects of a $10.10 Minimum Wage in Missouri

Statewide, Dr. Macpherson finds that increasing the minimum wage to $10.10 would eliminate over 15,000 jobs—approximately 60 percent of which are jobs held by women. The bulk of the job losses would be concentrated among individuals with a high school degree or less, and among people who work in the retail or leisure & hospitality industries.

(Note: Totals have slight discrepancies due to rounding.)

**Estimates by Gender**

| | *Job Losses* |
|---|---|
| **Male** | 6,311 |
| **Female** | 9,364 |
| **TOTAL** | **15,705** |

**Estimates by Age**

| *Age* | *Job Loss* |
|---|---|
| **<=21** | 9,237 |
| **22-25** | 1,532 |
| **26-30** | 1,023 |
| **31-40** | 1,175 |
| **41-50** | 980 |
| **51 +** | 1,759 |

**Estimates by Race**

| *Race* | *Job Loss* |
|---|---|
| **White** | 13,299 |
| **Black or Other Race** | 2,406 |

# RESULTS CONTINUED

| Top Three Industries Affected | |
|---|---|
| *Industry* | *Job Loss* |
| **Retail Trade** | 3,835 |
| **Arts, Entertainment, Recreation, Accommodations, and Food Services** | 6,039 |
| **Healthcare** | 1,199 |

| Estimates by Education | |
|---|---|
| *Education* | *Job Loss* |
| **Less than High School** | 5,555 |
| **High School Grad, No College** | 4,921 |
| **Some College** | 4,428 |
| **Undergrad or Graduate Degree** | 802 |

## City-Specific Minimum Wage Employment Impacts

The city of St. Louis has been the subject of a number of protests calling for a higher minimum wage. Dr. Macpherson analyzed the employment impact of a $10.10 minimum wage in the St. Louis metropolitan area, providing breakouts by gender and education where the data permits. He estimates that the wage hike would eliminate approximately 5,000 jobs—just over half of which would be jobs held by women.

| Impact on St. Louis Metro Area of a $10.10 Minimum Wage | |
|---|---|
| *Gender* | *Job Loss* |
| **Male** | 2,033 |
| **Female** | 2,767 |
| **TOTAL** | **4,800** |
| *Race* | *Job Loss* |
| **White** | 3,641 |
| **Black or Other Race** | 1,158 |
| *Education* | *Job Loss* |
| **High School Grad or Less** | 3,097 |
| **Some College, Undergrad or Graduate Degree** | 1,703 |

# RESULTS CONTINUED

## Missouri Taxpayer Costs of a $10.10 Minimum Wage

Dr. Macpherson estimates that approximately forty thousand state & local public employees would be affected by a minimum wage increase to $10.10 an hour. These additional wage costs translate to new costs for state and local taxpayers. Following the methodology described in detail in the technical appendix, Dr. Macpherson estimates both the straight wage cost of a $10.10 minimum wage, as well as the total compensation cost with Social Security, Medicare, workers compensation, and unemployment insurance included. Statewide, taxpayers would shoulder an additional $87 million in costs if the base wage was increased to $10.10 an hour and public employees were covered by the new wage.

| Missouri Taxpayer Costs of a $10.10 Minimum Wage | |
|---|---|
| **# of State & Local Workers** | 304,588 |
| **# Affected By $10.10 MW** | 40,103 |
| **Annual Wage Cost** | $79,629,374 |
| **Annual Compensation Cost** | $87,004,355 |

*Note: Annual compensation costs include the cost of worker's compensation, FICA, and unemployment insurance benefits.*

MISSOURI Restaurant Association
Eat Out Often!

# TECHNICAL APPENDIX

## Estimating Employment Loss and the Cost to State and Local Government of an Increase in the Minimum Wage

**Dr. David Macpherson**
**E.M. Stevens Professor of Economics**
**Trinity University**

This paper describes how we estimate the employment loss and the cost to state and local governments of a proposed increase in the minimum wage effective on January 1, 2015.

## Data and Sample

First, we use data from the Current Population Survey (CPS) Outgoing Rotation Groups (ORG) from January 2011 through December 2013. For each worker in the sample, we calculate their wage rate. We also adjust the wage rate to reflect a forecast of wages in 2015. This is done in two steps. First, based on legislation enacted as of April 2014, we estimate the minimum wage that would be in effect in January 2015 for each state and city that we consider. If a state or city has an indexed minimum wage, we increase the January 2014 state or city minimum wage by the Congressional Budget Office (CBO) inflation forecast for 2014 of 1.7%.

Since we use data from 2011 through 2013, we also follow the CBO approach for forecasting what the wage distribution would be in 2015. This is done in two steps. First, we adjust wages observed prior to 2013 to reflect 2013 minimum wage legislation. For example, if the minimum wage in a state was $7.25 in 2011 and grew to $8.00 by 2013, anyone who earned between $7.25 and $8.00 in 2011 would have their wage increased to $8.00. After wages are adjusted to 2013 levels, we assume that all wages grow by 2.9% in 2014. Using the resulting 2015 distribution of wages, we adjust for minimum wage legislation that would increase the minimum between 2013 and 2015. Anyone earning a wage between the 2013 and 2015 minimum wage is assigned a wage matching the 2015 minimum wage.

After generating the forecast 2015 distribution of wages reflecting wage growth and existing minimum wage legislation, we identify workers who would be affected by additional changes to the 2015 minimum wage as those with wages between the predicted minimum wage legislated for 2015 (or up to $.25 below it) and the proposed minimum.

To estimate the number of affected workers, we take two steps. First, for each state, we estimate the number of affected workers for 2013. Second, we adjust the weights in the 2011 and 2012 data so that the state-specific number of affected workers implied by the 2011 and 2012 data matches that for 2013. This adjustment is designed to correct for the changing economic climate as the economy recovers from the great recession and to generate estimates that are as close as possible to the most recent data (2013). After we adjust the 2011 and 2012 weights, we estimate the number of affected workers by summing their earnings weights and dividing the total by 36 (the number of months of data).

[1] Also, following CBO, anyone earning up to $.25 less than the 2011 minimum wage would have their wage increased by the amount that the minimum wage increased (i.e. a $7.00 wage would be increased to $7.75 in this example). This approach is used to adjust for the fact that many workers round their answers when asked about their wage.

# TECHINCAL APPENDIX CONTINUED

## Employment Loss

To estimate employment loss, for each affected worker we compute:

**L = e *(Proposed Min Wage /Min Wage 2015 – 1)**

where e is an assumed elasticity of employment with respect to changes in the minimum wage, Min Wage 2015 is the minimum wage currently legislated for 2015, and Proposed Min Wage is the minimum wage that is being proposed for 2015. Thus, for example, if a worker is projected to earn the federal minimum of $7.25 in 2015, the expected reduction in employment resulting from a $10.10 minimum wage in 2015 if e=.45 is .45*(10.10/7.25 – 1) = .18. That is, for every 100 workers currently earning the federal minimum, the expectation is that 18 would lose a job if the minimum wage elasticity is .45.

To estimate the aggregate employment loss in the economy, we use earnings weights to sum L across workers. We also follow the Congressional Budget Office (2014) and use an elasticity of 0.15 for non-teenagers and 0.45 for teenagers.

## Cost to State and Local Government

We use the same data to estimate the cost to state and local government of a proposed minimum wage hike. We apply the same definition of affected workers described above and estimate the number of state and local government workers affected by a minimum wage hike. We do not, however, assume that there is any job loss for state and local workers as we do not have an appropriate elasticity estimate specific to state and local workers. To the extent that state or local governments reduce hours or employment in response tothe minimum wage hike, our estimate of the cost of the hike would be overstated.

To estimate the increase in annual payroll cost resulting from an increase in the minimum wage, we estimate the increase in annual cost for each worker as:

**(Proposed Min Wage-Min Wage 2015)*weekly hours*52**

We then multiply the increase in annual cost by the earnings weight for each worker and sum across workers. Since an increase in wages also requires increased employer contributions for Social Security, Medicare, workers' compensation and unemployment insurance, we apply an estimate of the payroll tax rate for these mandatory programs to calculate the additional cost for these programs.

For each state and city considered, we provide tables summarizing the number of affected workers, employment loss, and the distribution of employment loss by sex, education, race, age and industry. Given that we use three years of data, a rule of thumb for minimum sample size required to achieve a reasonably accurate estimate of the employment loss is to require at least 30,000 people be in the relevant category. For example, if there are fewer than 30,000 people projected to be in a particular industry category, the Bureau of Labor Statistics would not report the estimate due to a lack of reliability based on the variance of the estimate relative to its mean.

In addition to the estimate of employment loss, for each state or city considered, we estimate the number of state and local workers that would be affected by the minimum wage hike and the total annual cost to government in terms of wages and total compensation. As with the employment estimates, we advise caution in interpreting estimates that are based on fewer than 30,000 affected workers.

[3] Congressional Budget Office, "The Effects of a Minimum-Wage Increase on Employment and Family Income," February 2014.

[4] For workers paid by the hour the reported hourly wage was used. For workers who are not paid by the hour, we calculate the hourly wage by dividing usual weekly earnings by usual weekly hours. Overtime pay was calculated as time and one-half for hours above 40 hours for hourly workers.

[5] The assumed payroll tax for Medicare and Social Security is 7.65 percent. To estimate the payroll tax for workers' compensation and unemployment insurance, we use unpublished data from the 2010 Employer Cost of Employee Compensation database for state and local workers in the relevant region in 2010.

# FISCAL ANALYSIS
# OF
# PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

**Prepared for**

**Victor Allred versus Robin Carnahan and Thomas Schweich**
**Circuit Court of Cole County, Missouri**

**Prepared by**

**David A. Macpherson, Ph.D.**
**125 Park Drive**
**San Antonio, TX 78212**

**March 26, 2012**

Exhibit B

# FISCAL ANALYSIS
# OF
# PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

## I. Introduction

This report was undertaken at the request of counsel representing plaintiffs in the case of Victor Allred versus Robin Carnahan and Thomas Schweich. As part of the basis of the lawsuit, the plaintiffs allege that the fiscal note summaries for proposed statutory initiative petitions 2012-084 and 2012-085 are insufficient and unfair. I was asked by counsel to evaluate the fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085.

The results of my analysis indicate:

(1) labor costs to state and local government entities, based on state auditor fiscal notes, will rise by more than $1,352,182. A more inclusive estimate indicates that state and local government labor costs will increase by $16,003,712;

(2) unemployment benefit costs will rise by $4,397,510 during the first year of the minimum wage increase;

(3) individual income tax revenue will rise by at most $4,078,088;

(4) the loss in corporate income tax revenue could be as high as $9,243,105;

(5) state and local sales tax revenue will rise by at most $2,919,327;

(6) during the first year: state and local governments will incur increased costs of $20,401,222; the change in state and local government revenue will

range from -$2,245,690 to +$6,997,415; and the net state and local government fiscal impact will range from -$22,646,912 to -$13,403,807.

The report is organized as follows. My qualifications to prepare this report are contained in Section II. Section III describes the data and records I relied upon for this report. Section IV reviews the estimated fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085. A summary and my conclusions are provided in Section VI.

## II. Qualifications

I am currently the E.M. Stevens Professor of Economics at Trinity University in San Antonio, Texas. Previously, I was employed by Florida State University as Director of the Pepper Institute on Aging and Public Policy and the Rod and Hope Brim Eminent Scholar in Economics. I have taught both undergraduate and graduate Econometrics (statistical analysis of economic data), and Labor Economics. I have published over 50 articles in peer-reviewed professional journals.

I am currently serving on the editorial board of the *Journal of Forensic Economics*, which is a peer-reviewed journal. I have also served as a reviewer or 'referee' for 24 peer-reviewed journals, including the *Journal of Human Resources, Journal of Labor Economics, Quarterly Journal of Economics,* and the *Review of Economics and Statistics*. Based upon these experiences, I am very familiar with the scholarly and professional research process and the concept of peer review.

I have prepared numerous analyses and reports that use statistical methods as applied to specific questions. I have been responsible for developing the techniques and approaches required for these analyses. I routinely use computers and statistical software packages to assist me in my analytical work. I have been qualified as an expert witness on statistical analysis of employment discrimination and economic damages in state courts in Florida and Georgia and Federal Courts, and I have given expert testimony. I have prepared analyses and offered testimony on behalf of both plaintiffs and defendants.

Details of my qualifications are reflected in my current resume and legal cases, attached as Appendix A to the report.

## III. Data and Records

I reviewed the following materials in preparing this report.

- Plaintiff's Complaint
- Material cited in footnotes below.

## IV. Fiscal Impact

*A. Overview*

The proposed statutory initiative petitions 2012-084 and 2012-085 contain many elements in common. Both initiatives would increase the Missouri minimum wage to $8.25 per hour, alter the exemption for retail and service firms, raise the cash wage of tipped workers from 50% to 60% of the minimum wage, and increase the statute of limitation from two to three year for underpayment claims.

The initiatives differ in their linkage to the federal minimum wage. Initiative petition 2012-084 requires that the state minimum wage be automatically increased to the

federal minimum wage if it is higher than the state minimum wage. Initiative petition 2012-085 does not have such a linkage. It only requires that workers be paid the higher of the state minimum wage or the federal minimum wage. The linkage to the federal minimum wage will cause the state minimum wage to be higher under initiative petition 2012-084 over time. This is because the state minimum wage, in contrast to the federal minimum wage, is adjusted for inflation as measured by the Consumer Price Index.

An increase in the minimum wage in Missouri will affect state and local government entities in two ways. First, it will directly increase the cost of labor to state and local government entities. This will occur due to the increase in wages of state and local government workers earning between the existing minimum wage of $7.25 and the new minimum wage of $8.25.[1] In addition, workers laid off due to the minimum wage increase can collect unemployment benefits. The state government will bear the cost of unemployment benefits of these workers for the first 20 weeks. Second, state and local government may gain increased revenue through higher income tax and sales taxes paid by workers affected by the minimum wage who remain employed. However, state and local government will suffer reduced tax revenue to the extent the higher wage cost lowers profits of businesses.

The following sections estimate the cost and revenue effects to state and local government entities of the proposed minimum wage increase.

[1] Information about the minimum wage in Missouri is available at http://www.labor.mo.gov/DLS/minimumwage/.

*B. Direct Labor Cost Impact on State and Local Government Budgets*

There are two possible ways to measure the direct labor cost on state and local government budgets. First, one can use the information included in the fiscal notes prepared by the State Auditor regarding the proposed initiatives. It is important to note that the fiscal notes provide an incomplete and thus too low estimate of the direct labor cost. The fiscal notes indicate that the Office of Administration's (OA) Division of Personnel reported that as of September 2011 there were 834 state workers who would be affected by an increase of the minimum wage to $8.25 and the "approximate annual cost" would be more than $540,000.

This OA estimate excludes seasonal workers such as State Fair employees, State Parks Employees, and tax season staff. The Division of Revenue noted its labor cost would rise by $40,000. The Division of Natural Resources stated they have over 500 workers who would be affected by the increase, but did not provide an estimate of the cost. The State Fair hired 745 workers that would be affected, but no cost estimate was provided.

Thus, the cost to state government, based on the fiscal notes, would be more than $580,000.

The fiscal notes also provide an incomplete and thus too low measure of the cost to local government and public educational institutions. Many cities and educational institutions did not respond to Office of Auditor's survey or provide an estimate of the cost of the higher minimum wage. The City of Columbia, City of Jefferson, City of

Joseph, Linn State Technical College, and Metropolitan Community College did provide such an estimate. The total cost to these five institutions is $772,182.

Based on the fiscal notes, the cost to state and local government entities of the increase in the minimum wage to $8.25 will be more than $1,352,182.

Second, data from the U.S. Census Bureau's Current Population Survey (CPS) can also be used to calculate the cost of the increased labor cost to state and local government entities in Missouri. Using the data from January 2010 to December 2011 Outgoing Rotation Group (ORG) CPS, I calculated that 17,089 state and local government workers would be affected by the minimum wage increase. I defined affected workers as those individuals earning between $7.00 and $8.24 per hour. Though the minimum wage was $7.25 per hour during this period, I also included those workers reporting earnings of $7.00 to $7.24 since some individuals may round their wage rate. I calculated the annual wage cost for each state and local government worker (i) in the ORG CPS as:

$$Annual\ Wage\ Cost_i = (\$8.25 - current\ wage_i) * weekly\ hours_i * 52.$$[2]

The average annual wage cost increase was $870. I summed the cost over each worker (i) to obtain the total wage cost to state and local government entities in Missouri of $14,866,430.

The increased wage cost is not the only labor cost to state and local government entities of the minimum wage increase. Employers are required to pay 7.65% of their wage costs in Social Security and Medicare taxes. Thus, the total labor cost of the minimum wage increase will be 1.0765 times $14,866,430 or $16,003,712.

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[2] I assume that persons reporting an hourly wage rate between $7.00 and $7.24 are actually earning $7.25 per hour.

*C. Unemployment Benefit Impact*

The higher minimum wage will cause firms to reduce their level of employment.[3] As a result, the number of unemployed workers will increase. Thus, another important fiscal cost of the minimum wage increase is the cost of the unemployment insurance benefits for the workers laid off as a result of the minimum wage increase.

To calculate the cost to the unemployment benefits program, I first calculated the number of workers laid off. To do so, I calculated a probability of job loss for each affected Missouri worker (i) in the January 2010 to December 2011 ORG CPS:

$$Probability\ Job\ Loss_{\ i} = \frac{(\$8.25 - Current\ Wage_i)}{Current\ Wage_i} * elasticity_i.$$

I used the preferred employment elasticity (i.e., sensitivity of employment to wage changes) contained in Sabia and Burkhauser (2010), which was -0.6 for individuals aged 16 to 29 without a high school degree and -0.2 for all other individuals. The sole exception was for state and local government workers, where I assumed an elasticity of zero.[4] The sum across all affected workers yielded an estimated job loss of 5,745 jobs.

The next step was to calculate the weekly benefit for the average unemployed worker. Using the benefits calculator on the Missouri unemployment benefits web site and the wage income of average private-sector affected worker ($10,937), yields an average weekly benefit of $109.36[5]. The state of Missouri pays the first 20 weeks of benefits.[6] Thus, each eligible unemployed worker could receive a total of $2,187.20 in

[3] For a survey of research regarding the effect of the minimum wage on employment, see David Neumark and William L. Wascher, *Minimum Wages* (Cambridge, MA: MIT Press, 2008).
[4] Joseph J. Sabia and Richard V. Burkhauser, "Minimum Wages and Poverty: Will a $9.50 Federal Minimum Wage Really Help the Working Poor?" *Southern Economic Journal* (January 2010): 592-623.
[5] http://www.labor.mo.gov/DES/Claims/calculator.asp
[6] See http://www.labor.mo.gov/DES/Claims/

benefits paid for by the state of Missouri. These jobs are permanently eliminated and so it is appropriate to calculate the full amount of benefits for each worker.

Unemployment insurance, however, does not cover all unemployed workers. For example, it does not cover people who leave a job voluntarily, people looking for their first job, and re-entrants who previously left the labor force voluntarily. Furthermore, some individuals don't apply for benefits even though they are eligible. I assume that 35% of the unemployed workers will receive unemployment benefits based on analysis by Wenger (2001).[7]

The last step is to calculate the total cost to the Missouri unemployment benefits program. This done by multiplying the number of jobs lost (5,745) times the average benefit amount ($2,187.20) times the percent of unemployed individuals collecting benefits (35%). This calculation yields a figure of $4,397,510. This cost would be borne only during the first year of the minimum wage increase. The inflation adjustments in the minimum wage will also yield costs to the unemployment insurance program, but it is not possible to estimate the amount.

*D. Impact on State Income Tax Revenue*

The state of Missouri will gain increased revenue through higher income tax taxes paid by workers affected by the minimum wage who remain employed. However, it will

[7] Jeffery Wenger. "Divided We Fall: Deserving Workers Slip through America's Patchwork Unemployment Insurance System." *Economic Policy Institute*, 2001. Sabia and Burkhauser (2010) make the same assumption in their calculation of the amount of unemployment benefits generated by a minimum wage increase.

suffer reduced corporate income tax revenue to the extent the higher wage cost lowers profits of businesses.

To calculate the impact on individual income tax revenue, I again used data from January 2010 to December 2011 ORG CPS. I defined affected workers as those Missouri individuals earning between $7.00 and $8.24 per hour.[8] I used the following formula to estimate the change in income tax revenue:

$$\Delta Tax\ Revenue_i = (Tax_After_i - Tax_Before_i) - Prob_Job_Loss_i * Tax_Before_i,$$

where $Tax_After_i$ is the income tax paid by worker i after the minimum wage increase. $Tax_Before_i$ is the income tax paid by worker i after the minimum wage increase, and $Prob_Job_Loss_i$ is the probability of job loss for worker i. The first term shows the change in individual income tax revenue assuming no job loss and the second term shows the loss in tax revenue due to the employment loss caused by the minimum wage increase.

The income tax calculations were based on two assumptions.[9] First, the 50% percent of affected workers who were under the age 25 who were assumed to be dependents on another person's tax return. As a result, it was assumed that the affected workers' earnings were taxable at the maximum Missouri income tax rate of 6% both and after the minimum wage increase.[10] Second, all persons age 25 and older were assumed to be paying little or no income tax after exemptions and deductions. Thus, about 50% of the earnings increase will be taxed at a rate of 6%.

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[8] I again assume that persons reporting an hourly wage rate between $7.00 and $7.24 are actually earning $7.25 per hour. The annual earnings level was calculated as the worker's wage rate times usual weekly hours worked times 52.

[9] The same assumptions are used in the State Auditor's fiscal notes for the initiatives.

[10] This assumption will overstate the revenue increase as 20% of affected workers under the age 25 are living by themselves and some of these individuals will not be a dependent on another person's tax return.

The tax calculations reveal an increase in income tax revenue increase to the state. Assuming no workers were laid off by the minimum wage increase, income tax revenue would rise by $6,043,534. However, the state will lose $1,965,446 in income tax revenue due to the lost earnings of private-sector workers no longer employed due to the minimum wage hike.[11] Thus, the net increase in individual income tax revenue is $4,078,088.

Businesses have three options to respond to the higher labor costs of a higher minimum wage. They can reduce their profits, raise prices, or lay off workers. Based on the 2010-2011 ORG CPS data, the minimum wage increase will raise private-sector labor costs by $192,620,900 if employment levels are not reduced. However, labor costs will be lowered by $55,240,790 due to the reduction in employment. Thus, labor costs will, on net, rise by $137,380,110. These increased labor costs may be either passed on to consumers through higher prices or reduced profits or more likely some combination of higher prices and reduced profits. Assuming that businesses absorbed all of the higher costs through reduced profits, the corporate income tax revenue would fall by the Missouri corporate income tax of 6.25% times the rise in labor costs of $137,380,110 * 1.0765 (to account for employer-paid Social Security and Medicare taxes) or $9,243,106.[12] Alternatively, if half of the higher labor costs were passed on to consumers, then corporate income tax revenue would fall by $4,621,553.

[11] The probability of job loss was calculated in the same manner as in the prior section.
[12] The corporate income tax for Missouri is available at: http://dor.mo.gov/business/corporate/

*E. Impact on State and Local Sales Tax Revenue*

To calculate the impact on state and local sales tax revenue the following approach was undertaken.[13] First, the total increase in worker earnings, adjusted for employment reductions, was calculated using the 2010-2011 ORG CPS. This figure was $152,246,540. Second, the increase in Missouri taxable sales was calculated as 25% of the earnings increase or $38,061,635. Third, the increase in sales tax revenue was calculated by multiplying the taxable sales change times the average state and local rate of 7.67% or $2,919,327.[14]

The higher minimum wage may decrease sales tax revenue to the extent that it reduces business profits, which will lower spending by business owners.

## VI. Summary and Conclusions

I was asked by counsel to evaluate the fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085.

The results of my analysis indicate:

(1) labor costs to state and local government entities, based on state auditor fiscal notes, will rise by more than $1,352,182. A more inclusive estimate indicates that state and local government labor costs will increase by $16,003,712;

[13] The same general approach is used in the State Auditor's fiscal notes for the initiatives.
[14] The average rate comes from http://taxfoundation.org/news/show/27023.html

(2) unemployment benefit costs will rise by $4,397,510 during the first year of the minimum wage increase;

(3) individual income tax revenue will rise by at most $4,078,088;

(4) the loss in corporate income tax revenue could be as high as $9,243,105;

(5) state and local sales tax revenue will rise by at most $2,919,327;

(6) during the first year: state and local governments will incur increased costs of $20,401,222; the change in state and local government revenue will range from -$2,245,690 to +$6,997,415; and the net state and local government fiscal impact will range from -$22,646,912 to -$13,403,807.

**FISCAL ANALYSIS**
**OF**
**PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085**

David A. Macpherson

David A. Macpherson, Ph.D.
March 26, 2012

# Appendix A

## Resume and Testimony of David A. Macpherson, Ph.D.

# DAVID A. MACPHERSON

3/2012

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Ph.D., Economics, The Pennsylvania State University.
B.S., Economics, The Pennsylvania State University.

## Current Positions

E.M. Stevens Professor of Economics, Trinity University, 2009-
Research Fellow, Institute for the Study of Labor (IZA), Bonn, 2004-.

## Previous Positions

Rod and Hope Brim Eminent Scholar in Economics, FSU 2004-2009.
Director, Pepper Institute on Aging and Public Policy, FSU, 2003-2009.
Abba P. Lerner Professor of Economics, FSU, 2000-2009.
Professor, Department of Economics, Florida State University, 1996-2009.
Director of Research, Pepper Institute on Aging and Public Policy, FSU, 1995-2000.
Associate Professor, Department of Economics, Florida State University, 1993-1996.
Research Associate, Pepper Institute on Aging and Public Policy, FSU, 1993-2001, 2003-2009.
Visiting Associate Professor, Department of Economics, Florida State University, 1992-1993.
Research Affiliate, Pepper Institute on Aging and Public Policy, FSU, 1992-1993, 2001-2003.
Associate Professor, Department of Economics, Miami University, 1991-1993.
Assistant Professor, Department of Economics, Miami University, 1987-1991.

## Research Areas

Labor Economics, Labor Market Aspects of Pensions, Labor Unions, Racial and Gender Differences in the Labor Market, Minimum Wage, Deregulation.

**Teaching Areas**

Principles of Microeconomics and Macroeconomics, Intermediate Microeconomics, Money and Banking, Econometrics (undergraduate and graduate), Labor Economics and Labor Relations (undergraduate and graduate).

**Books**

*Economics: Private and Public Choice*, 14th edition, Southwestern: Cincinnati, OH, 2013, with James Gwartney, Richard Stroup, and Russell Sobel. Co-author on 10th, 11th, 12th, and 13th editions as well.

Instructor's Manual for *Economics: Private and Public Choice*, 14th edition, Southwestern: Cincinnati, OH, 2013. Author for instructor's manual for 10th, 11th, 12th, and 13th editions as well.

*Union Membership and Earnings Data Book: Compilations from the Current Population Survey (2011 Edition)*, Bureau of National Affairs, Washington, D.C., with Barry Hirsch.

Previous Editions: *Union Membership and Earnings Data Book: Compilations from the Current Population Survey* (Washington: Bureau of National Affairs, 1994-2010).

Tables derived from the *Data Book* are included in U.S. Department of Commerce, *Statistical Abstract of the United States 2011,* 130th Edition (Washington: GPO, 2011), Tables 663, 665; *Statistical Abstract of the United States 2010,* 129th Edition (Washington: GPO, 2010), Tables 648, 650; *Statistical Abstract of the United States 2009,* 128th Edition (Washington: GPO, 2009), Tables 642, 644; *Statistical Abstract of the United States 2008,* 127th Edition (Washington: GPO, 2008), Tables 642, 644; *Statistical Abstract of the United States 2007,* 126th Edition (Washington: GPO, 2006), Tables 645, 647; *Statistical Abstract of the United States 2006*, 125th Edition (Washington: GPO, 2005), Tables 647, 649; *Statistical Abstract 2004-2005*, Tables 638, 640; *Statistical Abstract 2003*, Tables 656, 658; *Statistical Abstract 2002*, Tables 628, 630; *Statistical Abstract 2001*, Tables 637, 639; *Statistical Abstract 2000*, Tables 712, 714; *Statistical Abstract 1999*, Tables 718, 720; *Statistical Abstract 1998*, Tables 712, 714; *Statistical Abstract 1997*, Tables 688, 690; *Statistical Abstract 1996*, Tables 681, 683; *Statistical Abstract 1995*, Tables 695, 697; and in U.S. Department of Commerce, *State and Metropolitan Area Data Book, 1997-98*, 5th Edition (Washington: GPO, 1998), Table A-22.

*Contemporary Labor Economics*, 9th edition, McGraw-Hill: New York, NY, 2010, with Campbell McConnell and Stanley Brue. Co-author on 5th, 6th, 7th, and 8th editions as well.

*Pensions and Productivity*, W.E. Upjohn Institute for Employment Research: Kalamazoo, MI, 1998, with Christopher Cornwell and Stuart Dorsey.

**Journal Publications (Economics)**

"Computing Lost Profits in Business Interruption Litigation: A General Model," *Journal of Business Valuation and Economic Loss Analysis*, forthcoming, with Stanley Stephenson and Gauri Prakash-Canjels.

"Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," *Southern Economic Journal*, forthcoming, April 2012, with William Even.

"Growth of Participant Direction in Defined Contribution Plans," April 2010, pp. 190-208, *Industrial Relations*, with William Even.

"Managing Risk Caused by Pension Investments in Company Stock," *National Tax Journal*, September 2009, pp. 439-453, with William Even.

"Pension Investments in Employer Stock," *Journal of Pension Economics and Finance*, March 2008, pp. 67-93, with William Even.

"Defined Contribution Plans and the Distribution of Pension Wealth," *Industrial Relations*, July 2007, pp. 551-581, with William Even.

"Lost Profits Damages to New Businesses: Adjusting for Survival," *Journal of Business Valuation and Economic Loss Analysis*, October 2006, pp. 1-12, with Stanley Stephenson.

"Determinants and Effects of Employer Matching Contributions in 401(k) Plans," *Industrial Relations*, July 2005, pp. 525-549, with William Even.

"When Will the Gender Gap in Retirement Income Narrow?" *Southern Economic Journal*, July 2004, pp. 182-200, with William Even.

"Company Stock in Pension Funds," *National Tax Journal*, June 2004, pp. 299-313, with William Even.

"Wages, Sorting on Skill, and the Racial Composition of Jobs," *Journal of Labor Economics*, January 2004, pp.189-210, with Barry Hirsch.

"Racial and Ethnic Differences in Pension Wealth," *Research in Labor Economics*, 2003, pp. 203-226, with William Even.

"Do Terminated Employees Catch Up? Evidence From the Displaced Worker Survey," *Journal of Forensic Economics*, Spring/Summer 2003, pp. 185-199, with Michael Piette.

"Union Membership and Coverage Database from the Current Population Survey: Note," *Industrial and Labor Relations Review*, January 2003, pp. 349-354, with Barry Hirsch.

"The Wage and Employment Dynamics of Minimum Wage Workers," *Southern Economic Journal,* January 2003, pp. 676-690, with William Even.

"State-Level Estimates of Union Density, 1964 to Present," *Monthly Labor Review*, July 2001, pp. 51-55, with Barry Hirsch and Wayne Vroman (accompanying data online).

"The Changing Distribution of Pension Coverage," *Industrial Relations*, April 2000, pp. 199-227, with William Even.

"Occupational Age Structure and Access for Older Workers," *Industrial and Labor Relations Review*, April 2000, pp. 401-418, with Barry Hirsch and Melissa Hardy.

"Earnings, Rents, and Competition in the Airline Labor Market," *Journal of Labor Economics*, January 2000, pp. 125-155, with Barry Hirsch.

"Estimating Wage Differentials: When Does Cost-of-Living Matter?" *Economic Inquiry*, October 1999, pp. 577-598, with Mike DuMond and Barry Hirsch.

"Worker's Compensation Recipency in Union and Nonunion Workplaces," *Industrial and Labor Relations Review*, January 1997, pp. 213-236, with Barry Hirsch and Michael DuMond.

"Pensions and Training," *Industrial Relations*, January 1997, pp. 81-96, with Stuart Dorsey.

"The Consequences of Indexing Minimum Wages," *Contemporary Economic Policy,* October 1996, pp. 67-77, with William Even.

"Employer Size and Labor Turnover: The Role of Pensions," *Industrial and Labor Relations Review*, July 1996, pp. 707-728, with William Even.

"The Consequences of Non-FICA Status in State and Local Pensions," *Proceedings of National Tax Association Meetings*, 1996, with William Even.

"Wages and Gender Composition: Why Do Women's Jobs Pay Less?" *Journal of Labor Economics*, July 1995, pp. 426-471, with Barry Hirsch.

"Employer Size and Compensation: The Role of Worker Characteristics," *Applied Economics*, September 1994, pp. 897-907, with William Even

"Gender Differences in Pensions," *Journal of Human Resources*, Spring 1994, pp. 555-587, with William Even.

"Why Did Male Pension Coverage Decline in the 1980s?", *Industrial and Labor Relations Review*, April 1994, pp. 439-453, with William Even.

"Unionism and Gross Employment Flows," *Southern Economic Journal*, January 1994, pp. 427-438, with Timothy Dunne.

"The Decline of Private-Sector Unionism and the Gender Wage Gap," *Journal of Human Resources*, Spring 1993, pp. 279-296, with William Even.

"Union Membership and Coverage Data Available From the Current Population Surveys: Note." *Industrial and Labor Relations Review*, April 1993, pp. 574-578, with Barry Hirsch.

"Employer-Provided Retiree Health Insurance: Who is Covered?" *Economics Letters*, May 1992, pp. 95-99.

"Union Wage Differentials and the Effects of Industry and Local Union Density: Evidence from the 1980s," *Journal of Labor Research*, Fall 1991, pp. 419-427, with Michael Curme.

"The Effects of Extended Families and Marital Status on Housing Consumption by Black Female-Headed Households," *Review of Black Political Economy*, Winter/Spring 1991, pp. 65-84, with James Stewart.

"The Impact of Unionism on Fringe Benefit Coverage," *Economics Letters*, May 1991, pp. 87-91, with William Even.

"A Note on Ownership and Performance in Manufacturing Firms," *Southern Economic Journal*, April 1991, pp. 1164-1169, with Timothy Dunne.

"Union Membership and Contract Coverage in the United States, 1983-1988," *Industrial and Labor Relations Review*, October 1990, pp. 5-33, with Michael Curme and Barry Hirsch.

"The Gender Gap in Pensions and Wages," *Review of Economics and Statistics*, May 1990, pp. 259-265, with William Even.

"The Effect of International Competition on Union and Nonunion Wages," *Industrial and Labor Relations Review*, April 1990, pp. 434-446, with James Stewart.

"Plant Size and the Decline of Unionism," *Economics Letters*, April 1990, pp. 393-398, with William Even.

"Trade Unions and Labor's Share in U.S. Manufacturing Industries," *International Journal of Industrial Organization*, March 1990, pp. 143-51.

"The Labor Force Participation and Earnings Profiles of Married Female Immigrants," *Quarterly Review of Economics and Business*, Autumn 1989, pp. 57-72, with James Stewart.

"The Labor Supply and School Attendance of Black Women in Extended and Nonextended Households," *American Economic Review Papers and Proceedings*, May 1989, pp. 71-74, with James Stewart.

"Self-Employment and Married Women," *Economics Letters*, December 1988, pp. 281-284.

"Unionism and the Dispersion of Wages Among Blue-Collar Women," *Journal of Labor Research*, Fall 1987, pp. 395-405, with James Stewart.

**Journal Publications (Real Estate and Insurance)**

"The Use of Post-Loss Assessments in Catastrophic Financing," *Risk Insurance and Management Review*, forthcoming, with Patrick Maroney, Charles Nyce, Kathleen McCullough, James W. Newman Jr., and Cassandra Cole.

"A Meta Analysis of Selling Price and Time on the Market," *Journal of Housing Research,* Issue 2010, pp. 139-152, with Stacy Sirmans and Lynn MacDonald.

"A Comparison of Hurricane Loss Models," *Journal of Insurance Issues*, Spring 2010, pp. 31-53, with Kathleen McCullough and Cassandra Cole.

"A Review of the Development of Residual Market Mechanisms in Florida," *Journal of Insurance Regulation*, Summer 2009, pp. 55-80, with Patrick Maroney, Charles Nyce, Kathleen McCullough, James W. Newman Jr., and Cassandra Cole.

"The History of Property Tax Capitalization in Real Estate," *Journal of Real Estate Literature*, Issue 3 2008, pp. 327-343, with Dean Gatzlaff and Stacy Sirmans.

"Horizontal and Vertical Inequity in Real Property Taxation," *Journal of Real Estate Literature*, Issue 2 2008, pp. 167-180, with Dean Gatzlaff and Stacy Sirmans.

"The Title Insurance Industry: Examining a Decade of Growth," *Journal of Insurance Regulation*, Summer 2007, pp. 23-51, with Randy Dumm and Stacy Sirmans.

"The Value of Housing Characteristics: A Meta Analysis" *Journal of Real Estate Finance and Economics*, November 2006, pp. 215-240, with Stacy Sirmans, Lynn MacDonald, and Emily Zeitz.

"The Composition of Hedonic Pricing Models," *Journal of Real Estate Literature*, Issue 1 2005, pp. 3-43, with Stacy Sirmans.

"The State of Affordable Housing," *Journal of Real Estate Literature*, Issue 2 2003, pp. 133-155, with Stacy Sirmans.

"Affinity Programs and Real Estate Brokerage," *Journal of Real Estate Research*, November-December 2001, pp. 337-351, with Stacy Sirmans.

"Neighborhood Diversity and House Price Appreciation," *Journal of Real Estate Finance and Economics*, January 2001, pp. 81-97, with Stacy Sirmans.

"Forecasting Seniors Housing Demand in Florida," *Journal of Real Estate Portfolio Management*, 1999, pp. 259-74, with G. Stacy Sirmans.

**Publications in Books**

"Improving Pension Coverage at Small Firms," with William Even, in *Overcoming Barriers to Entrepreneurship*, ed. Diana Furchtgott-Roth, Rowman & Littlefield, 2008.

"Measuring Union and Nonunion Wage Growth: Puzzles in Search of Solutions" with Barry Hirsch and Edward Schumacher, in *Changing Role of Unions: New Forms of Representation*, Phanindra Wunnava, M.E. Sharpe, 2004.

"Living Wage Laws and the Case for a Targeted Wage Subsidy," in *Living Wage Movements: Global Perspectives*, ed. Deborah M. Figart, Routledge, 2004.

"Benefits and Worker Productivity," with William Even, in *Benefits for the Workplace of Tomorrow,* eds. Olivia S. Mitchell, David S. Blitzstein, Michael S. Gordon, and Judith F. Mazo, University of Pennsylvania Press, 2003.

"Children's Effects on Women's Labor Market Attachment and Earnings," with William Even, in *Changes in Working Time in Canada and the United States*, eds. Susan Houseman and Alice Nakamura, W.E. Upjohn Institute, 2001.

"Downsizing and Life Course Consequences of Job Loss: The Effect of Age and Gender on Employment and Income Security," with Jill Quadagno, Jennifer Reid, and Lori Parham, in *Restructuring Work and the Life Course*, eds. Victor Marshall, Walter Heinz, Helga Krueger, and Anil Verma, University of Toronto Press, 2001.

"The Effect of a Job Loss on the Employment Experience, Benefits, and Retirement Savings of Bank Officers," with Jill Quadagno and Jennifer Keene, in *Ensuring Health and Income Security for an Aging Workforce*, ed. Peter P. Budetti, W.E. Upjohn Institute, 2001.

"Earnings and Employment in Trucking: Deregulating a Naturally Competitive Industry," with Barry Hirsch, in *Regulatory Reform and Labor Markets*, ed. James Peoples, Kluwer Publishers, 1998.

"Gender-Related Differences in Pension Coverage," with William Even, in *Women and Work: A Handbook*, Garland Publishing, New York, NY, 1996.

"The Pension Coverage of Young and Mature Workers", with William Even, in *Pension Coverage Issues for the '90s*, eds. Richard Hinz, John Turner, and Phyllis Fernandez, U.S. Government Printing Office, Washington, D.C, 1994.

**Working Papers (Economics)**

"Deferred Compensation vs. Efficiency Wages: An Experimental Test of Effort Provision and
Self-Selection," with Tim Salmon and Kislaya Prasad, under review, *Journal of Business and Economic Organization*

"What Do Unions Do to Pension Performance?" with William Even, September 2011, under revision

"Teacher Salaries, State Collective Bargaining Laws, and Union Coverage" March 2011, with Barry Hirsch and John Winters.

"The Effects of the 2007-2009 Federal Minimum Wage Increases on Teen Employment," with William Even, under revision, July 2010.

"Participant Direction in Defined Contribution Plans," April 2006, with William Even, under revision.

"Do Pensions Impede Phased Retirement?" September 2004, with William Even, under revision.

**Working Papers (Real Estate and Insurance)**

"An Empirical Analysis of Socio-Demographic Factors and the Mispricing of Homeowners Insurance in Florida," under review *Journal of Financial Services Research*, with Ronald Cheung, Charles Nyce, Kathleen McCullough, and Cassandra Cole.

"The Impact of No-Fault Legislation on Automobile Insurance Premiums," revised and resubmitted to *North American Actuarial Journal*, with Cassandra Cole, Kevin Eastman, Patrick Maroney, and Kathleen McCullough.

**Funded Projects**

Employment Policies Institute, 5/2010-7/2010, $16,500 (Trinity University portion), "Employment Effects of the 2007-2009 Federal Minimum Wage Increases," with William Even.

National Science Foundation, 9/2009-8/2012, $125,866 (Trinity University portion), "Incentives in the Workplace: An Experimental Examination of How Wage Differences Across Time and Among Peers Affect Productivity and Self-Selection," with Tim Salmon, Kislaya Prasad, and Hyejin Ku.

Florida Legislature, 10/2007-6/2009, $175,000, "Child Support Guidelines," with Stefan Norrbin and Thomas McCaleb.

Florida Legislature (through University of Florida), 12/2006-9/2007, $223,000, "Analysis of Save our Homes Amendment," with Dean Gatzlaff.

U.S. Administration on Aging (through University of South Florida), 5/2005-9/2007, $175,000, "Employment in the Long-Term Care Industry: The Importance of Recruitment and Retention," with William Even.

Florida Legislature, 2/2003-8/2004, $175,000, "Child Support Guidelines," with Stefan Norrbin and Thomas McCaleb.

Florida Department of Environmental Protection, 6/2002-2/2003, $94,157, "Affordability Index," with Stefan Norrbin and William Serow.

University of South Carolina, 4/2000-11/2000, $10,000, "Minority Homeownership in South Carolina," with Stacy Sirmans.

Florida Department of Business and Professional Regulation, 3/1999-6/1999, $21,739, "Forecasting Housing Demand in Florida," with Stacy Sirmans.

University of South Carolina, 4/1999-11/1999, $10,000, "Forecasting Housing Demand in South Carolina," with Stacy Sirmans.

Florida State University, 6/1999-8/1999, $7,500, "Support for Preparing ECO 2000 as a Web-Based Course."

TIAA-CREF, 8/1998-8/1999, $23,000, "Determinants of Savings in Supplemental Pension Plans: A Case Study of Pension Choices in Higher Education," with Melissa Hardy and Larry Hazelrigg.

Florida Department of Business and Professional Regulation, 4/1998-6/1998, $16,638, "Forecasting Seniors' Demand for Housing in Florida," with Stacy Sirmans.

Florida Department of Business and Professional Regulation, 12/1997-6/1998, $18,472, "Housing Price Appreciation in Orlando and Tampa," with Stacy Sirmans.

Florida State University, 6/1998-8/1998, $7,500, "Support for Preparing ECO 2000 as a Web-Assisted Course."

Florida Department of Business and Professional Regulation, 3/1997-6/1997, $17,898, "Minority Homeownership in Florida," with Stacy Sirmans.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 12/1996-8/1997, $20,000, "The Impact of Rising 401(k) Pension Coverage on Retirement Income," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 3/1996-6/1997, $15,000, "The Determinants of 401(k) Participation and Contribution Levels," with William Even.

Florida Department of Business and Professional Regulation, 4/1996-6/1996, $22,702, "Forecasting the Number of New Florida Real Estate Licensees," with Stacy Sirmans.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 3/1995-6/1996, $15,000, "Explaining the Decline in Pension Coverage of Less Educated Workers," with William Even.

Florida State University COFRS Grant, 6/1994-8/1994, $8,000, "The Relative Compensation and Quality of Public and Private Sector Workers."

W.E. Upjohn Institute for Employment Research, 3/1994-12/1995, $35,000, "Pensions and Productivity," with Stuart Dorsey and Christopher Cornwell.

Florida Division of Workers' Compensation, 1/94-12/1995, $100,000, "Worker's Compensation Recipency in Union and Nonunion Workplaces," part of a service contract titled "Research Partnership with the Division of Workers' Compensation," co-investigator (one of several).

University of Wisconsin Institute for Research on Poverty Small Grant Program, 7/1993-6/1994, $15,000, "Racial Composition, Wages, and Quality Sorting," with Barry Hirsch.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 7/1993-6/1993, $10,000, "Trends in Individual and Family Pension Coverage," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 6/1992-5/1993, $10,000, "The Pension Coverage of Young and Mature Workers," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration and American Society of Pension Actuaries, 6/1991-5/1992, $10,000, "A Conference on Current Pension Policy Issues," with William Even.

Miami University Faculty Research Grant, 6/1991-8/1991, $4,000, "Projected Growth in Retiree Health Insurance Liabilities."

Ohio Board of Regents Research Challenge Grant, 1/1990-12/1990, $4,980, "Proposal to Enhance the Data Library of the Center of Pension and Retirement Research," with William Even and Samuel Williamson.

Miami University Faculty Research Grant, 6/1990-8/1990, $4,000, "The Role of Firm Size in Pension Coverage and Options."

Miami University Faculty Research Grant, 6/1989-8/1989, $4,000, "Declining Unionism and the Gender Wage Gap," with William Even.

**Participation in National Meetings**

Panel Discussant, American Real Estate and Urban Economics Association/ASSA meetings, January 2008.

Presented, "Employee Turnover in the Long-Term Care Industry," at Academy Health Annual Research Meetings, June 2007.

Presented, "Participant Direction in Defined Contribution Pension Plans," at International Atlantic Economic Society meetings, October 2006.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at International Atlantic Economic Society meetings, October 2005.

Presented, "Replacing Earnings After Termination: Evidence from the Displaced Worker Survey," at the Allied Social Science Association/National Association of Forensic Economics, January 2002.

Presented, "Labor Market Transitions of Older Workers," at the Allied Social Science Association/Society of Government Economists meetings, January 1999.

Presented, "Why has the Loss in Pension Coverage Accelerated Among Less Educated Workers?" at the American Economic Association Meetings, 1995.

Presented, "Wages and Gender Composition: Why Do Women's Jobs Pay Less?" at the American Economic Association Meetings, 1994, with Barry Hirsch.

Presented, "Pensions, Labor Turnover, and Employer Size" at the American Economic Association Meetings, 1993, with William Even.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the American Economic Association meetings, 1992, with William Even.

**Participation in Regional Meetings**

Presented "Unions and Pension Performance: The Role of Pension Design," at Southern Economics Association meetings, November 2009.

Panel member, "Recent Federal Reserve Policy: An Evaluation" at Southern Economics Association meetings, November 2009.

Discussant, "Topics in Health Economics," at Southern Economics Association meetings, November 2009.

Discussant, "Teacher Pay, Principals, and Schooling," at Southern Economics Association meetings, November 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Western Economic Association meetings, July 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Eastern Economic Association meetings, February 2009.

Panel Discussant at the Southern Economic Association meetings, November 2008.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Southern Economic Association meetings, November 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Western Economic Association meetings, July 2008.

Chair "Pensions and Retirement" Session at Southern Economic Association meetings, November 2007.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Southern Economic Association meetings, November 2007.

Presented, "Participant Direction in Defined Contribution Pension Plans," at Southern Economic Association meetings, November 2006.

Panel Discussant, Southern Economic Association meetings, November 2005.

Presented, "Do Pensions Impede Phased Retirement?" at the Southern Economic Association meetings, November 2004.

Presented, "When Will the Gender Gap in Retirement Income Narrow?" at the Southern Economic Association meetings, November 2003.

Presented, "How Will the Growth of DC and 401(k) Plans Affect Pension Income?" at the Southern Economic Association meetings, November 2002.

Presented, "Racial Composition, Wages, and Quality Sorting," at the Southern Economic Association meetings, November 1999.

Presented, "Racial and Ethnic Differences in Pension Coverage and Benefit Levels," at the Southern Economic Association meetings, November 1998.

Presented, "Factors Influencing Participation and Contribution Levels in 401(k) Plans," at the Western Economics Association meetings, July 1998.

Presented, "Aging at Work: Employment Determination, Firm Strategies, and Public Policy in the United States," at the Western Economic Association meetings, July 1994.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Western Economic Association meetings, July 1992.

Presented "Plant Size and the Decline of Unionism," at the Southern Economic Association meetings, 1989, with William Even.

Panel Discussant, Southern Economic Association meetings, November 1989.

Presented "The Labor Force Participation and Earnings Profiles of Married Female Immigrants," at the Southern Economic Association meetings, November 1988.

Presented "Pensions, Screening, and the Gender Wage Gap," at the Southern Economic Association meetings, November 1988.

Session Chair and Panel Discussant at the Southern Economic Association meetings, November 1988.

**Participation in Invited Seminars, Conferences, and other Presentations**

Presented, "Teaching Macroeconomics During Troubled Times," at Creative Ideas for Your Basic Economics Course Conference at Florida State University, February 2012.

Presented, "Participant Direction in Defined Contribution Pension Plans," at Pennsylvania State University, April 2010.

Presented, "The Parallels Between the Japanese Economic Crisis of the 1990s and the US Today" at Creative Ideas for Your Basic Economics Course Conference at Florida State University, February 2010.

Chair "Minimum Wage & EITC" Session at Society of Labor Economists meetings, May 2009.

Presented "Participant Direction in Defined Contribution Plans," at Lehigh University, April 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Association of Private Enterprise Education meetings, April 2009.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Trinity University, October 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Georgia State University, April 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Association of Private Enterprise Education meetings, April 2008.
Presented, "Improving Pension Coverage at Small Firms," at Hudson Institute, May 2006.

Presented, "Participant Direction in Defined Contribution Plans," at Society of Labor Economics meetings, May 2006.

Presented, "Participant Direction in Defined Contribution Plans," at Association of Private Enterprise Education meetings, April 2006.

Presented, "Participant Direction in Defined Contribution Plans," at University of Wisconsin-Milwaukee, April 2006.

Invited Panel Participant for Pepper Foundation and Center Symposium on pension reform, Washington, DC, February 2006.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at West Virginia University, April 2005.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at the University of Kentucky, November 2004.

Presented, "The Causes and Consequences of Company Stock Holdings in Pension Funds," at the Federal Reserve Bank of Atlanta, April 2004.

Presented, "The Causes and Consequences of Company Stock Holdings in Pension Funds," at the University of Oklahoma, February 2004.

Presented, "Tracking Union and Nonunion Wages in the U.S.: Can the Evidence be Reconciled?" at the Middlebury Annual Conference on Economic Issues, April 2002.

Presented, "How Will the Growth of DC and 401(k) Plans Affect Pension Income?" at the Miami University Center for Pension and Retirement Research Conference, June 2001.

Presented, "Benefits and Worker Productivity," Benefits for the Workplace of Tomorrow Conference, Wharton School, University of Pennsylvania, May 2001.

Participant, Innovations in Managing the Financial Risks of Retirement Conference, Wharton School, University of Pennsylvania, May 2000.

Presented "Using Hi-Tech in Large Lectures," at Association of Private Enterprise Education meetings, April 2000.

Presented "Employee Participation in 401(k) Plans," at University of Wisconsin-Milwaukee, October 1999.

Presented "Gender, Race, and Ethnicity in the Labor Market," as part of the Smith Chair course in Labor Economics at Brigham Young University, September 1999.

Presented, "The Decline in Pension Coverage Among Less Educated Workers," at the Florida State University Economics Department Seminar Series, 1996.

Presented, "Children's Effects on Women's Labor Market Attachment and Earnings" at the Conference on the Changes in Working Time in Canada and the United States, Canadian Employment Research Forum, 1996.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" at the Ohio State University Economics Department Seminar Series, 1996.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" at the Florida State University Economics Department Seminar Series, 1995.

Presented, "Employer Size and Labor Turnover: The Role of Pensions," at Syracuse University, 1995.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" while visiting scholar at the Federal Reserve Bank of Cleveland, 1995.

Presented, "Trends in Individual and Household Pension Coverage," at the Miami University Center for Pension and Retirement Research Conference, 1994.

Presented, "Racial Composition, Quality Sorting, and the Black-White Wage Gap" at the University of Wisconsin, Institute for Research on Poverty, Small Grants Workshop, 1993, with Barry Hirsch.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Florida State University Economics Department Seminar Series, 1992.

Participant at National Bureau of Economic Research (NBER) Labor Studies meetings of the Summer Institute, 1992.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Miami University Conference on Current Pension Policy Issues, 1992.

Organizer and participant at conference on "Contemporary Issues in Pension Economics," hosted by the Center for Pension and Retirement Research, Miami University, 1990.

Presented "The Effect of International Competition on Union and Nonunion Wages," at the University of Cincinnati Seminar Series, 1987.

**Refereeing**

*Bulletin of Economic Research, Canadian Journal of Economics, Contemporary Economic Policy, Eastern Economics Journal, Economic Development and Cultural Change, Economic Inquiry, Industrial Relations, Industrial and Labor Relations Review, International Economic Review, Journal of Economics and Business, Journal of Human Resources, Journal of Labor Economics, Journal of Labor Research, Journal of Pension Economics and Finance, Labour Economics, Mid-American Journal of Business, Policy Studies Review, Quarterly Journal of Economics, Quarterly Review of Economics and Finance, Real Estate Economics,* Review *of Economics and Statistics, Social Science Quarterly, Southern Economic Journal*

Outside reviewer for Department of Economics, UNC-Greensboro, Georgia State University.

Promotion and tenure letters for candidates at Georgia State University, Kansas State University, Monmouth University, Ohio State University, University of Massachusetts, University of Southern California, and University of Wisconsin-Milwaukee.

**Honors and Awards**

Awarded sabbatical, Trinity, Fall 2011.

Nominated for FSU Award for Excellence in Undergraduate Teaching, Spring 2005.

Named Rod and Hope Brim Eminent Scholar in Economics, FSU, Fall 2004.

Research Fellow, Institute for the Study of Labor (IZA), Bonn, 2004-.

*Who's Who in Economics, Fourth Edition*, Mark Blaug and Howard Vane (eds), Edward Elgar Publishing, 2003, pp. 524 (selection criteria: one of the 1,200 most frequently cited economists in the years 1990-2000 using the Social Science Citation Index).

Awarded Abba Lerner named professorship, FSU, Spring 2000.

Awarded sabbatical, FSU, Spring 2000.

Received FSU Award for Excellence in Undergraduate Teaching, Spring 2000.

Received FSU Teaching Incentive Program Award, Fall 1995.

Nominated for FSU Award for Excellence in Undergraduate Teaching, Spring 1994.

Nominated for Outstanding Teaching Award, Associated Student Government, Miami University,1992.
Selected by the Miami University Sisters of Delta Gamma for a "Favorite Professor Award" in Fall 1990.

Honorary Member of Golden Key National Honor Society, Fall 1989.

Selected by the Sisters of Delta Gamma as "One of the twenty five most outstanding faculty members at Miami University" in Fall 1988.

**Service**

Vice President, Southern Economic Association, 2011-

Trinity University

Dick and Peggy Prassel Professor of Business Administration Search Committee, 2011
Faculty and Staff Compensation Committee, 2010-2011
Student Retention Committee, 2010

Florida State University

University and College Committees:

Member, GPC subcommittee for Marketing, Spring 2008.
Member, Graduate Policy Committee, Fall 2007-.
Chair, GPC subcommittee for Political Science, Fall 2006.
Member, Title IV Admissions Attendance Committee, Fall 2003-Spring 2004.
Member, College of Social Sciences Executive Committee, Fall 2003-.
Member, Ad Hoc Committee on COSS Technology, Spring 2003.
Member, Computing and Information Resource Committee, Fall 1999-.
Member, Academic and Policy Affairs Committee, Fall 1996-Spring 1998.

Economics Department Committees:

Member, Ad Hoc Committee on Economics 2000 Level Courses, Spring 1999.
Member, Undergraduate Economics Committee, Fall 1998-
Member, Economics Department Executive Committee, Fall 1994-Spring 1995, Fall 1996-Spring 1999, Fall 2000-.
Economics Department Library Representative, Fall 1993-.
Micro/Macroeconomics Seminar Coordinator, Fall 1993-Spring 1995, Fall 1998-Fall 1999, Fall 2001, Fall 2006-.

Comprehensive Examination Committees:

Member, Masters Comprehensive Exam Committee, Spring 1994.
Member, Ph.D. Labor Field Exam Committee, Fall 1992, Spring 1994, Fall 1994, Fall 1995, Fall 1996, Spring 1997, Spring 1998.
Chair, Masters Comprehensive Exam Committee, Fall 1994, Spring 1998.
Chair, Ph.D. Labor Field Exam Committee, Spring 1993-Fall 1993, Spring 1995, Spring 1996, Spring 2000, Spring 2001, Fall 2001.

Miami University

Computing Task Force, Department of Economics, 1991-92.
Recruiting Committee, Department of Economics, 1990-92.
Economics Club Advisor, 1988-1991.
Research Associate, Center for Pension and Retirement Research, 1988-92.
Delta Sigma Pi Chapter Advisor, 1988-89.
Student Finance Committee, Student Affairs Council, 1988-89.
Omicron Delta Epsilon Advisor, 1987-88.

**Theses, Extended Papers, and Dissertations**

Undergraduate Honors Thesis:

Chair, Leela Hebbar, 1995

Member, Nicole Cubies, 2006
Member, John Stutts, 2006
Member, Todd Crannell, 2000
Member, Mark Plotnick, 2000
Member, Bobby Pittman, 1998

MS Thesis and Extended Paper:

Chair, Maria Arce-Trigatti, 2009
Chair, George Holescko, 2000
Chair, J. Michael DuMond, 1994

Member, Shael Wolfson, 2000

Member, Lehr Eliason, 2000
Member, Steve Muri, 2000
Member, Ken Meier, 1998
Member, Tarteshia Williams, 1995
Member, Richard Page, 1994

PhD Dissertation:

Chair, James Farrell, 2009
Chair, Mark Keightley, 2008
Chair, Ali Al-Malki, 2007
Chair, Carter Doyle, 2005
Chair, Edward Wolpert, 1998
Chair, J. Michael DuMond, 1997

Member, Bogdan Daraban, 2007
Member, Russell Engel, 2007
Member, Li Feng, 2006
Member, Chuck Skipton, 2003
Member, Nicole Yurgin, 2003
Member, Jennifer Troyer, 1999
Member, Josefina Tranfa, 1999
Member, Shaliesh Bandarhi, 1998
Member, James Freeman, 1998
Member, Brian Nottage, 1998
Member, Ben Shippen, 1995
Member, Ed Schumacher, 1994

Outside Member, Stephanie Burge, Sociology, 2006
Outside Member, Reg Albritton, Special Education, 2005
Outside Member, Kim Shuey, Sociology, 2001
Outside Member, Andrea Willson, Sociology, 2001
Outside Member, Phyllis Keys, Finance, 1998

# David A. Macpherson

Depositions and Trial Testimony: 2008 to 2012

1. Angela Speed and Adrian Speed vs. Hertz Corporation
   Atty: Dawn Pompey Whitehurst; Brevard County, Florida; gave deposition; wrongful injury; 2008; Case No: 05-2005-CA-065447

2. Patricia Morrison vs. Anthony Mork and Microspine Surgery
   Atty: Steven Andrews; Walton County, Florida; testified at trial; wrongful injury; 2008; Case No: 06000249CA.

3. James Tomaselli vs. State of Florida, Department of Corrections
   Atty: Gordon Leech; Martin County, Florida; gave deposition; wrongful termination; 2008; Case No: 01-554-CA.

4. Russell Martin, et al. v. City of Atlanta, et al.
   Atty: Andrew Coffman; U.S. District Court, Northern District of Georgia, Atlanta 5Division; gave deposition; racial discrimination; 2008; Case CA File No: 1:07-cv-00326-BBM

5. McCabe, et al. v. Harmon Fruit, et al.
   Atty: Larry Perry; Polk County, Florida; gave deposition; wrongful death; 2008; Case 53-2005-CA-003612-0000-00

6. Thomas Faulkner v. Michael Chertoff and Department of Homeland Security
   Atty: John Davis; U.S. District Court; Northern District of Florida; gave deposition; wrongful termination; 2009; Case 4:08CV341-SPM/WCS

7. Matthew Debord and Tabitha Debord vs. G & S Material Service et al.
   Atty: Hubert Brown; U.S. District Court; Northern District of Florida; gave deposition; wrongful injury; 2009; Case 3:07cv365-LAC/MD

8. Jessica Loveday vs. USA
   Atty: Anthony Caggiano; U.S. District Court; Northern District of Florida; gave deposition; wrongful injury; 2009; Case 1:08cv205/SPM

9. Julia Keyes vs. AIG
   Atty: Larry Perry; Jackson County, Florida; gave deposition; wrongful injury; 2009; Case 08706CA

10. Estate of Linda DePuy vs. Broeseker et al.
    Atty: Steve Andrews; Leon County, Florida; gave deposition; wrongful death; 2009; Case 2007 CA 2509

11. Oliver and Sollman vs. VSoft Inc.
    Atty: Larry Pankey; U.S. District Court, Northern District of Georgia, Atlanta Division; gave deposition; age discrimination; 2009; Case CA File No: 1:09-CV-0185

12. Yolanda Young vs. Covington and Burling, LLP
    Atty: Latif Damon; U.S. District Court for the District of Columbia; gave deposition; racial discrimination; 2009; Case CA File No: 1:09-CV-0464 RBW

13. Deborah Suboh vs. Mark Bergeson et al.
    Atty: Stephanie Wright and Charlotte Perrell; Georgia, Dekalb County; Case 07A77585-5, gave deposition; legal malpractice; 2010.

14. Rolando Simmons vs. Davis and Peterson
    Atty: Hubert Brown; Florida, Calhoun County; Case 2008-0150-CA, gave deposition and testified at trial; medical malpractice; 2010.

15. Lorie J. Marshall, et al. vs. H & R Block Tax Services, Inc.
    Atty: Allan Steyer; U.S, U.S. District Court
    Southern District of Illinois; Case No. 3:08-CV591-MJR; gave deposition; consumer damages; 2010.

16. Daren Davis vs. Joseph Austin and Terry Roberts Work Site
    Atty: Anthony Caggiano; Florida, Osceola County; gave deposition; wrongful injury; 2010; Case 2006 CA 002997 AN

17. David Darrow vs. Adventist Health Systems/Sunbelt Inc.
    Atty: Anthony Caggiano; Florida, Orange County; gave deposition; wrongful injury; 2010; Case 48-2009-CA-004897-0

18. Samuel Gonzalez vs. Gurdev Singh Nijjar et al.
    Atty: Ramon Rodriguez; Texas, El Paso County; gave deposition; wrongful injury; 2010; Case 2007-011

19. John Davis vs. Devereux Foundation.
    Atty: Thomas Brown; Florida, Brevard County; gave deposition; wrongful injury; 2010; Case 99-15992-CA-F

20. Al Kowalski vs. et al. YellowPages.Com, LLC
    Atty: Peter Pearlman; U.S. District Court Southern District of New York; Case No. 10-7318 (PGG); gave deposition; consumer damages; 2011.

21. Christina Glover and Jason Glover vs. Publix Super Markets
    Atty: Phelicia Steill; Florida, Leon; Case No. 08 CA 2695; gave deposition; wrongful injury; 2011.

22. Lissette Cartagena and William Cartagena vs. Bracero et al.
    Atty: Thomas Brown; Florida, Orange County; Case No. 07-CA-2645 DIV 34; gave deposition and testified at trial; wrongful injury; 2011.

23. Lillie Conyers and James Conyers vs. Werner Enterprises et al.
    Atty: Thomas Brown; Florida, Jackson County; Case No. 09-1174-CA; gave deposition; wrongful injury; 2011.

24. Shannon McCants vs. Wackenhut Corporation
    Atty: Dawn Pompey Whitehurst; Duval County, Florida; gave deposition and testified at trial; wrongful death; 2011; Case No: 16-2008-CA-014834

25. Christina Whipple versus R.E.S.A, Inc.
    Atty: Susan Haney; Bexar County, Texas; gave deposition; business damages; 2011; Case No.: 2009-CI-17074

26. Daniel Plouffe, et al. versus General Motors, LLC
    Atty: Michael Pitt; Wayne County, Michigan; gave deposition; age discrimination; 2012; Case No.: Case No. 11-007645-CL

27. Johnny Cash versus State Farm
    Atty: Steven Andrews; Leon County, Florida; testified at trial; wrongful injury; 2012; Case No.: Case No. 10-CA-2429

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Higher Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College**.

**Fiscal Note Summary**

Increased state and local government expenses resulting from this proposal could exceed $140 million annually if funding is appropriated. State and local government tax revenue could increase by an estimated $249 million annually; however, employment decisions made by businesses could impact this estimate.

16-070

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

July 22, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Lara Granich regarding a proposed statutory amendment to Chapter 290, version 8 (2016-070)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Lara Granich on July 21, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

RECEIVED
JUL 22 2015
STATE AUDITORS OFFICE

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-070

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
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| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____

(Name of payer) Signature of Affiant (Person obtaining signatures)

_____

Printed Name of Affiant

_____

Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____

Signature of Notary

_____

My commission expires _____. Address of Notary (Street, City, State & Zip Code)

16-070

# Statutory Amendment to Chapter 290, RSMo, Relating to the Minimum Wage, Version 8

*Be it enacted by the people of the State of Missouri:*

Sections 290.502, 290.512, and 290.527 are amended and a new section to be known as section 290.529 is enacted to read as follows:

§ 290.502. Minimum wage rate -- increase or decrease, when

1. Except as may be otherwise provided pursuant to sections 290.500 to 290.530, effective January 1, 2007, every employer shall pay to each employee wages at the rate of $ 6.50 per hour, or wages at the same rate or rates set under the provisions of federal law as the prevailing federal minimum wage applicable to those covered jobs in interstate commerce, whichever rate per hour is higher.

2. The minimum wage shall be increased or decreased on January 1, 2008, and on January 1 of successive years, by the increase or decrease in the cost of living. On September 30, 2007, and on each September 30 of each successive year, the director shall measure the increase or decrease in the cost of living by the percentage increase or decrease as of the preceding July over the level as of July of the immediately preceding year of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) or successor index as published by the U.S. Department of Labor or its successor agency, with the amount of the minimum wage increase or decrease rounded to the nearest five cents.

3. Except as may be otherwise provided pursuant to sections 290.500 to 290.530, notwithstanding subsection 1 of this section, effective January 1, 2017, every employer shall pay to each employee wages at the rate of $9.00 per hour, and effective January 1, 2018 at the rate of $10.00 per hour, and effective January 1, 2019 at the rate of $11.00 per hour, and effective January 1, 2020 at the rate of $12.00 per hour, and effective January 1, 2021 at the rate of $13.00 per hour, or wages at the same rate or rates set under the provisions of federal law as the prevailing federal minimum wage applicable to those covered jobs in interstate commerce, whichever rate per hour is higher. Thereafter, the minimum wage rate shall be increased or decreased on January 1, 2022, and on January 1 of successive years, per the method set forth in subsection 2 of this section; but, if the federal minimum wage rate is above or is thereafter increased above the minimum wage rate then in effect under this subsection, the higher federal rate shall become the minimum wage rate for as long as it remains higher and shall be increased or decreased per the method set forth in subsection 2.

4. Every employer that is a public body shall pay to its employees wages at the rates established by subsection 3 of this section only provided there are appropriations for wages at those rates. If appropriations are not provided, the public body shall continue to be subject to the requirements of subsections 1 and 2 of this section. As used in this subsection, a public body means the state of Missouri, or any officer, agency, department, bureau, or division, board or commission of the state, or any municipality, county, township, authority, district, or any other political subdivision of or within the state.

**§ 290.512. Gratuities, goods or services as part of wages, effect on minimum wage requirement**

1. No employer of any employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages in excess of fifty percent of the minimum wage rate specified in sections 290.500 to 290.530, however, total compensation for such employee shall total at least the minimum wage specified in sections 290.500 to 290.530, the difference being made up by the employer.

2. Notwithstanding subsection 1 of this section, effective January 1, 2017, no employer of any employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages in excess of sixty percent of the minimum wage rate specified in sections 290.500 to 290.530, and effective January 1, 2018 in excess of eighty percent of the minimum wage rate specified in sections 290.500 to 290.530, however, total compensation for such employee shall total at least the minimum wage specified in sections 290.500 to 290.530, the difference being made up by the employer. Effective January 1, 2019, all employers of employees who receive and retain compensation in the form of gratuities will be required to pay the full minimum wage specified in sections 290.500 to 290.530.

3. A public body that is the employer of an employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages at the rates established by subsection 2 of this section only provided there are appropriations for wages at those rates. If appropriations are not provided, the public body shall continue to be subject to the requirements of subsection 1 of this section. As used in this subsection, a public body is defined as in subsection 4 of section 290.502.

[2.] 4. If an employee receives and retains compensation in the form of goods or services as an incident of his employment and if he is not required to exercise any discretion in order to receive the goods or services, the employer is required to pay only the difference between the fair market value of the goods and services and the minimum wage otherwise required to be paid by sections 290.500 to 290.530. The fair market value of the goods and services shall be computed on a weekly basis. The director shall provide by regulation a method of valuing the goods and services received by any employee in lieu of the wages otherwise required to be paid under the provisions of sections 290.500 to 290.530. He shall also provide by regulation a method of determining those types of goods and services that are an incident of employment the receipt of which does not require any discretion on the part of the employee.

**§ 290.527. Action for underpayment of wages, employee may bring--limitation**

Any employer who pays any employee less wages than the wages to which the employee is entitled under or by virtue of sections 290.500 to 290.530 shall be liable to the employee affected for the full amount of the wage rate and an additional [equal] amount equal to twice the unpaid wages as liquidated damages, less any amount actually paid to the employee by the employer and for costs and such reasonable attorney fees as may be allowed by the court or jury. The employee may bring any legal action necessary to collect the claim. Any agreement between the employee and the employer to work for less than the wage rate shall be no defense to the action. All actions for the collection of any deficiency in wages shall be commenced within [two] three years of the accrual of the cause of action.

§ 290.529. Severability

All the provisions of sections 290.500 to 290.530 are severable. If any provision, including any section, subsection, subdivision, paragraph, sentence, or clause, of sections 290.500 to 290.530, or the application thereof to any person or circumstance, is found by a court of competent jurisdiction to be invalid, unconstitutional, or unconstitutionally enacted, such decision shall not affect other provisions or applications of sections 290.500 to 290.530 that can be given effect without the invalid, unconstitutional, or unconstitutionally enacted provision or application.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-070)**

## Subject

Initiative petition from Lara Granich regarding a proposed amendment to Chapter 290 of the Revised Statutes of Missouri. (Received July 22, 2015)

## Date

August 11, 2015

## Description

This proposal would amend Chapter 290 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Lara Granich** provided information as a proponent of the proposal to the State Auditor's office.

**Edward D. Greim** provided information as an opponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated Section 290.502.3 (for each initiative petition) would require the department to increase wages for several employees each year assuming the money is appropriated for the increase. For each hourly increase proposed, they prepared the estimated increased expenditures on wages per year over the current wages expenditures.

Cost to increase:

- $9.00/hr = $915.20/yr
- $10.00/hr = $1,955.20/yr
- $11.00/hr = $3,995.20/yr
- $12.00/hr = $14,238.61/yr
- $13.00/hr = $39,318.02/yr

They calculated these increased costs by assuming full-time workers work an average of 2087 hours/year. They assumed part-time workers work an average of 20 hours/week for an average of 1040 hours/year.

Officials from the **Department of Elementary and Secondary Education** indicated the total estimated costs for all state funds will be $0 for FY (fiscal year) 2017, $7,078 for FY 2018, $87,363 for FY 2019, $347,819 for FY 2020, $790,578 for FY 2021, and $523,044 for FY 2022.

Officials from the **Department of Health and Senior Services** (DHSS) indicated the total estimated net cost for all state funds will be $5,658,266 for FY 2017, $24,757,841 for FY 2018, $53,680,575 for FY 2019, $87,815,607 for FY 2020, and $127,886,685 for FY 2021.

DHSS defers to the Office of Administration regarding the statewide fiscal impact of this proposed legislation relating to state employee wages.

Small Medicaid Home and Community Based Services (HCBS) vendors and providers would be required to ensure attendants are paid a minimum of $9.00 per hour for calendar year 2017, $10.00 per hour for calendar year 2018, $11.00 per hour for calendar year 2019, $12.00 per hour for calendar year 2020, and $13.00 per hour for calendar year 2021.

DHSS assumes HCBS providers and vendors would request an increase in the reimbursement rate to offset the higher minimum wage rate.

- The average growth in units of service per year from Fiscal Year 2012 to Fiscal Year 2014 is 9.39 percent. (Units are included from Agency Model Personal Care,

Residential Care Facility Personal Care, Consumer Directed Services Personal Care, Adult Day Care, Independent Living Waiver Personal Care, Advanced Personal Care Agency Model, Advanced Personal Care Residential Care Facility, Basic In-Home Respite, Advanced Respite, Healthy Children and Youth Waiver Personal Care, Healthy Children and Youth Program Advanced Personal Care, AIDS Waiver Personal Care, and Medically Fragile Adult Waiver Attendant Care .) Fiscal Year 2014 actual units of service (168,363,392) were multiplied times the 9.39 percent average growth rate, which yields an estimated 220,371,779 units of service for Fiscal Year 2017; 241,060,146 for Fiscal Year 2018; 263,690,724 units for Fiscal Year 2019; 288,445,846 units for Fiscal Year 2020; and 315,524,964 units for FY 2021.

- Actual wage data for the individuals involved in delivery of units of service is not available, but DHSS has been advised that the current average wage for personal care attendants is $8.50 + $0.89 in taxes (taxes at 10.45 percent) equals $9.39 per hour, or $2.35 per 15 minute unit.
- The analysis determines the difference between the proposed unit rate for wages and taxes versus the current average wage rate for wages and taxes.
- Services would be reimbursed at the Federal Medical Assistance Percentage (FMAP) rate. For this estimate, DHSS is using FY 2016 blended rate of 36.68 percent General Revenue and 63.32 percent Federal.
- The implementation date is 1/1/2017 for $9.00 per hour for calendar year 2017; one-half of Fiscal Year 2017.
- The implementation date is 1/1/2018 for $10.00 per hour for calendar year 2018.
- The implementation date is 1/1/2019 for $11.00 per hour for calendar year 2019.
- The implementation date is 1/1/2020 for $12.00 per hour for calendar year 2020.
- The implementation date is 1/1/2021 for $13.00 per hour for calendar year 2021.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated they defer to the Office of Administration for response to this petition regarding their employee cost as it relates to raising the minimum wage.

With regard to other issues this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated they defer to the Office of Administration for the fiscal impact.

Officials from the **Department of Natural Resources** indicated the estimated total costs for salaries, fringe benefits, equipment and expenses for all state funds will be $111,081 for FY 2017, $273,155 for FY 2018, $335,573 for FY 2019, $381,796 for FY 2020, and $533,892 for FY 2021.

Section 290.502.3 would require the department to increase the minimum wage rate to $9.00 per hour effective January 1, 2017, to $10 per hour effective January 1, 2018, to $11 per hour effective January 1, 2019, to $12 per hour effective January 1, 2020, and to $13 per hour effective January 1, 2021, or to the wages at the same rate(s) set under the provisions of federal law as the prevailing federal minimum age applicable to those

covered jobs in interstate commerce, whichever is higher the minimum wage shall be updated every January 1 thereafter.

Section 290.502.4 and 290.512.3 provides an exemption for public bodies from the provision of 290.502.3 if appropriations for wages at those rates are not provided.

Section 290.512.2 would require the department to increase minimum wage for employees that receive and retain gratuities so that total compensation is at least the minimum wage specified in 290.500 to 290.530. Effective January 1, 2017 the department would pay at least an excess of sixty percent of the minimum wage rate. Effective January 1, 2018 the department would pay at least an excess of eighty percent of the minimum wage rate. Effective January 1, 2019 the department would pay the minimum wage.

Section 290.529 makes the provisions of sections 290.500 to 290.530 severable.

The department anticipates the cost of the proposed legislation to start at $111,081 annually for fiscal year 2017 and ultimately increase to $533,892 in fiscal year 2021.

This legislation requires the minimum wage to be reviewed and adjusted every January 1.

For full time employees throughout their department they compared their current hourly wage rate to the minimum wage rate in the proposed legislation, taking the difference by 2,080 hours multiplied by the fringe rate for full time staff.

Missouri State Parks employs between 500-750 seasonal positions each year. In order to reflect a full year of seasonal employment, they based on their analysis off of FY14 staffing levels and upgraded their hourly wage to January 1, 2015. They then analyzed each January 1 upgrade to minimum wage compared to the prior year estimate. They assumed the per fiscal year designated minimum wage amount would be greater than the federal minimum wage.

Missouri State Parks does employ staff that is eligible for tips. For those individuals, they are required to ensure that their total wage plus tips meet or exceed the established minimum wage rate for non-tip staff. Therefore, they assumed the same minimum wage for estimated impact as other staff.

Seasonal positions' fringe benefit rate is 7.65 percent. Full time staff would begin to be given minimum wage increases in fiscal year 2020.

They also made the assumption that the personal service appropriations would be adjusted according to the levels necessary to provide the increased minimum wages provided in the law.

Officials from the **Department of Corrections** indicated they defer to the Office of Administration.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department and defer to Office of Administration for impact as an employer.

Officials from the **Department of Revenue** indicated this petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they would not be able to determine the effect of this legislation, and would expect there would be a general response provided by OA/Personnel.

Officials from the **Department of Social Services** indicated they defer to the Office of Administration for the costs related to this petition.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated their cost calculations related to this initiative petition is as follows based on 15 part-time employees working 1,039 hours per year:

| | |
|---|---|
| 2017 @ $9.00/hr. | No impact |
| 2018 @ $10.00/hr. | No impact |
| 2019 @ $11.00/hr. | $15,585 annual |
| 2020 @ $12.00/hr. | $30,170 annual |
| 2021 @ $13.00/hr. | $46,755 annual |

Officials from the **Department of Conservation** indicated that this proposal, which would increase the minimum wage, would result in estimated additional annual cost to their department as follows: 1) an increase to $9/hour-$290,319; 2) an increase to $10/hour-$371,906; 3) an increase to $11/hour-$481,557; 4) an increase to $12/hour-$632,118; and 5) an increase to $13/hour-$791,089. This reflects pay increases necessary to increase hourly and salaried pay rates to the proposed new minimum wage.

Officials from the **Office of Administration (OA)** indicated the proposal amends Sections 290.502, 290.512, 290.527, and 290.529 RSMo.

Section 290.502, RSMo. increases the minimum wage to $9.00 per hour, beginning January 1, 2017 and by another $1.00 per hour each year until it reaches $13.00 per hour beginning January 1, 2021. Thereafter, the minimum wage will be adjusted annually based on the increase/decrease in the cost of living. The proposal would also phase in a requirement for employers of employees who receive and retain compensation in the form of gratuities to pay no less than 60% of the full minimum wage, beginning January 1, 2017 and 100% of the full minimum wage by January 1, 2021.

Because no tax rates are affected, there is no direct impact on general and total state revenues. However, these proposals may have several indirect affects which could impact revenue collections by an unknown amount, including but not limited to:

- Increased wages for certain employees. According to the US Bureau of Labor Statistics, in 2013, Missouri had 73,000 hourly employees earning wages at or below the federal minimum wage;[1]
- Increased consumption by those employees;
- Lower overall employment (if employers choose to hold costs steady);
- Lower business investment (if employers' payrolls increase);
- Increased prices as firms pass–through labor costs.

This proposal will increase state personnel costs at various state agencies. However, the proposal makes the increase for public bodies subject to appropriation. The estimated cost of the minimum wage increases are:

| Fiscal Year | Wage Rate | Time period | General Revenue Cost (including fringe benefits) | Total Cost (including fringe benefits) |
|---|---|---|---|---|
| 2017 | $9.00/hr | January –June | $171,193 | $464,938 |
| 2018 | $9.00/hr | July – December | | |
| | $10.00/hr | January – June | $513,523 | $1,673,380 |
| 2019 | $10.00/hr | July – December | | |
| | $11.00/hr | January –June | $1,464,340 | $4,407,549 |
| 2020 | $11.00/hr | July – December | | |
| | $12.00/hr | January – June | $6,222,694 | $13,640,373 |
| 2021 | $12.00/hr | July – December | | |
| | $13.00/hr | January – June | $17,386,077 | $33,385,765 |

Sections 290.512, 290.527 and 290.529 RSMo. will not impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal

[1] http://www.bls.gov/cps/minwage2013.pdf

activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated the following is the estimated fiscal impact to their office for the years 2017 - 2019:

2017: $0
2018: $2,920
2019: $8,760

Officials from the **City of Columbia** provided the following cost estimates:

| Year of Increase | Min. Wage | Total all Employees | Incremental Increase from Previous Year |
|---|---|---|---|
| 1/17 | $9 | $ 945,659 | |
| 1/18 | $10 | $1,646,147 | $700,488 |
| 1/19 | $11 | $2,352,336 | $706,189 |
| 1/20 | $12 | $3,100,824 | $748,488 |
| 1/21 | $13 | $3,938,012 | $837,188 |

Assumption: Only impact is from minimum wage paid to employees and not from gratuities or value of goods and services.

Officials from the **City of Kansas City** indicated approximately 195 employees, mostly part time and seasonal employees, are currently paid less than $13.00. Under this

initiative petition, there would be a salary increase to the city in the approximate amounts per year:

2017 ($9/hr) : $60,000
2018 ($10/hr): $113,000
2019 ($11/hr): $126,500
2020 ($12/hr): $140,000
2021 ($13/hr): $178,000

Officials from the **City of Raymore** indicated the sum effect on each year's proposal that will increase salary within the City's part-time seasonal staff will be $7,238.85 for CY 2017, $12,510,35 for CY 2018 (an increase of $5,271.50), $19,525.72 for CY 2019 (an increase of $7,015.37), $27,836.04 for CY 2020 (an increase of $8,310.32), and $37,202.50 for CY 2021 (an increase of $9,366.46).

The city has calculated the sum effect on each year's proposal that will increase salary within the city's part-time seasonal staff within each petition. At this time, the city is assuming that its proposed step chart will continue to be effected by the minimum wage and be adjusted every couple years to be competitive. However, there are many unknowns, and the city has simply included its part-time staff that will be effected.

Officials from the **City of St. Louis** indicated estimated annualized costs to the city of $116,601 for CY 2017, $211,138 for CY 2018, $420,965 for CY 2019, $706,298 for CY 2020, and $1,196,768 for CY 2021.

This initiative petition proposes an amendment Chapter 290, RSMo, to gradually raise the minimum wage starting at $9.00 per hour on January 1, 2017 to $13.00 per hour on January 1, 2021.

Subject to annual appropriation, this initiative petition would increase costs of salaries of city employees (both full and part-time) that would otherwise not be earning the wages at the levels specified in the proposed amendment. For these purposes, current employee wages are assumed to increase in accordance with existing employee pay plan provisions through 2016. The proposed amendment could also impact city revenues both positively and negatively. Should total wage base rise, employer based earnings and payroll taxes will increase accordingly. Likewise, any job losses that can be attributed to the wage increases will result in a decline in employer based and other tax revenues. The net impact of the changes in city workforce and wage base that would result from the proposed amendment is indeterminate at this time.

Officials from **University of Missouri** indicated they anticipate the legislative proposal would create an overall cost of between $40-50 million after all rate increases were implemented.

**Lara Granich** provided the following information as a proponent of this initiative petition.

August 5, 2015
Missouri State Auditor
Jefferson City, MO
Submitted via email to moaudit@auditor.mo.gov, fiscalnote@auditor.mo.gov

Re: Fiscal Impact Analysis of Minimum Wage Initiative Petitions

Version 4 (Increase to $9, then gradually to $13, tipped 60%)
Version 5 (Increase to $9, then gradually to $14, tipped 60%)
Version 6 (Increase to $9, then gradually to $15, tipped sub-minimum phased out)
Version 7 (Increase to $9, then gradually to $14, tipped sub-minimum phased out)
Version 8 (Increase to $9, then gradually to $13, tipped sub-minimum phased out)
Version 9 (Increase to $9, then gradually to $12, tipped sub-minimum phased out)
Version 10 (Increase to $9, then gradually to $11, tipped sub-minimum phased out)

This letter is from Lara Granich and Missouri Jobs with Justice Voter Action, proponents of the above-referenced initiative petitions. Pursuant to RSMo. Section 116.175, we write to submit the following fiscal impact information to assist your office in its analysis of the fiscal impact of the above mentioned seven proposed Minimum Wage Initiative Petitions.

Our analysis estimates the impact of the seven proposed initiative petitions on state and local sales and personal income tax revenue in Missouri. We follow the process that has been used in the past to estimate the impact of minimum initiative petitions on state and local sales and personal income tax, with some refinements. We also address certain claims that have been made by opponents in the past.

We are building on analysis provided for Versions 1-3 of this initiative. However, some of the analysis tools were unavailable to us in the timeframe for submitting these versions, and therefore we want to acknowledge some gaps in the information provided.

As these petitions exclude public workers, we do not include in our analysis an estimate of the impact on state and local payroll costs of the minimum wage increases.

## I. Estimate of Number of Workers Affected Statewide and the Impact on Their Wages

We estimate that, under the three versions of the petition, increases in total wages in the state will be as follows:

| Proposed Min Wage Level | Size of Increase* | Total Estimated Workers** | Workers Affected*** | Workers Affected as % of Total Workers | Total Wage Increase**** |
|---|---|---|---|---|---|
| $11.00 | $3.20 | 2,845,927 | 880,593 | 30.94% | $4,167,807,617 |
| $12.00 | $4.20 | 2,845,927 | 995,901 | 34.99% | $5,508,377,721 |
| $13.00 | $5.20 | 2,845,927 | 1,092,551 | 38.39% | ***** |
| $14.00 | $6.20 | 2,845,927 | 1,208,950 | 42.48% | ***** |
| $15.00 | $7.20 | 2,845,927 | 1,351,386 | 47.48% | $10,801,510,192 |

*Over the legislated MO 2015 minimum wage of $7.65 + assumed 2% cost of living adjustment to MO minimum wage

**Based on 2013 American Community Survey for the State of Missouri

***The number of wage and salary workers with an hourly wage below the proposed minimum. The hourly wages in 2013 were increased by 5.497%, to account for inflation between 2013 and 2016, prior to comparison with the proposed minimum.

****The hourly wage difference was multiplied by the number of hours worked per year. That amount was then multiplied by the relevant person weight and summed over all persons with hourly wages below the proposed minimum.

*****we were unable to access tools to weight appropriately for this level in the timeframe allowed for input

The wage impact of an increase in the minimum wage for the state of Missouri is calculated using the following procedure. The American Community Survey Public Use Micro Sample for the most recent year available (2013) for the state of Missouri was downloaded from the US Census Bureau. The American Community survey was chosen over the Current Population survey because the ACS has a significantly larger sample.

Calculations were effectuated only for those individuals earning less than the proposed minimum wage. It is likely that there would be indirect impacts on others who earn more than the proposed minimum wage, especially those who earn close to the proposed hourly amount. These estimates therefore are likely to be smaller than the actual impact of increasing the minimum wage to the proposed level.

All wage earners are included in this calculation. To be consistent with past estimates, public employees should have been excluded. Employees in the public sector were included because the American Community Survey does not have a published variable that allows for identification of public employees. This inclusion of public employees will have a minimal impact on our results.[1]

All wages from the 2013 survey were adjusted upward to account for inflation between the time of the survey and the time of measurement of the impact. Actual inflation was used for 2013 and 2014, and a slightly higher rate was used for assumed inflation in 2015. The 2015 Missouri Minimum wage of $7.65 was adjusted by the same factor prior to measuring the impact of a change to the proposed minimum wage in 2016.

After these adjustments, the resulting hourly wage of all employees was compared to the proposed minimum wage. Three proposed levels for the minimum wage were examined: $11, $12, and $15. If the proposed minimum wage was less than the inflation adjusted hourly earnings of an employee, then no impact was calculated. If the proposed

[1] For the Missouri's state employees, this can be validated by viewing the earnings of all state employees at: http://mapyourtaxes.mo.gov/MAP/Employees/. Larger counties and cities will also have almost all public employees earning more than the highest proposed minimum wage. Local public employees in small counties and towns may have some public employees who earn less than the highest proposed minimum.

minimum wage was more than the hourly earnings on an employee, then the difference between the inflation adjusted hourly earnings and the proposed minimum wage was calculated. That difference was multiplied by the number of hours the employee worked in the year to calculate the impact for that employee. The result was then multiplied by a weighting factor for that employee in the population. The total impact for the state of Missouri was calculated by repeating this process for every employee and adding the results.

The impact grows as the proposed minimum wage grows. 31% of the labor force would be directly impacted by an increase in the minimum wage to $11 in 2016, whereas 47% would be impacted if the minimum wage were increased to $15 per hour.

It should be emphasized that there is no reason to expect even a substantial increase in the minimum wage to reduce employment. No credible research has demonstrated a negative employment effect of increases in the minimum wage and there is substantial research to indicate that increases in the minimum wage have multiplier effects that increase the direct effects. For this reason and because of the likely increases in wages to individuals who earn above the proposed minimum wages, the impacts summarized in the table are likely to be low, relative to the total impact that would occur as a result of increasing the minimum wage to the proposed levels.

## II. Economic Literature on the Impact of Minimum Wage Increases on Employment

Next it is necessary to review the economic literature on the impact of minimum wage increases on employment. Opponents often claim that minimum wage increases may reduce employment in a state. If that is true, then those employment reductions would result in reductions in state income and sales tax revenue. However, review of the most credible recent empirical research on the minimum wage shows that increases in the minimum wage have had no discernible impact on employment. We thus conclude that it is not appropriate to project that the proposed initiative petitions would result in any detectable employment reduction, and resulting losses in income and sales tax revenue, or increases in unemployment-related costs to the state.

Economists have conducted hundreds of studies of the employment impact of the minimum wage. A recent meta-study – a formal statistical study of studies – by Doucouliagos and Stanley (2009) reviewed all the research conducted over the last three decades on the employment impact of minimum-wage increases on teenagers in the United States. The researchers concluded that the minimum wage has little or no discernible effect on the employment prospects of low-wage workers. Their study followed a rigorous, peer-reviewed procedure and has the advantage of using a set of predetermined, objective criteria for weighing the validity of statistical findings across studies with different results. (Source: Doucouliagos, Hristos and T. D. Stanley. 2009. “Publication Selection Bias in Minimum-Wage Research? A Meta-Regression Analysis.” British Journal of Industrial Relations,vol. 47, no. 2, pp. 406-428.)

Recent theoretical and empirical research emphasizes several explanations for the consistently negligible employment impacts of moderate increases in the minimum wage. First, relative to total wage costs, minimum-wage increases are small. Second, employers and workers appear to respond to minimum-wage increases in many ways that reduce the direct cost to employers and substantially reduce or eliminate the need to cut employment.

Probably the most important economic response to a higher minimum wage is a reduction in turnover. At higher wages, employers fill vacancies faster and retain employees longer, boosting total employment and average productivity per worker while reducing direct and indirect training costs. Dube, Lester, and Reich (2012), for example, examined the effect of the minimum wage on labor turnover among teens and restaurant workers. They find “...striking evidence that separations, new hires, and turnover rates for teens and restaurant workers fall substantially following a minimum wage increase...” (p. 2) Their findings, using nationally representative data, are consistent with local case studies of the

minimum wage and related "living wage" laws, including Dube, Naidu, and Reich's (2007) analysis of the San Francisco city-wide minimum wage; Fairris's (2005) study of local government contractors in Los Angeles; Howes (2005) on homecare workers in California; and Reich, Hall, and Jacobs (2005) on workers at the San Francisco airport. (Sources: Dube, Arindrajit, T. William Lester, and Michael Reich. 2012. "Minimum Wage Shocks, Employment Flows and Labor Market Frictions." Berkeley, CA: Institute for Research on Labor and Employment. http://escholarship.org/uc/item/76p927ks; Dube, Arindrajit, Suresh Naidu, and Michael Reich. 2007. "The Economic Effects of a Citywide Minimum Wage." *Industrial and Labor Relations Review*, vol. 60, no. 4, pp. 522-543; Fairris, David. 2005. "The Impact of Living Wages on Employers: A Control Group Analysis of the Los Angeles Ordinance." *Industrial Relations*, vol. 44, no. 1, pp. 84-105; Howes, Candace. 2005. "Living Wages and the Retention of Home Care Workers in San Francisco." *Industrial Relations*, vol. 44, 5 no. 1, pp. 139-163; Reich, Michael, Peter Hall, and Ken Jacobs. 2005. "Living Wage Policies at the San Francisco Airport: Impacts on Workers and Businesses." *Industrial Relations*, vol. 44, no. 1, pp. 106-138.)

Employers also appear to respond to increases in the minimum wage by taking measures to boost productivity. Hirsch, Kaufman, and Zelenska's (2011) study of the impact of the federal minimum-wage increase on 81 fast-food restaurants in Georgia and Alabama, for example, asked fast-food managers about the scope for efficiency improvements in response to the minimum-wage rise. About 90 percent of managers indicated that they planned to respond to the minimum-wage increase with increased performance standards such as "requiring a better attendance and on-time record, faster and more proficient performance of job duties, taking on additional tasks, and faster termination of poor performers." (p. 27) Roughly the same share of managers said that they sought to "boost morale" by presenting the minimum-wage increase as a "challenge to the store" and using this as a way "to energize employees to improve productivity." (pp. 28-29) Based on their interviews with store managers, the researchers concluded that a minimum-wage increase may function as a "catalyst or shock that forces managers to step out of the daily routine and think about where cost savings can occur." (p. 29) (Source: Hirsch, Barry T., Bruce Kaufman, and Tetyana Zelenska, "Minimum Wage Channels of Adjustment." IZA Discussion Paper No. 6132. Germany: Institute for the Study of Labor. http://www2.gsu.edu/~ecobth/IZA_HKZ_MinWageCoA_dp6132.pdf)

A higher minimum wage may also motivate workers to work harder, independently of any actions by employers to increase productivity. According to "efficiency wage" theory, wages above the competitive-market rate may elicit greater work effort for several reasons. As Carl Shapiro and Joseph Stiglitz (1984) have argued, higher pay increases the cost to workers of losing their job, potentially inducing greater effort from workers in order to reduce their chances of being fired. George Akerlof (1982), arguing from a more sociological point of view, has suggested that workers may see higher wages as a gift from employers, leading workers to reciprocate by working harder. (Sources: Shapiro, Carl and Joseph E. Stiglitz. 1984. "Equilibrium unemployment as a worker discipline device." *American Economic Review*, vol. 74, no. 3, pp. 433-444; Akerlof, George A. 1982. "Labor contracts as partial gift exchange." *Quarterly Journal of Economics*, vol. 97, no. 4, pp. 543-569.)

We therefore conclude that the proposed increase in the Missouri minimum wage would have no discernible impact on the employment levels of low-wage workers. Accordingly, we do not factor in reductions in employment, or any resulting decrease in sales tax or income tax. We also do not project any increased unemployment insurance costs – both because we do not project any resulting job losses, and additionally because unemployment insurance costs are paid for by employer premiums, and so are ultimately not a cost to the state.

### III. State and Local Sales and Personal Income Tax Revenue Impact of Raising the Minimum Wage

Based on the wage impact figures calculated above, and the understanding that the minimum wage increases would be unlikely to result in offsetting job losses, we next calculate the impact of the projected wage increases on state and local

sales and personal income tax revenue in Missouri. We project only the direct impact of the three minimum wage increase scenarios on such tax revenue. We do not attempt to project the additional impact through a GDP multiplier effect.

**Increase in Personal Income Tax Revenue and Sales Tax Revenue Due to Increased Wages Personal Income Tax Revenue.** In order to determine the projected increase in personal income tax revenues that would result directly from the increased wages, we had to develop assumptions about the effective income tax rates of the affected workers. We made the following assumptions with respect to the effective tax rate:

1. That 25% of affected workers can be claimed as a dependent on another party's Missouri income tax return and as a result would pay an effective tax rate of 6.0% on the increase in income;
2. That 50% of the affected workers would file as single taxpayers, would claim one deduction of $2,100, and would be entitled to a standard deduction of $5,800. This would result in an effective tax rate of 2.47%;
3. The remaining 25% would, we assumed, would pay no additional Missouri income tax. In light of these assumptions, the increased Missouri income tax revenue for each petition version can be calculated as follows: (total wage increase * 25% * 6.0%) + (total wage increase * 50% * 2.47%) + (total wage increase *25% * 0%).

**Sales Tax Revenue.** The State of Missouri imposes a 4.225% state sales tax on those items that are not exempt from the sales tax base. In addition, the average local sales tax rate is 2.95%. As a result, the average Missouri net sales tax rate is 7.175%. We have conservatively estimated that just 25% of the higher wages would be spent on the purchase of goods that are subject to state and local sales tax in Missouri.

Based upon the above assumptions, and the total wage increase calculations for each version of the petition, we estimate that the increase in state income tax revenue resulting from the increased wages would be as follows:

| Increase in Sales and Personal Income Tax from Increased Wages | | | | | | |
|---|---|---|---|---|---|---|
| **Proposed Min Wage Level** | **Total Wage Increase** | **State Sales Tax (4.225%)** | **Local Sales Tax Revenue (2.95%)** | **Total Sales Tax Revenue Increase** | **Personal Income Tax Revenue** | **Total Sales and Personal Income Tax Revenue Increase** |
| $11.00 | $4,167,807,617 | $44,022,468 | $30,737,581.17 | $74,760,049.13 | $113,989,538 | $188,749,587 |
| $12.00 | $5,508,377,721 | $58,182,240 | $40,624,285.69 | $98,806,525.38 | $150,654,131 | $249,460,656 |
| $13.00 | *We were unable to access a tool to weight calculations of the total wage increase for these levels in the timeframe allotted.* | | | | | |
| $14.00 | | | | | | |
| $15.00 | $10,801,510,192 | $114,090,951 | $79,661,137.67 | $193,752,089.08 | $295,421,304 | $489,173,393 |

Moreover, one often-cited authority on tax information, the Tax Foundation, reports that the average local sales tax rate in Missouri is even higher at 3.53%. See http://taxfoundation.org/article/state-and-local-sales-taxes-midyear-2012 If one uses this higher rate, total revenue increases additionally by hundreds of thousand dollars.

We hope that this information is useful to your office as your prepare your analyses of the petitions.

Respectfully submitted,
Lara Granich
Missouri Jobs with Justice Voter Action

**Edward D. Greim** provided the following information as an opponent of this initiative petition.

He writes on behalf of Robert Bonney. Mr. Bonney is the Chief Executive Officer of the Missouri Restaurant Association. Please consider this letter and the accompanying studies as his fiscal impact statement as an opponent of Initiative Petitions 2016-066, 2016-067, 2016-068, 2016-069, 2016-070, 2016-071 and 2016-072 (the "Initiative Petitions"). Initiative Petitions 2016-066 and 2016-067 appear to be substantially similar to the previously-submitted Initiative Petitions 2016-045, 2016-046 and 2016-047—which will cause significant negative impacts, if passed. Moreover, Initiative Petitions 2016-068, 2016-069, 2016-070, 2016-071 and 2016-072 only work to further negatively impact the Missouri economy by phasing out tipped wage percentages entirely. In short, any of these seven initiatives would have a substantial negative impact on state and local governments.

The two fiscal impact studies attached hereto were authored by Dr. David Macpherson, a nationally-recognized labor economist and expert on the impact of minimum wage increases. In reviewing previous minimum wage petitions, the Auditor's Office has previously found Dr. Macpherson's analyses to be helpful and persuasive.

The first study was prepared by Dr. Macpherson in June 2014 and details how a $10.10 per hour minimum wage would have impacted Missouri and the St. Louis area were it to have become effective in 2015. *See* Exhibit A. In addition to the estimated loss of nearly 15,000 jobs statewide, Dr. Macpherson estimated that the cost to taxpayers of a $10.10 minimum wage would be $87 million annually. While this study did not address the specific proposals in the Initiative Petitions, Dr. Macpherson's methodology applies directly to the impact of the proposed minimum wage increases.

The second fiscal study was reviewed and used by this office in evaluating earlier minimum wage proposals. It was prepared by Dr. Macpherson in March 2012 and details the impact of a statewide minimum wage increase to $8.25 per hour. This study is attached hereto as Exhibit B. In this study, Dr. Macpherson concluded that state and local entities would pay out $16 million in increased wages. What's more, Dr. Macpherson estimated that the net state and local fiscal impact would range from a loss of over $22 million to a loss of $13 million. While this study is now three years old, the analysis is pertinent to the proposed wage increase in the Initiative Petitions. Notably, using Dr. Macpherson's methodology, the heightened minimum wage proposals contained in the Initiative Petitions would have a substantially greater negative fiscal impact than that found in the 2012 study.

The proponents of the Initiative Petitions will likely rely on data sourced from political activist groups who claim increases in minimum wage only serve to create new taxable income. The reality is that such groups approach this issue with indisputable political bias. Further, that type of analysis is one-sided, disregarding the significant impact on Missouri businesses. True, some workers will collect increased wages, but no new money is created; Missouri businesses will be the source of the increase which will lower their taxable income and, from time to time, cause them to forego hiring or to cut employment. Regarding secondary employment and tax revenue effects, the Auditor must refrain from assessing only one half of the wage increase equation.

In addition, the most significant and most direct effect of a minimum wage increase is the amount of the increased wages that will actually be paid by state and local governments. As has been shown during prior efforts to increase the minimum wage, very few of the hundreds of state and local entities who actually employ minimum wage workers will take the time to provide fiscal impact estimates in response to the Auditor's requests. Further, the Auditor's requests are simply sent to a sample of governmental employers. The more appropriate method to calculate the fiscal impact of the wage increase is to use the actual number of minimum wage workers who work for state and local governments, as calculated by the United States Census Bureau's CPS. Rather than simply adding the sums reported in the scattershot and unreliable fiscal note responses from state and local entities, the Auditor should supplement them with broader analyses such as those of Dr. Macpherson. At the very least, the Auditor should state in the fiscal note summary that state and local impacts are "large" or "substantial," rather than simply reporting impacts of "at least" the few thousand dollars in costs that may or may not be reported by those local entities that take the time to respond to the Auditor's sampling.

Finally, the proponents of the Initiative Petitions may argue that the Auditor should abandon the state and local cost estimates altogether. The proponents will argue that a new provision they have inserted in the statute would make the increases apply only if "there are appropriations for wages at those [i.e., the newly-increased] rates." The proponents will urge the Auditor's Office to assume that legislators will not actually fund the increases, and that therefore there will be no cost to taxpayers. Setting aside unjustifiable projections about the political judgments of legislators, the provision is of uncertain legal effect and constitutionality. On the one hand, it may not change existing law, since arguably the legislature always has the power to reduce or increase appropriations. But it is also unclear whether the legislature has the power to fix wage rates within an appropriations bill, or whether a mere statutory petition can confer this type of power upon the legislature. The application of the requirement for a specific type and manner of appropriation is also unclear in the context of political subdivisions and other public bodies whose funds are generally not appropriated by the general assembly. These are just a few examples of the serious flaws with the proposal itself that may have to be addressed by the courts. Suffice it to say that as a matter of law, it would be insufficient and unfair for the Auditor's fiscal note or summary to simply assume that these legal issues do not exist, or to make a political judgment that legislators will not in fact fund any of the minimum wage increases at any level of state government. Such assumptions would only serve to artificially deflate the fiscal note and fiscal note summary by tens of millions of dollars.

June 2014

MISSOURI
Restaurant Association
*Eat Out Often!*

# The Impact of a $10.10 Minimum Wage on Jobs and Taxpayer Costs in Missouri

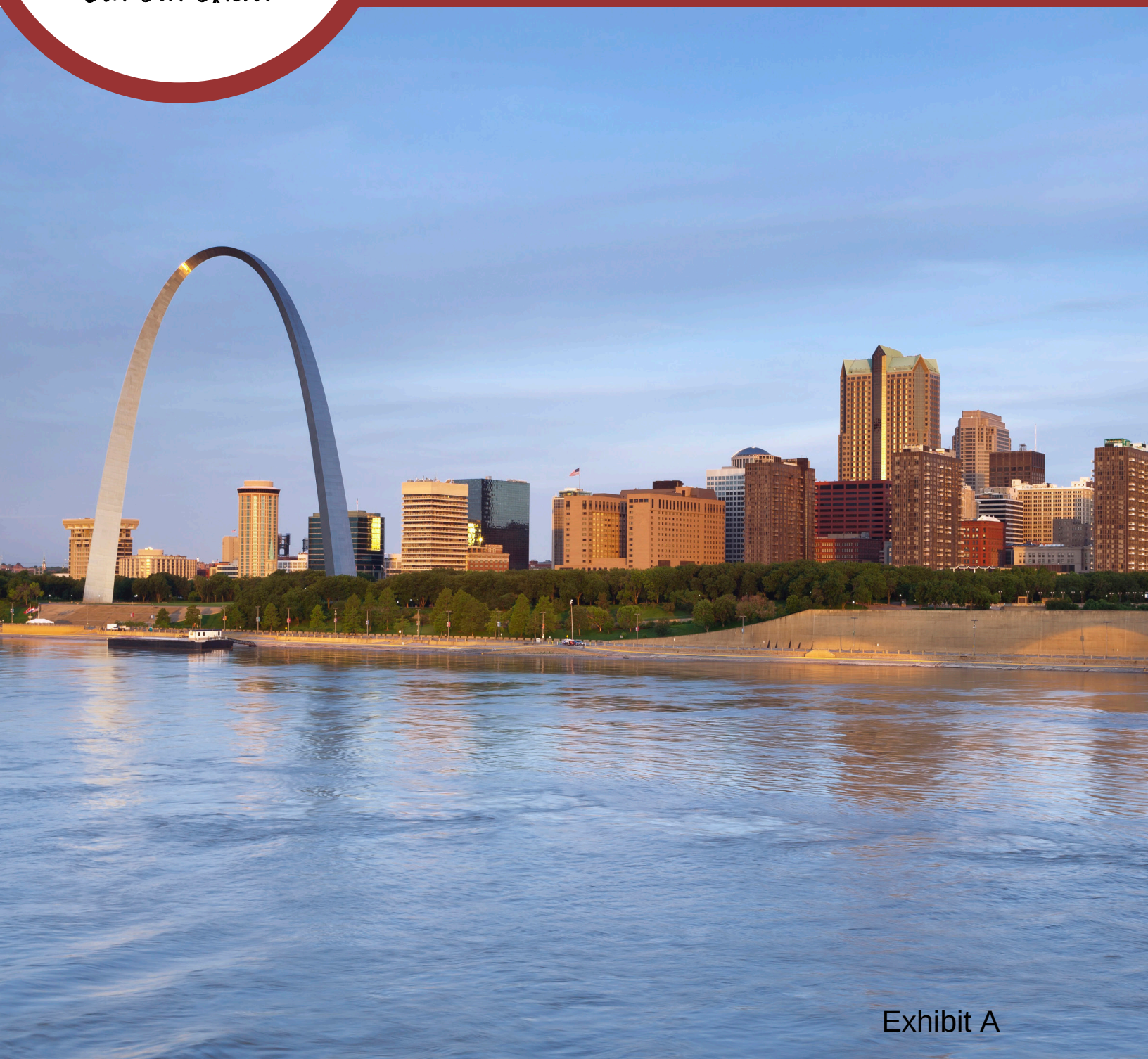

Exhibit A

# ABOUT THE MISSOURI RESTAURANT ASSOCIATION

With origins dating back to 1916, the Missouri Restaurant Association (MRA) is a statewide trade association representing over 1,500 member establishments. The association's membership is diverse, and includes full service, fast casual, and quick service restaurants, cafeterias, hotels, schools, institutions, contract feeders, and ancillary foodservice providers such as theme parks. The association has been successful in securing support from virtually every segment of the foodservice and hospitality industry.

MRA includes seven chapters as extensions of the parent organization, each with its own Officers, Board of Directors, and limited budget. The association is governed by a Board of Directors comprised of five Officers, 33 Directors, and each President of the seven affiliated chapters.

MRA is dedicated to serving the needs of the foodservice and hospitality industry, enhancing and improving its growth and development, assisting and educating its members in operating more effectively, improving the political and social environment in which the industry conducts business, for the benefit of its members, patrons, employees, and the well-being of the community.

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David A. Macpherson is the E.M. Stevens Professor of Economics at Trinity University. He received undergraduate and doctoral degrees in economics from Pennsylvania State University.

Dr. Macpherson has published over 60 articles in leading economics and real estate journals including Review of Economics and Statistics, Industrial and Labor Relations Review, Journal of Labor Economics, Journal of Human Resources, and Journal of Real Estate Economics and Finance. His research has been funded by a variety of entities including the National Science Foundation, Florida Legislature, and the National Association of Realtors. He is co-author of the undergraduate labor economics text, Contemporary Labor Economics, as well as the principles of economics text, Economics: Private and Public Choice. He is included in Who's Who in Economics, Fourth Edition, which includes the 1,200 most frequently cited economists.

# THE IMPACT OF A $10.10 MINIMUM WAGE ON JOBS AND TAXPAYER COSTS IN MISSOURI

June 2014

Economic Analysis by **Dr. David Macpherson**
**Trinity University**

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# EXECUTIVE SUMMARY

Missouri's minimum wage of $7.50 is linked to rise in most years with the inflation rate. But some state legislators and labor unions would like to raise that figure even higher. For instance, a recent labor union-organized bus tour in the state promoted a $10.10 minimum wage in St. Louis.

Proponents have enthusiastically pointed to the benefits of the $10.10 policy. But there's been far less discussion of the costs involved with a $10.10-an-hour minimum wage—both the cost on employment, and the cost to taxpayers.

In this study, labor economist David Macpherson of Trinity University uses Census Bureau data to estimate the impact on Missouri's labor market and budget from raising the minimum wage to $10.10 an hour. He also provides separate results for the St. Louis metropolitan area.

Dr. Macpherson's employment estimates follow the methodology used by the nonpartisan Congressional Budget Office in its report earlier this year estimating the impact of a $10.10 minimum wage nationwide, which in turn relied on 60 different empirical studies to formulate its estimates.

Statewide, he finds that over 15,000 jobs would be lost at the $10.10 wage level—with 9,300 of those jobs being held by women. In the St. Louis metropolitan area, approximately 4,800 jobs would be lost from a $10.10 minimum wage.

The cost to taxpayers would be significant: There are approximately 40,000 state and local employees whose wages would be affected by the $10.10 increase in Missouri, for a combined cost to taxpayers of $87 million annually.

Raising wages is an admirable goal, but the evidence suggests that accomplishing this goal with a blunt wage mandate could do more harm than good.

# RESULTS

The minimum wage is one of the most hotly-debated topics in the political world. Some legislators claim that a higher base wage will stimulate the economy; others claim that it will reduce jobs when affected employers can't offset the higher costs through higher prices.

Economists, who have studied the issue since the late 1940s, tend to take a skeptical view of minimum wage increases. Since the early 1990s, for instance, roughly 85 percent of the most credible research on the minimum wage points to job loss for less-skilled groups. The nonpartisan Congressional Budget Office (CBO), in an evaluation of President Obama's proposed $10.10 minimum wage increase, reviewed 60 different studies and concluded that the policy would eliminate 500,000 jobs if enacted.

The estimates that follow, of the employment impact of a higher minimum wage on Missouri's labor market, were performed by Dr. David Macpherson of Trinity University. Dr. Macpherson followed closely the methodology used by the CBO in its 2014 report. Dr. Macpherson also estimates the taxpayer costs of a higher minimum wage, as many state and local public employees will see their earnings increase when the minimum wage rises.

Dr. Macpherson's methodology is presented in detail in a technical appendix.

## Estimated Employment Effects of a $10.10 Minimum Wage in Missouri

Statewide, Dr. Macpherson finds that increasing the minimum wage to $10.10 would eliminate over 15,000 jobs—approximately 60 percent of which are jobs held by women. The bulk of the job losses would be concentrated among individuals with a high school degree or less, and among people who work in the retail or leisure & hospitality industries.

(Note: Totals have slight discrepancies due to rounding.)

**Estimates by Gender**

| | *Job Losses* |
|---|---|
| **Male** | 6,311 |
| **Female** | 9,364 |
| **TOTAL** | **15,705** |

**Estimates by Age**

| *Age* | *Job Loss* |
|---|---|
| **<=21** | 9,237 |
| **22-25** | 1,532 |
| **26-30** | 1,023 |
| **31-40** | 1,175 |
| **41-50** | 980 |
| **51 +** | 1,759 |

**Estimates by Race**

| *Race* | *Job Loss* |
|---|---|
| **White** | 13,299 |
| **Black or Other Race** | 2,406 |

# RESULTS CONTINUED

| Top Three Industries Affected | |
|---|---|
| *Industry* | *Job Loss* |
| **Retail Trade** | 3,835 |
| **Arts, Entertainment, Recreation, Accommodations, and Food Services** | 6,039 |
| **Healthcare** | 1,199 |

| Estimates by Education | |
|---|---|
| *Education* | *Job Loss* |
| **Less than High School** | 5,555 |
| **High School Grad, No College** | 4,921 |
| **Some College** | 4,428 |
| **Undergrad or Graduate Degree** | 802 |

## City-Specific Minimum Wage Employment Impacts

The city of St. Louis has been the subject of a number of protests calling for a higher minimum wage. Dr. Macpherson analyzed the employment impact of a $10.10 minimum wage in the St. Louis metropolitan area, providing breakouts by gender and education where the data permits. He estimates that the wage hike would eliminate approximately 5,000 jobs—just over half of which would be jobs held by women.

| Impact on St. Louis Metro Area of a $10.10 Minimum Wage | |
|---|---|
| *Gender* | *Job Loss* |
| **Male** | 2,033 |
| **Female** | 2,767 |
| **TOTAL** | **4,800** |
| *Race* | *Job Loss* |
| **White** | 3,641 |
| **Black or Other Race** | 1,158 |
| *Education* | *Job Loss* |
| **High School Grad or Less** | 3,097 |
| **Some College, Undergrad or Graduate Degree** | 1,703 |

# RESULTS CONTINUED

## Missouri Taxpayer Costs of a $10.10 Minimum Wage

Dr. Macpherson estimates that approximately forty thousand state & local public employees would be affected by a minimum wage increase to $10.10 an hour. These additional wage costs translate to new costs for state and local taxpayers. Following the methodology described in detail in the technical appendix, Dr. Macpherson estimates both the straight wage cost of a $10.10 minimum wage, as well as the total compensation cost with Social Security, Medicare, workers compensation, and unemployment insurance included. Statewide, taxpayers would shoulder an additional $87 million in costs if the base wage was increased to $10.10 an hour and public employees were covered by the new wage.

| Missouri Taxpayer Costs of a $10.10 Minimum Wage | |
|---|---|
| **# of State & Local Workers** | 304,588 |
| **# Affected By $10.10 MW** | 40,103 |
| **Annual Wage Cost** | $79,629,374 |
| **Annual Compensation Cost** | $87,004,355 |

*Note: Annual compensation costs include the cost of worker's compensation, FICA, and unemployment insurance benefits.*

MISSOURI Restaurant Association
Eat Out Often!

# TECHNICAL APPENDIX

## Estimating Employment Loss and the Cost to State and Local Government of an Increase in the Minimum Wage

**Dr. David Macpherson**
**E.M. Stevens Professor of Economics**
**Trinity University**

This paper describes how we estimate the employment loss and the cost to state and local governments of a proposed increase in the minimum wage effective on January 1, 2015.

## Data and Sample

First, we use data from the Current Population Survey (CPS) Outgoing Rotation Groups (ORG) from January 2011 through December 2013. For each worker in the sample, we calculate their wage rate. We also adjust the wage rate to reflect a forecast of wages in 2015. This is done in two steps. First, based on legislation enacted as of April 2014, we estimate the minimum wage that would be in effect in January 2015 for each state and city that we consider. If a state or city has an indexed minimum wage, we increase the January 2014 state or city minimum wage by the Congressional Budget Office (CBO) inflation forecast for 2014 of 1.7%.

Since we use data from 2011 through 2013, we also follow the CBO approach for forecasting what the wage distribution would be in 2015. This is done in two steps. First, we adjust wages observed prior to 2013 to reflect 2013 minimum wage legislation. For example, if the minimum wage in a state was $7.25 in 2011 and grew to $8.00 by 2013, anyone who earned between $7.25 and $8.00 in 2011 would have their wage increased to $8.00. After wages are adjusted to 2013 levels, we assume that all wages grow by 2.9% in 2014. Using the resulting 2015 distribution of wages, we adjust for minimum wage legislation that would increase the minimum between 2013 and 2015. Anyone earning a wage between the 2013 and 2015 minimum wage is assigned a wage matching the 2015 minimum wage.

After generating the forecast 2015 distribution of wages reflecting wage growth and existing minimum wage legislation, we identify workers who would be affected by additional changes to the 2015 minimum wage as those with wages between the predicted minimum wage legislated for 2015 (or up to $.25 below it) and the proposed minimum.

To estimate the number of affected workers, we take two steps. First, for each state, we estimate the number of affected workers for 2013. Second, we adjust the weights in the 2011 and 2012 data so that the state-specific number of affected workers implied by the 2011 and 2012 data matches that for 2013. This adjustment is designed to correct for the changing economic climate as the economy recovers from the great recession and to generate estimates that are as close as possible to the most recent data (2013). After we adjust the 2011 and 2012 weights, we estimate the number of affected workers by summing their earnings weights and dividing the total by 36 (the number of months of data).

[1] Also, following CBO, anyone earning up to $.25 less than the 2011 minimum wage would have their wage increased by the amount that the minimum wage increased (i.e. a $7.00 wage would be increased to $7.75 in this example). This approach is used to adjust for the fact that many workers round their answers when asked about their wage.

# TECHINCAL APPENDIX CONTINUED

## Employment Loss

To estimate employment loss, for each affected worker we compute:

**L = e *(Proposed Min Wage /Min Wage 2015 – 1)**

where e is an assumed elasticity of employment with respect to changes in the minimum wage, Min Wage 2015 is the minimum wage currently legislated for 2015, and Proposed Min Wage is the minimum wage that is being proposed for 2015. Thus, for example, if a worker is projected to earn the federal minimum of $7.25 in 2015, the expected reduction in employment resulting from a $10.10 minimum wage in 2015 if e=.45 is .45*(10.10/7.25 – 1) = .18. That is, for every 100 workers currently earning the federal minimum, the expectation is that 18 would lose a job if the minimum wage elasticity is .45.

To estimate the aggregate employment loss in the economy, we use earnings weights to sum L across workers. We also follow the Congressional Budget Office (2014) and use an elasticity of 0.15 for non-teenagers and 0.45 for teenagers.

## Cost to State and Local Government

We use the same data to estimate the cost to state and local government of a proposed minimum wage hike. We apply the same definition of affected workers described above and estimate the number of state and local government workers affected by a minimum wage hike. We do not, however, assume that there is any job loss for state and local workers as we do not have an appropriate elasticity estimate specific to state and local workers. To the extent that state or local governments reduce hours or employment in response tothe minimum wage hike, our estimate of the cost of the hike would be overstated.

To estimate the increase in annual payroll cost resulting from an increase in the minimum wage, we estimate the increase in annual cost for each worker as:

**(Proposed Min Wage-Min Wage 2015)*weekly hours*52**

We then multiply the increase in annual cost by the earnings weight for each worker and sum across workers. Since an increase in wages also requires increased employer contributions for Social Security, Medicare, workers' compensation and unemployment insurance, we apply an estimate of the payroll tax rate for these mandatory programs to calculate the additional cost for these programs.

For each state and city considered, we provide tables summarizing the number of affected workers, employment loss, and the distribution of employment loss by sex, education, race, age and industry. Given that we use three years of data, a rule of thumb for minimum sample size required to achieve a reasonably accurate estimate of the employment loss is to require at least 30,000 people be in the relevant category. For example, if there are fewer than 30,000 people projected to be in a particular industry category, the Bureau of Labor Statistics would not report the estimate due to a lack of reliability based on the variance of the estimate relative to its mean.

In addition to the estimate of employment loss, for each state or city considered, we estimate the number of state and local workers that would be affected by the minimum wage hike and the total annual cost to government in terms of wages and total compensation. As with the employment estimates, we advise caution in interpreting estimates that are based on fewer than 30,000 affected workers.

[3] Congressional Budget Office, "The Effects of a Minimum-Wage Increase on Employment and Family Income," February 2014.

[4] For workers paid by the hour the reported hourly wage was used. For workers who are not paid by the hour, we calculate the hourly wage by dividing usual weekly earnings by usual weekly hours. Overtime pay was calculated as time and one-half for hours above 40 hours for hourly workers.

[5] The assumed payroll tax for Medicare and Social Security is 7.65 percent. To estimate the payroll tax for workers' compensation and unemployment insurance, we use unpublished data from the 2010 Employer Cost of Employee Compensation database for state and local workers in the relevant region in 2010.

# FISCAL ANALYSIS
# OF
# PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

**Prepared for**

**Victor Allred versus Robin Carnahan and Thomas Schweich**
**Circuit Court of Cole County, Missouri**

**Prepared by**

**David A. Macpherson, Ph.D.**
**125 Park Drive**
**San Antonio, TX 78212**

**March 26, 2012**

Exhibit B

# FISCAL ANALYSIS
# OF
# PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

## I. Introduction

This report was undertaken at the request of counsel representing plaintiffs in the case of Victor Allred versus Robin Carnahan and Thomas Schweich. As part of the basis of the lawsuit, the plaintiffs allege that the fiscal note summaries for proposed statutory initiative petitions 2012-084 and 2012-085 are insufficient and unfair. I was asked by counsel to evaluate the fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085.

The results of my analysis indicate:

(1) labor costs to state and local government entities, based on state auditor fiscal notes, will rise by more than $1,352,182. A more inclusive estimate indicates that state and local government labor costs will increase by $16,003,712;

(2) unemployment benefit costs will rise by $4,397,510 during the first year of the minimum wage increase;

(3) individual income tax revenue will rise by at most $4,078,088;

(4) the loss in corporate income tax revenue could be as high as $9,243,105;

(5) state and local sales tax revenue will rise by at most $2,919,327;

(6) during the first year: state and local governments will incur increased costs of $20,401,222; the change in state and local government revenue will

range from -$2,245,690 to +$6,997,415; and the net state and local government fiscal impact will range from -$22,646,912 to -$13,403,807.

The report is organized as follows. My qualifications to prepare this report are contained in Section II. Section III describes the data and records I relied upon for this report. Section IV reviews the estimated fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085. A summary and my conclusions are provided in Section VI.

## II. Qualifications

I am currently the E.M. Stevens Professor of Economics at Trinity University in San Antonio, Texas. Previously, I was employed by Florida State University as Director of the Pepper Institute on Aging and Public Policy and the Rod and Hope Brim Eminent Scholar in Economics. I have taught both undergraduate and graduate Econometrics (statistical analysis of economic data), and Labor Economics. I have published over 50 articles in peer-reviewed professional journals.

I am currently serving on the editorial board of the *Journal of Forensic Economics*, which is a peer-reviewed journal. I have also served as a reviewer or 'referee' for 24 peer-reviewed journals, including the *Journal of Human Resources, Journal of Labor Economics, Quarterly Journal of Economics,* and the *Review of Economics and Statistics*. Based upon these experiences, I am very familiar with the scholarly and professional research process and the concept of peer review.

I have prepared numerous analyses and reports that use statistical methods as applied to specific questions. I have been responsible for developing the techniques and approaches required for these analyses. I routinely use computers and statistical software packages to assist me in my analytical work. I have been qualified as an expert witness on statistical analysis of employment discrimination and economic damages in state courts in Florida and Georgia and Federal Courts, and I have given expert testimony. I have prepared analyses and offered testimony on behalf of both plaintiffs and defendants.

Details of my qualifications are reflected in my current resume and legal cases, attached as Appendix A to the report.

## III. Data and Records

I reviewed the following materials in preparing this report.

- Plaintiff's Complaint
- Material cited in footnotes below.

## IV. Fiscal Impact

*A. Overview*

The proposed statutory initiative petitions 2012-084 and 2012-085 contain many elements in common. Both initiatives would increase the Missouri minimum wage to $8.25 per hour, alter the exemption for retail and service firms, raise the cash wage of tipped workers from 50% to 60% of the minimum wage, and increase the statute of limitation from two to three year for underpayment claims.

The initiatives differ in their linkage to the federal minimum wage. Initiative petition 2012-084 requires that the state minimum wage be automatically increased to the

federal minimum wage if it is higher than the state minimum wage. Initiative petition 2012-085 does not have such a linkage. It only requires that workers be paid the higher of the state minimum wage or the federal minimum wage. The linkage to the federal minimum wage will cause the state minimum wage to be higher under initiative petition 2012-084 over time. This is because the state minimum wage, in contrast to the federal minimum wage, is adjusted for inflation as measured by the Consumer Price Index.

An increase in the minimum wage in Missouri will affect state and local government entities in two ways. First, it will directly increase the cost of labor to state and local government entities. This will occur due to the increase in wages of state and local government workers earning between the existing minimum wage of $7.25 and the new minimum wage of $8.25.[1] In addition, workers laid off due to the minimum wage increase can collect unemployment benefits. The state government will bear the cost of unemployment benefits of these workers for the first 20 weeks. Second, state and local government may gain increased revenue through higher income tax and sales taxes paid by workers affected by the minimum wage who remain employed. However, state and local government will suffer reduced tax revenue to the extent the higher wage cost lowers profits of businesses.

The following sections estimate the cost and revenue effects to state and local government entities of the proposed minimum wage increase.

[1] Information about the minimum wage in Missouri is available at http://www.labor.mo.gov/DLS/minimumwage/.

*B. Direct Labor Cost Impact on State and Local Government Budgets*

There are two possible ways to measure the direct labor cost on state and local government budgets. First, one can use the information included in the fiscal notes prepared by the State Auditor regarding the proposed initiatives. It is important to note that the fiscal notes provide an incomplete and thus too low estimate of the direct labor cost. The fiscal notes indicate that the Office of Administration's (OA) Division of Personnel reported that as of September 2011 there were 834 state workers who would be affected by an increase of the minimum wage to $8.25 and the "approximate annual cost" would be more than $540,000.

This OA estimate excludes seasonal workers such as State Fair employees, State Parks Employees, and tax season staff. The Division of Revenue noted its labor cost would rise by $40,000. The Division of Natural Resources stated they have over 500 workers who would be affected by the increase, but did not provide an estimate of the cost. The State Fair hired 745 workers that would be affected, but no cost estimate was provided.

Thus, the cost to state government, based on the fiscal notes, would be more than $580,000.

The fiscal notes also provide an incomplete and thus too low measure of the cost to local government and public educational institutions. Many cities and educational institutions did not respond to Office of Auditor's survey or provide an estimate of the cost of the higher minimum wage. The City of Columbia, City of Jefferson, City of

Joseph, Linn State Technical College, and Metropolitan Community College did provide such an estimate. The total cost to these five institutions is $772,182.

Based on the fiscal notes, the cost to state and local government entities of the increase in the minimum wage to $8.25 will be more than $1,352,182.

Second, data from the U.S. Census Bureau's Current Population Survey (CPS) can also be used to calculate the cost of the increased labor cost to state and local government entities in Missouri. Using the data from January 2010 to December 2011 Outgoing Rotation Group (ORG) CPS, I calculated that 17,089 state and local government workers would be affected by the minimum wage increase. I defined affected workers as those individuals earning between $7.00 and $8.24 per hour. Though the minimum wage was $7.25 per hour during this period, I also included those workers reporting earnings of $7.00 to $7.24 since some individuals may round their wage rate. I calculated the annual wage cost for each state and local government worker (i) in the ORG CPS as:

$$Annual\ Wage\ Cost_i = (\$8.25 - current\ wage_i) * weekly\ hours_i * 52.$$[2]

The average annual wage cost increase was $870. I summed the cost over each worker (i) to obtain the total wage cost to state and local government entities in Missouri of $14,866,430.

The increased wage cost is not the only labor cost to state and local government entities of the minimum wage increase. Employers are required to pay 7.65% of their wage costs in Social Security and Medicare taxes. Thus, the total labor cost of the minimum wage increase will be 1.0765 times $14,866,430 or $16,003,712.

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[2] I assume that persons reporting an hourly wage rate between $7.00 and $7.24 are actually earning $7.25 per hour.

*C. Unemployment Benefit Impact*

The higher minimum wage will cause firms to reduce their level of employment.[3] As a result, the number of unemployed workers will increase. Thus, another important fiscal cost of the minimum wage increase is the cost of the unemployment insurance benefits for the workers laid off as a result of the minimum wage increase.

To calculate the cost to the unemployment benefits program, I first calculated the number of workers laid off. To do so, I calculated a probability of job loss for each affected Missouri worker (i) in the January 2010 to December 2011 ORG CPS:

$$Probability\ Job\ Loss_{\ i} = \frac{(\$8.25 - Current\ Wage_i)}{Current\ Wage_i} * elasticity_i.$$

I used the preferred employment elasticity (i.e., sensitivity of employment to wage changes) contained in Sabia and Burkhauser (2010), which was -0.6 for individuals aged 16 to 29 without a high school degree and -0.2 for all other individuals. The sole exception was for state and local government workers, where I assumed an elasticity of zero.[4] The sum across all affected workers yielded an estimated job loss of 5,745 jobs.

The next step was to calculate the weekly benefit for the average unemployed worker. Using the benefits calculator on the Missouri unemployment benefits web site and the wage income of average private-sector affected worker ($10,937), yields an average weekly benefit of $109.36[5]. The state of Missouri pays the first 20 weeks of benefits.[6] Thus, each eligible unemployed worker could receive a total of $2,187.20 in

[3] For a survey of research regarding the effect of the minimum wage on employment, see David Neumark and William L. Wascher, *Minimum Wages* (Cambridge, MA: MIT Press, 2008).
[4] Joseph J. Sabia and Richard V. Burkhauser, "Minimum Wages and Poverty: Will a $9.50 Federal Minimum Wage Really Help the Working Poor?" *Southern Economic Journal* (January 2010): 592-623.
[5] http://www.labor.mo.gov/DES/Claims/calculator.asp
[6] See http://www.labor.mo.gov/DES/Claims/

benefits paid for by the state of Missouri. These jobs are permanently eliminated and so it is appropriate to calculate the full amount of benefits for each worker.

Unemployment insurance, however, does not cover all unemployed workers. For example, it does not cover people who leave a job voluntarily, people looking for their first job, and re-entrants who previously left the labor force voluntarily. Furthermore, some individuals don't apply for benefits even though they are eligible. I assume that 35% of the unemployed workers will receive unemployment benefits based on analysis by Wenger (2001).[7]

The last step is to calculate the total cost to the Missouri unemployment benefits program. This done by multiplying the number of jobs lost (5,745) times the average benefit amount ($2,187.20) times the percent of unemployed individuals collecting benefits (35%). This calculation yields a figure of $4,397,510. This cost would be borne only during the first year of the minimum wage increase. The inflation adjustments in the minimum wage will also yield costs to the unemployment insurance program, but it is not possible to estimate the amount.

*D. Impact on State Income Tax Revenue*

The state of Missouri will gain increased revenue through higher income tax taxes paid by workers affected by the minimum wage who remain employed. However, it will

[7] Jeffery Wenger. "Divided We Fall: Deserving Workers Slip through America's Patchwork Unemployment Insurance System." *Economic Policy Institute*, 2001. Sabia and Burkhauser (2010) make the same assumption in their calculation of the amount of unemployment benefits generated by a minimum wage increase.

suffer reduced corporate income tax revenue to the extent the higher wage cost lowers profits of businesses.

To calculate the impact on individual income tax revenue, I again used data from January 2010 to December 2011 ORG CPS. I defined affected workers as those Missouri individuals earning between $7.00 and $8.24 per hour.[8] I used the following formula to estimate the change in income tax revenue:

$$\Delta Tax\ Revenue_i = (Tax_After_i - Tax_Before_i) - Prob_Job_Loss_i * Tax_Before_i,$$

where $Tax_After_i$ is the income tax paid by worker i after the minimum wage increase. $Tax_Before_i$ is the income tax paid by worker i after the minimum wage increase, and $Prob_Job_Loss_i$ is the probability of job loss for worker i. The first term shows the change in individual income tax revenue assuming no job loss and the second term shows the loss in tax revenue due to the employment loss caused by the minimum wage increase.

The income tax calculations were based on two assumptions.[9] First, the 50% percent of affected workers who were under the age 25 who were assumed to be dependents on another person's tax return. As a result, it was assumed that the affected workers' earnings were taxable at the maximum Missouri income tax rate of 6% both and after the minimum wage increase.[10] Second, all persons age 25 and older were assumed to be paying little or no income tax after exemptions and deductions. Thus, about 50% of the earnings increase will be taxed at a rate of 6%.

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[8] I again assume that persons reporting an hourly wage rate between $7.00 and $7.24 are actually earning $7.25 per hour. The annual earnings level was calculated as the worker's wage rate times usual weekly hours worked times 52.

[9] The same assumptions are used in the State Auditor's fiscal notes for the initiatives.

[10] This assumption will overstate the revenue increase as 20% of affected workers under the age 25 are living by themselves and some of these individuals will not be a dependent on another person's tax return.

The tax calculations reveal an increase in income tax revenue increase to the state. Assuming no workers were laid off by the minimum wage increase, income tax revenue would rise by $6,043,534. However, the state will lose $1,965,446 in income tax revenue due to the lost earnings of private-sector workers no longer employed due to the minimum wage hike.[11] Thus, the net increase in individual income tax revenue is $4,078,088.

Businesses have three options to respond to the higher labor costs of a higher minimum wage. They can reduce their profits, raise prices, or lay off workers. Based on the 2010-2011 ORG CPS data, the minimum wage increase will raise private-sector labor costs by $192,620,900 if employment levels are not reduced. However, labor costs will be lowered by $55,240,790 due to the reduction in employment. Thus, labor costs will, on net, rise by $137,380,110. These increased labor costs may be either passed on to consumers through higher prices or reduced profits or more likely some combination of higher prices and reduced profits. Assuming that businesses absorbed all of the higher costs through reduced profits, the corporate income tax revenue would fall by the Missouri corporate income tax of 6.25% times the rise in labor costs of $137,380,110 * 1.0765 (to account for employer-paid Social Security and Medicare taxes) or $9,243,106.[12] Alternatively, if half of the higher labor costs were passed on to consumers, then corporate income tax revenue would fall by $4,621,553.

[11] The probability of job loss was calculated in the same manner as in the prior section.
[12] The corporate income tax for Missouri is available at: http://dor.mo.gov/business/corporate/

*E. Impact on State and Local Sales Tax Revenue*

To calculate the impact on state and local sales tax revenue the following approach was undertaken.[13] First, the total increase in worker earnings, adjusted for employment reductions, was calculated using the 2010-2011 ORG CPS. This figure was $152,246,540. Second, the increase in Missouri taxable sales was calculated as 25% of the earnings increase or $38,061,635. Third, the increase in sales tax revenue was calculated by multiplying the taxable sales change times the average state and local rate of 7.67% or $2,919,327.[14]

The higher minimum wage may decrease sales tax revenue to the extent that it reduces business profits, which will lower spending by business owners.

## VI. Summary and Conclusions

I was asked by counsel to evaluate the fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085.

The results of my analysis indicate:

(1) labor costs to state and local government entities, based on state auditor fiscal notes, will rise by more than $1,352,182. A more inclusive estimate indicates that state and local government labor costs will increase by $16,003,712;

[13] The same general approach is used in the State Auditor's fiscal notes for the initiatives.
[14] The average rate comes from http://taxfoundation.org/news/show/27023.html

(2) unemployment benefit costs will rise by $4,397,510 during the first year of the minimum wage increase;

(3) individual income tax revenue will rise by at most $4,078,088;

(4) the loss in corporate income tax revenue could be as high as $9,243,105;

(5) state and local sales tax revenue will rise by at most $2,919,327;

(6) during the first year: state and local governments will incur increased costs of $20,401,222; the change in state and local government revenue will range from -$2,245,690 to +$6,997,415; and the net state and local government fiscal impact will range from -$22,646,912 to -$13,403,807.

**FISCAL ANALYSIS**
**OF**
**PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085**

David A. Macpherson

David A. Macpherson, Ph.D.
March 26, 2012

# Appendix A

## Resume and Testimony of David A. Macpherson, Ph.D.

# DAVID A. MACPHERSON

3/2012

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Ph.D., Economics, The Pennsylvania State University.
B.S., Economics, The Pennsylvania State University.

## Current Positions

E.M. Stevens Professor of Economics, Trinity University, 2009-
Research Fellow, Institute for the Study of Labor (IZA), Bonn, 2004-.

## Previous Positions

Rod and Hope Brim Eminent Scholar in Economics, FSU 2004-2009.
Director, Pepper Institute on Aging and Public Policy, FSU, 2003-2009.
Abba P. Lerner Professor of Economics, FSU, 2000-2009.
Professor, Department of Economics, Florida State University, 1996-2009.
Director of Research, Pepper Institute on Aging and Public Policy, FSU, 1995-2000.
Associate Professor, Department of Economics, Florida State University, 1993-1996.
Research Associate, Pepper Institute on Aging and Public Policy, FSU, 1993-2001, 2003-2009.
Visiting Associate Professor, Department of Economics, Florida State University, 1992-1993.
Research Affiliate, Pepper Institute on Aging and Public Policy, FSU, 1992-1993, 2001-2003.
Associate Professor, Department of Economics, Miami University, 1991-1993.
Assistant Professor, Department of Economics, Miami University, 1987-1991.

## Research Areas

Labor Economics, Labor Market Aspects of Pensions, Labor Unions, Racial and Gender Differences in the Labor Market, Minimum Wage, Deregulation.

**Teaching Areas**

Principles of Microeconomics and Macroeconomics, Intermediate Microeconomics, Money and Banking, Econometrics (undergraduate and graduate), Labor Economics and Labor Relations (undergraduate and graduate).

**Books**

*Economics: Private and Public Choice*, 14th edition, Southwestern: Cincinnati, OH, 2013, with James Gwartney, Richard Stroup, and Russell Sobel. Co-author on 10th, 11th, 12th, and 13th editions as well.

Instructor's Manual for *Economics: Private and Public Choice*, 14th edition, Southwestern: Cincinnati, OH, 2013. Author for instructor's manual for 10th, 11th, 12th, and 13th editions as well.

*Union Membership and Earnings Data Book: Compilations from the Current Population Survey (2011 Edition)*, Bureau of National Affairs, Washington, D.C., with Barry Hirsch.

Previous Editions: *Union Membership and Earnings Data Book: Compilations from the Current Population Survey* (Washington: Bureau of National Affairs, 1994-2010).

Tables derived from the *Data Book* are included in U.S. Department of Commerce, *Statistical Abstract of the United States 2011,* 130th Edition (Washington: GPO, 2011), Tables 663, 665; *Statistical Abstract of the United States 2010,* 129th Edition (Washington: GPO, 2010), Tables 648, 650; *Statistical Abstract of the United States 2009,* 128th Edition (Washington: GPO, 2009), Tables 642, 644; *Statistical Abstract of the United States 2008,* 127th Edition (Washington: GPO, 2008), Tables 642, 644; *Statistical Abstract of the United States 2007,* 126th Edition (Washington: GPO, 2006), Tables 645, 647; *Statistical Abstract of the United States 2006*, 125th Edition (Washington: GPO, 2005), Tables 647, 649; *Statistical Abstract 2004-2005*, Tables 638, 640; *Statistical Abstract 2003*, Tables 656, 658; *Statistical Abstract 2002*, Tables 628, 630; *Statistical Abstract 2001*, Tables 637, 639; *Statistical Abstract 2000*, Tables 712, 714; *Statistical Abstract 1999*, Tables 718, 720; *Statistical Abstract 1998*, Tables 712, 714; *Statistical Abstract 1997*, Tables 688, 690; *Statistical Abstract 1996*, Tables 681, 683; *Statistical Abstract 1995*, Tables 695, 697; and in U.S. Department of Commerce, *State and Metropolitan Area Data Book, 1997-98*, 5th Edition (Washington: GPO, 1998), Table A-22.

*Contemporary Labor Economics*, 9th edition, McGraw-Hill: New York, NY, 2010, with Campbell McConnell and Stanley Brue. Co-author on 5th, 6th, 7th, and 8th editions as well.

*Pensions and Productivity*, W.E. Upjohn Institute for Employment Research: Kalamazoo, MI, 1998, with Christopher Cornwell and Stuart Dorsey.

**Journal Publications (Economics)**

"Computing Lost Profits in Business Interruption Litigation: A General Model," *Journal of Business Valuation and Economic Loss Analysis*, forthcoming, with Stanley Stephenson and Gauri Prakash-Canjels.

"Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," *Southern Economic Journal*, forthcoming, April 2012, with William Even.

"Growth of Participant Direction in Defined Contribution Plans," April 2010, pp. 190-208, *Industrial Relations*, with William Even.

"Managing Risk Caused by Pension Investments in Company Stock," *National Tax Journal*, September 2009, pp. 439-453, with William Even.

"Pension Investments in Employer Stock," *Journal of Pension Economics and Finance*, March 2008, pp. 67-93, with William Even.

"Defined Contribution Plans and the Distribution of Pension Wealth," *Industrial Relations*, July 2007, pp. 551-581, with William Even.

"Lost Profits Damages to New Businesses: Adjusting for Survival," *Journal of Business Valuation and Economic Loss Analysis*, October 2006, pp. 1-12, with Stanley Stephenson.

"Determinants and Effects of Employer Matching Contributions in 401(k) Plans," *Industrial Relations*, July 2005, pp. 525-549, with William Even.

"When Will the Gender Gap in Retirement Income Narrow?" *Southern Economic Journal*, July 2004, pp. 182-200, with William Even.

"Company Stock in Pension Funds," *National Tax Journal*, June 2004, pp. 299-313, with William Even.

"Wages, Sorting on Skill, and the Racial Composition of Jobs," *Journal of Labor Economics*, January 2004, pp.189-210, with Barry Hirsch.

"Racial and Ethnic Differences in Pension Wealth," *Research in Labor Economics*, 2003, pp. 203-226, with William Even.

"Do Terminated Employees Catch Up? Evidence From the Displaced Worker Survey," *Journal of Forensic Economics*, Spring/Summer 2003, pp. 185-199, with Michael Piette.

"Union Membership and Coverage Database from the Current Population Survey: Note," *Industrial and Labor Relations Review*, January 2003, pp. 349-354, with Barry Hirsch.

"The Wage and Employment Dynamics of Minimum Wage Workers," *Southern Economic Journal,* January 2003, pp. 676-690, with William Even.

"State-Level Estimates of Union Density, 1964 to Present," *Monthly Labor Review*, July 2001, pp. 51-55, with Barry Hirsch and Wayne Vroman (accompanying data online).

"The Changing Distribution of Pension Coverage," *Industrial Relations*, April 2000, pp. 199-227, with William Even.

"Occupational Age Structure and Access for Older Workers," *Industrial and Labor Relations Review*, April 2000, pp. 401-418, with Barry Hirsch and Melissa Hardy.

"Earnings, Rents, and Competition in the Airline Labor Market," *Journal of Labor Economics*, January 2000, pp. 125-155, with Barry Hirsch.

"Estimating Wage Differentials: When Does Cost-of-Living Matter?" *Economic Inquiry*, October 1999, pp. 577-598, with Mike DuMond and Barry Hirsch.

"Worker's Compensation Recipency in Union and Nonunion Workplaces," *Industrial and Labor Relations Review*, January 1997, pp. 213-236, with Barry Hirsch and Michael DuMond.

"Pensions and Training," *Industrial Relations*, January 1997, pp. 81-96, with Stuart Dorsey.

"The Consequences of Indexing Minimum Wages," *Contemporary Economic Policy,* October 1996, pp. 67-77, with William Even.

"Employer Size and Labor Turnover: The Role of Pensions," *Industrial and Labor Relations Review*, July 1996, pp. 707-728, with William Even.

"The Consequences of Non-FICA Status in State and Local Pensions," *Proceedings of National Tax Association Meetings*, 1996, with William Even.

"Wages and Gender Composition: Why Do Women's Jobs Pay Less?" *Journal of Labor Economics*, July 1995, pp. 426-471, with Barry Hirsch.

"Employer Size and Compensation: The Role of Worker Characteristics," *Applied Economics*, September 1994, pp. 897-907, with William Even

"Gender Differences in Pensions," *Journal of Human Resources*, Spring 1994, pp. 555-587, with William Even.

"Why Did Male Pension Coverage Decline in the 1980s?", *Industrial and Labor Relations Review*, April 1994, pp. 439-453, with William Even.

"Unionism and Gross Employment Flows," *Southern Economic Journal*, January 1994, pp. 427-438, with Timothy Dunne.

"The Decline of Private-Sector Unionism and the Gender Wage Gap," *Journal of Human Resources*, Spring 1993, pp. 279-296, with William Even.

"Union Membership and Coverage Data Available From the Current Population Surveys: Note." *Industrial and Labor Relations Review*, April 1993, pp. 574-578, with Barry Hirsch.

"Employer-Provided Retiree Health Insurance: Who is Covered?" *Economics Letters*, May 1992, pp. 95-99.

"Union Wage Differentials and the Effects of Industry and Local Union Density: Evidence from the 1980s," *Journal of Labor Research*, Fall 1991, pp. 419-427, with Michael Curme.

"The Effects of Extended Families and Marital Status on Housing Consumption by Black Female-Headed Households," *Review of Black Political Economy*, Winter/Spring 1991, pp. 65-84, with James Stewart.

"The Impact of Unionism on Fringe Benefit Coverage," *Economics Letters*, May 1991, pp. 87-91, with William Even.

"A Note on Ownership and Performance in Manufacturing Firms," *Southern Economic Journal*, April 1991, pp. 1164-1169, with Timothy Dunne.

"Union Membership and Contract Coverage in the United States, 1983-1988," *Industrial and Labor Relations Review*, October 1990, pp. 5-33, with Michael Curme and Barry Hirsch.

"The Gender Gap in Pensions and Wages," *Review of Economics and Statistics*, May 1990, pp. 259-265, with William Even.

"The Effect of International Competition on Union and Nonunion Wages," *Industrial and Labor Relations Review*, April 1990, pp. 434-446, with James Stewart.

"Plant Size and the Decline of Unionism," *Economics Letters*, April 1990, pp. 393-398, with William Even.

"Trade Unions and Labor's Share in U.S. Manufacturing Industries," *International Journal of Industrial Organization*, March 1990, pp. 143-51.

"The Labor Force Participation and Earnings Profiles of Married Female Immigrants," *Quarterly Review of Economics and Business*, Autumn 1989, pp. 57-72, with James Stewart.

"The Labor Supply and School Attendance of Black Women in Extended and Nonextended Households," *American Economic Review Papers and Proceedings*, May 1989, pp. 71-74, with James Stewart.

"Self-Employment and Married Women," *Economics Letters*, December 1988, pp. 281-284.

"Unionism and the Dispersion of Wages Among Blue-Collar Women," *Journal of Labor Research*, Fall 1987, pp. 395-405, with James Stewart.

**Journal Publications (Real Estate and Insurance)**

"The Use of Post-Loss Assessments in Catastrophic Financing," *Risk Insurance and Management Review*, forthcoming, with Patrick Maroney, Charles Nyce, Kathleen McCullough, James W. Newman Jr., and Cassandra Cole.

"A Meta Analysis of Selling Price and Time on the Market," *Journal of Housing Research,* Issue 2010, pp. 139-152, with Stacy Sirmans and Lynn MacDonald.

"A Comparison of Hurricane Loss Models," *Journal of Insurance Issues*, Spring 2010, pp. 31-53, with Kathleen McCullough and Cassandra Cole.

"A Review of the Development of Residual Market Mechanisms in Florida," *Journal of Insurance Regulation*, Summer 2009, pp. 55-80, with Patrick Maroney, Charles Nyce, Kathleen McCullough, James W. Newman Jr., and Cassandra Cole.

"The History of Property Tax Capitalization in Real Estate," *Journal of Real Estate Literature*, Issue 3 2008, pp. 327-343, with Dean Gatzlaff and Stacy Sirmans.

"Horizontal and Vertical Inequity in Real Property Taxation," *Journal of Real Estate Literature*, Issue 2 2008, pp. 167-180, with Dean Gatzlaff and Stacy Sirmans.

"The Title Insurance Industry: Examining a Decade of Growth," *Journal of Insurance Regulation*, Summer 2007, pp. 23-51, with Randy Dumm and Stacy Sirmans.

"The Value of Housing Characteristics: A Meta Analysis" *Journal of Real Estate Finance and Economics*, November 2006, pp. 215-240, with Stacy Sirmans, Lynn MacDonald, and Emily Zeitz.

"The Composition of Hedonic Pricing Models," *Journal of Real Estate Literature*, Issue 1 2005, pp. 3-43, with Stacy Sirmans.

"The State of Affordable Housing," *Journal of Real Estate Literature*, Issue 2 2003, pp. 133-155, with Stacy Sirmans.

"Affinity Programs and Real Estate Brokerage," *Journal of Real Estate Research*, November-December 2001, pp. 337-351, with Stacy Sirmans.

"Neighborhood Diversity and House Price Appreciation," *Journal of Real Estate Finance and Economics*, January 2001, pp. 81-97, with Stacy Sirmans.

"Forecasting Seniors Housing Demand in Florida," *Journal of Real Estate Portfolio Management*, 1999, pp. 259-74, with G. Stacy Sirmans.

**Publications in Books**

"Improving Pension Coverage at Small Firms," with William Even, in *Overcoming Barriers to Entrepreneurship*, ed. Diana Furchtgott-Roth, Rowman & Littlefield, 2008.

"Measuring Union and Nonunion Wage Growth: Puzzles in Search of Solutions" with Barry Hirsch and Edward Schumacher, in *Changing Role of Unions: New Forms of Representation*, Phanindra Wunnava, M.E. Sharpe, 2004.

"Living Wage Laws and the Case for a Targeted Wage Subsidy," in *Living Wage Movements: Global Perspectives*, ed. Deborah M. Figart, Routledge, 2004.

"Benefits and Worker Productivity," with William Even, in *Benefits for the Workplace of Tomorrow,* eds. Olivia S. Mitchell, David S. Blitzstein, Michael S. Gordon, and Judith F. Mazo, University of Pennsylvania Press, 2003.

"Children's Effects on Women's Labor Market Attachment and Earnings," with William Even, in *Changes in Working Time in Canada and the United States*, eds. Susan Houseman and Alice Nakamura, W.E. Upjohn Institute, 2001.

"Downsizing and Life Course Consequences of Job Loss: The Effect of Age and Gender on Employment and Income Security," with Jill Quadagno, Jennifer Reid, and Lori Parham, in *Restructuring Work and the Life Course*, eds. Victor Marshall, Walter Heinz, Helga Krueger, and Anil Verma, University of Toronto Press, 2001.

"The Effect of a Job Loss on the Employment Experience, Benefits, and Retirement Savings of Bank Officers," with Jill Quadagno and Jennifer Keene, in *Ensuring Health and Income Security for an Aging Workforce*, ed. Peter P. Budetti, W.E. Upjohn Institute, 2001.

"Earnings and Employment in Trucking: Deregulating a Naturally Competitive Industry," with Barry Hirsch, in *Regulatory Reform and Labor Markets*, ed. James Peoples, Kluwer Publishers, 1998.

"Gender-Related Differences in Pension Coverage," with William Even, in *Women and Work: A Handbook*, Garland Publishing, New York, NY, 1996.

"The Pension Coverage of Young and Mature Workers", with William Even, in *Pension Coverage Issues for the '90s*, eds. Richard Hinz, John Turner, and Phyllis Fernandez, U.S. Government Printing Office, Washington, D.C, 1994.

**Working Papers (Economics)**

"Deferred Compensation vs. Efficiency Wages: An Experimental Test of Effort Provision and
Self-Selection," with Tim Salmon and Kislaya Prasad, under review, *Journal of Business and Economic Organization*

"What Do Unions Do to Pension Performance?" with William Even, September 2011, under revision

"Teacher Salaries, State Collective Bargaining Laws, and Union Coverage" March 2011, with Barry Hirsch and John Winters.

"The Effects of the 2007-2009 Federal Minimum Wage Increases on Teen Employment," with William Even, under revision, July 2010.

"Participant Direction in Defined Contribution Plans," April 2006, with William Even, under revision.

"Do Pensions Impede Phased Retirement?" September 2004, with William Even, under revision.

**Working Papers (Real Estate and Insurance)**

"An Empirical Analysis of Socio-Demographic Factors and the Mispricing of Homeowners Insurance in Florida," under review *Journal of Financial Services Research*, with Ronald Cheung, Charles Nyce, Kathleen McCullough, and Cassandra Cole.

"The Impact of No-Fault Legislation on Automobile Insurance Premiums," revised and resubmitted to *North American Actuarial Journal*, with Cassandra Cole, Kevin Eastman, Patrick Maroney, and Kathleen McCullough.

**Funded Projects**

Employment Policies Institute, 5/2010-7/2010, $16,500 (Trinity University portion), "Employment Effects of the 2007-2009 Federal Minimum Wage Increases," with William Even.

National Science Foundation, 9/2009-8/2012, $125,866 (Trinity University portion), "Incentives in the Workplace: An Experimental Examination of How Wage Differences Across Time and Among Peers Affect Productivity and Self-Selection," with Tim Salmon, Kislaya Prasad, and Hyejin Ku.

Florida Legislature, 10/2007-6/2009, $175,000, "Child Support Guidelines," with Stefan Norrbin and Thomas McCaleb.

Florida Legislature (through University of Florida), 12/2006-9/2007, $223,000, "Analysis of Save our Homes Amendment," with Dean Gatzlaff.

U.S. Administration on Aging (through University of South Florida), 5/2005-9/2007, $175,000, "Employment in the Long-Term Care Industry: The Importance of Recruitment and Retention," with William Even.

Florida Legislature, 2/2003-8/2004, $175,000, "Child Support Guidelines," with Stefan Norrbin and Thomas McCaleb.

Florida Department of Environmental Protection, 6/2002-2/2003, $94,157, "Affordability Index," with Stefan Norrbin and William Serow.

University of South Carolina, 4/2000-11/2000, $10,000, "Minority Homeownership in South Carolina," with Stacy Sirmans.

Florida Department of Business and Professional Regulation, 3/1999-6/1999, $21,739, "Forecasting Housing Demand in Florida," with Stacy Sirmans.

University of South Carolina, 4/1999-11/1999, $10,000, "Forecasting Housing Demand in South Carolina," with Stacy Sirmans.

Florida State University, 6/1999-8/1999, $7,500, "Support for Preparing ECO 2000 as a Web-Based Course."

TIAA-CREF, 8/1998-8/1999, $23,000, "Determinants of Savings in Supplemental Pension Plans: A Case Study of Pension Choices in Higher Education," with Melissa Hardy and Larry Hazelrigg.

Florida Department of Business and Professional Regulation, 4/1998-6/1998, $16,638, "Forecasting Seniors' Demand for Housing in Florida," with Stacy Sirmans.

Florida Department of Business and Professional Regulation, 12/1997-6/1998, $18,472, "Housing Price Appreciation in Orlando and Tampa," with Stacy Sirmans.

Florida State University, 6/1998-8/1998, $7,500, "Support for Preparing ECO 2000 as a Web-Assisted Course."

Florida Department of Business and Professional Regulation, 3/1997-6/1997, $17,898, "Minority Homeownership in Florida," with Stacy Sirmans.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 12/1996-8/1997, $20,000, "The Impact of Rising 401(k) Pension Coverage on Retirement Income," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 3/1996-6/1997, $15,000, "The Determinants of 401(k) Participation and Contribution Levels," with William Even.

Florida Department of Business and Professional Regulation, 4/1996-6/1996, $22,702, "Forecasting the Number of New Florida Real Estate Licensees," with Stacy Sirmans.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 3/1995-6/1996, $15,000, "Explaining the Decline in Pension Coverage of Less Educated Workers," with William Even.

Florida State University COFRS Grant, 6/1994-8/1994, $8,000, "The Relative Compensation and Quality of Public and Private Sector Workers."

W.E. Upjohn Institute for Employment Research, 3/1994-12/1995, $35,000, "Pensions and Productivity," with Stuart Dorsey and Christopher Cornwell.

Florida Division of Workers' Compensation, 1/94-12/1995, $100,000, "Worker's Compensation Recipency in Union and Nonunion Workplaces," part of a service contract titled "Research Partnership with the Division of Workers' Compensation," co-investigator (one of several).

University of Wisconsin Institute for Research on Poverty Small Grant Program, 7/1993-6/1994, $15,000, "Racial Composition, Wages, and Quality Sorting," with Barry Hirsch.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 7/1993-6/1993, $10,000, "Trends in Individual and Family Pension Coverage," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 6/1992-5/1993, $10,000, "The Pension Coverage of Young and Mature Workers," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration and American Society of Pension Actuaries, 6/1991-5/1992, $10,000, "A Conference on Current Pension Policy Issues," with William Even.

Miami University Faculty Research Grant, 6/1991-8/1991, $4,000, "Projected Growth in Retiree Health Insurance Liabilities."

Ohio Board of Regents Research Challenge Grant, 1/1990-12/1990, $4,980, "Proposal to Enhance the Data Library of the Center of Pension and Retirement Research," with William Even and Samuel Williamson.

Miami University Faculty Research Grant, 6/1990-8/1990, $4,000, "The Role of Firm Size in Pension Coverage and Options."

Miami University Faculty Research Grant, 6/1989-8/1989, $4,000, "Declining Unionism and the Gender Wage Gap," with William Even.

**Participation in National Meetings**

Panel Discussant, American Real Estate and Urban Economics Association/ASSA meetings, January 2008.

Presented, "Employee Turnover in the Long-Term Care Industry," at Academy Health Annual Research Meetings, June 2007.

Presented, "Participant Direction in Defined Contribution Pension Plans," at International Atlantic Economic Society meetings, October 2006.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at International Atlantic Economic Society meetings, October 2005.

Presented, "Replacing Earnings After Termination: Evidence from the Displaced Worker Survey," at the Allied Social Science Association/National Association of Forensic Economics, January 2002.

Presented, "Labor Market Transitions of Older Workers," at the Allied Social Science Association/Society of Government Economists meetings, January 1999.

Presented, "Why has the Loss in Pension Coverage Accelerated Among Less Educated Workers?" at the American Economic Association Meetings, 1995.

Presented, "Wages and Gender Composition: Why Do Women's Jobs Pay Less?" at the American Economic Association Meetings, 1994, with Barry Hirsch.

Presented, "Pensions, Labor Turnover, and Employer Size" at the American Economic Association Meetings, 1993, with William Even.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the American Economic Association meetings, 1992, with William Even.

**Participation in Regional Meetings**

Presented "Unions and Pension Performance: The Role of Pension Design," at Southern Economics Association meetings, November 2009.

Panel member, "Recent Federal Reserve Policy: An Evaluation" at Southern Economics Association meetings, November 2009.

Discussant, "Topics in Health Economics," at Southern Economics Association meetings, November 2009.

Discussant, "Teacher Pay, Principals, and Schooling," at Southern Economics Association meetings, November 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Western Economic Association meetings, July 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Eastern Economic Association meetings, February 2009.

Panel Discussant at the Southern Economic Association meetings, November 2008.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Southern Economic Association meetings, November 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Western Economic Association meetings, July 2008.

Chair "Pensions and Retirement" Session at Southern Economic Association meetings, November 2007.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Southern Economic Association meetings, November 2007.

Presented, "Participant Direction in Defined Contribution Pension Plans," at Southern Economic Association meetings, November 2006.

Panel Discussant, Southern Economic Association meetings, November 2005.

Presented, "Do Pensions Impede Phased Retirement?" at the Southern Economic Association meetings, November 2004.

Presented, "When Will the Gender Gap in Retirement Income Narrow?" at the Southern Economic Association meetings, November 2003.

Presented, "How Will the Growth of DC and 401(k) Plans Affect Pension Income?" at the Southern Economic Association meetings, November 2002.

Presented, "Racial Composition, Wages, and Quality Sorting," at the Southern Economic Association meetings, November 1999.

Presented, "Racial and Ethnic Differences in Pension Coverage and Benefit Levels," at the Southern Economic Association meetings, November 1998.

Presented, "Factors Influencing Participation and Contribution Levels in 401(k) Plans," at the Western Economics Association meetings, July 1998.

Presented, "Aging at Work: Employment Determination, Firm Strategies, and Public Policy in the United States," at the Western Economic Association meetings, July 1994.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Western Economic Association meetings, July 1992.

Presented "Plant Size and the Decline of Unionism," at the Southern Economic Association meetings, 1989, with William Even.

Panel Discussant, Southern Economic Association meetings, November 1989.

Presented "The Labor Force Participation and Earnings Profiles of Married Female Immigrants," at the Southern Economic Association meetings, November 1988.

Presented "Pensions, Screening, and the Gender Wage Gap," at the Southern Economic Association meetings, November 1988.

Session Chair and Panel Discussant at the Southern Economic Association meetings, November 1988.

**Participation in Invited Seminars, Conferences, and other Presentations**

Presented, "Teaching Macroeconomics During Troubled Times," at Creative Ideas for Your Basic Economics Course Conference at Florida State University, February 2012.

Presented, "Participant Direction in Defined Contribution Pension Plans," at Pennsylvania State University, April 2010.

Presented, "The Parallels Between the Japanese Economic Crisis of the 1990s and the US Today" at Creative Ideas for Your Basic Economics Course Conference at Florida State University, February 2010.

Chair "Minimum Wage & EITC" Session at Society of Labor Economists meetings, May 2009.

Presented "Participant Direction in Defined Contribution Plans," at Lehigh University, April 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Association of Private Enterprise Education meetings, April 2009.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Trinity University, October 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Georgia State University, April 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Association of Private Enterprise Education meetings, April 2008.
Presented, "Improving Pension Coverage at Small Firms," at Hudson Institute, May 2006.

Presented, "Participant Direction in Defined Contribution Plans," at Society of Labor Economics meetings, May 2006.

Presented, "Participant Direction in Defined Contribution Plans," at Association of Private Enterprise Education meetings, April 2006.

Presented, "Participant Direction in Defined Contribution Plans," at University of Wisconsin-Milwaukee, April 2006.

Invited Panel Participant for Pepper Foundation and Center Symposium on pension reform, Washington, DC, February 2006.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at West Virginia University, April 2005.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at the University of Kentucky, November 2004.

Presented, "The Causes and Consequences of Company Stock Holdings in Pension Funds," at the Federal Reserve Bank of Atlanta, April 2004.

Presented, "The Causes and Consequences of Company Stock Holdings in Pension Funds," at the University of Oklahoma, February 2004.

Presented, "Tracking Union and Nonunion Wages in the U.S.: Can the Evidence be Reconciled?" at the Middlebury Annual Conference on Economic Issues, April 2002.

Presented, "How Will the Growth of DC and 401(k) Plans Affect Pension Income?" at the Miami University Center for Pension and Retirement Research Conference, June 2001.

Presented, "Benefits and Worker Productivity," Benefits for the Workplace of Tomorrow Conference, Wharton School, University of Pennsylvania, May 2001.

Participant, Innovations in Managing the Financial Risks of Retirement Conference, Wharton School, University of Pennsylvania, May 2000.

Presented "Using Hi-Tech in Large Lectures," at Association of Private Enterprise Education meetings, April 2000.

Presented "Employee Participation in 401(k) Plans," at University of Wisconsin-Milwaukee, October 1999.

Presented "Gender, Race, and Ethnicity in the Labor Market," as part of the Smith Chair course in Labor Economics at Brigham Young University, September 1999.

Presented, "The Decline in Pension Coverage Among Less Educated Workers," at the Florida State University Economics Department Seminar Series, 1996.

Presented, "Children's Effects on Women's Labor Market Attachment and Earnings" at the Conference on the Changes in Working Time in Canada and the United States, Canadian Employment Research Forum, 1996.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" at the Ohio State University Economics Department Seminar Series, 1996.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" at the Florida State University Economics Department Seminar Series, 1995.

Presented, "Employer Size and Labor Turnover: The Role of Pensions," at Syracuse University, 1995.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" while visiting scholar at the Federal Reserve Bank of Cleveland, 1995.

Presented, "Trends in Individual and Household Pension Coverage," at the Miami University Center for Pension and Retirement Research Conference, 1994.

Presented, "Racial Composition, Quality Sorting, and the Black-White Wage Gap" at the University of Wisconsin, Institute for Research on Poverty, Small Grants Workshop, 1993, with Barry Hirsch.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Florida State University Economics Department Seminar Series, 1992.

Participant at National Bureau of Economic Research (NBER) Labor Studies meetings of the Summer Institute, 1992.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Miami University Conference on Current Pension Policy Issues, 1992.

Organizer and participant at conference on "Contemporary Issues in Pension Economics," hosted by the Center for Pension and Retirement Research, Miami University, 1990.

Presented "The Effect of International Competition on Union and Nonunion Wages," at the University of Cincinnati Seminar Series, 1987.

**Refereeing**

*Bulletin of Economic Research, Canadian Journal of Economics, Contemporary Economic Policy, Eastern Economics Journal, Economic Development and Cultural Change, Economic Inquiry, Industrial Relations, Industrial and Labor Relations Review, International Economic Review, Journal of Economics and Business, Journal of Human Resources, Journal of Labor Economics, Journal of Labor Research, Journal of Pension Economics and Finance, Labour Economics, Mid-American Journal of Business, Policy Studies Review, Quarterly Journal of Economics, Quarterly Review of Economics and Finance, Real Estate Economics,* Review *of Economics and Statistics, Social Science Quarterly, Southern Economic Journal*

Outside reviewer for Department of Economics, UNC-Greensboro, Georgia State University.

Promotion and tenure letters for candidates at Georgia State University, Kansas State University, Monmouth University, Ohio State University, University of Massachusetts, University of Southern California, and University of Wisconsin-Milwaukee.

**Honors and Awards**

Awarded sabbatical, Trinity, Fall 2011.

Nominated for FSU Award for Excellence in Undergraduate Teaching, Spring 2005.

Named Rod and Hope Brim Eminent Scholar in Economics, FSU, Fall 2004.

Research Fellow, Institute for the Study of Labor (IZA), Bonn, 2004-.

*Who's Who in Economics, Fourth Edition*, Mark Blaug and Howard Vane (eds), Edward Elgar Publishing, 2003, pp. 524 (selection criteria: one of the 1,200 most frequently cited economists in the years 1990-2000 using the Social Science Citation Index).

Awarded Abba Lerner named professorship, FSU, Spring 2000.

Awarded sabbatical, FSU, Spring 2000.

Received FSU Award for Excellence in Undergraduate Teaching, Spring 2000.

Received FSU Teaching Incentive Program Award, Fall 1995.

Nominated for FSU Award for Excellence in Undergraduate Teaching, Spring 1994.

Nominated for Outstanding Teaching Award, Associated Student Government, Miami University,1992.
Selected by the Miami University Sisters of Delta Gamma for a "Favorite Professor Award" in Fall 1990.

Honorary Member of Golden Key National Honor Society, Fall 1989.

Selected by the Sisters of Delta Gamma as "One of the twenty five most outstanding faculty members at Miami University" in Fall 1988.

**Service**

Vice President, Southern Economic Association, 2011-

Trinity University

Dick and Peggy Prassel Professor of Business Administration Search Committee, 2011
Faculty and Staff Compensation Committee, 2010-2011
Student Retention Committee, 2010

Florida State University

University and College Committees:

Member, GPC subcommittee for Marketing, Spring 2008.
Member, Graduate Policy Committee, Fall 2007-.
Chair, GPC subcommittee for Political Science, Fall 2006.
Member, Title IV Admissions Attendance Committee, Fall 2003-Spring 2004.
Member, College of Social Sciences Executive Committee, Fall 2003-.
Member, Ad Hoc Committee on COSS Technology, Spring 2003.
Member, Computing and Information Resource Committee, Fall 1999-.
Member, Academic and Policy Affairs Committee, Fall 1996-Spring 1998.

Economics Department Committees:

Member, Ad Hoc Committee on Economics 2000 Level Courses, Spring 1999.
Member, Undergraduate Economics Committee, Fall 1998-
Member, Economics Department Executive Committee, Fall 1994-Spring 1995, Fall 1996-Spring 1999, Fall 2000-.
Economics Department Library Representative, Fall 1993-.
Micro/Macroeconomics Seminar Coordinator, Fall 1993-Spring 1995, Fall 1998-Fall 1999, Fall 2001, Fall 2006-.

Comprehensive Examination Committees:

Member, Masters Comprehensive Exam Committee, Spring 1994.
Member, Ph.D. Labor Field Exam Committee, Fall 1992, Spring 1994, Fall 1994, Fall 1995, Fall 1996, Spring 1997, Spring 1998.
Chair, Masters Comprehensive Exam Committee, Fall 1994, Spring 1998.
Chair, Ph.D. Labor Field Exam Committee, Spring 1993-Fall 1993, Spring 1995, Spring 1996, Spring 2000, Spring 2001, Fall 2001.

Miami University

Computing Task Force, Department of Economics, 1991-92.
Recruiting Committee, Department of Economics, 1990-92.
Economics Club Advisor, 1988-1991.
Research Associate, Center for Pension and Retirement Research, 1988-92.
Delta Sigma Pi Chapter Advisor, 1988-89.
Student Finance Committee, Student Affairs Council, 1988-89.
Omicron Delta Epsilon Advisor, 1987-88.

**Theses, Extended Papers, and Dissertations**

Undergraduate Honors Thesis:

Chair, Leela Hebbar, 1995

Member, Nicole Cubies, 2006
Member, John Stutts, 2006
Member, Todd Crannell, 2000
Member, Mark Plotnick, 2000
Member, Bobby Pittman, 1998

MS Thesis and Extended Paper:

Chair, Maria Arce-Trigatti, 2009
Chair, George Holescko, 2000
Chair, J. Michael DuMond, 1994

Member, Shael Wolfson, 2000

Member, Lehr Eliason, 2000
Member, Steve Muri, 2000
Member, Ken Meier, 1998
Member, Tarteshia Williams, 1995
Member, Richard Page, 1994

PhD Dissertation:

Chair, James Farrell, 2009
Chair, Mark Keightley, 2008
Chair, Ali Al-Malki, 2007
Chair, Carter Doyle, 2005
Chair, Edward Wolpert, 1998
Chair, J. Michael DuMond, 1997

Member, Bogdan Daraban, 2007
Member, Russell Engel, 2007
Member, Li Feng, 2006
Member, Chuck Skipton, 2003
Member, Nicole Yurgin, 2003
Member, Jennifer Troyer, 1999
Member, Josefina Tranfa, 1999
Member, Shaliesh Bandarhi, 1998
Member, James Freeman, 1998
Member, Brian Nottage, 1998
Member, Ben Shippen, 1995
Member, Ed Schumacher, 1994

Outside Member, Stephanie Burge, Sociology, 2006
Outside Member, Reg Albritton, Special Education, 2005
Outside Member, Kim Shuey, Sociology, 2001
Outside Member, Andrea Willson, Sociology, 2001
Outside Member, Phyllis Keys, Finance, 1998

# David A. Macpherson

Depositions and Trial Testimony: 2008 to 2012

1. Angela Speed and Adrian Speed vs. Hertz Corporation
   Atty: Dawn Pompey Whitehurst; Brevard County, Florida; gave deposition; wrongful injury; 2008; Case No: 05-2005-CA-065447

2. Patricia Morrison vs. Anthony Mork and Microspine Surgery
   Atty: Steven Andrews; Walton County, Florida; testified at trial; wrongful injury; 2008; Case No: 06000249CA.

3. James Tomaselli vs. State of Florida, Department of Corrections
   Atty: Gordon Leech; Martin County, Florida; gave deposition; wrongful termination; 2008; Case No: 01-554-CA.

4. Russell Martin, et al. v. City of Atlanta, et al.
   Atty: Andrew Coffman; U.S. District Court, Northern District of Georgia, Atlanta 5Division; gave deposition; racial discrimination; 2008; Case CA File No: 1:07-cv-00326-BBM

5. McCabe, et al. v. Harmon Fruit, et al.
   Atty: Larry Perry; Polk County, Florida; gave deposition; wrongful death; 2008; Case 53-2005-CA-003612-0000-00

6. Thomas Faulkner v. Michael Chertoff and Department of Homeland Security
   Atty: John Davis; U.S. District Court; Northern District of Florida; gave deposition; wrongful termination; 2009; Case 4:08CV341-SPM/WCS

7. Matthew Debord and Tabitha Debord vs. G & S Material Service et al.
   Atty: Hubert Brown; U.S. District Court; Northern District of Florida; gave deposition; wrongful injury; 2009; Case 3:07cv365-LAC/MD

8. Jessica Loveday vs. USA
   Atty: Anthony Caggiano; U.S. District Court; Northern District of Florida; gave deposition; wrongful injury; 2009; Case 1:08cv205/SPM

9. Julia Keyes vs. AIG
   Atty: Larry Perry; Jackson County, Florida; gave deposition; wrongful injury; 2009; Case 08706CA

10. Estate of Linda DePuy vs. Broeseker et al.
    Atty: Steve Andrews; Leon County, Florida; gave deposition; wrongful death; 2009; Case 2007 CA 2509

11. Oliver and Sollman vs. VSoft Inc.
    Atty: Larry Pankey; U.S. District Court, Northern District of Georgia, Atlanta Division; gave deposition; age discrimination; 2009; Case CA File No: 1:09-CV-0185

12. Yolanda Young vs. Covington and Burling, LLP
    Atty: Latif Damon; U.S. District Court for the District of Columbia; gave deposition; racial discrimination; 2009; Case CA File No: 1:09-CV-0464 RBW

13. Deborah Suboh vs. Mark Bergeson et al.
    Atty: Stephanie Wright and Charlotte Perrell; Georgia, Dekalb County; Case 07A77585-5, gave deposition; legal malpractice; 2010.

14. Rolando Simmons vs. Davis and Peterson
    Atty: Hubert Brown; Florida, Calhoun County; Case 2008-0150-CA, gave deposition and testified at trial; medical malpractice; 2010.

15. Lorie J. Marshall, et al. vs. H & R Block Tax Services, Inc.
    Atty: Allan Steyer; U.S, U.S. District Court
    Southern District of Illinois; Case No. 3:08-CV591-MJR; gave deposition; consumer damages; 2010.

16. Daren Davis vs. Joseph Austin and Terry Roberts Work Site
    Atty: Anthony Caggiano; Florida, Osceola County; gave deposition; wrongful injury; 2010; Case 2006 CA 002997 AN

17. David Darrow vs. Adventist Health Systems/Sunbelt Inc.
    Atty: Anthony Caggiano; Florida, Orange County; gave deposition; wrongful injury; 2010; Case 48-2009-CA-004897-0

18. Samuel Gonzalez vs. Gurdev Singh Nijjar et al.
    Atty: Ramon Rodriguez; Texas, El Paso County; gave deposition; wrongful injury; 2010; Case 2007-011

19. John Davis vs. Devereux Foundation.
    Atty: Thomas Brown; Florida, Brevard County; gave deposition; wrongful injury; 2010; Case 99-15992-CA-F

20. Al Kowalski vs. et al. YellowPages.Com, LLC
    Atty: Peter Pearlman; U.S. District Court Southern District of New York; Case No. 10-7318 (PGG); gave deposition; consumer damages; 2011.

21. Christina Glover and Jason Glover vs. Publix Super Markets
    Atty: Phelicia Steill; Florida, Leon; Case No. 08 CA 2695; gave deposition; wrongful injury; 2011.

22. Lissette Cartagena and William Cartagena vs. Bracero et al.
    Atty: Thomas Brown; Florida, Orange County; Case No. 07-CA-2645 DIV 34; gave deposition and testified at trial; wrongful injury; 2011.

23. Lillie Conyers and James Conyers vs. Werner Enterprises et al.
    Atty: Thomas Brown; Florida, Jackson County; Case No. 09-1174-CA; gave deposition; wrongful injury; 2011.

24. Shannon McCants vs. Wackenhut Corporation
    Atty: Dawn Pompey Whitehurst; Duval County, Florida; gave deposition and testified at trial; wrongful death; 2011; Case No: 16-2008-CA-014834

25. Christina Whipple versus R.E.S.A, Inc.
    Atty: Susan Haney; Bexar County, Texas; gave deposition; business damages; 2011; Case No.: 2009-CI-17074

26. Daniel Plouffe, et al. versus General Motors, LLC
    Atty: Michael Pitt; Wayne County, Michigan; gave deposition; age discrimination; 2012; Case No.: Case No. 11-007645-CL

27. Johnny Cash versus State Farm
    Atty: Steven Andrews; Leon County, Florida; testified at trial; wrongful injury; 2012; Case No.: Case No. 10-CA-2429

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Higher Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College**.

**Fiscal Note Summary**

Increased state and local government expenses resulting from this proposal could exceed $216 million annually if funding is appropriated. State and local government tax revenue could increase by more than $249 million annually; however, employment decisions made by businesses could impact this estimate.

16-069

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

July 22, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Lara Granich regarding a proposed statutory amendment to Chapter 290, version 7 (2016-069)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Lara Granich on July 21, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

RECEIVED
JUL 22 2015
STATE AUDITORS OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-069

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
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| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____
(Name of payer) Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.
Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____.

16-069

# Statutory Amendment to Chapter 290, RSMo, Relating to the Minimum Wage, Version 7

*Be it enacted by the people of the State of Missouri:*

Sections 290.502, 290.512, and 290.527 are amended and a new section to be known as section 290.529 is enacted to read as follows:

§ 290.502. Minimum wage rate -- increase or decrease, when

1. Except as may be otherwise provided pursuant to sections 290.500 to 290.530, effective January 1, 2007, every employer shall pay to each employee wages at the rate of $ 6.50 per hour, or wages at the same rate or rates set under the provisions of federal law as the prevailing federal minimum wage applicable to those covered jobs in interstate commerce, whichever rate per hour is higher.

2. The minimum wage shall be increased or decreased on January 1, 2008, and on January 1 of successive years, by the increase or decrease in the cost of living. On September 30, 2007, and on each September 30 of each successive year, the director shall measure the increase or decrease in the cost of living by the percentage increase or decrease as of the preceding July over the level as of July of the immediately preceding year of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) or successor index as published by the U.S. Department of Labor or its successor agency, with the amount of the minimum wage increase or decrease rounded to the nearest five cents.

3. Except as may be otherwise provided pursuant to sections 290.500 to 290.530, notwithstanding subsection 1 of this section, effective January 1, 2017, every employer shall pay to each employee wages at the rate of $9.00 per hour, and effective January 1, 2018 at the rate of $10.00 per hour, and effective January 1, 2019 at the rate of $11.00 per hour, and effective January 1, 2020 at the rate of $12.00 per hour, and effective January 1, 2021 at the rate of $13.00 per hour, and effective January 1, 2022 at the rate of $14.00 per hour, or wages at the same rate or rates set under the provisions of federal law as the prevailing federal minimum wage applicable to those covered jobs in interstate commerce, whichever rate per hour is higher. Thereafter, the minimum wage rate shall be increased or decreased on January 1, 2023, and on January 1 of successive years, per the method set forth in subsection 2 of this section; but, if the federal minimum wage rate is above or is thereafter increased above the minimum wage rate then in effect under this subsection, the higher federal rate shall become the minimum wage rate for as long as it remains higher and shall be increased or decreased per the method set forth in subsection 2.

4. Every employer that is a public body shall pay to its employees wages at the rates established by subsection 3 of this section only provided there are appropriations for wages at those rates. If appropriations are not provided, the public body shall continue to be subject to the requirements of subsections 1 and 2 of this section. As used in this subsection, a public body means the state of Missouri, or any officer, agency, department, bureau, or division, board or commission of the state, or any municipality, county, township, authority, district, or any other political subdivision of or within the state.

**§ 290.512. Gratuities, goods or services as part of wages, effect on minimum wage requirement**

1. No employer of any employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages in excess of fifty percent of the minimum wage rate specified in sections 290.500 to 290.530, however, total compensation for such employee shall total at least the minimum wage specified in sections 290.500 to 290.530, the difference being made up by the employer.

2. Notwithstanding subsection 1 of this section, effective January 1, 2017, no employer of any employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages in excess of sixty percent of the minimum wage rate specified in sections 290.500 to 290.530, and effective January 1, 2018 in excess of eighty percent of the minimum wage rate specified in sections 290.500 to 290.530, however, total compensation for such employee shall total at least the minimum wage specified in sections 290.500 to 290.530, the difference being made up by the employer. Effective January 1, 2019, all employers of employees who receive and retain compensation in the form of gratuities will be required to pay the full minimum wage specified in sections 290.500 to 290.530.

3. A public body that is the employer of an employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages at the rates established by subsection 2 of this section only provided there are appropriations for wages at those rates. If appropriations are not provided, the public body shall continue to be subject to the requirements of subsection 1 of this section. As used in this subsection, a public body is defined as in subsection 4 of section 290.502.

[2.] 4. If an employee receives and retains compensation in the form of goods or services as an incident of his employment and if he is not required to exercise any discretion in order to receive the goods or services, the employer is required to pay only the difference between the fair market value of the goods and services and the minimum wage otherwise required to be paid by sections 290.500 to 290.530. The fair market value of the goods and services shall be computed on a weekly basis. The director shall provide by regulation a method of valuing the goods and services received by any employee in lieu of the wages otherwise required to be paid under the provisions of sections 290.500 to 290.530. He shall also provide by regulation a method of determining those types of goods and services that are an incident of employment the receipt of which does not require any discretion on the part of the employee.

**§ 290.527. Action for underpayment of wages, employee may bring--limitation**

Any employer who pays any employee less wages than the wages to which the employee is entitled under or by virtue of sections 290.500 to 290.530 shall be liable to the employee affected for the full amount of the wage rate and an additional [equal] amount equal to twice the unpaid wages as liquidated damages, less any amount actually paid to the employee by the employer and for costs and such reasonable attorney fees as may be allowed by the court or jury. The employee may bring any legal action necessary to collect the claim. Any agreement between the employee and the employer to work for less than the wage rate shall be no defense to the action. All actions for the collection of any deficiency in wages shall be commenced within [two] three years of the accrual of the cause of action.

§ 290.529. Severability

All the provisions of sections 290.500 to 290.530 are severable. If any provision, including any section, subsection, subdivision, paragraph, sentence, or clause, of sections 290.500 to 290.530, or the application thereof to any person or circumstance, is found by a court of competent jurisdiction to be invalid, unconstitutional, or unconstitutionally enacted, such decision shall not affect other provisions or applications of sections 290.500 to 290.530 that can be given effect without the invalid, unconstitutional, or unconstitutionally enacted provision or application.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-069)**

## Subject

Initiative petition from Lara Granich regarding a proposed amendment to Chapter 290 of the Revised Statutes of Missouri. (Received July 22, 2015)

## Date

August 11, 2015

## Description

This proposal would amend Chapter 290 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Lara Granich** provided information as a proponent of the proposal to the State Auditor's office.

**Edward D. Greim** provided information as an opponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated Section 290.502.3 (for each initiative petition) would require the department to increase wages for several employees each year assuming the money is appropriated for the increase. For each hourly increase proposed, they prepared the estimated increased expenditures on wages per year over the current wages expenditures.

Cost to increase:

- $9.00/hr = $915.20/yr
- $10.00/hr = $1,955.20/yr
- $11.00/hr = $3,995.20/yr
- $12.00/hr = $14,238.61/yr
- $13.00/hr = $39,318.02/yr
- $14.00/hr = $78,388.75/yr

They calculated these increased costs by assuming full-time workers work an average of 2087 hours/year. They assumed part-time workers work an average of 20 hours/week for an average of 1040 hours/year.

Officials from the **Department of Elementary and Secondary Education** indicated the total estimated costs for all state funds will be $0 for FY (fiscal year) 2017, $7,078 for FY 2018, $87,363 for FY 2019, $347,819 for FY 2020, $790,578 for FY 2021, $1,164,782 for FY 2022, and $641,738 for FY 2023.

Officials from the **Department of Health and Senior Services** (DHSS) indicated the total estimated net cost for all state funds will be $5,658,266 for FY 2017, $24,757,841 for FY 2018, $53,680,575 for FY 2019, $87,815,607 for FY 2020, $127,886,685 for FY 2021, and $174,707,511 for FY 2022.

DHSS defers to the Office of Administration regarding the statewide fiscal impact of this proposed legislation relating to state employee wages.

Small Medicaid Home and Community Based Services (HCBS) vendors and providers would be required to ensure attendants are paid a minimum of $9.00 per hour for calendar year 2017, $10.00 per hour for calendar year 2018, $11.00 per hour for calendar year 2019, $12.00 per hour for calendar year 2020, $13.00 per hour for calendar year 2021, and $14.00 per hour for calendar year 2022.

DHSS assumes HCBS providers and vendors would request an increase in the reimbursement rate to offset the higher minimum wage rate.

- The average growth in units of service per year from Fiscal Year 2012 to Fiscal Year 2014 is 9.39 percent. (Units are included from Agency Model Personal Care, Residential Care Facility Personal Care, Consumer Directed Services Personal Care, Adult Day Care, Independent Living Waiver Personal Care, Advanced Personal Care Agency Model, Advanced Personal Care Residential Care Facility, Basic In-Home Respite, Advanced Respite, Healthy Children and Youth Waiver Personal Care, Healthy Children and Youth Program Advanced Personal Care, AIDS Waiver Personal Care, and Medically Fragile Adult Waiver Attendant Care .) Fiscal Year 2014 actual units of service (168,363,392) were multiplied times the 9.39 percent average growth rate, which yields an estimated 220,371,779 units of service for Fiscal Year 2017; 241,060,146 for Fiscal Year 2018; 263,690,724 units for Fiscal Year 2019; 288,445,846 units for Fiscal Year 2020; 315,524,964 units for FY 2021; and 345,146,253 units for FY 2022.
- Actual wage data for the individuals involved in delivery of units of service is not available, but DHSS has been advised that the current average wage for personal care attendants is $8.50 + $0.89 in taxes (taxes at 10.45 percent) equals $9.39 per hour, or $2.35 per 15 minute unit.
- The analysis determines the difference between the proposed unit rate for wages and taxes versus the current average wage rate for wages and taxes.
- Services would be reimbursed at the Federal Medical Assistance Percentage (FMAP) rate. For this estimate, DHSS is using FY 2016 blended rate of 36.68 percent General Revenue and 63.32 percent Federal.
- The implementation date is 1/1/2017 for $9.00 per hour for calendar year 2017; one-half of Fiscal Year 2017.
- The implementation date is 1/1/2018 for $10.00 per hour for calendar year 2018.
- The implementation date is 1/1/2019 for $11.00 per hour for calendar year 2019.
- The implementation date is 1/1/2020 for $12.00 per hour for calendar year 2020.
- The implementation date is 1/1/2021 for $13.00 per hour for calendar year 2021.
- The implementation date is 1/1/2022 for $14.00 per hour for calendar year 2022.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated they defer to the Office of Administration for response to this petition regarding their employee cost as it relates to raising the minimum wage.

With regard to other issues this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated they defer to the Office of Administration for the fiscal impact.

Officials from the **Department of Natural Resources** indicated the estimated total costs for salaries, fringe benefits, equipment and expenses for all state funds will be $111,081 for FY 2017, $273,155 for FY 2018, $335,573 for FY 2019, $381,796 for FY 2020, $533,892 for FY 2021, and $931,422 for FY 2022.

Section 290.502.3 would require the department to increase the minimum wage rate to $9.00 per hour effective January 1, 2017, to $10 per hour effective January 1, 2018, to $11 per hour effective January 1, 2019, to $12 per hour effective January 1, 2020, to $13 per hour effective January 1, 2021, and to $14 per hour effective January 1, 2022, or to the wages at the same rate(s) set under the provisions of federal law as the prevailing federal minimum age applicable to those covered jobs in interstate commerce, whichever is higher the minimum wage shall be updated every January 1 thereafter.

Section 290.502.4 and 290.512.3 provides an exemption for public bodies from the provision of 290.502.3 if appropriations for wages at those rates are not provided.

Section 290.512.2 would require the department to increase minimum wage for employees that receive and retain gratuities so that total compensation is at least the minimum wage specified in 290.500 to 290.530. Effective January 1, 2017 the department would pay at least an excess of sixty percent of the minimum wage rate. Effective January 1, 2018 the department would pay at least an excess of eighty percent of the minimum wage rate. Effective January 1, 2019 the department would pay the minimum wage.

Section 290.529 makes the provisions of sections 290.500 to 290.530 severable.

The department anticipates the cost of the proposed legislation to start at $111,081 annually for fiscal year 2017 and ultimately increase to $931,422 in fiscal year 2022.

This legislation requires the minimum wage to be reviewed and adjusted every January 1.

For full time employees throughout their department they compared their current hourly wage rate to the minimum wage rate in the proposed legislation, taking the difference by 2,080 hours multiplied by the fringe rate for full time staff.

Missouri State Parks employs between 500-750 seasonal positions each year. In order to reflect a full year of seasonal employment, they based on their analysis off of FY14 staffing levels and upgraded their hourly wage to January 1, 2015. They then analyzed each January 1 upgrade to minimum wage compared to the prior year estimate. They assumed the per fiscal year designated minimum wage amount would be greater than the federal minimum wage.

Missouri State Parks does employ staff that is eligible for tips. For those individuals, they are required to ensure that their total wage plus tips meet or exceed the established minimum wage rate for non-tip staff. Therefore, they assumed the same minimum wage for estimated impact as other staff.

Seasonal positions' fringe benefit rate is 7.65 percent. Full time staff would begin to be given minimum wage increases in fiscal year 2020.

They also made the assumption that the personal service appropriations would be adjusted according to the levels necessary to provide the increased minimum wages provided in the law.

Officials from the **Department of Corrections** indicated they defer to the Office of Administration.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department and defer to Office of Administration for impact as an employer.

Officials from the **Department of Revenue** indicated this petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they would not be able to determine the effect of this legislation, and would expect there would be a general response provided by OA/Personnel.

Officials from the **Department of Social Services** indicated they defer to the Office of Administration for the costs related to this petition.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated their cost calculations related to this initiative petition is as follows based on 15 part-time employees working 1,039 hours per year:

| | |
|---|---|
| 2017 @ $9.00/hr. | No impact |
| 2018 @ $10.00/hr. | No impact |
| 2019 @ $11.00/hr. | $15,585 annual |
| 2020 @ $12.00/hr. | $30,170 annual |
| 2021 @ $13.00/hr. | $46,755 annual |
| 2022 @ $14.00/hr. | $62,340 annual |

Officials from the **Department of Conservation** indicated that this proposal, which would increase the minimum wage, would result in estimated additional annual cost to their department as follows: 1) an increase to $9/hour-$290,319; 2) an increase to $10/hour-$371,906; 3) an increase to $11/hour-$481,557; 4) an increase to $12/hour-$632,118; 5) an increase to $13/hour-$791,089; and 6) an increase to $14/hour-$850,229. This reflects pay increases necessary to increase hourly and salaried pay rates to the proposed new minimum wage.

Officials from the **Office of Administration (OA)** indicated the proposal amends Sections 290.502, 290.512, 290.527, and 290.529 RSMo.

Section 290.502, RSMo. increases the minimum wage to $9.00 per hour, beginning January 1, 2017 and by another $1.00 per hour each year until it reaches $14.00 per hour beginning January 1, 2022. Thereafter, the minimum wage will be adjusted annually based on the increase/decrease in the cost of living. The proposal also requires employers of employees who receive and retain compensation in the form of gratuities to pay the full minimum wage beginning January 1, 2019.

Because no tax rates are affected, there is no direct impact on general and total state revenues. However, these proposals may have several indirect affects which could impact revenue collections by an unknown amount, including but not limited to:

- Increased wages for certain employees. According to the US Bureau of Labor Statistics, in 2013, Missouri had 73,000 hourly employees earning wages at or below the federal minimum wage;[1]
- Increased consumption by those employees;
- Lower overall employment (if employers choose to hold costs steady);
- Lower business investment (if employers' payrolls increase);
- Increased prices as firms pass–through labor costs.

This proposal will increase state personnel costs at various state agencies. However, the proposal makes the increase for public bodies subject to appropriation. The estimated cost of the minimum wage increases are:

| Fiscal Year | Wage Rate | Time period | General Revenue Cost (including fringe benefits) | Total Cost (including fringe benefits) |
|---|---|---|---|---|
| 2017 | $9.00/hr | January –June | $171,193 | $464,938 |
| 2018 | $9.00/hr | July – December | | |
| | $10.00/hr | January – June | $513,523 | $1,673,380 |
| 2019 | $10.00/hr | July – December | | |
| | $11.00/hr | January –June | $1,464,340 | $4,407,549 |
| 2020 | $11.00/hr | July – December | | |
| | $12.00/hr | January – June | $6,222,694 | $13,640,373 |
| 2021 | $12.00/hr | July – December | | |
| | $13.00/hr | January – June | $17,386,077 | $33,385,765 |
| 2022 | $13.00/hr | July – December | | |
| | $14.00/hr | January – June | $34,452,207 | $63,042,619 |

Sections 290.512, 290.527 and 290.529 RSMo. will not impact their office.

[1] http://www.bls.gov/cps/minwage2013.pdf

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated the following is the estimated fiscal impact to their office for the years 2017 - 2019:

2017: $0
2018: $2,920
2019: $8,760

Officials from the **City of Columbia** provided the following cost estimates:

| Year of Increase | Min. Wage | Total all Employees | Incremental Increase from Previous Year |
|---|---|---|---|
| 1/17 | $9 | $ 945,659 | |
| 1/18 | $10 | $1,646,147 | $700,488 |
| 1/19 | $11 | $2,352,336 | $706,189 |
| 1/20 | $12 | $3,100,824 | $748,488 |
| 1/21 | $13 | $3,938,012 | $837,188 |
| 1/22 | $14 | $4,929,800 | $991,788 |

Assumption: Only impact is from minimum wage paid to employees and not from gratuities or value of goods and services.

Officials from the **City of Kansas City** indicated approximately 200 employees, mostly part time and seasonal employees, are currently paid less than $14.00. Under this initiative petition, there would be a salary increase to the city in the approximate amounts per year:

2017 ($9/hr) : $60,000
2018 ($10/hr): $113,000
2019 ($11/hr): $126,500
2020 ($12/hr): $140,000
2021 ($13/hr): $178,000
2022 ($14/hr): $197,000

Officials from the **City of Raymore** indicated the sum effect on each year's proposal that will increase salary within the City's part-time seasonal staff will be $7,238.85 for CY 2017, $12,510,35 for CY 2018 (an increase of $5,271.50), $19,525.72 for CY 2019 (an increase of $7,015.37), $27,836.04 for CY 2020 (an increase of $8,310.32), $37,202.50 for CY 2021 (an increase of $9,366.46), and $48,103.75 for CY 2022 (an increase of $10,901.25).

The city has calculated the sum effect on each year's proposal that will increase salary within the city's part-time seasonal staff within each petition. At this time, the city is assuming that its proposed step chart will continue to be effected by the minimum wage and be adjusted every couple years to be competitive. However, there are many unknowns, and the city has simply included its part-time staff that will be effected.

Officials from the **City of St. Louis** indicated estimated annualized costs to the city of $116,601 for CY 2017, $211,138 for CY 2018, $420,965 for CY 2019, $706,298 for CY 2020, $1,196,768 for CY 2021, and $2,704,098 for CY 2022.

This initiative petition proposes an amendment Chapter 290, RSMo, to gradually raise the minimum wage starting at $9.00 per hour on January 1, 2017 to $14.00 per hour on January 1, 2022.

Subject to annual appropriation, this initiative petition would increase costs of salaries of city employees (both full and part-time) that would otherwise not be earning the wages at the levels specified in the proposed amendment. For these purposes, current employee wages are assumed to increase in accordance with existing employee pay plan provisions through 2016. The proposed amendment could also impact city revenues both positively and negatively. Should total wage base rise, employer based earnings and payroll taxes will increase accordingly. Likewise, any job losses that can be attributed to the wage increases will result in a decline in employer based and other tax revenues. The net impact of the changes in city workforce and wage base that would result from the proposed amendment is indeterminate at this time.

Officials from **University of Missouri** indicated they anticipate the legislative proposal would create an overall cost of between $50-60 million after all rate increases were implemented.

**Lara Granich** provided the following information as a proponent of this initiative petition.

August 5, 2015
Missouri State Auditor
Jefferson City, MO
Submitted via email to moaudit@auditor.mo.gov, fiscalnote@auditor.mo.gov

Re: Fiscal Impact Analysis of Minimum Wage Initiative Petitions

Version 4 (Increase to $9, then gradually to $13, tipped 60%)
Version 5 (Increase to $9, then gradually to $14, tipped 60%)
Version 6 (Increase to $9, then gradually to $15, tipped sub-minimum phased out)
Version 7 (Increase to $9, then gradually to $14, tipped sub-minimum phased out)
Version 8 (Increase to $9, then gradually to $13, tipped sub-minimum phased out)
Version 9 (Increase to $9, then gradually to $12, tipped sub-minimum phased out)
Version 10 (Increase to $9, then gradually to $11, tipped sub-minimum phased out)

This letter is from Lara Granich and Missouri Jobs with Justice Voter Action, proponents of the above-referenced initiative petitions. Pursuant to RSMo. Section 116.175, we write to submit the following fiscal impact information to assist your office in its analysis of the fiscal impact of the above mentioned seven proposed Minimum Wage Initiative Petitions.

Our analysis estimates the impact of the seven proposed initiative petitions on state and local sales and personal income tax revenue in Missouri. We follow the process that has been used in the past to estimate the impact of minimum initiative petitions on state and local sales and personal income tax, with some refinements. We also address certain claims that have been made by opponents in the past.

We are building on analysis provided for Versions 1-3 of this initiative. However, some of the analysis tools were unavailable to us in the timeframe for submitting these versions, and therefore we want to acknowledge some gaps in the information provided.

As these petitions exclude public workers, we do not include in our analysis an estimate of the impact on state and local payroll costs of the minimum wage increases.

## I. Estimate of Number of Workers Affected Statewide and the Impact on Their Wages

We estimate that, under the three versions of the petition, increases in total wages in the state will be as follows:

| Proposed Min Wage Level | Size of Increase* | Total Estimated Workers** | Workers Affected*** | Workers Affected as % of Total Workers | Total Wage Increase**** |
|---|---|---|---|---|---|
| $11.00 | $3.20 | 2,845,927 | 880,593 | 30.94% | $4,167,807,617 |
| $12.00 | $4.20 | 2,845,927 | 995,901 | 34.99% | $5,508,377,721 |
| $13.00 | $5.20 | 2,845,927 | 1,092,551 | 38.39% | ***** |
| $14.00 | $6.20 | 2,845,927 | 1,208,950 | 42.48% | ***** |
| $15.00 | $7.20 | 2,845,927 | 1,351,386 | 47.48% | $10,801,510,192 |

*Over the legislated MO 2015 minimum wage of $7.65 + assumed 2% cost of living adjustment to MO minimum wage

**Based on 2013 American Community Survey for the State of Missouri

***The number of wage and salary workers with an hourly wage below the proposed minimum. The hourly wages in 2013 were increased by 5.497%, to account for inflation between 2013 and 2016, prior to comparison with the proposed minimum.

****The hourly wage difference was multiplied by the number of hours worked per year. That amount was then multiplied by the relevant person weight and summed over all persons with hourly wages below the proposed minimum.

*****we were unable to access tools to weight appropriately for this level in the timeframe allowed for input

The wage impact of an increase in the minimum wage for the state of Missouri is calculated using the following procedure. The American Community Survey Public Use Micro Sample for the most recent year available (2013) for the state of Missouri was downloaded from the US Census Bureau. The American Community survey was chosen over the Current Population survey because the ACS has a significantly larger sample.

Calculations were effectuated only for those individuals earning less than the proposed minimum wage. It is likely that there would be indirect impacts on others who earn more than the proposed minimum wage, especially those who earn close to the proposed hourly amount. These estimates therefore are likely to be smaller than the actual impact of increasing the minimum wage to the proposed level.

All wage earners are included in this calculation. To be consistent with past estimates, public employees should have been excluded. Employees in the public sector were included because the American Community Survey does not have a published variable that allows for identification of public employees. This inclusion of public employees will have a minimal impact on our results.[1]

All wages from the 2013 survey were adjusted upward to account for inflation between the time of the survey and the time of measurement of the impact. Actual inflation was used for 2013 and 2014, and a slightly higher rate was used for assumed inflation in 2015. The 2015 Missouri Minimum wage of $7.65 was adjusted by the same factor prior to measuring the impact of a change to the proposed minimum wage in 2016.

After these adjustments, the resulting hourly wage of all employees was compared to the proposed minimum wage. Three proposed levels for the minimum wage were examined: $11, $12, and $15. If the proposed minimum wage was less than the inflation adjusted hourly earnings of an employee, then no impact was calculated. If the proposed

[1] For the Missouri's state employees, this can be validated by viewing the earnings of all state employees at: http://mapyourtaxes.mo.gov/MAP/Employees/. Larger counties and cities will also have almost all public employees earning more than the highest proposed minimum wage. Local public employees in small counties and towns may have some public employees who earn less than the highest proposed minimum.

minimum wage was more than the hourly earnings on an employee, then the difference between the inflation adjusted hourly earnings and the proposed minimum wage was calculated. That difference was multiplied by the number of hours the employee worked in the year to calculate the impact for that employee. The result was then multiplied by a weighting factor for that employee in the population. The total impact for the state of Missouri was calculated by repeating this process for every employee and adding the results.

The impact grows as the proposed minimum wage grows. 31% of the labor force would be directly impacted by an increase in the minimum wage to $11 in 2016, whereas 47% would be impacted if the minimum wage were increased to $15 per hour.

It should be emphasized that there is no reason to expect even a substantial increase in the minimum wage to reduce employment. No credible research has demonstrated a negative employment effect of increases in the minimum wage and there is substantial research to indicate that increases in the minimum wage have multiplier effects that increase the direct effects. For this reason and because of the likely increases in wages to individuals who earn above the proposed minimum wages, the impacts summarized in the table are likely to be low, relative to the total impact that would occur as a result of increasing the minimum wage to the proposed levels.

## II. Economic Literature on the Impact of Minimum Wage Increases on Employment

Next it is necessary to review the economic literature on the impact of minimum wage increases on employment. Opponents often claim that minimum wage increases may reduce employment in a state. If that is true, then those employment reductions would result in reductions in state income and sales tax revenue. However, review of the most credible recent empirical research on the minimum wage shows that increases in the minimum wage have had no discernible impact on employment. We thus conclude that it is not appropriate to project that the proposed initiative petitions would result in any detectable employment reduction, and resulting losses in income and sales tax revenue, or increases in unemployment-related costs to the state.

Economists have conducted hundreds of studies of the employment impact of the minimum wage. A recent meta-study – a formal statistical study of studies – by Doucouliagos and Stanley (2009) reviewed all the research conducted over the last three decades on the employment impact of minimum-wage increases on teenagers in the United States. The researchers concluded that the minimum wage has little or no discernible effect on the employment prospects of low-wage workers. Their study followed a rigorous, peer-reviewed procedure and has the advantage of using a set of predetermined, objective criteria for weighing the validity of statistical findings across studies with different results. (Source: Doucouliagos, Hristos and T. D. Stanley. 2009. “Publication Selection Bias in Minimum-Wage Research? A Meta-Regression Analysis.” British Journal of Industrial Relations,vol. 47, no. 2, pp. 406-428.)

Recent theoretical and empirical research emphasizes several explanations for the consistently negligible employment impacts of moderate increases in the minimum wage. First, relative to total wage costs, minimum-wage increases are small. Second, employers and workers appear to respond to minimum-wage increases in many ways that reduce the direct cost to employers and substantially reduce or eliminate the need to cut employment.

Probably the most important economic response to a higher minimum wage is a reduction in turnover. At higher wages, employers fill vacancies faster and retain employees longer, boosting total employment and average productivity per worker while reducing direct and indirect training costs. Dube, Lester, and Reich (2012), for example, examined the effect of the minimum wage on labor turnover among teens and restaurant workers. They find “...striking evidence that separations, new hires, and turnover rates for teens and restaurant workers fall substantially following a minimum wage increase...” (p. 2) Their findings, using nationally representative data, are consistent with local case studies of the

minimum wage and related "living wage" laws, including Dube, Naidu, and Reich's (2007) analysis of the San Francisco city-wide minimum wage; Fairris's (2005) study of local government contractors in Los Angeles; Howes (2005) on homecare workers in California; and Reich, Hall, and Jacobs (2005) on workers at the San Francisco airport. (Sources: Dube, Arindrajit, T. William Lester, and Michael Reich. 2012. "Minimum Wage Shocks, Employment Flows and Labor Market Frictions." Berkeley, CA: Institute for Research on Labor and Employment. http://escholarship.org/uc/item/76p927ks; Dube, Arindrajit, Suresh Naidu, and Michael Reich. 2007. "The Economic Effects of a Citywide Minimum Wage." *Industrial and Labor Relations Review*, vol. 60, no. 4, pp. 522-543; Fairris, David. 2005. "The Impact of Living Wages on Employers: A Control Group Analysis of the Los Angeles Ordinance." *Industrial Relations*, vol. 44, no. 1, pp. 84-105; Howes, Candace. 2005. "Living Wages and the Retention of Home Care Workers in San Francisco." *Industrial Relations*, vol. 44, 5 no. 1, pp. 139-163; Reich, Michael, Peter Hall, and Ken Jacobs. 2005. "Living Wage Policies at the San Francisco Airport: Impacts on Workers and Businesses." *Industrial Relations*, vol. 44, no. 1, pp. 106-138.)

Employers also appear to respond to increases in the minimum wage by taking measures to boost productivity. Hirsch, Kaufman, and Zelenska's (2011) study of the impact of the federal minimum-wage increase on 81 fast-food restaurants in Georgia and Alabama, for example, asked fast-food managers about the scope for efficiency improvements in response to the minimum-wage rise. About 90 percent of managers indicated that they planned to respond to the minimum-wage increase with increased performance standards such as "requiring a better attendance and on-time record, faster and more proficient performance of job duties, taking on additional tasks, and faster termination of poor performers." (p. 27) Roughly the same share of managers said that they sought to "boost morale" by presenting the minimum-wage increase as a "challenge to the store" and using this as a way "to energize employees to improve productivity." (pp. 28-29) Based on their interviews with store managers, the researchers concluded that a minimum-wage increase may function as a "catalyst or shock that forces managers to step out of the daily routine and think about where cost savings can occur." (p. 29) (Source: Hirsch, Barry T., Bruce Kaufman, and Tetyana Zelenska, "Minimum Wage Channels of Adjustment." IZA Discussion Paper No. 6132. Germany: Institute for the Study of Labor. http://www2.gsu.edu/~ecobth/IZA_HKZ_MinWageCoA_dp6132.pdf)

A higher minimum wage may also motivate workers to work harder, independently of any actions by employers to increase productivity. According to "efficiency wage" theory, wages above the competitive-market rate may elicit greater work effort for several reasons. As Carl Shapiro and Joseph Stiglitz (1984) have argued, higher pay increases the cost to workers of losing their job, potentially inducing greater effort from workers in order to reduce their chances of being fired. George Akerlof (1982), arguing from a more sociological point of view, has suggested that workers may see higher wages as a gift from employers, leading workers to reciprocate by working harder. (Sources: Shapiro, Carl and Joseph E. Stiglitz. 1984. "Equilibrium unemployment as a worker discipline device." *American Economic Review*, vol. 74, no. 3, pp. 433-444; Akerlof, George A. 1982. "Labor contracts as partial gift exchange." *Quarterly Journal of Economics*, vol. 97, no. 4, pp. 543-569.)

We therefore conclude that the proposed increase in the Missouri minimum wage would have no discernible impact on the employment levels of low-wage workers. Accordingly, we do not factor in reductions in employment, or any resulting decrease in sales tax or income tax. We also do not project any increased unemployment insurance costs – both because we do not project any resulting job losses, and additionally because unemployment insurance costs are paid for by employer premiums, and so are ultimately not a cost to the state.

### III. State and Local Sales and Personal Income Tax Revenue Impact of Raising the Minimum Wage

Based on the wage impact figures calculated above, and the understanding that the minimum wage increases would be unlikely to result in offsetting job losses, we next calculate the impact of the projected wage increases on state and local

sales and personal income tax revenue in Missouri. We project only the direct impact of the three minimum wage increase scenarios on such tax revenue. We do not attempt to project the additional impact through a GDP multiplier effect.

**Increase in Personal Income Tax Revenue and Sales Tax Revenue Due to Increased Wages Personal Income Tax Revenue.** In order to determine the projected increase in personal income tax revenues that would result directly from the increased wages, we had to develop assumptions about the effective income tax rates of the affected workers. We made the following assumptions with respect to the effective tax rate:

1. That 25% of affected workers can be claimed as a dependent on another party's Missouri income tax return and as a result would pay an effective tax rate of 6.0% on the increase in income;
2. That 50% of the affected workers would file as single taxpayers, would claim one deduction of $2,100, and would be entitled to a standard deduction of $5,800. This would result in an effective tax rate of 2.47%;
3. The remaining 25% would, we assumed, would pay no additional Missouri income tax. In light of these assumptions, the increased Missouri income tax revenue for each petition version can be calculated as follows: (total wage increase * 25% * 6.0%) + (total wage increase * 50% * 2.47%) + (total wage increase *25% * 0%).

**Sales Tax Revenue.** The State of Missouri imposes a 4.225% state sales tax on those items that are not exempt from the sales tax base. In addition, the average local sales tax rate is 2.95%. As a result, the average Missouri net sales tax rate is 7.175%. We have conservatively estimated that just 25% of the higher wages would be spent on the purchase of goods that are subject to state and local sales tax in Missouri.

Based upon the above assumptions, and the total wage increase calculations for each version of the petition, we estimate that the increase in state income tax revenue resulting from the increased wages would be as follows:

| Increase in Sales and Personal Income Tax from Increased Wages | | | | | | |
|---|---|---|---|---|---|---|
| **Proposed Min Wage Level** | **Total Wage Increase** | **State Sales Tax (4.225%)** | **Local Sales Tax Revenue (2.95%)** | **Total Sales Tax Revenue Increase** | **Personal Income Tax Revenue** | **Total Sales and Personal Income Tax Revenue Increase** |
| $11.00 | $4,167,807,617 | $44,022,468 | $30,737,581.17 | $74,760,049.13 | $113,989,538 | $188,749,587 |
| $12.00 | $5,508,377,721 | $58,182,240 | $40,624,285.69 | $98,806,525.38 | $150,654,131 | $249,460,656 |
| $13.00 | *We were unable to access a tool to weight calculations of the total wage increase for these levels in the timeframe allotted.* | | | | | |
| $14.00 | | | | | | |
| $15.00 | $10,801,510,192 | $114,090,951 | $79,661,137.67 | $193,752,089.08 | $295,421,304 | $489,173,393 |

Moreover, one often-cited authority on tax information, the Tax Foundation, reports that the average local sales tax rate in Missouri is even higher at 3.53%. See http://taxfoundation.org/article/state-and-local-sales-taxes-midyear-2012 If one uses this higher rate, total revenue increases additionally by hundreds of thousand dollars.

We hope that this information is useful to your office as your prepare your analyses of the petitions.

Respectfully submitted,
Lara Granich
Missouri Jobs with Justice Voter Action

**Edward D. Greim** provided the following information as an opponent of this initiative petition.

He writes on behalf of Robert Bonney. Mr. Bonney is the Chief Executive Officer of the Missouri Restaurant Association. Please consider this letter and the accompanying studies as his fiscal impact statement as an opponent of Initiative Petitions 2016-066, 2016-067, 2016-068, 2016-069, 2016-070, 2016-071 and 2016-072 (the "Initiative Petitions"). Initiative Petitions 2016-066 and 2016-067 appear to be substantially similar to the previously-submitted Initiative Petitions 2016-045, 2016-046 and 2016-047—which will cause significant negative impacts, if passed. Moreover, Initiative Petitions 2016-068, 2016-069, 2016-070, 2016-071 and 2016-072 only work to further negatively impact the Missouri economy by phasing out tipped wage percentages entirely. In short, any of these seven initiatives would have a substantial negative impact on state and local governments.

The two fiscal impact studies attached hereto were authored by Dr. David Macpherson, a nationally-recognized labor economist and expert on the impact of minimum wage increases. In reviewing previous minimum wage petitions, the Auditor's Office has previously found Dr. Macpherson's analyses to be helpful and persuasive.

The first study was prepared by Dr. Macpherson in June 2014 and details how a $10.10 per hour minimum wage would have impacted Missouri and the St. Louis area were it to have become effective in 2015. *See* Exhibit A. In addition to the estimated loss of nearly 15,000 jobs statewide, Dr. Macpherson estimated that the cost to taxpayers of a $10.10 minimum wage would be $87 million annually. While this study did not address the specific proposals in the Initiative Petitions, Dr. Macpherson's methodology applies directly to the impact of the proposed minimum wage increases.

The second fiscal study was reviewed and used by this office in evaluating earlier minimum wage proposals. It was prepared by Dr. Macpherson in March 2012 and details the impact of a statewide minimum wage increase to $8.25 per hour. This study is attached hereto as Exhibit B. In this study, Dr. Macpherson concluded that state and local entities would pay out $16 million in increased wages. What's more, Dr. Macpherson estimated that the net state and local fiscal impact would range from a loss of over $22 million to a loss of $13 million. While this study is now three years old, the analysis is pertinent to the proposed wage increase in the Initiative Petitions. Notably, using Dr. Macpherson's methodology, the heightened minimum wage proposals contained in the Initiative Petitions would have a substantially greater negative fiscal impact than that found in the 2012 study.

The proponents of the Initiative Petitions will likely rely on data sourced from political activist groups who claim increases in minimum wage only serve to create new taxable income. The reality is that such groups approach this issue with indisputable political bias. Further, that type of analysis is one-sided, disregarding the significant impact on Missouri businesses. True, some workers will collect increased wages, but no new money is created; Missouri businesses will be the source of the increase which will lower their taxable income and, from time to time, cause them to forego hiring or to cut employment. Regarding secondary employment and tax revenue effects, the Auditor must refrain from assessing only one half of the wage increase equation.

In addition, the most significant and most direct effect of a minimum wage increase is the amount of the increased wages that will actually be paid by state and local governments. As has been shown during prior efforts to increase the minimum wage, very few of the hundreds of state and local entities who actually employ minimum wage workers will take the time to provide fiscal impact estimates in response to the Auditor's requests. Further, the Auditor's requests are simply sent to a sample of governmental employers. The more appropriate method to calculate the fiscal impact of the wage increase is to use the actual number of minimum wage workers who work for state and local governments, as calculated by the United States Census Bureau's CPS. Rather than simply adding the sums reported in the scattershot and unreliable fiscal note responses from state and local entities, the Auditor should supplement them with broader analyses such as those of Dr. Macpherson. At the very least, the Auditor should state in the fiscal note summary that state and local impacts are "large" or "substantial," rather than simply reporting impacts of "at least" the few thousand dollars in costs that may or may not be reported by those local entities that take the time to respond to the Auditor's sampling.

Finally, the proponents of the Initiative Petitions may argue that the Auditor should abandon the state and local cost estimates altogether. The proponents will argue that a new provision they have inserted in the statute would make the increases apply only if "there are appropriations for wages at those [i.e., the newly-increased] rates." The proponents will urge the Auditor's Office to assume that legislators will not actually fund the increases, and that therefore there will be no cost to taxpayers. Setting aside unjustifiable projections about the political judgments of legislators, the provision is of uncertain legal effect and constitutionality. On the one hand, it may not change existing law, since arguably the legislature always has the power to reduce or increase appropriations. But it is also unclear whether the legislature has the power to fix wage rates within an appropriations bill, or whether a mere statutory petition can confer this type of power upon the legislature. The application of the requirement for a specific type and manner of appropriation is also unclear in the context of political subdivisions and other public bodies whose funds are generally not appropriated by the general assembly. These are just a few examples of the serious flaws with the proposal itself that may have to be addressed by the courts. Suffice it to say that as a matter of law, it would be insufficient and unfair for the Auditor's fiscal note or summary to simply assume that these legal issues do not exist, or to make a political judgment that legislators will not in fact fund any of the minimum wage increases at any level of state government. Such assumptions would only serve to artificially deflate the fiscal note and fiscal note summary by tens of millions of dollars.

June 2014

MISSOURI
Restaurant Association
*Eat Out Often!*

# The Impact of a $10.10 Minimum Wage on Jobs and Taxpayer Costs in Missouri

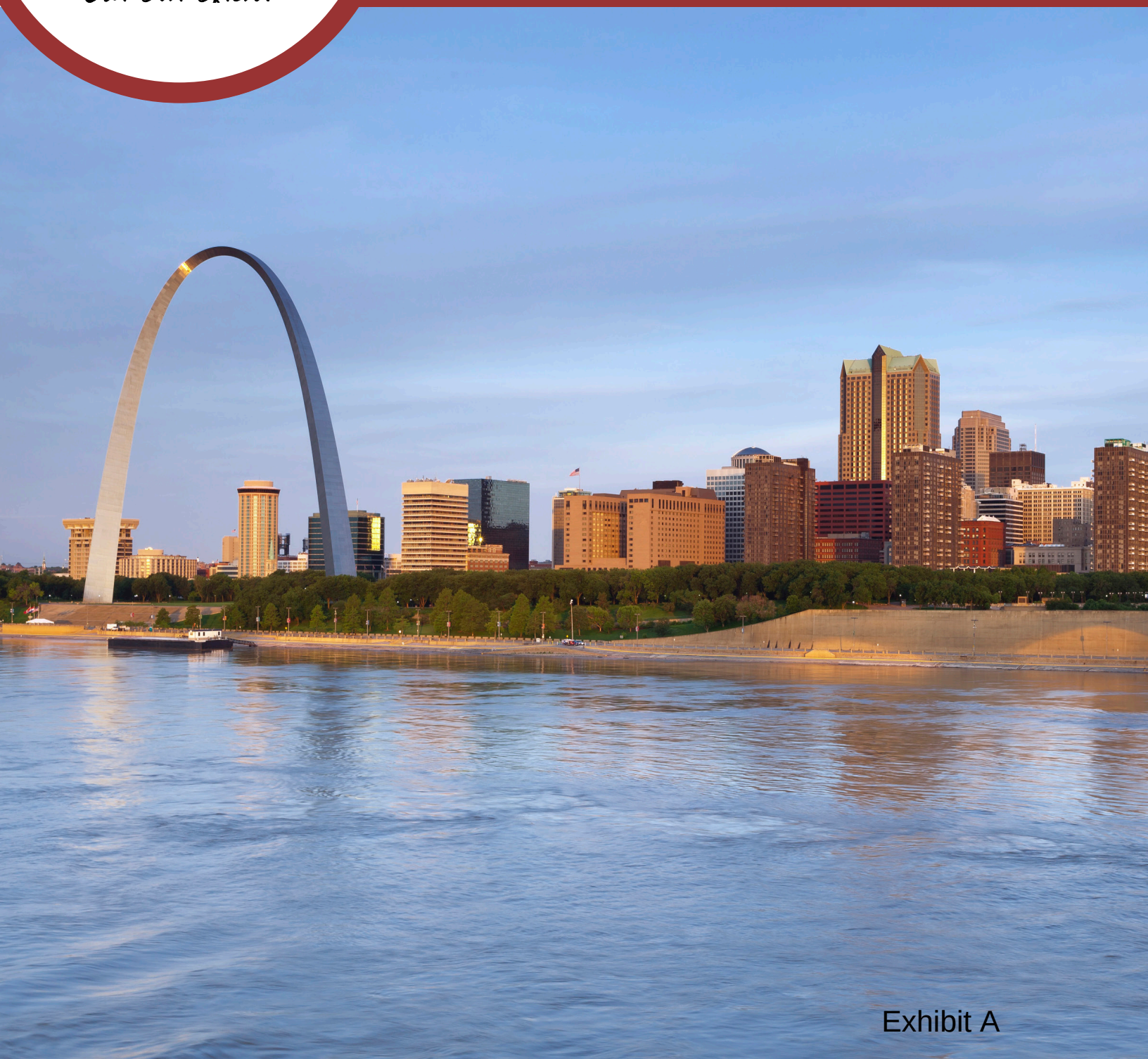

Exhibit A

# ABOUT THE MISSOURI RESTAURANT ASSOCIATION

With origins dating back to 1916, the Missouri Restaurant Association (MRA) is a statewide trade association representing over 1,500 member establishments. The association's membership is diverse, and includes full service, fast casual, and quick service restaurants, cafeterias, hotels, schools, institutions, contract feeders, and ancillary foodservice providers such as theme parks. The association has been successful in securing support from virtually every segment of the foodservice and hospitality industry.

MRA includes seven chapters as extensions of the parent organization, each with its own Officers, Board of Directors, and limited budget. The association is governed by a Board of Directors comprised of five Officers, 33 Directors, and each President of the seven affiliated chapters.

MRA is dedicated to serving the needs of the foodservice and hospitality industry, enhancing and improving its growth and development, assisting and educating its members in operating more effectively, improving the political and social environment in which the industry conducts business, for the benefit of its members, patrons, employees, and the well-being of the community.

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David A. Macpherson is the E.M. Stevens Professor of Economics at Trinity University. He received undergraduate and doctoral degrees in economics from Pennsylvania State University.

Dr. Macpherson has published over 60 articles in leading economics and real estate journals including Review of Economics and Statistics, Industrial and Labor Relations Review, Journal of Labor Economics, Journal of Human Resources, and Journal of Real Estate Economics and Finance. His research has been funded by a variety of entities including the National Science Foundation, Florida Legislature, and the National Association of Realtors. He is co-author of the undergraduate labor economics text, Contemporary Labor Economics, as well as the principles of economics text, Economics: Private and Public Choice. He is included in Who's Who in Economics, Fourth Edition, which includes the 1,200 most frequently cited economists.

# THE IMPACT OF A $10.10 MINIMUM WAGE ON JOBS AND TAXPAYER COSTS IN MISSOURI

June 2014

Economic Analysis by **Dr. David Macpherson**
**Trinity University**

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# EXECUTIVE SUMMARY

Missouri's minimum wage of $7.50 is linked to rise in most years with the inflation rate. But some state legislators and labor unions would like to raise that figure even higher. For instance, a recent labor union-organized bus tour in the state promoted a $10.10 minimum wage in St. Louis.

Proponents have enthusiastically pointed to the benefits of the $10.10 policy. But there's been far less discussion of the costs involved with a $10.10-an-hour minimum wage—both the cost on employment, and the cost to taxpayers.

In this study, labor economist David Macpherson of Trinity University uses Census Bureau data to estimate the impact on Missouri's labor market and budget from raising the minimum wage to $10.10 an hour. He also provides separate results for the St. Louis metropolitan area.

Dr. Macpherson's employment estimates follow the methodology used by the nonpartisan Congressional Budget Office in its report earlier this year estimating the impact of a $10.10 minimum wage nationwide, which in turn relied on 60 different empirical studies to formulate its estimates.

Statewide, he finds that over 15,000 jobs would be lost at the $10.10 wage level—with 9,300 of those jobs being held by women. In the St. Louis metropolitan area, approximately 4,800 jobs would be lost from a $10.10 minimum wage.

The cost to taxpayers would be significant: There are approximately 40,000 state and local employees whose wages would be affected by the $10.10 increase in Missouri, for a combined cost to taxpayers of $87 million annually.

Raising wages is an admirable goal, but the evidence suggests that accomplishing this goal with a blunt wage mandate could do more harm than good.

# RESULTS

The minimum wage is one of the most hotly-debated topics in the political world. Some legislators claim that a higher base wage will stimulate the economy; others claim that it will reduce jobs when affected employers can't offset the higher costs through higher prices.

Economists, who have studied the issue since the late 1940s, tend to take a skeptical view of minimum wage increases. Since the early 1990s, for instance, roughly 85 percent of the most credible research on the minimum wage points to job loss for less-skilled groups. The nonpartisan Congressional Budget Office (CBO), in an evaluation of President Obama's proposed $10.10 minimum wage increase, reviewed 60 different studies and concluded that the policy would eliminate 500,000 jobs if enacted.

The estimates that follow, of the employment impact of a higher minimum wage on Missouri's labor market, were performed by Dr. David Macpherson of Trinity University. Dr. Macpherson followed closely the methodology used by the CBO in its 2014 report. Dr. Macpherson also estimates the taxpayer costs of a higher minimum wage, as many state and local public employees will see their earnings increase when the minimum wage rises.

Dr. Macpherson's methodology is presented in detail in a technical appendix.

## Estimated Employment Effects of a $10.10 Minimum Wage in Missouri

Statewide, Dr. Macpherson finds that increasing the minimum wage to $10.10 would eliminate over 15,000 jobs—approximately 60 percent of which are jobs held by women. The bulk of the job losses would be concentrated among individuals with a high school degree or less, and among people who work in the retail or leisure & hospitality industries.

(Note: Totals have slight discrepancies due to rounding.)

**Estimates by Gender**

| | *Job Losses* |
|---|---|
| **Male** | 6,311 |
| **Female** | 9,364 |
| **TOTAL** | **15,705** |

**Estimates by Age**

| *Age* | *Job Loss* |
|---|---|
| **<=21** | 9,237 |
| **22-25** | 1,532 |
| **26-30** | 1,023 |
| **31-40** | 1,175 |
| **41-50** | 980 |
| **51 +** | 1,759 |

**Estimates by Race**

| *Race* | *Job Loss* |
|---|---|
| **White** | 13,299 |
| **Black or Other Race** | 2,406 |

# RESULTS CONTINUED

| Top Three Industries Affected | |
|---|---|
| *Industry* | *Job Loss* |
| **Retail Trade** | 3,835 |
| **Arts, Entertainment, Recreation, Accommodations, and Food Services** | 6,039 |
| **Healthcare** | 1,199 |

| Estimates by Education | |
|---|---|
| *Education* | *Job Loss* |
| **Less than High School** | 5,555 |
| **High School Grad, No College** | 4,921 |
| **Some College** | 4,428 |
| **Undergrad or Graduate Degree** | 802 |

## City-Specific Minimum Wage Employment Impacts

The city of St. Louis has been the subject of a number of protests calling for a higher minimum wage. Dr. Macpherson analyzed the employment impact of a $10.10 minimum wage in the St. Louis metropolitan area, providing breakouts by gender and education where the data permits. He estimates that the wage hike would eliminate approximately 5,000 jobs—just over half of which would be jobs held by women.

| Impact on St. Louis Metro Area of a $10.10 Minimum Wage | |
|---|---|
| *Gender* | *Job Loss* |
| **Male** | 2,033 |
| **Female** | 2,767 |
| **TOTAL** | **4,800** |
| *Race* | *Job Loss* |
| **White** | 3,641 |
| **Black or Other Race** | 1,158 |
| *Education* | *Job Loss* |
| **High School Grad or Less** | 3,097 |
| **Some College, Undergrad or Graduate Degree** | 1,703 |

# RESULTS CONTINUED

## Missouri Taxpayer Costs of a $10.10 Minimum Wage

Dr. Macpherson estimates that approximately forty thousand state & local public employees would be affected by a minimum wage increase to $10.10 an hour. These additional wage costs translate to new costs for state and local taxpayers. Following the methodology described in detail in the technical appendix, Dr. Macpherson estimates both the straight wage cost of a $10.10 minimum wage, as well as the total compensation cost with Social Security, Medicare, workers compensation, and unemployment insurance included. Statewide, taxpayers would shoulder an additional $87 million in costs if the base wage was increased to $10.10 an hour and public employees were covered by the new wage.

| Missouri Taxpayer Costs of a $10.10 Minimum Wage | |
|---|---|
| **# of State & Local Workers** | 304,588 |
| **# Affected By $10.10 MW** | 40,103 |
| **Annual Wage Cost** | $79,629,374 |
| **Annual Compensation Cost** | $87,004,355 |

*Note: Annual compensation costs include the cost of worker's compensation, FICA, and unemployment insurance benefits.*

MISSOURI Restaurant Association
Eat Out Often!

# TECHNICAL APPENDIX

## Estimating Employment Loss and the Cost to State and Local Government of an Increase in the Minimum Wage

**Dr. David Macpherson**
**E.M. Stevens Professor of Economics**
**Trinity University**

This paper describes how we estimate the employment loss and the cost to state and local governments of a proposed increase in the minimum wage effective on January 1, 2015.

## Data and Sample

First, we use data from the Current Population Survey (CPS) Outgoing Rotation Groups (ORG) from January 2011 through December 2013. For each worker in the sample, we calculate their wage rate. We also adjust the wage rate to reflect a forecast of wages in 2015. This is done in two steps. First, based on legislation enacted as of April 2014, we estimate the minimum wage that would be in effect in January 2015 for each state and city that we consider. If a state or city has an indexed minimum wage, we increase the January 2014 state or city minimum wage by the Congressional Budget Office (CBO) inflation forecast for 2014 of 1.7%.

Since we use data from 2011 through 2013, we also follow the CBO approach for forecasting what the wage distribution would be in 2015. This is done in two steps. First, we adjust wages observed prior to 2013 to reflect 2013 minimum wage legislation. For example, if the minimum wage in a state was $7.25 in 2011 and grew to $8.00 by 2013, anyone who earned between $7.25 and $8.00 in 2011 would have their wage increased to $8.00. After wages are adjusted to 2013 levels, we assume that all wages grow by 2.9% in 2014. Using the resulting 2015 distribution of wages, we adjust for minimum wage legislation that would increase the minimum between 2013 and 2015. Anyone earning a wage between the 2013 and 2015 minimum wage is assigned a wage matching the 2015 minimum wage.

After generating the forecast 2015 distribution of wages reflecting wage growth and existing minimum wage legislation, we identify workers who would be affected by additional changes to the 2015 minimum wage as those with wages between the predicted minimum wage legislated for 2015 (or up to $.25 below it) and the proposed minimum.

To estimate the number of affected workers, we take two steps. First, for each state, we estimate the number of affected workers for 2013. Second, we adjust the weights in the 2011 and 2012 data so that the state-specific number of affected workers implied by the 2011 and 2012 data matches that for 2013. This adjustment is designed to correct for the changing economic climate as the economy recovers from the great recession and to generate estimates that are as close as possible to the most recent data (2013). After we adjust the 2011 and 2012 weights, we estimate the number of affected workers by summing their earnings weights and dividing the total by 36 (the number of months of data).

[1] Also, following CBO, anyone earning up to $.25 less than the 2011 minimum wage would have their wage increased by the amount that the minimum wage increased (i.e. a $7.00 wage would be increased to $7.75 in this example). This approach is used to adjust for the fact that many workers round their answers when asked about their wage.

# TECHINCAL APPENDIX CONTINUED

## Employment Loss

To estimate employment loss, for each affected worker we compute:

**L = e *(Proposed Min Wage /Min Wage 2015 – 1)**

where e is an assumed elasticity of employment with respect to changes in the minimum wage, Min Wage 2015 is the minimum wage currently legislated for 2015, and Proposed Min Wage is the minimum wage that is being proposed for 2015. Thus, for example, if a worker is projected to earn the federal minimum of $7.25 in 2015, the expected reduction in employment resulting from a $10.10 minimum wage in 2015 if e=.45 is .45*(10.10/7.25 – 1) = .18. That is, for every 100 workers currently earning the federal minimum, the expectation is that 18 would lose a job if the minimum wage elasticity is .45.

To estimate the aggregate employment loss in the economy, we use earnings weights to sum L across workers. We also follow the Congressional Budget Office (2014) and use an elasticity of 0.15 for non-teenagers and 0.45 for teenagers.

## Cost to State and Local Government

We use the same data to estimate the cost to state and local government of a proposed minimum wage hike. We apply the same definition of affected workers described above and estimate the number of state and local government workers affected by a minimum wage hike. We do not, however, assume that there is any job loss for state and local workers as we do not have an appropriate elasticity estimate specific to state and local workers. To the extent that state or local governments reduce hours or employment in response tothe minimum wage hike, our estimate of the cost of the hike would be overstated.

To estimate the increase in annual payroll cost resulting from an increase in the minimum wage, we estimate the increase in annual cost for each worker as:

**(Proposed Min Wage-Min Wage 2015)*weekly hours*52**

We then multiply the increase in annual cost by the earnings weight for each worker and sum across workers. Since an increase in wages also requires increased employer contributions for Social Security, Medicare, workers' compensation and unemployment insurance, we apply an estimate of the payroll tax rate for these mandatory programs to calculate the additional cost for these programs.

For each state and city considered, we provide tables summarizing the number of affected workers, employment loss, and the distribution of employment loss by sex, education, race, age and industry. Given that we use three years of data, a rule of thumb for minimum sample size required to achieve a reasonably accurate estimate of the employment loss is to require at least 30,000 people be in the relevant category. For example, if there are fewer than 30,000 people projected to be in a particular industry category, the Bureau of Labor Statistics would not report the estimate due to a lack of reliability based on the variance of the estimate relative to its mean.

In addition to the estimate of employment loss, for each state or city considered, we estimate the number of state and local workers that would be affected by the minimum wage hike and the total annual cost to government in terms of wages and total compensation. As with the employment estimates, we advise caution in interpreting estimates that are based on fewer than 30,000 affected workers.

[3] Congressional Budget Office, "The Effects of a Minimum-Wage Increase on Employment and Family Income," February 2014.

[4] For workers paid by the hour the reported hourly wage was used. For workers who are not paid by the hour, we calculate the hourly wage by dividing usual weekly earnings by usual weekly hours. Overtime pay was calculated as time and one-half for hours above 40 hours for hourly workers.

[5] The assumed payroll tax for Medicare and Social Security is 7.65 percent. To estimate the payroll tax for workers' compensation and unemployment insurance, we use unpublished data from the 2010 Employer Cost of Employee Compensation database for state and local workers in the relevant region in 2010.

# FISCAL ANALYSIS
# OF
# PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

**Prepared for**

**Victor Allred versus Robin Carnahan and Thomas Schweich**
**Circuit Court of Cole County, Missouri**

**Prepared by**

**David A. Macpherson, Ph.D.**
**125 Park Drive**
**San Antonio, TX 78212**

**March 26, 2012**

Exhibit B

# FISCAL ANALYSIS
# OF
# PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

## I. Introduction

This report was undertaken at the request of counsel representing plaintiffs in the case of Victor Allred versus Robin Carnahan and Thomas Schweich. As part of the basis of the lawsuit, the plaintiffs allege that the fiscal note summaries for proposed statutory initiative petitions 2012-084 and 2012-085 are insufficient and unfair. I was asked by counsel to evaluate the fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085.

The results of my analysis indicate:

(1) labor costs to state and local government entities, based on state auditor fiscal notes, will rise by more than $1,352,182. A more inclusive estimate indicates that state and local government labor costs will increase by $16,003,712;

(2) unemployment benefit costs will rise by $4,397,510 during the first year of the minimum wage increase;

(3) individual income tax revenue will rise by at most $4,078,088;

(4) the loss in corporate income tax revenue could be as high as $9,243,105;

(5) state and local sales tax revenue will rise by at most $2,919,327;

(6) during the first year: state and local governments will incur increased costs of $20,401,222; the change in state and local government revenue will

range from -$2,245,690 to +$6,997,415; and the net state and local government fiscal impact will range from -$22,646,912 to -$13,403,807.

The report is organized as follows. My qualifications to prepare this report are contained in Section II. Section III describes the data and records I relied upon for this report. Section IV reviews the estimated fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085. A summary and my conclusions are provided in Section VI.

## II. Qualifications

I am currently the E.M. Stevens Professor of Economics at Trinity University in San Antonio, Texas. Previously, I was employed by Florida State University as Director of the Pepper Institute on Aging and Public Policy and the Rod and Hope Brim Eminent Scholar in Economics. I have taught both undergraduate and graduate Econometrics (statistical analysis of economic data), and Labor Economics. I have published over 50 articles in peer-reviewed professional journals.

I am currently serving on the editorial board of the *Journal of Forensic Economics*, which is a peer-reviewed journal. I have also served as a reviewer or 'referee' for 24 peer-reviewed journals, including the *Journal of Human Resources, Journal of Labor Economics, Quarterly Journal of Economics,* and the *Review of Economics and Statistics*. Based upon these experiences, I am very familiar with the scholarly and professional research process and the concept of peer review.

I have prepared numerous analyses and reports that use statistical methods as applied to specific questions. I have been responsible for developing the techniques and approaches required for these analyses. I routinely use computers and statistical software packages to assist me in my analytical work. I have been qualified as an expert witness on statistical analysis of employment discrimination and economic damages in state courts in Florida and Georgia and Federal Courts, and I have given expert testimony. I have prepared analyses and offered testimony on behalf of both plaintiffs and defendants.

Details of my qualifications are reflected in my current resume and legal cases, attached as Appendix A to the report.

## III. Data and Records

I reviewed the following materials in preparing this report.

- Plaintiff's Complaint
- Material cited in footnotes below.

## IV. Fiscal Impact

*A. Overview*

The proposed statutory initiative petitions 2012-084 and 2012-085 contain many elements in common. Both initiatives would increase the Missouri minimum wage to $8.25 per hour, alter the exemption for retail and service firms, raise the cash wage of tipped workers from 50% to 60% of the minimum wage, and increase the statute of limitation from two to three year for underpayment claims.

The initiatives differ in their linkage to the federal minimum wage. Initiative petition 2012-084 requires that the state minimum wage be automatically increased to the

federal minimum wage if it is higher than the state minimum wage. Initiative petition 2012-085 does not have such a linkage. It only requires that workers be paid the higher of the state minimum wage or the federal minimum wage. The linkage to the federal minimum wage will cause the state minimum wage to be higher under initiative petition 2012-084 over time. This is because the state minimum wage, in contrast to the federal minimum wage, is adjusted for inflation as measured by the Consumer Price Index.

An increase in the minimum wage in Missouri will affect state and local government entities in two ways. First, it will directly increase the cost of labor to state and local government entities. This will occur due to the increase in wages of state and local government workers earning between the existing minimum wage of $7.25 and the new minimum wage of $8.25.[1] In addition, workers laid off due to the minimum wage increase can collect unemployment benefits. The state government will bear the cost of unemployment benefits of these workers for the first 20 weeks. Second, state and local government may gain increased revenue through higher income tax and sales taxes paid by workers affected by the minimum wage who remain employed. However, state and local government will suffer reduced tax revenue to the extent the higher wage cost lowers profits of businesses.

The following sections estimate the cost and revenue effects to state and local government entities of the proposed minimum wage increase.

[1] Information about the minimum wage in Missouri is available at http://www.labor.mo.gov/DLS/minimumwage/.

*B. Direct Labor Cost Impact on State and Local Government Budgets*

There are two possible ways to measure the direct labor cost on state and local government budgets. First, one can use the information included in the fiscal notes prepared by the State Auditor regarding the proposed initiatives. It is important to note that the fiscal notes provide an incomplete and thus too low estimate of the direct labor cost. The fiscal notes indicate that the Office of Administration's (OA) Division of Personnel reported that as of September 2011 there were 834 state workers who would be affected by an increase of the minimum wage to $8.25 and the "approximate annual cost" would be more than $540,000.

This OA estimate excludes seasonal workers such as State Fair employees, State Parks Employees, and tax season staff. The Division of Revenue noted its labor cost would rise by $40,000. The Division of Natural Resources stated they have over 500 workers who would be affected by the increase, but did not provide an estimate of the cost. The State Fair hired 745 workers that would be affected, but no cost estimate was provided.

Thus, the cost to state government, based on the fiscal notes, would be more than $580,000.

The fiscal notes also provide an incomplete and thus too low measure of the cost to local government and public educational institutions. Many cities and educational institutions did not respond to Office of Auditor's survey or provide an estimate of the cost of the higher minimum wage. The City of Columbia, City of Jefferson, City of

Joseph, Linn State Technical College, and Metropolitan Community College did provide such an estimate. The total cost to these five institutions is $772,182.

Based on the fiscal notes, the cost to state and local government entities of the increase in the minimum wage to $8.25 will be more than $1,352,182.

Second, data from the U.S. Census Bureau's Current Population Survey (CPS) can also be used to calculate the cost of the increased labor cost to state and local government entities in Missouri. Using the data from January 2010 to December 2011 Outgoing Rotation Group (ORG) CPS, I calculated that 17,089 state and local government workers would be affected by the minimum wage increase. I defined affected workers as those individuals earning between $7.00 and $8.24 per hour. Though the minimum wage was $7.25 per hour during this period, I also included those workers reporting earnings of $7.00 to $7.24 since some individuals may round their wage rate. I calculated the annual wage cost for each state and local government worker (i) in the ORG CPS as:

$$Annual\ Wage\ Cost_i = (\$8.25 - current\ wage_i) * weekly\ hours_i * 52.$$[2]

The average annual wage cost increase was $870. I summed the cost over each worker (i) to obtain the total wage cost to state and local government entities in Missouri of $14,866,430.

The increased wage cost is not the only labor cost to state and local government entities of the minimum wage increase. Employers are required to pay 7.65% of their wage costs in Social Security and Medicare taxes. Thus, the total labor cost of the minimum wage increase will be 1.0765 times $14,866,430 or $16,003,712.

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[2] I assume that persons reporting an hourly wage rate between $7.00 and $7.24 are actually earning $7.25 per hour.

*C. Unemployment Benefit Impact*

The higher minimum wage will cause firms to reduce their level of employment.[3] As a result, the number of unemployed workers will increase. Thus, another important fiscal cost of the minimum wage increase is the cost of the unemployment insurance benefits for the workers laid off as a result of the minimum wage increase.

To calculate the cost to the unemployment benefits program, I first calculated the number of workers laid off. To do so, I calculated a probability of job loss for each affected Missouri worker (i) in the January 2010 to December 2011 ORG CPS:

$$Probability\ Job\ Loss_{\ i} = \frac{(\$8.25 - Current\ Wage_i)}{Current\ Wage_i} * elasticity_i.$$

I used the preferred employment elasticity (i.e., sensitivity of employment to wage changes) contained in Sabia and Burkhauser (2010), which was -0.6 for individuals aged 16 to 29 without a high school degree and -0.2 for all other individuals. The sole exception was for state and local government workers, where I assumed an elasticity of zero.[4] The sum across all affected workers yielded an estimated job loss of 5,745 jobs.

The next step was to calculate the weekly benefit for the average unemployed worker. Using the benefits calculator on the Missouri unemployment benefits web site and the wage income of average private-sector affected worker ($10,937), yields an average weekly benefit of $109.36[5]. The state of Missouri pays the first 20 weeks of benefits.[6] Thus, each eligible unemployed worker could receive a total of $2,187.20 in

[3] For a survey of research regarding the effect of the minimum wage on employment, see David Neumark and William L. Wascher, *Minimum Wages* (Cambridge, MA: MIT Press, 2008).
[4] Joseph J. Sabia and Richard V. Burkhauser, "Minimum Wages and Poverty: Will a $9.50 Federal Minimum Wage Really Help the Working Poor?" *Southern Economic Journal* (January 2010): 592-623.
[5] http://www.labor.mo.gov/DES/Claims/calculator.asp
[6] See http://www.labor.mo.gov/DES/Claims/

benefits paid for by the state of Missouri. These jobs are permanently eliminated and so it is appropriate to calculate the full amount of benefits for each worker.

Unemployment insurance, however, does not cover all unemployed workers. For example, it does not cover people who leave a job voluntarily, people looking for their first job, and re-entrants who previously left the labor force voluntarily. Furthermore, some individuals don't apply for benefits even though they are eligible. I assume that 35% of the unemployed workers will receive unemployment benefits based on analysis by Wenger (2001).[7]

The last step is to calculate the total cost to the Missouri unemployment benefits program. This done by multiplying the number of jobs lost (5,745) times the average benefit amount ($2,187.20) times the percent of unemployed individuals collecting benefits (35%). This calculation yields a figure of $4,397,510. This cost would be borne only during the first year of the minimum wage increase. The inflation adjustments in the minimum wage will also yield costs to the unemployment insurance program, but it is not possible to estimate the amount.

*D. Impact on State Income Tax Revenue*

The state of Missouri will gain increased revenue through higher income tax taxes paid by workers affected by the minimum wage who remain employed. However, it will

[7] Jeffery Wenger. "Divided We Fall: Deserving Workers Slip through America's Patchwork Unemployment Insurance System." *Economic Policy Institute*, 2001. Sabia and Burkhauser (2010) make the same assumption in their calculation of the amount of unemployment benefits generated by a minimum wage increase.

suffer reduced corporate income tax revenue to the extent the higher wage cost lowers profits of businesses.

To calculate the impact on individual income tax revenue, I again used data from January 2010 to December 2011 ORG CPS. I defined affected workers as those Missouri individuals earning between $7.00 and $8.24 per hour.[8] I used the following formula to estimate the change in income tax revenue:

$$\Delta Tax\ Revenue_i = (Tax_After_i - Tax_Before_i) - Prob_Job_Loss_i * Tax_Before_i,$$

where $Tax_After_i$ is the income tax paid by worker i after the minimum wage increase. $Tax_Before_i$ is the income tax paid by worker i after the minimum wage increase, and $Prob_Job_Loss_i$ is the probability of job loss for worker i. The first term shows the change in individual income tax revenue assuming no job loss and the second term shows the loss in tax revenue due to the employment loss caused by the minimum wage increase.

The income tax calculations were based on two assumptions.[9] First, the 50% percent of affected workers who were under the age 25 who were assumed to be dependents on another person's tax return. As a result, it was assumed that the affected workers' earnings were taxable at the maximum Missouri income tax rate of 6% both and after the minimum wage increase.[10] Second, all persons age 25 and older were assumed to be paying little or no income tax after exemptions and deductions. Thus, about 50% of the earnings increase will be taxed at a rate of 6%.

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[8] I again assume that persons reporting an hourly wage rate between $7.00 and $7.24 are actually earning $7.25 per hour. The annual earnings level was calculated as the worker's wage rate times usual weekly hours worked times 52.

[9] The same assumptions are used in the State Auditor's fiscal notes for the initiatives.

[10] This assumption will overstate the revenue increase as 20% of affected workers under the age 25 are living by themselves and some of these individuals will not be a dependent on another person's tax return.

The tax calculations reveal an increase in income tax revenue increase to the state. Assuming no workers were laid off by the minimum wage increase, income tax revenue would rise by $6,043,534. However, the state will lose $1,965,446 in income tax revenue due to the lost earnings of private-sector workers no longer employed due to the minimum wage hike.[11] Thus, the net increase in individual income tax revenue is $4,078,088.

Businesses have three options to respond to the higher labor costs of a higher minimum wage. They can reduce their profits, raise prices, or lay off workers. Based on the 2010-2011 ORG CPS data, the minimum wage increase will raise private-sector labor costs by $192,620,900 if employment levels are not reduced. However, labor costs will be lowered by $55,240,790 due to the reduction in employment. Thus, labor costs will, on net, rise by $137,380,110. These increased labor costs may be either passed on to consumers through higher prices or reduced profits or more likely some combination of higher prices and reduced profits. Assuming that businesses absorbed all of the higher costs through reduced profits, the corporate income tax revenue would fall by the Missouri corporate income tax of 6.25% times the rise in labor costs of $137,380,110 * 1.0765 (to account for employer-paid Social Security and Medicare taxes) or $9,243,106.[12] Alternatively, if half of the higher labor costs were passed on to consumers, then corporate income tax revenue would fall by $4,621,553.

[11] The probability of job loss was calculated in the same manner as in the prior section.
[12] The corporate income tax for Missouri is available at: http://dor.mo.gov/business/corporate/

*E. Impact on State and Local Sales Tax Revenue*

To calculate the impact on state and local sales tax revenue the following approach was undertaken.[13] First, the total increase in worker earnings, adjusted for employment reductions, was calculated using the 2010-2011 ORG CPS. This figure was $152,246,540. Second, the increase in Missouri taxable sales was calculated as 25% of the earnings increase or $38,061,635. Third, the increase in sales tax revenue was calculated by multiplying the taxable sales change times the average state and local rate of 7.67% or $2,919,327.[14]

The higher minimum wage may decrease sales tax revenue to the extent that it reduces business profits, which will lower spending by business owners.

## VI. Summary and Conclusions

I was asked by counsel to evaluate the fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085.

The results of my analysis indicate:

(1) labor costs to state and local government entities, based on state auditor fiscal notes, will rise by more than $1,352,182. A more inclusive estimate indicates that state and local government labor costs will increase by $16,003,712;

[13] The same general approach is used in the State Auditor's fiscal notes for the initiatives.
[14] The average rate comes from http://taxfoundation.org/news/show/27023.html

(2) unemployment benefit costs will rise by $4,397,510 during the first year of the minimum wage increase;

(3) individual income tax revenue will rise by at most $4,078,088;

(4) the loss in corporate income tax revenue could be as high as $9,243,105;

(5) state and local sales tax revenue will rise by at most $2,919,327;

(6) during the first year: state and local governments will incur increased costs of $20,401,222; the change in state and local government revenue will range from -$2,245,690 to +$6,997,415; and the net state and local government fiscal impact will range from -$22,646,912 to -$13,403,807.

**FISCAL ANALYSIS**
**OF**
**PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085**

David A. Macpherson

David A. Macpherson, Ph.D.
March 26, 2012

# Appendix A

## Resume and Testimony of David A. Macpherson, Ph.D.

# DAVID A. MACPHERSON

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Ph.D., Economics, The Pennsylvania State University.
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## Current Positions

E.M. Stevens Professor of Economics, Trinity University, 2009-
Research Fellow, Institute for the Study of Labor (IZA), Bonn, 2004-.

## Previous Positions

Rod and Hope Brim Eminent Scholar in Economics, FSU 2004-2009.
Director, Pepper Institute on Aging and Public Policy, FSU, 2003-2009.
Abba P. Lerner Professor of Economics, FSU, 2000-2009.
Professor, Department of Economics, Florida State University, 1996-2009.
Director of Research, Pepper Institute on Aging and Public Policy, FSU, 1995-2000.
Associate Professor, Department of Economics, Florida State University, 1993-1996.
Research Associate, Pepper Institute on Aging and Public Policy, FSU, 1993-2001, 2003-2009.
Visiting Associate Professor, Department of Economics, Florida State University, 1992-1993.
Research Affiliate, Pepper Institute on Aging and Public Policy, FSU, 1992-1993, 2001-2003.
Associate Professor, Department of Economics, Miami University, 1991-1993.
Assistant Professor, Department of Economics, Miami University, 1987-1991.

## Research Areas

Labor Economics, Labor Market Aspects of Pensions, Labor Unions, Racial and Gender Differences in the Labor Market, Minimum Wage, Deregulation.

**Teaching Areas**

Principles of Microeconomics and Macroeconomics, Intermediate Microeconomics, Money and Banking, Econometrics (undergraduate and graduate), Labor Economics and Labor Relations (undergraduate and graduate).

**Books**

*Economics: Private and Public Choice*, 14th edition, Southwestern: Cincinnati, OH, 2013, with James Gwartney, Richard Stroup, and Russell Sobel. Co-author on 10th, 11th, 12th, and 13th editions as well.

Instructor's Manual for *Economics: Private and Public Choice*, 14th edition, Southwestern: Cincinnati, OH, 2013. Author for instructor's manual for 10th, 11th, 12th, and 13th editions as well.

*Union Membership and Earnings Data Book: Compilations from the Current Population Survey (2011 Edition)*, Bureau of National Affairs, Washington, D.C., with Barry Hirsch.

Previous Editions: *Union Membership and Earnings Data Book: Compilations from the Current Population Survey* (Washington: Bureau of National Affairs, 1994-2010).

Tables derived from the *Data Book* are included in U.S. Department of Commerce, *Statistical Abstract of the United States 2011,* 130th Edition (Washington: GPO, 2011), Tables 663, 665; *Statistical Abstract of the United States 2010,* 129th Edition (Washington: GPO, 2010), Tables 648, 650; *Statistical Abstract of the United States 2009,* 128th Edition (Washington: GPO, 2009), Tables 642, 644; *Statistical Abstract of the United States 2008,* 127th Edition (Washington: GPO, 2008), Tables 642, 644; *Statistical Abstract of the United States 2007,* 126th Edition (Washington: GPO, 2006), Tables 645, 647; *Statistical Abstract of the United States 2006*, 125th Edition (Washington: GPO, 2005), Tables 647, 649; *Statistical Abstract 2004-2005*, Tables 638, 640; *Statistical Abstract 2003*, Tables 656, 658; *Statistical Abstract 2002*, Tables 628, 630; *Statistical Abstract 2001*, Tables 637, 639; *Statistical Abstract 2000*, Tables 712, 714; *Statistical Abstract 1999*, Tables 718, 720; *Statistical Abstract 1998*, Tables 712, 714; *Statistical Abstract 1997*, Tables 688, 690; *Statistical Abstract 1996*, Tables 681, 683; *Statistical Abstract 1995*, Tables 695, 697; and in U.S. Department of Commerce, *State and Metropolitan Area Data Book, 1997-98*, 5th Edition (Washington: GPO, 1998), Table A-22.

*Contemporary Labor Economics*, 9th edition, McGraw-Hill: New York, NY, 2010, with Campbell McConnell and Stanley Brue. Co-author on 5th, 6th, 7th, and 8th editions as well.

*Pensions and Productivity*, W.E. Upjohn Institute for Employment Research: Kalamazoo, MI, 1998, with Christopher Cornwell and Stuart Dorsey.

**Journal Publications (Economics)**

"Computing Lost Profits in Business Interruption Litigation: A General Model," *Journal of Business Valuation and Economic Loss Analysis*, forthcoming, with Stanley Stephenson and Gauri Prakash-Canjels.

"Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," *Southern Economic Journal*, forthcoming, April 2012, with William Even.

"Growth of Participant Direction in Defined Contribution Plans," April 2010, pp. 190-208, *Industrial Relations*, with William Even.

"Managing Risk Caused by Pension Investments in Company Stock," *National Tax Journal*, September 2009, pp. 439-453, with William Even.

"Pension Investments in Employer Stock," *Journal of Pension Economics and Finance*, March 2008, pp. 67-93, with William Even.

"Defined Contribution Plans and the Distribution of Pension Wealth," *Industrial Relations*, July 2007, pp. 551-581, with William Even.

"Lost Profits Damages to New Businesses: Adjusting for Survival," *Journal of Business Valuation and Economic Loss Analysis*, October 2006, pp. 1-12, with Stanley Stephenson.

"Determinants and Effects of Employer Matching Contributions in 401(k) Plans," *Industrial Relations*, July 2005, pp. 525-549, with William Even.

"When Will the Gender Gap in Retirement Income Narrow?" *Southern Economic Journal*, July 2004, pp. 182-200, with William Even.

"Company Stock in Pension Funds," *National Tax Journal*, June 2004, pp. 299-313, with William Even.

"Wages, Sorting on Skill, and the Racial Composition of Jobs," *Journal of Labor Economics*, January 2004, pp.189-210, with Barry Hirsch.

"Racial and Ethnic Differences in Pension Wealth," *Research in Labor Economics*, 2003, pp. 203-226, with William Even.

"Do Terminated Employees Catch Up? Evidence From the Displaced Worker Survey," *Journal of Forensic Economics*, Spring/Summer 2003, pp. 185-199, with Michael Piette.

"Union Membership and Coverage Database from the Current Population Survey: Note," *Industrial and Labor Relations Review*, January 2003, pp. 349-354, with Barry Hirsch.

"The Wage and Employment Dynamics of Minimum Wage Workers," *Southern Economic Journal,* January 2003, pp. 676-690, with William Even.

"State-Level Estimates of Union Density, 1964 to Present," *Monthly Labor Review*, July 2001, pp. 51-55, with Barry Hirsch and Wayne Vroman (accompanying data online).

"The Changing Distribution of Pension Coverage," *Industrial Relations*, April 2000, pp. 199-227, with William Even.

"Occupational Age Structure and Access for Older Workers," *Industrial and Labor Relations Review*, April 2000, pp. 401-418, with Barry Hirsch and Melissa Hardy.

"Earnings, Rents, and Competition in the Airline Labor Market," *Journal of Labor Economics*, January 2000, pp. 125-155, with Barry Hirsch.

"Estimating Wage Differentials: When Does Cost-of-Living Matter?" *Economic Inquiry*, October 1999, pp. 577-598, with Mike DuMond and Barry Hirsch.

"Worker's Compensation Recipency in Union and Nonunion Workplaces," *Industrial and Labor Relations Review*, January 1997, pp. 213-236, with Barry Hirsch and Michael DuMond.

"Pensions and Training," *Industrial Relations*, January 1997, pp. 81-96, with Stuart Dorsey.

"The Consequences of Indexing Minimum Wages," *Contemporary Economic Policy,* October 1996, pp. 67-77, with William Even.

"Employer Size and Labor Turnover: The Role of Pensions," *Industrial and Labor Relations Review*, July 1996, pp. 707-728, with William Even.

"The Consequences of Non-FICA Status in State and Local Pensions," *Proceedings of National Tax Association Meetings*, 1996, with William Even.

"Wages and Gender Composition: Why Do Women's Jobs Pay Less?" *Journal of Labor Economics*, July 1995, pp. 426-471, with Barry Hirsch.

"Employer Size and Compensation: The Role of Worker Characteristics," *Applied Economics*, September 1994, pp. 897-907, with William Even

"Gender Differences in Pensions," *Journal of Human Resources*, Spring 1994, pp. 555-587, with William Even.

"Why Did Male Pension Coverage Decline in the 1980s?", *Industrial and Labor Relations Review*, April 1994, pp. 439-453, with William Even.

"Unionism and Gross Employment Flows," *Southern Economic Journal*, January 1994, pp. 427-438, with Timothy Dunne.

"The Decline of Private-Sector Unionism and the Gender Wage Gap," *Journal of Human Resources*, Spring 1993, pp. 279-296, with William Even.

"Union Membership and Coverage Data Available From the Current Population Surveys: Note." *Industrial and Labor Relations Review*, April 1993, pp. 574-578, with Barry Hirsch.

"Employer-Provided Retiree Health Insurance: Who is Covered?" *Economics Letters*, May 1992, pp. 95-99.

"Union Wage Differentials and the Effects of Industry and Local Union Density: Evidence from the 1980s," *Journal of Labor Research*, Fall 1991, pp. 419-427, with Michael Curme.

"The Effects of Extended Families and Marital Status on Housing Consumption by Black Female-Headed Households," *Review of Black Political Economy*, Winter/Spring 1991, pp. 65-84, with James Stewart.

"The Impact of Unionism on Fringe Benefit Coverage," *Economics Letters*, May 1991, pp. 87-91, with William Even.

"A Note on Ownership and Performance in Manufacturing Firms," *Southern Economic Journal*, April 1991, pp. 1164-1169, with Timothy Dunne.

"Union Membership and Contract Coverage in the United States, 1983-1988," *Industrial and Labor Relations Review*, October 1990, pp. 5-33, with Michael Curme and Barry Hirsch.

"The Gender Gap in Pensions and Wages," *Review of Economics and Statistics*, May 1990, pp. 259-265, with William Even.

"The Effect of International Competition on Union and Nonunion Wages," *Industrial and Labor Relations Review*, April 1990, pp. 434-446, with James Stewart.

"Plant Size and the Decline of Unionism," *Economics Letters*, April 1990, pp. 393-398, with William Even.

"Trade Unions and Labor's Share in U.S. Manufacturing Industries," *International Journal of Industrial Organization*, March 1990, pp. 143-51.

"The Labor Force Participation and Earnings Profiles of Married Female Immigrants," *Quarterly Review of Economics and Business*, Autumn 1989, pp. 57-72, with James Stewart.

"The Labor Supply and School Attendance of Black Women in Extended and Nonextended Households," *American Economic Review Papers and Proceedings*, May 1989, pp. 71-74, with James Stewart.

"Self-Employment and Married Women," *Economics Letters*, December 1988, pp. 281-284.

"Unionism and the Dispersion of Wages Among Blue-Collar Women," *Journal of Labor Research*, Fall 1987, pp. 395-405, with James Stewart.

**Journal Publications (Real Estate and Insurance)**

"The Use of Post-Loss Assessments in Catastrophic Financing," *Risk Insurance and Management Review*, forthcoming, with Patrick Maroney, Charles Nyce, Kathleen McCullough, James W. Newman Jr., and Cassandra Cole.

"A Meta Analysis of Selling Price and Time on the Market," *Journal of Housing Research,* Issue 2010, pp. 139-152, with Stacy Sirmans and Lynn MacDonald.

"A Comparison of Hurricane Loss Models," *Journal of Insurance Issues*, Spring 2010, pp. 31-53, with Kathleen McCullough and Cassandra Cole.

"A Review of the Development of Residual Market Mechanisms in Florida," *Journal of Insurance Regulation*, Summer 2009, pp. 55-80, with Patrick Maroney, Charles Nyce, Kathleen McCullough, James W. Newman Jr., and Cassandra Cole.

"The History of Property Tax Capitalization in Real Estate," *Journal of Real Estate Literature*, Issue 3 2008, pp. 327-343, with Dean Gatzlaff and Stacy Sirmans.

"Horizontal and Vertical Inequity in Real Property Taxation," *Journal of Real Estate Literature*, Issue 2 2008, pp. 167-180, with Dean Gatzlaff and Stacy Sirmans.

"The Title Insurance Industry: Examining a Decade of Growth," *Journal of Insurance Regulation*, Summer 2007, pp. 23-51, with Randy Dumm and Stacy Sirmans.

"The Value of Housing Characteristics: A Meta Analysis" *Journal of Real Estate Finance and Economics*, November 2006, pp. 215-240, with Stacy Sirmans, Lynn MacDonald, and Emily Zeitz.

"The Composition of Hedonic Pricing Models," *Journal of Real Estate Literature*, Issue 1 2005, pp. 3-43, with Stacy Sirmans.

"The State of Affordable Housing," *Journal of Real Estate Literature*, Issue 2 2003, pp. 133-155, with Stacy Sirmans.

"Affinity Programs and Real Estate Brokerage," *Journal of Real Estate Research*, November-December 2001, pp. 337-351, with Stacy Sirmans.

"Neighborhood Diversity and House Price Appreciation," *Journal of Real Estate Finance and Economics*, January 2001, pp. 81-97, with Stacy Sirmans.

"Forecasting Seniors Housing Demand in Florida," *Journal of Real Estate Portfolio Management*, 1999, pp. 259-74, with G. Stacy Sirmans.

**Publications in Books**

"Improving Pension Coverage at Small Firms," with William Even, in *Overcoming Barriers to Entrepreneurship*, ed. Diana Furchtgott-Roth, Rowman & Littlefield, 2008.

"Measuring Union and Nonunion Wage Growth: Puzzles in Search of Solutions" with Barry Hirsch and Edward Schumacher, in *Changing Role of Unions: New Forms of Representation*, Phanindra Wunnava, M.E. Sharpe, 2004.

"Living Wage Laws and the Case for a Targeted Wage Subsidy," in *Living Wage Movements: Global Perspectives*, ed. Deborah M. Figart, Routledge, 2004.

"Benefits and Worker Productivity," with William Even, in *Benefits for the Workplace of Tomorrow,* eds. Olivia S. Mitchell, David S. Blitzstein, Michael S. Gordon, and Judith F. Mazo, University of Pennsylvania Press, 2003.

"Children's Effects on Women's Labor Market Attachment and Earnings," with William Even, in *Changes in Working Time in Canada and the United States*, eds. Susan Houseman and Alice Nakamura, W.E. Upjohn Institute, 2001.

"Downsizing and Life Course Consequences of Job Loss: The Effect of Age and Gender on Employment and Income Security," with Jill Quadagno, Jennifer Reid, and Lori Parham, in *Restructuring Work and the Life Course*, eds. Victor Marshall, Walter Heinz, Helga Krueger, and Anil Verma, University of Toronto Press, 2001.

"The Effect of a Job Loss on the Employment Experience, Benefits, and Retirement Savings of Bank Officers," with Jill Quadagno and Jennifer Keene, in *Ensuring Health and Income Security for an Aging Workforce*, ed. Peter P. Budetti, W.E. Upjohn Institute, 2001.

"Earnings and Employment in Trucking: Deregulating a Naturally Competitive Industry," with Barry Hirsch, in *Regulatory Reform and Labor Markets*, ed. James Peoples, Kluwer Publishers, 1998.

"Gender-Related Differences in Pension Coverage," with William Even, in *Women and Work: A Handbook*, Garland Publishing, New York, NY, 1996.

"The Pension Coverage of Young and Mature Workers", with William Even, in *Pension Coverage Issues for the '90s*, eds. Richard Hinz, John Turner, and Phyllis Fernandez, U.S. Government Printing Office, Washington, D.C, 1994.

**Working Papers (Economics)**

"Deferred Compensation vs. Efficiency Wages: An Experimental Test of Effort Provision and
Self-Selection," with Tim Salmon and Kislaya Prasad, under review, *Journal of Business and Economic Organization*

"What Do Unions Do to Pension Performance?" with William Even, September 2011, under revision

"Teacher Salaries, State Collective Bargaining Laws, and Union Coverage" March 2011, with Barry Hirsch and John Winters.

"The Effects of the 2007-2009 Federal Minimum Wage Increases on Teen Employment," with William Even, under revision, July 2010.

"Participant Direction in Defined Contribution Plans," April 2006, with William Even, under revision.

"Do Pensions Impede Phased Retirement?" September 2004, with William Even, under revision.

**Working Papers (Real Estate and Insurance)**

"An Empirical Analysis of Socio-Demographic Factors and the Mispricing of Homeowners Insurance in Florida," under review *Journal of Financial Services Research*, with Ronald Cheung, Charles Nyce, Kathleen McCullough, and Cassandra Cole.

"The Impact of No-Fault Legislation on Automobile Insurance Premiums," revised and resubmitted to *North American Actuarial Journal*, with Cassandra Cole, Kevin Eastman, Patrick Maroney, and Kathleen McCullough.

**Funded Projects**

Employment Policies Institute, 5/2010-7/2010, $16,500 (Trinity University portion), "Employment Effects of the 2007-2009 Federal Minimum Wage Increases," with William Even.

National Science Foundation, 9/2009-8/2012, $125,866 (Trinity University portion), "Incentives in the Workplace: An Experimental Examination of How Wage Differences Across Time and Among Peers Affect Productivity and Self-Selection," with Tim Salmon, Kislaya Prasad, and Hyejin Ku.

Florida Legislature, 10/2007-6/2009, $175,000, "Child Support Guidelines," with Stefan Norrbin and Thomas McCaleb.

Florida Legislature (through University of Florida), 12/2006-9/2007, $223,000, "Analysis of Save our Homes Amendment," with Dean Gatzlaff.

U.S. Administration on Aging (through University of South Florida), 5/2005-9/2007, $175,000, "Employment in the Long-Term Care Industry: The Importance of Recruitment and Retention," with William Even.

Florida Legislature, 2/2003-8/2004, $175,000, "Child Support Guidelines," with Stefan Norrbin and Thomas McCaleb.

Florida Department of Environmental Protection, 6/2002-2/2003, $94,157, "Affordability Index," with Stefan Norrbin and William Serow.

University of South Carolina, 4/2000-11/2000, $10,000, "Minority Homeownership in South Carolina," with Stacy Sirmans.

Florida Department of Business and Professional Regulation, 3/1999-6/1999, $21,739, "Forecasting Housing Demand in Florida," with Stacy Sirmans.

University of South Carolina, 4/1999-11/1999, $10,000, "Forecasting Housing Demand in South Carolina," with Stacy Sirmans.

Florida State University, 6/1999-8/1999, $7,500, "Support for Preparing ECO 2000 as a Web-Based Course."

TIAA-CREF, 8/1998-8/1999, $23,000, "Determinants of Savings in Supplemental Pension Plans: A Case Study of Pension Choices in Higher Education," with Melissa Hardy and Larry Hazelrigg.

Florida Department of Business and Professional Regulation, 4/1998-6/1998, $16,638, "Forecasting Seniors' Demand for Housing in Florida," with Stacy Sirmans.

Florida Department of Business and Professional Regulation, 12/1997-6/1998, $18,472, "Housing Price Appreciation in Orlando and Tampa," with Stacy Sirmans.

Florida State University, 6/1998-8/1998, $7,500, "Support for Preparing ECO 2000 as a Web-Assisted Course."

Florida Department of Business and Professional Regulation, 3/1997-6/1997, $17,898, "Minority Homeownership in Florida," with Stacy Sirmans.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 12/1996-8/1997, $20,000, "The Impact of Rising 401(k) Pension Coverage on Retirement Income," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 3/1996-6/1997, $15,000, "The Determinants of 401(k) Participation and Contribution Levels," with William Even.

Florida Department of Business and Professional Regulation, 4/1996-6/1996, $22,702, "Forecasting the Number of New Florida Real Estate Licensees," with Stacy Sirmans.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 3/1995-6/1996, $15,000, "Explaining the Decline in Pension Coverage of Less Educated Workers," with William Even.

Florida State University COFRS Grant, 6/1994-8/1994, $8,000, "The Relative Compensation and Quality of Public and Private Sector Workers."

W.E. Upjohn Institute for Employment Research, 3/1994-12/1995, $35,000, "Pensions and Productivity," with Stuart Dorsey and Christopher Cornwell.

Florida Division of Workers' Compensation, 1/94-12/1995, $100,000, "Worker's Compensation Recipency in Union and Nonunion Workplaces," part of a service contract titled "Research Partnership with the Division of Workers' Compensation," co-investigator (one of several).

University of Wisconsin Institute for Research on Poverty Small Grant Program, 7/1993-6/1994, $15,000, "Racial Composition, Wages, and Quality Sorting," with Barry Hirsch.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 7/1993-6/1993, $10,000, "Trends in Individual and Family Pension Coverage," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 6/1992-5/1993, $10,000, "The Pension Coverage of Young and Mature Workers," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration and American Society of Pension Actuaries, 6/1991-5/1992, $10,000, "A Conference on Current Pension Policy Issues," with William Even.

Miami University Faculty Research Grant, 6/1991-8/1991, $4,000, "Projected Growth in Retiree Health Insurance Liabilities."

Ohio Board of Regents Research Challenge Grant, 1/1990-12/1990, $4,980, "Proposal to Enhance the Data Library of the Center of Pension and Retirement Research," with William Even and Samuel Williamson.

Miami University Faculty Research Grant, 6/1990-8/1990, $4,000, "The Role of Firm Size in Pension Coverage and Options."

Miami University Faculty Research Grant, 6/1989-8/1989, $4,000, "Declining Unionism and the Gender Wage Gap," with William Even.

**Participation in National Meetings**

Panel Discussant, American Real Estate and Urban Economics Association/ASSA meetings, January 2008.

Presented, "Employee Turnover in the Long-Term Care Industry," at Academy Health Annual Research Meetings, June 2007.

Presented, "Participant Direction in Defined Contribution Pension Plans," at International Atlantic Economic Society meetings, October 2006.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at International Atlantic Economic Society meetings, October 2005.

Presented, "Replacing Earnings After Termination: Evidence from the Displaced Worker Survey," at the Allied Social Science Association/National Association of Forensic Economics, January 2002.

Presented, "Labor Market Transitions of Older Workers," at the Allied Social Science Association/Society of Government Economists meetings, January 1999.

Presented, "Why has the Loss in Pension Coverage Accelerated Among Less Educated Workers?" at the American Economic Association Meetings, 1995.

Presented, "Wages and Gender Composition: Why Do Women's Jobs Pay Less?" at the American Economic Association Meetings, 1994, with Barry Hirsch.

Presented, "Pensions, Labor Turnover, and Employer Size" at the American Economic Association Meetings, 1993, with William Even.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the American Economic Association meetings, 1992, with William Even.

**Participation in Regional Meetings**

Presented "Unions and Pension Performance: The Role of Pension Design," at Southern Economics Association meetings, November 2009.

Panel member, "Recent Federal Reserve Policy: An Evaluation" at Southern Economics Association meetings, November 2009.

Discussant, "Topics in Health Economics," at Southern Economics Association meetings, November 2009.

Discussant, "Teacher Pay, Principals, and Schooling," at Southern Economics Association meetings, November 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Western Economic Association meetings, July 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Eastern Economic Association meetings, February 2009.

Panel Discussant at the Southern Economic Association meetings, November 2008.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Southern Economic Association meetings, November 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Western Economic Association meetings, July 2008.

Chair "Pensions and Retirement" Session at Southern Economic Association meetings, November 2007.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Southern Economic Association meetings, November 2007.

Presented, "Participant Direction in Defined Contribution Pension Plans," at Southern Economic Association meetings, November 2006.

Panel Discussant, Southern Economic Association meetings, November 2005.

Presented, "Do Pensions Impede Phased Retirement?" at the Southern Economic Association meetings, November 2004.

Presented, "When Will the Gender Gap in Retirement Income Narrow?" at the Southern Economic Association meetings, November 2003.

Presented, "How Will the Growth of DC and 401(k) Plans Affect Pension Income?" at the Southern Economic Association meetings, November 2002.

Presented, "Racial Composition, Wages, and Quality Sorting," at the Southern Economic Association meetings, November 1999.

Presented, "Racial and Ethnic Differences in Pension Coverage and Benefit Levels," at the Southern Economic Association meetings, November 1998.

Presented, "Factors Influencing Participation and Contribution Levels in 401(k) Plans," at the Western Economics Association meetings, July 1998.

Presented, "Aging at Work: Employment Determination, Firm Strategies, and Public Policy in the United States," at the Western Economic Association meetings, July 1994.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Western Economic Association meetings, July 1992.

Presented "Plant Size and the Decline of Unionism," at the Southern Economic Association meetings, 1989, with William Even.

Panel Discussant, Southern Economic Association meetings, November 1989.

Presented "The Labor Force Participation and Earnings Profiles of Married Female Immigrants," at the Southern Economic Association meetings, November 1988.

Presented "Pensions, Screening, and the Gender Wage Gap," at the Southern Economic Association meetings, November 1988.

Session Chair and Panel Discussant at the Southern Economic Association meetings, November 1988.

**Participation in Invited Seminars, Conferences, and other Presentations**

Presented, "Teaching Macroeconomics During Troubled Times," at Creative Ideas for Your Basic Economics Course Conference at Florida State University, February 2012.

Presented, "Participant Direction in Defined Contribution Pension Plans," at Pennsylvania State University, April 2010.

Presented, "The Parallels Between the Japanese Economic Crisis of the 1990s and the US Today" at Creative Ideas for Your Basic Economics Course Conference at Florida State University, February 2010.

Chair "Minimum Wage & EITC" Session at Society of Labor Economists meetings, May 2009.

Presented "Participant Direction in Defined Contribution Plans," at Lehigh University, April 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Association of Private Enterprise Education meetings, April 2009.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Trinity University, October 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Georgia State University, April 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Association of Private Enterprise Education meetings, April 2008.
Presented, "Improving Pension Coverage at Small Firms," at Hudson Institute, May 2006.

Presented, "Participant Direction in Defined Contribution Plans," at Society of Labor Economics meetings, May 2006.

Presented, "Participant Direction in Defined Contribution Plans," at Association of Private Enterprise Education meetings, April 2006.

Presented, "Participant Direction in Defined Contribution Plans," at University of Wisconsin-Milwaukee, April 2006.

Invited Panel Participant for Pepper Foundation and Center Symposium on pension reform, Washington, DC, February 2006.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at West Virginia University, April 2005.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at the University of Kentucky, November 2004.

Presented, "The Causes and Consequences of Company Stock Holdings in Pension Funds," at the Federal Reserve Bank of Atlanta, April 2004.

Presented, "The Causes and Consequences of Company Stock Holdings in Pension Funds," at the University of Oklahoma, February 2004.

Presented, "Tracking Union and Nonunion Wages in the U.S.: Can the Evidence be Reconciled?" at the Middlebury Annual Conference on Economic Issues, April 2002.

Presented, "How Will the Growth of DC and 401(k) Plans Affect Pension Income?" at the Miami University Center for Pension and Retirement Research Conference, June 2001.

Presented, "Benefits and Worker Productivity," Benefits for the Workplace of Tomorrow Conference, Wharton School, University of Pennsylvania, May 2001.

Participant, Innovations in Managing the Financial Risks of Retirement Conference, Wharton School, University of Pennsylvania, May 2000.

Presented "Using Hi-Tech in Large Lectures," at Association of Private Enterprise Education meetings, April 2000.

Presented "Employee Participation in 401(k) Plans," at University of Wisconsin-Milwaukee, October 1999.

Presented "Gender, Race, and Ethnicity in the Labor Market," as part of the Smith Chair course in Labor Economics at Brigham Young University, September 1999.

Presented, "The Decline in Pension Coverage Among Less Educated Workers," at the Florida State University Economics Department Seminar Series, 1996.

Presented, "Children's Effects on Women's Labor Market Attachment and Earnings" at the Conference on the Changes in Working Time in Canada and the United States, Canadian Employment Research Forum, 1996.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" at the Ohio State University Economics Department Seminar Series, 1996.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" at the Florida State University Economics Department Seminar Series, 1995.

Presented, "Employer Size and Labor Turnover: The Role of Pensions," at Syracuse University, 1995.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" while visiting scholar at the Federal Reserve Bank of Cleveland, 1995.

Presented, "Trends in Individual and Household Pension Coverage," at the Miami University Center for Pension and Retirement Research Conference, 1994.

Presented, "Racial Composition, Quality Sorting, and the Black-White Wage Gap" at the University of Wisconsin, Institute for Research on Poverty, Small Grants Workshop, 1993, with Barry Hirsch.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Florida State University Economics Department Seminar Series, 1992.

Participant at National Bureau of Economic Research (NBER) Labor Studies meetings of the Summer Institute, 1992.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Miami University Conference on Current Pension Policy Issues, 1992.

Organizer and participant at conference on "Contemporary Issues in Pension Economics," hosted by the Center for Pension and Retirement Research, Miami University, 1990.

Presented "The Effect of International Competition on Union and Nonunion Wages," at the University of Cincinnati Seminar Series, 1987.

**Refereeing**

*Bulletin of Economic Research, Canadian Journal of Economics, Contemporary Economic Policy, Eastern Economics Journal, Economic Development and Cultural Change, Economic Inquiry, Industrial Relations, Industrial and Labor Relations Review, International Economic Review, Journal of Economics and Business, Journal of Human Resources, Journal of Labor Economics, Journal of Labor Research, Journal of Pension Economics and Finance, Labour Economics, Mid-American Journal of Business, Policy Studies Review, Quarterly Journal of Economics, Quarterly Review of Economics and Finance, Real Estate Economics,* Review *of Economics and Statistics, Social Science Quarterly, Southern Economic Journal*

Outside reviewer for Department of Economics, UNC-Greensboro, Georgia State University.

Promotion and tenure letters for candidates at Georgia State University, Kansas State University, Monmouth University, Ohio State University, University of Massachusetts, University of Southern California, and University of Wisconsin-Milwaukee.

**Honors and Awards**

Awarded sabbatical, Trinity, Fall 2011.

Nominated for FSU Award for Excellence in Undergraduate Teaching, Spring 2005.

Named Rod and Hope Brim Eminent Scholar in Economics, FSU, Fall 2004.

Research Fellow, Institute for the Study of Labor (IZA), Bonn, 2004-.

*Who's Who in Economics, Fourth Edition*, Mark Blaug and Howard Vane (eds), Edward Elgar Publishing, 2003, pp. 524 (selection criteria: one of the 1,200 most frequently cited economists in the years 1990-2000 using the Social Science Citation Index).

Awarded Abba Lerner named professorship, FSU, Spring 2000.

Awarded sabbatical, FSU, Spring 2000.

Received FSU Award for Excellence in Undergraduate Teaching, Spring 2000.

Received FSU Teaching Incentive Program Award, Fall 1995.

Nominated for FSU Award for Excellence in Undergraduate Teaching, Spring 1994.

Nominated for Outstanding Teaching Award, Associated Student Government, Miami University,1992.
Selected by the Miami University Sisters of Delta Gamma for a "Favorite Professor Award" in Fall 1990.

Honorary Member of Golden Key National Honor Society, Fall 1989.

Selected by the Sisters of Delta Gamma as "One of the twenty five most outstanding faculty members at Miami University" in Fall 1988.

**Service**

Vice President, Southern Economic Association, 2011-

Trinity University

Dick and Peggy Prassel Professor of Business Administration Search Committee, 2011
Faculty and Staff Compensation Committee, 2010-2011
Student Retention Committee, 2010

Florida State University

University and College Committees:

Member, GPC subcommittee for Marketing, Spring 2008.
Member, Graduate Policy Committee, Fall 2007-.
Chair, GPC subcommittee for Political Science, Fall 2006.
Member, Title IV Admissions Attendance Committee, Fall 2003-Spring 2004.
Member, College of Social Sciences Executive Committee, Fall 2003-.
Member, Ad Hoc Committee on COSS Technology, Spring 2003.
Member, Computing and Information Resource Committee, Fall 1999-.
Member, Academic and Policy Affairs Committee, Fall 1996-Spring 1998.

Economics Department Committees:

Member, Ad Hoc Committee on Economics 2000 Level Courses, Spring 1999.
Member, Undergraduate Economics Committee, Fall 1998-
Member, Economics Department Executive Committee, Fall 1994-Spring 1995, Fall 1996-Spring 1999, Fall 2000-.
Economics Department Library Representative, Fall 1993-.
Micro/Macroeconomics Seminar Coordinator, Fall 1993-Spring 1995, Fall 1998-Fall 1999, Fall 2001, Fall 2006-.

Comprehensive Examination Committees:

Member, Masters Comprehensive Exam Committee, Spring 1994.
Member, Ph.D. Labor Field Exam Committee, Fall 1992, Spring 1994, Fall 1994, Fall 1995, Fall 1996, Spring 1997, Spring 1998.
Chair, Masters Comprehensive Exam Committee, Fall 1994, Spring 1998.
Chair, Ph.D. Labor Field Exam Committee, Spring 1993-Fall 1993, Spring 1995, Spring 1996, Spring 2000, Spring 2001, Fall 2001.

Miami University

Computing Task Force, Department of Economics, 1991-92.
Recruiting Committee, Department of Economics, 1990-92.
Economics Club Advisor, 1988-1991.
Research Associate, Center for Pension and Retirement Research, 1988-92.
Delta Sigma Pi Chapter Advisor, 1988-89.
Student Finance Committee, Student Affairs Council, 1988-89.
Omicron Delta Epsilon Advisor, 1987-88.

**Theses, Extended Papers, and Dissertations**

Undergraduate Honors Thesis:

Chair, Leela Hebbar, 1995

Member, Nicole Cubies, 2006
Member, John Stutts, 2006
Member, Todd Crannell, 2000
Member, Mark Plotnick, 2000
Member, Bobby Pittman, 1998

MS Thesis and Extended Paper:

Chair, Maria Arce-Trigatti, 2009
Chair, George Holescko, 2000
Chair, J. Michael DuMond, 1994

Member, Shael Wolfson, 2000

Member, Lehr Eliason, 2000
Member, Steve Muri, 2000
Member, Ken Meier, 1998
Member, Tarteshia Williams, 1995
Member, Richard Page, 1994

PhD Dissertation:

Chair, James Farrell, 2009
Chair, Mark Keightley, 2008
Chair, Ali Al-Malki, 2007
Chair, Carter Doyle, 2005
Chair, Edward Wolpert, 1998
Chair, J. Michael DuMond, 1997

Member, Bogdan Daraban, 2007
Member, Russell Engel, 2007
Member, Li Feng, 2006
Member, Chuck Skipton, 2003
Member, Nicole Yurgin, 2003
Member, Jennifer Troyer, 1999
Member, Josefina Tranfa, 1999
Member, Shaliesh Bandarhi, 1998
Member, James Freeman, 1998
Member, Brian Nottage, 1998
Member, Ben Shippen, 1995
Member, Ed Schumacher, 1994

Outside Member, Stephanie Burge, Sociology, 2006
Outside Member, Reg Albritton, Special Education, 2005
Outside Member, Kim Shuey, Sociology, 2001
Outside Member, Andrea Willson, Sociology, 2001
Outside Member, Phyllis Keys, Finance, 1998

# David A. Macpherson

Depositions and Trial Testimony: 2008 to 2012

1. Angela Speed and Adrian Speed vs. Hertz Corporation
   Atty: Dawn Pompey Whitehurst; Brevard County, Florida; gave deposition; wrongful injury; 2008; Case No: 05-2005-CA-065447

2. Patricia Morrison vs. Anthony Mork and Microspine Surgery
   Atty: Steven Andrews; Walton County, Florida; testified at trial; wrongful injury; 2008; Case No: 06000249CA.

3. James Tomaselli vs. State of Florida, Department of Corrections
   Atty: Gordon Leech; Martin County, Florida; gave deposition; wrongful termination; 2008; Case No: 01-554-CA.

4. Russell Martin, et al. v. City of Atlanta, et al.
   Atty: Andrew Coffman; U.S. District Court, Northern District of Georgia, Atlanta 5Division; gave deposition; racial discrimination; 2008; Case CA File No: 1:07-cv-00326-BBM

5. McCabe, et al. v. Harmon Fruit, et al.
   Atty: Larry Perry; Polk County, Florida; gave deposition; wrongful death; 2008; Case 53-2005-CA-003612-0000-00

6. Thomas Faulkner v. Michael Chertoff and Department of Homeland Security
   Atty: John Davis; U.S. District Court; Northern District of Florida; gave deposition; wrongful termination; 2009; Case 4:08CV341-SPM/WCS

7. Matthew Debord and Tabitha Debord vs. G & S Material Service et al.
   Atty: Hubert Brown; U.S. District Court; Northern District of Florida; gave deposition; wrongful injury; 2009; Case 3:07cv365-LAC/MD

8. Jessica Loveday vs. USA
   Atty: Anthony Caggiano; U.S. District Court; Northern District of Florida; gave deposition; wrongful injury; 2009; Case 1:08cv205/SPM

9. Julia Keyes vs. AIG
   Atty: Larry Perry; Jackson County, Florida; gave deposition; wrongful injury; 2009; Case 08706CA

10. Estate of Linda DePuy vs. Broeseker et al.
    Atty: Steve Andrews; Leon County, Florida; gave deposition; wrongful death; 2009; Case 2007 CA 2509

11. Oliver and Sollman vs. VSoft Inc.
    Atty: Larry Pankey; U.S. District Court, Northern District of Georgia, Atlanta Division; gave deposition; age discrimination; 2009; Case CA File No: 1:09-CV-0185

12. Yolanda Young vs. Covington and Burling, LLP
    Atty: Latif Damon; U.S. District Court for the District of Columbia; gave deposition; racial discrimination; 2009; Case CA File No: 1:09-CV-0464 RBW

13. Deborah Suboh vs. Mark Bergeson et al.
    Atty: Stephanie Wright and Charlotte Perrell; Georgia, Dekalb County; Case 07A77585-5, gave deposition; legal malpractice; 2010.

14. Rolando Simmons vs. Davis and Peterson
    Atty: Hubert Brown; Florida, Calhoun County; Case 2008-0150-CA, gave deposition and testified at trial; medical malpractice; 2010.

15. Lorie J. Marshall, et al. vs. H & R Block Tax Services, Inc.
    Atty: Allan Steyer; U.S, U.S. District Court
    Southern District of Illinois; Case No. 3:08-CV591-MJR; gave deposition; consumer damages; 2010.

16. Daren Davis vs. Joseph Austin and Terry Roberts Work Site
    Atty: Anthony Caggiano; Florida, Osceola County; gave deposition; wrongful injury; 2010; Case 2006 CA 002997 AN

17. David Darrow vs. Adventist Health Systems/Sunbelt Inc.
    Atty: Anthony Caggiano; Florida, Orange County; gave deposition; wrongful injury; 2010; Case 48-2009-CA-004897-0

18. Samuel Gonzalez vs. Gurdev Singh Nijjar et al.
    Atty: Ramon Rodriguez; Texas, El Paso County; gave deposition; wrongful injury; 2010; Case 2007-011

19. John Davis vs. Devereux Foundation.
    Atty: Thomas Brown; Florida, Brevard County; gave deposition; wrongful injury; 2010; Case 99-15992-CA-F

20. Al Kowalski vs. et al. YellowPages.Com, LLC
    Atty: Peter Pearlman; U.S. District Court Southern District of New York; Case No. 10-7318 (PGG); gave deposition; consumer damages; 2011.

21. Christina Glover and Jason Glover vs. Publix Super Markets
    Atty: Phelicia Steill; Florida, Leon; Case No. 08 CA 2695; gave deposition; wrongful injury; 2011.

22. Lissette Cartagena and William Cartagena vs. Bracero et al.
    Atty: Thomas Brown; Florida, Orange County; Case No. 07-CA-2645 DIV 34; gave deposition and testified at trial; wrongful injury; 2011.

23. Lillie Conyers and James Conyers vs. Werner Enterprises et al.
    Atty: Thomas Brown; Florida, Jackson County; Case No. 09-1174-CA; gave deposition; wrongful injury; 2011.

24. Shannon McCants vs. Wackenhut Corporation
    Atty: Dawn Pompey Whitehurst; Duval County, Florida; gave deposition and testified at trial; wrongful death; 2011; Case No: 16-2008-CA-014834

25. Christina Whipple versus R.E.S.A, Inc.
    Atty: Susan Haney; Bexar County, Texas; gave deposition; business damages; 2011; Case No.: 2009-CI-17074

26. Daniel Plouffe, et al. versus General Motors, LLC
    Atty: Michael Pitt; Wayne County, Michigan; gave deposition; age discrimination; 2012; Case No.: Case No. 11-007645-CL

27. Johnny Cash versus State Farm
    Atty: Steven Andrews; Leon County, Florida; testified at trial; wrongful injury; 2012; Case No.: Case No. 10-CA-2429

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Higher Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College**.

**Fiscal Note Summary**

Increased state and local government expenses resulting from this proposal could exceed $305 million annually if funding is appropriated. State and local government tax revenue could increase by more than $249 million annually; however, employment decisions made by businesses could impact this estimate.

16-068

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

July 22, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Lara Granich regarding a proposed statutory amendment to Chapter 290, version 6 (2016-068)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Lara Granich on July 21, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

RECEIVED
JUL 22 2015
STATE AUDITORS OFFICE

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-068

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____

(Name of payer) Signature of Affiant (Person obtaining signatures)

_____

Printed Name of Affiant

_____

Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____

Signature of Notary

_____

My commission expires _____. Address of Notary (Street, City, State & Zip Code)

16-068

# Statutory Amendment to Chapter 290, RSMo, Relating to the Minimum Wage

*Be it enacted by the people of the State of Missouri:*

Sections 290.502, 290.512, and 290.527 are amended and a new section to be known as section 290.529 is enacted to read as follows:

§ 290.502. Minimum wage rate -- increase or decrease, when

1. Except as may be otherwise provided pursuant to sections 290.500 to 290.530, effective January 1, 2007, every employer shall pay to each employee wages at the rate of $ 6.50 per hour, or wages at the same rate or rates set under the provisions of federal law as the prevailing federal minimum wage applicable to those covered jobs in interstate commerce, whichever rate per hour is higher.

2. The minimum wage shall be increased or decreased on January 1, 2008, and on January 1 of successive years, by the increase or decrease in the cost of living. On September 30, 2007, and on each September 30 of each successive year, the director shall measure the increase or decrease in the cost of living by the percentage increase or decrease as of the preceding July over the level as of July of the immediately preceding year of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) or successor index as published by the U.S. Department of Labor or its successor agency, with the amount of the minimum wage increase or decrease rounded to the nearest five cents.

3. Except as may be otherwise provided pursuant to sections 290.500 to 290.530, notwithstanding subsection 1 of this section, effective January 1, 2017, every employer shall pay to each employee wages at the rate of $9.00 per hour, and effective January 1, 2018 at the rate of $10.00 per hour, and effective January 1, 2019 at the rate of $11.00 per hour, and effective January 1, 2020 at the rate of $12.00 per hour, and effective January 1, 2021 at the rate of $13.00 per hour, and effective January 1, 2022 at the rate of $14.00 per hour, and effective January 1, 2023 at the rate of $15.00 per hour, or wages at the same rate or rates set under the provisions of federal law as the prevailing federal minimum wage applicable to those covered jobs in interstate commerce, whichever rate per hour is higher. Thereafter, the minimum wage rate shall be increased or decreased on January 1, 2024, and on January 1 of successive years, per the method set forth in subsection 2 of this section; but, if the federal minimum wage rate is above or is thereafter increased above the minimum wage rate then in effect under this subsection, the higher federal rate shall become the minimum wage rate for as long as it remains higher and shall be increased or decreased per the method set forth in subsection 2.

4. Every employer that is a public body shall pay to its employees wages at the rates established by subsection 3 of this section only provided there are appropriations for wages at those rates. If appropriations are not provided, the public body shall continue to be subject to the requirements of subsections 1 and 2 of this section. As used in this subsection, a public body means the state of Missouri, or any officer, agency, department, bureau, or division, board or commission of the state, or any municipality, county, township, authority, district, or any other political subdivision of or within the state.

**§ 290.512. Gratuities, goods or services as part of wages, effect on minimum wage requirement**

1. No employer of any employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages in excess of fifty percent of the minimum wage rate specified in sections 290.500 to 290.530, however, total compensation for such employee shall total at least the minimum wage specified in sections 290.500 to 290.530, the difference being made up by the employer.

2. Notwithstanding subsection 1 of this section, effective January 1, 2017, no employer of any employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages in excess of sixty percent of the minimum wage rate specified in sections 290.500 to 290.530, and effective January 1, 2018 in excess of eighty percent of the minimum wage rate specified in sections 290.500 to 290.530, however, total compensation for such employee shall total at least the minimum wage specified in sections 290.500 to 290.530, the difference being made up by the employer. Effective January 1, 2019, all employers of employees who receive and retain compensation in the form of gratuities will be required to pay the full minimum wage specified in sections 290.500 to 290.530.

3. A public body that is the employer of an employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages at the rates established by subsection 2 of this section only provided there are appropriations for wages at those rates. If appropriations are not provided, the public body shall continue to be subject to the requirements of subsection 1 of this section. As used in this subsection, a public body is defined as in subsection 4 of section 290.502.

[2.] 4. If an employee receives and retains compensation in the form of goods or services as an incident of his employment and if he is not required to exercise any discretion in order to receive the goods or services, the employer is required to pay only the difference between the fair market value of the goods and services and the minimum wage otherwise required to be paid by sections 290.500 to 290.530. The fair market value of the goods and services shall be computed on a weekly basis. The director shall provide by regulation a method of valuing the goods and services received by any employee in lieu of the wages otherwise required to be paid under the provisions of sections 290.500 to 290.530. He shall also provide by regulation a method of determining those types of goods and services that are an incident of employment the receipt of which does not require any discretion on the part of the employee.

**§ 290.527. Action for underpayment of wages, employee may bring--limitation**

Any employer who pays any employee less wages than the wages to which the employee is entitled under or by virtue of sections 290.500 to 290.530 shall be liable to the employee affected for the full amount of the wage rate and an additional [equal] amount equal to twice the unpaid wages as liquidated damages, less any amount actually paid to the employee by the employer and for costs and such reasonable attorney fees as may be allowed by the court or jury. The employee may bring any legal action necessary to collect the claim. Any agreement between the employee and the employer to work for less than the wage rate shall be no defense to the action. All actions for the collection of any deficiency in wages shall be commenced within [two] three years of the accrual of the cause of action.

§ 290.529. Severability

All the provisions of sections 290.500 to 290.530 are severable. If any provision, including any section, subsection, subdivision, paragraph, sentence, or clause, of sections 290.500 to 290.530, or the application thereof to any person or circumstance, is found by a court of competent jurisdiction to be invalid, unconstitutional, or unconstitutionally enacted, such decision shall not affect other provisions or applications of sections 290.500 to 290.530 that can be given effect without the invalid, unconstitutional, or unconstitutionally enacted provision or application.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-068)**

## Subject

Initiative petition from Lara Granich regarding a proposed amendment to Chapter 290 of the Revised Statutes of Missouri. (Received July 22, 2015)

## Date

August 11, 2015

## Description

This proposal would amend Chapter 290 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Lara Granich** provided information as a proponent of the proposal to the State Auditor's office.

**Edward D. Greim** provided information as an opponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated Section 290.502.3 (for each initiative petition) would require the department to increase wages for several employees each year assuming the money is appropriated for the increase. For each hourly increase proposed, they prepared the estimated increased expenditures on wages per year over the current wages expenditures.

Cost to increase:

- $9.00/hr = $915.20/yr
- $10.00/hr = $1,955.20/yr
- $11.00/hr = $3,995.20/yr
- $12.00/hr = $14,238.61/yr
- $13.00/hr = $39,318.02/yr
- $14.00/hr = $78,388.75/yr

They calculated these increased costs by assuming full-time workers work an average of 2087 hours/year. They assumed part-time workers work an average of 20 hours/week for an average of 1040 hours/year.

Officials from the **Department of Elementary and Secondary Education** indicated the total estimated costs for all state funds will be $0 for FY (fiscal year) 2017, $7,078 for FY 2018, $87,363 for FY 2019, $347,819 for FY 2020, $790,578 for FY 2021, $1,164,782 for FY 2022, $1,449,700 for FY 2023, and $807,962 for FY 2024.

Officials from the **Department of Health and Senior Services** (DHSS) indicated the total estimated net cost for all state funds will be $5,658,266 for FY 2017, $24,757,841 for FY 2018, $53,680,575 for FY 2019, $87,815,607 for FY 2020, $127,886,685 for FY 2021, $174,707,511 for FY 2022, and $229,884,672 for FY 2023.

DHSS defers to the Office of Administration regarding the statewide fiscal impact of this proposed legislation relating to state employee wages.

Small Medicaid Home and Community Based Services (HCBS) vendors and providers would be required to ensure attendants are paid a minimum of $9.00 per hour for calendar year 2017, $10.00 per hour for calendar year 2018, $11.00 per hour for calendar year 2019, $12.00 per hour for calendar year 2020, $13.00 per hour for calendar year 2021, $14.00 per hour for calendar year 2022, and $15.00 per hour for calendar year 2023.

DHSS assumes HCBS providers and vendors would request an increase in the reimbursement rate to offset the higher minimum wage rate.

- The average growth in units of service per year from Fiscal Year 2012 to Fiscal Year 2014 is 9.39 percent. (Units are included from Agency Model Personal Care, Residential Care Facility Personal Care, Consumer Directed Services Personal Care, Adult Day Care, Independent Living Waiver Personal Care, Advanced Personal Care Agency Model, Advanced Personal Care Residential Care Facility, Basic In-Home Respite, Advanced Respite, Healthy Children and Youth Waiver Personal Care, Healthy Children and Youth Program Advanced Personal Care, AIDS Waiver Personal Care, and Medically Fragile Adult Waiver Attendant Care .) Fiscal Year 2014 actual units of service (168,363,392) were multiplied times the 9.39 percent average growth rate, which yields an estimated 220,371,779 units of service for Fiscal Year 2017; 241,060,146 for Fiscal Year 2018; 263,690,724 units for Fiscal Year 2019; 288,445,846 units for Fiscal Year 2020; 315,524,964 units for FY 2021; 345,146,253 units for FY 2022; and 377,548,370 units for FY 2023.
- Actual wage data for the individuals involved in delivery of units of service is not available, but DHSS has been advised that the current average wage for personal care attendants is $8.50 + $0.89 in taxes (taxes at 10.45 percent) equals $9.39 per hour, or $2.35 per 15 minute unit.
- The analysis determines the difference between the proposed unit rate for wages and taxes versus the current average wage rate for wages and taxes.
- Services would be reimbursed at the Federal Medical Assistance Percentage (FMAP) rate. For this estimate, DHSS is using FY 2016 blended rate of 36.68 percent General Revenue and 63.32 percent Federal.
- The implementation date is 1/1/2017 for $9.00 per hour for calendar year 2017; one-half of Fiscal Year 2017.
- The implementation date is 1/1/2018 for $10.00 per hour for calendar year 2018.
- The implementation date is 1/1/2019 for $11.00 per hour for calendar year 2019.
- The implementation date is 1/1/2020 for $12.00 per hour for calendar year 2020.
- The implementation date is 1/1/2021 for $13.00 per hour for calendar year 2021.
- The implementation date is 1/1/2022 for $14.00 per hour for calendar year 2022.
- The implementation date is 1/1/2023 for $15.00 per hour for calendar year 2023.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated they defer to the Office of Administration for response to this petition regarding their employee cost as it relates to raising the minimum wage.

With regard to other issues this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated they defer to the Office of Administration for the fiscal impact.

Officials from the **Department of Natural Resources** indicated the estimated total costs for salaries, fringe benefits, equipment and expenses for all state funds will be $111,081 for FY 2017, $273,155 for FY 2018, $335,573 for FY 2019, $381,796 for FY 2020, $533,892 for FY 2021, $931,422 for FY 2022, and $1,682,181 for FY 2023.

Section 290.502.3 would require the department to increase the minimum wage rate to $9.00 per hour effective January 1, 2017, to $10 per hour effective January 1, 2018, to $11 per hour effective January 1, 2019, to $12 per hour effective January 1, 2020, to $13 per hour effective January 1, 2021, to $14 per hour effective January 1, 2022, and to $15 per hour effective January 1, 2023, or to the wages at the same rate(s) set under the provisions of federal law as the prevailing federal minimum age applicable to those covered jobs in interstate commerce, whichever is higher the minimum wage shall be updated every January 1 thereafter.

Section 290.502.4 and 290.512.3 provides an exemption for public bodies from the provision of 290.502.3 if appropriations for wages at those rates are not provided.

Section 290.512.2 would require the department to increase minimum wage for employees that receive and retain gratuities so that total compensation is at least the minimum wage specified in 290.500 to 290.530. Effective January 1, 2017 the department would pay at least an excess of sixty percent of the minimum wage rate. Effective January 1, 2018 the department would pay at least an excess of eighty percent of the minimum wage rate. Effective January 1, 2019 the department would pay the minimum wage.

Section 290.529 makes the provisions of sections 290.500 to 290.530 severable.

The department anticipates the cost of the proposed legislation to start at $111,081 annually for fiscal year 2017 and ultimately increase to $1,682,181 in fiscal year 2023.

This legislation requires the minimum wage to be reviewed and adjusted every January 1.

For full time employees throughout their department they compared their current hourly wage rate to the minimum wage rate in the proposed legislation, taking the difference by 2,080 hours multiplied by the fringe rate for full time staff.

Missouri State Parks employs between 500-750 seasonal positions each year. In order to reflect a full year of seasonal employment, they based on their analysis off of FY14 staffing levels and upgraded their hourly wage to January 1, 2015. They then analyzed each January 1 upgrade to minimum wage compared to the prior year estimate. They assumed the per fiscal year designated minimum wage amount would be greater than the federal minimum wage.

Missouri State Parks does employ staff that is eligible for tips. For those individuals, they are required to ensure that their total wage plus tips meet or exceed the established minimum wage rate for non-tip staff. Therefore, they assumed the same minimum wage for estimated impact as other staff.

Seasonal positions' fringe benefit rate is 7.65 percent. Full time staff would begin to be given minimum wage increases in fiscal year 2020.

They also made the assumption that the personal service appropriations would be adjusted according to the levels necessary to provide the increased minimum wages provided in the law.

Officials from the **Department of Corrections** indicated they defer to the Office of Administration.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department and defer to Office of Administration for impact as an employer.

Officials from the **Department of Revenue** indicated this petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they would not be able to determine the effect of this legislation, and would expect there would be a general response provided by OA/Personnel.

Officials from the **Department of Social Services** indicated they defer to the Office of Administration for the costs related to this petition.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated their cost calculations related to this initiative petition is as follows based on 15 part-time employees working 1,039 hours per year:

| | |
|---|---|
| 2017 @ $9.00/hr. | No impact |
| 2018 @ $10.00/hr. | No impact |
| 2019 @ $11.00/hr. | $15,585 annual |
| 2020 @ $12.00/hr. | $30,170 annual |
| 2021 @ $13.00/hr. | $46,755 annual |
| 2022 @ $14.00/hr. | $62,340 annual |
| 2023 @ $15.00/hr. | $77,925 annual |

Officials from the **Department of Conservation** indicated that this proposal, which would increase the minimum wage, would result in estimated additional annual cost to their department as follows: 1) an increase to $9/hour-$290,319; 2) an increase to $10/hour-$371,906; 3) an increase to $11/hour-$481,557; 4) an increase to $12/hour-$632,118; 5) an increase to $13/hour-$791,089; 6) an increase to $14/hour-$850,229; and 7) an increase to $15/hour-$1,191,902. This reflects pay increases necessary to increase hourly and salaried pay rates to the proposed new minimum wage.

Officials from the **Office of Administration (OA)** indicated the proposal amends Sections 290.502, 290.512, 290.527, and 290.529 RSMo.

Section 290.502, RSMo. increases the minimum wage to $9.00 per hour, beginning January 1, 2017 and by another $1.00 per hour each year until it reaches $15.00 per hour beginning January 1, 2023. Thereafter, the minimum wage will be adjusted annually based on the increase/decrease in the cost of living. The proposal also requires employers of employees who receive and retain compensation in the form of gratuities to pay the full minimum wage beginning January 1, 2019.

Because no tax rates are affected, there is no direct impact on general and total state revenues. However, these proposals may have several indirect affects which could impact revenue collections by an unknown amount, including but not limited to:

- Increased wages for certain employees. According to the US Bureau of Labor Statistics, in 2013, Missouri had 73,000 hourly employees earning wages at or below the federal minimum wage;[1]
- Increased consumption by those employees;
- Lower overall employment (if employers choose to hold costs steady);
- Lower business investment (if employers' payrolls increase);
- Increased prices as firms pass–through labor costs.

This proposal will increase state personnel costs at various state agencies. However, the proposal makes the increase for public bodies subject to appropriation. The estimated cost of the minimum wage increases are:

| Fiscal Year | Wage Rate | Time period | General Revenue Cost (including fringe benefits) | Total Cost (including fringe benefits) |
|---|---|---|---|---|
| 2017 | $9.00/hr | January –June | $171,193 | $464,938 |
| 2018 | $9.00/hr | July – December | | |
| | $10.00/hr | January – June | $513,523 | $1,673,380 |
| 2019 | $10.00/hr | July – December | | |
| | $11.00/hr | January –June | $1,464,340 | $4,407,549 |
| 2020 | $11.00/hr | July – December | | |
| | $12.00/hr | January – June | $6,222,694 | $13,640,373 |
| 2021 | $12.00/hr | July – December | | |
| | $13.00/hr | January – June | $17,386,077 | $33,385,765 |
| 2022 | $13.00/hr | July – December | | |
| | $14.00/hr | January – June | $34,452,207 | $63,042,619 |
| 2023 | $14.00/hr | July – December | | |
| | $15.00/hr | January – June | $62,036,019 | $108,793,353 |

[1] http://www.bls.gov/cps/minwage2013.pdf

Sections 290.512, 290.527 and 290.529 RSMo. will not impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated the following is the estimated fiscal impact to their office for the years 2017 - 2019:

2017: $0
2018: $2,920
2019: $8,760

Officials from the **City of Columbia** provided the following cost estimates:

| Year of Increase | Min. Wage | Total all Employees | Incremental Increase from Previous Year |
|---|---|---|---|
| 1/17 | $9 | $ 945,659 | |
| 1/18 | $10 | $1,646,147 | $700,488 |
| 1/19 | $11 | $2,352,336 | $706,189 |
| 1/20 | $12 | $3,100,824 | $748,488 |
| 1/21 | $13 | $3,938,012 | $837,188 |
| 1/22 | $14 | $4,929,800 | $991,788 |
| 1/23 | $15 | $6,277,589 | $1,347,789 |

Assumption: Only impact is from minimum wage paid to employees and not from gratuities or value of goods and services.

Officials from the **City of Kansas City** indicated approximately 465 employees, mostly part time and seasonal employees, are currently paid less than $15.00; of those, almost 250 are full time positions paid between $14 and $15 per hour. Therefore, the greatest impact will be felt beginning in 2023. Under this initiative petition, there would be a salary increase to the city in the approximate amounts per year:

2017 ($9/hr) : $60,000
2018 ($10/hr): $113,000
2019 ($11/hr): $126,500
2020 ($12/hr): $140,000
2021 ($13/hr): $178,000
2022 ($14/hr): $197,000
2023 ($15/hr): $535,082

Officials from the **City of Raymore** indicated the sum effect on each year's proposal that will increase salary within the City's part-time seasonal staff will be $7,238.85 for CY 2017, $12,510,35 for CY 2018 (an increase of $5,271.50), $19,525.72 for CY 2019 (an increase of $7,015.37), $27,836.04 for CY 2020 (an increase of $8,310.32), $37,202.50 for CY 2021 (an increase of $9,366.46), $48,103.75 for CY 2022 (an increase of $10,901.25), and $59,005.00 for CY 2023 (an increase of $10.901.25).

The city has calculated the sum effect on each year's proposal that will increase salary within the city's part-time seasonal staff within each petition. At this time, the city is assuming that its proposed step chart will continue to be effected by the minimum wage and be adjusted every couple years to be competitive. However, there are many unknowns, and the city has simply included its part-time staff that will be effected.

Officials from the **City of St. Louis** indicated estimated annualized costs to the city of $116,601 for CY 2017, $211,138 for CY 2018, $420,965 for CY 2019, $706,298 for CY 2020, $1,196,768 for CY 2021, $2,704,098 for CY 2022, and $5,073,747 for CY 2023.

This initiative petition proposes an amendment Chapter 290, RSMo, to gradually raise the minimum wage starting at $9.00 per hour on January 1, 2017 to $15.00 per hour on January 1, 2023.

Subject to annual appropriation, this initiative petition would increase costs of salaries of city employees (both full and part-time) that would otherwise not be earning the wages at the levels specified in the proposed amendment. For these purposes, current employee wages are assumed to increase in accordance with existing employee pay plan provisions through 2016. The proposed amendment could also impact city revenues both positively and negatively. Should total wage base rise, employer based earnings and payroll taxes will increase accordingly. Likewise, any job losses that can be attributed to the wage increases will result in a decline in employer based and other tax revenues. The net impact of the changes in city workforce and wage base that would result from the proposed amendment is indeterminate at this time.

Officials from **University of Missouri** indicated they anticipate the legislative proposal would create an overall cost of between $60-70 million after all rate increases were implemented.

**Lara Granich** provided the following information as a proponent of this initiative petition.

August 5, 2015
Missouri State Auditor
Jefferson City, MO
Submitted via email to moaudit@auditor.mo.gov, fiscalnote@auditor.mo.gov

Re: Fiscal Impact Analysis of Minimum Wage Initiative Petitions

Version 4 (Increase to $9, then gradually to $13, tipped 60%)
Version 5 (Increase to $9, then gradually to $14, tipped 60%)
Version 6 (Increase to $9, then gradually to $15, tipped sub-minimum phased out)
Version 7 (Increase to $9, then gradually to $14, tipped sub-minimum phased out)
Version 8 (Increase to $9, then gradually to $13, tipped sub-minimum phased out)
Version 9 (Increase to $9, then gradually to $12, tipped sub-minimum phased out)
Version 10 (Increase to $9, then gradually to $11, tipped sub-minimum phased out)

This letter is from Lara Granich and Missouri Jobs with Justice Voter Action, proponents of the above-referenced initiative petitions. Pursuant to RSMo. Section 116.175, we write to submit the following fiscal impact information to assist your office in its analysis of the fiscal impact of the above mentioned seven proposed Minimum Wage Initiative Petitions.

Our analysis estimates the impact of the seven proposed initiative petitions on state and local sales and personal income tax revenue in Missouri. We follow the process that has been used in the past to estimate the impact of minimum initiative petitions on state and local sales and personal income tax, with some refinements. We also address certain claims that have been made by opponents in the past.

We are building on analysis provided for Versions 1-3 of this initiative. However, some of the analysis tools were unavailable to us in the timeframe for submitting these versions, and therefore we want to acknowledge some gaps in the information provided.

As these petitions exclude public workers, we do not include in our analysis an estimate of the impact on state and local payroll costs of the minimum wage increases.

## I. Estimate of Number of Workers Affected Statewide and the Impact on Their Wages

We estimate that, under the three versions of the petition, increases in total wages in the state will be as follows:

| Proposed Min Wage Level | Size of Increase* | Total Estimated Workers** | Workers Affected*** | Workers Affected as % of Total Workers | Total Wage Increase**** |
|---|---|---|---|---|---|
| $11.00 | $3.20 | 2,845,927 | 880,593 | 30.94% | $4,167,807,617 |
| $12.00 | $4.20 | 2,845,927 | 995,901 | 34.99% | $5,508,377,721 |
| $13.00 | $5.20 | 2,845,927 | 1,092,551 | 38.39% | ***** |
| $14.00 | $6.20 | 2,845,927 | 1,208,950 | 42.48% | ***** |
| $15.00 | $7.20 | 2,845,927 | 1,351,386 | 47.48% | $10,801,510,192 |

*Over the legislated MO 2015 minimum wage of $7.65 + assumed 2% cost of living adjustment to MO minimum wage

**Based on 2013 American Community Survey for the State of Missouri

***The number of wage and salary workers with an hourly wage below the proposed minimum. The hourly wages in 2013 were increased by 5.497%, to account for inflation between 2013 and 2016, prior to comparison with the proposed minimum.

****The hourly wage difference was multiplied by the number of hours worked per year. That amount was then multiplied by the relevant person weight and summed over all persons with hourly wages below the proposed minimum.

*****we were unable to access tools to weight appropriately for this level in the timeframe allowed for input

The wage impact of an increase in the minimum wage for the state of Missouri is calculated using the following procedure. The American Community Survey Public Use Micro Sample for the most recent year available (2013) for the state of Missouri was downloaded from the US Census Bureau. The American Community survey was chosen over the Current Population survey because the ACS has a significantly larger sample.

Calculations were effectuated only for those individuals earning less than the proposed minimum wage. It is likely that there would be indirect impacts on others who earn more than the proposed minimum wage, especially those who earn close to the proposed hourly amount. These estimates therefore are likely to be smaller than the actual impact of increasing the minimum wage to the proposed level.

All wage earners are included in this calculation. To be consistent with past estimates, public employees should have been excluded. Employees in the public sector were included because the American Community Survey does not have a published variable that allows for identification of public employees. This inclusion of public employees will have a minimal impact on our results.[1]

All wages from the 2013 survey were adjusted upward to account for inflation between the time of the survey and the time of measurement of the impact. Actual inflation was used for 2013 and 2014, and a slightly higher rate was used for assumed inflation in 2015. The 2015 Missouri Minimum wage of $7.65 was adjusted by the same factor prior to measuring the impact of a change to the proposed minimum wage in 2016.

After these adjustments, the resulting hourly wage of all employees was compared to the proposed minimum wage. Three proposed levels for the minimum wage were examined: $11, $12, and $15. If the proposed minimum wage was less than the inflation adjusted hourly earnings of an employee, then no impact was calculated. If the proposed

[1] For the Missouri's state employees, this can be validated by viewing the earnings of all state employees at: http://mapyourtaxes.mo.gov/MAP/Employees/. Larger counties and cities will also have almost all public employees earning more than the highest proposed minimum wage. Local public employees in small counties and towns may have some public employees who earn less than the highest proposed minimum.

minimum wage was more than the hourly earnings on an employee, then the difference between the inflation adjusted hourly earnings and the proposed minimum wage was calculated. That difference was multiplied by the number of hours the employee worked in the year to calculate the impact for that employee. The result was then multiplied by a weighting factor for that employee in the population. The total impact for the state of Missouri was calculated by repeating this process for every employee and adding the results.

The impact grows as the proposed minimum wage grows. 31% of the labor force would be directly impacted by an increase in the minimum wage to $11 in 2016, whereas 47% would be impacted if the minimum wage were increased to $15 per hour.

It should be emphasized that there is no reason to expect even a substantial increase in the minimum wage to reduce employment. No credible research has demonstrated a negative employment effect of increases in the minimum wage and there is substantial research to indicate that increases in the minimum wage have multiplier effects that increase the direct effects. For this reason and because of the likely increases in wages to individuals who earn above the proposed minimum wages, the impacts summarized in the table are likely to be low, relative to the total impact that would occur as a result of increasing the minimum wage to the proposed levels.

## II. Economic Literature on the Impact of Minimum Wage Increases on Employment

Next it is necessary to review the economic literature on the impact of minimum wage increases on employment. Opponents often claim that minimum wage increases may reduce employment in a state. If that is true, then those employment reductions would result in reductions in state income and sales tax revenue. However, review of the most credible recent empirical research on the minimum wage shows that increases in the minimum wage have had no discernible impact on employment. We thus conclude that it is not appropriate to project that the proposed initiative petitions would result in any detectable employment reduction, and resulting losses in income and sales tax revenue, or increases in unemployment-related costs to the state.

Economists have conducted hundreds of studies of the employment impact of the minimum wage. A recent meta-study – a formal statistical study of studies – by Doucouliagos and Stanley (2009) reviewed all the research conducted over the last three decades on the employment impact of minimum-wage increases on teenagers in the United States. The researchers concluded that the minimum wage has little or no discernible effect on the employment prospects of low-wage workers. Their study followed a rigorous, peer-reviewed procedure and has the advantage of using a set of predetermined, objective criteria for weighing the validity of statistical findings across studies with different results. (Source: Doucouliagos, Hristos and T. D. Stanley. 2009. “Publication Selection Bias in Minimum-Wage Research? A Meta-Regression Analysis.” British Journal of Industrial Relations,vol. 47, no. 2, pp. 406-428.)

Recent theoretical and empirical research emphasizes several explanations for the consistently negligible employment impacts of moderate increases in the minimum wage. First, relative to total wage costs, minimum-wage increases are small. Second, employers and workers appear to respond to minimum-wage increases in many ways that reduce the direct cost to employers and substantially reduce or eliminate the need to cut employment.

Probably the most important economic response to a higher minimum wage is a reduction in turnover. At higher wages, employers fill vacancies faster and retain employees longer, boosting total employment and average productivity per worker while reducing direct and indirect training costs. Dube, Lester, and Reich (2012), for example, examined the effect of the minimum wage on labor turnover among teens and restaurant workers. They find “...striking evidence that separations, new hires, and turnover rates for teens and restaurant workers fall substantially following a minimum wage increase...” (p. 2) Their findings, using nationally representative data, are consistent with local case studies of the

minimum wage and related "living wage" laws, including Dube, Naidu, and Reich's (2007) analysis of the San Francisco city-wide minimum wage; Fairris's (2005) study of local government contractors in Los Angeles; Howes (2005) on homecare workers in California; and Reich, Hall, and Jacobs (2005) on workers at the San Francisco airport. (Sources: Dube, Arindrajit, T. William Lester, and Michael Reich. 2012. "Minimum Wage Shocks, Employment Flows and Labor Market Frictions." Berkeley, CA: Institute for Research on Labor and Employment. http://escholarship.org/uc/item/76p927ks; Dube, Arindrajit, Suresh Naidu, and Michael Reich. 2007. "The Economic Effects of a Citywide Minimum Wage." *Industrial and Labor Relations Review*, vol. 60, no. 4, pp. 522-543; Fairris, David. 2005. "The Impact of Living Wages on Employers: A Control Group Analysis of the Los Angeles Ordinance." *Industrial Relations*, vol. 44, no. 1, pp. 84-105; Howes, Candace. 2005. "Living Wages and the Retention of Home Care Workers in San Francisco." *Industrial Relations*, vol. 44, 5 no. 1, pp. 139-163; Reich, Michael, Peter Hall, and Ken Jacobs. 2005. "Living Wage Policies at the San Francisco Airport: Impacts on Workers and Businesses." *Industrial Relations*, vol. 44, no. 1, pp. 106-138.)

Employers also appear to respond to increases in the minimum wage by taking measures to boost productivity. Hirsch, Kaufman, and Zelenska's (2011) study of the impact of the federal minimum-wage increase on 81 fast-food restaurants in Georgia and Alabama, for example, asked fast-food managers about the scope for efficiency improvements in response to the minimum-wage rise. About 90 percent of managers indicated that they planned to respond to the minimum-wage increase with increased performance standards such as "requiring a better attendance and on-time record, faster and more proficient performance of job duties, taking on additional tasks, and faster termination of poor performers." (p. 27) Roughly the same share of managers said that they sought to "boost morale" by presenting the minimum-wage increase as a "challenge to the store" and using this as a way "to energize employees to improve productivity." (pp. 28-29) Based on their interviews with store managers, the researchers concluded that a minimum-wage increase may function as a "catalyst or shock that forces managers to step out of the daily routine and think about where cost savings can occur." (p. 29) (Source: Hirsch, Barry T., Bruce Kaufman, and Tetyana Zelenska, "Minimum Wage Channels of Adjustment." IZA Discussion Paper No. 6132. Germany: Institute for the Study of Labor. http://www2.gsu.edu/~ecobth/IZA_HKZ_MinWageCoA_dp6132.pdf)

A higher minimum wage may also motivate workers to work harder, independently of any actions by employers to increase productivity. According to "efficiency wage" theory, wages above the competitive-market rate may elicit greater work effort for several reasons. As Carl Shapiro and Joseph Stiglitz (1984) have argued, higher pay increases the cost to workers of losing their job, potentially inducing greater effort from workers in order to reduce their chances of being fired. George Akerlof (1982), arguing from a more sociological point of view, has suggested that workers may see higher wages as a gift from employers, leading workers to reciprocate by working harder. (Sources: Shapiro, Carl and Joseph E. Stiglitz. 1984. "Equilibrium unemployment as a worker discipline device." *American Economic Review*, vol. 74, no. 3, pp. 433-444; Akerlof, George A. 1982. "Labor contracts as partial gift exchange." *Quarterly Journal of Economics*, vol. 97, no. 4, pp. 543-569.)

We therefore conclude that the proposed increase in the Missouri minimum wage would have no discernible impact on the employment levels of low-wage workers. Accordingly, we do not factor in reductions in employment, or any resulting decrease in sales tax or income tax. We also do not project any increased unemployment insurance costs – both because we do not project any resulting job losses, and additionally because unemployment insurance costs are paid for by employer premiums, and so are ultimately not a cost to the state.

### III. State and Local Sales and Personal Income Tax Revenue Impact of Raising the Minimum Wage

Based on the wage impact figures calculated above, and the understanding that the minimum wage increases would be unlikely to result in offsetting job losses, we next calculate the impact of the projected wage increases on state and local

sales and personal income tax revenue in Missouri. We project only the direct impact of the three minimum wage increase scenarios on such tax revenue. We do not attempt to project the additional impact through a GDP multiplier effect.

**Increase in Personal Income Tax Revenue and Sales Tax Revenue Due to Increased Wages Personal Income Tax Revenue.** In order to determine the projected increase in personal income tax revenues that would result directly from the increased wages, we had to develop assumptions about the effective income tax rates of the affected workers. We made the following assumptions with respect to the effective tax rate:

1. That 25% of affected workers can be claimed as a dependent on another party's Missouri income tax return and as a result would pay an effective tax rate of 6.0% on the increase in income;
2. That 50% of the affected workers would file as single taxpayers, would claim one deduction of $2,100, and would be entitled to a standard deduction of $5,800. This would result in an effective tax rate of 2.47%;
3. The remaining 25% would, we assumed, would pay no additional Missouri income tax. In light of these assumptions, the increased Missouri income tax revenue for each petition version can be calculated as follows: (total wage increase * 25% * 6.0%) + (total wage increase * 50% * 2.47%) + (total wage increase *25% * 0%).

**Sales Tax Revenue.** The State of Missouri imposes a 4.225% state sales tax on those items that are not exempt from the sales tax base. In addition, the average local sales tax rate is 2.95%. As a result, the average Missouri net sales tax rate is 7.175%. We have conservatively estimated that just 25% of the higher wages would be spent on the purchase of goods that are subject to state and local sales tax in Missouri.

Based upon the above assumptions, and the total wage increase calculations for each version of the petition, we estimate that the increase in state income tax revenue resulting from the increased wages would be as follows:

| Increase in Sales and Personal Income Tax from Increased Wages | | | | | | |
|---|---|---|---|---|---|---|
| **Proposed Min Wage Level** | **Total Wage Increase** | **State Sales Tax (4.225%)** | **Local Sales Tax Revenue (2.95%)** | **Total Sales Tax Revenue Increase** | **Personal Income Tax Revenue** | **Total Sales and Personal Income Tax Revenue Increase** |
| $11.00 | $4,167,807,617 | $44,022,468 | $30,737,581.17 | $74,760,049.13 | $113,989,538 | $188,749,587 |
| $12.00 | $5,508,377,721 | $58,182,240 | $40,624,285.69 | $98,806,525.38 | $150,654,131 | $249,460,656 |
| $13.00 | *We were unable to access a tool to weight calculations of the total wage increase for these levels in the timeframe allotted.* | | | | | |
| $14.00 | | | | | | |
| $15.00 | $10,801,510,192 | $114,090,951 | $79,661,137.67 | $193,752,089.08 | $295,421,304 | $489,173,393 |

Moreover, one often-cited authority on tax information, the Tax Foundation, reports that the average local sales tax rate in Missouri is even higher at 3.53%. See http://taxfoundation.org/article/state-and-local-sales-taxes-midyear-2012 If one uses this higher rate, total revenue increases additionally by hundreds of thousand dollars.

We hope that this information is useful to your office as your prepare your analyses of the petitions.

Respectfully submitted,
Lara Granich
Missouri Jobs with Justice Voter Action

**Edward D. Greim** provided the following information as an opponent of this initiative petition.

He writes on behalf of Robert Bonney. Mr. Bonney is the Chief Executive Officer of the Missouri Restaurant Association. Please consider this letter and the accompanying studies as his fiscal impact statement as an opponent of Initiative Petitions 2016-066, 2016-067, 2016-068, 2016-069, 2016-070, 2016-071 and 2016-072 (the "Initiative Petitions"). Initiative Petitions 2016-066 and 2016-067 appear to be substantially similar to the previously-submitted Initiative Petitions 2016-045, 2016-046 and 2016-047—which will cause significant negative impacts, if passed. Moreover, Initiative Petitions 2016-068, 2016-069, 2016-070, 2016-071 and 2016-072 only work to further negatively impact the Missouri economy by phasing out tipped wage percentages entirely. In short, any of these seven initiatives would have a substantial negative impact on state and local governments.

The two fiscal impact studies attached hereto were authored by Dr. David Macpherson, a nationally-recognized labor economist and expert on the impact of minimum wage increases. In reviewing previous minimum wage petitions, the Auditor's Office has previously found Dr. Macpherson's analyses to be helpful and persuasive.

The first study was prepared by Dr. Macpherson in June 2014 and details how a $10.10 per hour minimum wage would have impacted Missouri and the St. Louis area were it to have become effective in 2015. *See* Exhibit A. In addition to the estimated loss of nearly 15,000 jobs statewide, Dr. Macpherson estimated that the cost to taxpayers of a $10.10 minimum wage would be $87 million annually. While this study did not address the specific proposals in the Initiative Petitions, Dr. Macpherson's methodology applies directly to the impact of the proposed minimum wage increases.

The second fiscal study was reviewed and used by this office in evaluating earlier minimum wage proposals. It was prepared by Dr. Macpherson in March 2012 and details the impact of a statewide minimum wage increase to $8.25 per hour. This study is attached hereto as Exhibit B. In this study, Dr. Macpherson concluded that state and local entities would pay out $16 million in increased wages. What's more, Dr. Macpherson estimated that the net state and local fiscal impact would range from a loss of over $22 million to a loss of $13 million. While this study is now three years old, the analysis is pertinent to the proposed wage increase in the Initiative Petitions. Notably, using Dr. Macpherson's methodology, the heightened minimum wage proposals contained in the Initiative Petitions would have a substantially greater negative fiscal impact than that found in the 2012 study.

The proponents of the Initiative Petitions will likely rely on data sourced from political activist groups who claim increases in minimum wage only serve to create new taxable income. The reality is that such groups approach this issue with indisputable political bias. Further, that type of analysis is one-sided, disregarding the significant impact on Missouri businesses. True, some workers will collect increased wages, but no new money is created; Missouri businesses will be the source of the increase which will lower their taxable income and, from time to time, cause them to forego hiring or to cut employment. Regarding secondary employment and tax revenue effects, the Auditor must refrain from assessing only one half of the wage increase equation.

In addition, the most significant and most direct effect of a minimum wage increase is the amount of the increased wages that will actually be paid by state and local governments. As has been shown during prior efforts to increase the minimum wage, very few of the hundreds of state and local entities who actually employ minimum wage workers will take the time to provide fiscal impact estimates in response to the Auditor's requests. Further, the Auditor's requests are simply sent to a sample of governmental employers. The more appropriate method to calculate the fiscal impact of the wage increase is to use the actual number of minimum wage workers who work for state and local governments, as calculated by the United States Census Bureau's CPS. Rather than simply adding the sums reported in the scattershot and unreliable fiscal note responses from state and local entities, the Auditor should supplement them with broader analyses such as those of Dr. Macpherson. At the very least, the Auditor should state in the fiscal note summary that state and local impacts are "large" or "substantial," rather than simply reporting impacts of "at least" the few thousand dollars in costs that may or may not be reported by those local entities that take the time to respond to the Auditor's sampling.

Finally, the proponents of the Initiative Petitions may argue that the Auditor should abandon the state and local cost estimates altogether. The proponents will argue that a new provision they have inserted in the statute would make the increases apply only if "there are appropriations for wages at those [i.e., the newly-increased] rates." The proponents will urge the Auditor's Office to assume that legislators will not actually fund the increases, and that therefore there will be no cost to taxpayers. Setting aside unjustifiable projections about the political judgments of legislators, the provision is of uncertain legal effect and constitutionality. On the one hand, it may not change existing law, since arguably the legislature always has the power to reduce or increase appropriations. But it is also unclear whether the legislature has the power to fix wage rates within an appropriations bill, or whether a mere statutory petition can confer this type of power upon the legislature. The application of the requirement for a specific type and manner of appropriation is also unclear in the context of political subdivisions and other public bodies whose funds are generally not appropriated by the general assembly. These are just a few examples of the serious flaws with the proposal itself that may have to be addressed by the courts. Suffice it to say that as a matter of law, it would be insufficient and unfair for the Auditor's fiscal note or summary to simply assume that these legal issues do not exist, or to make a political judgment that legislators will not in fact fund any of the minimum wage increases at any level of state government. Such assumptions would only serve to artificially deflate the fiscal note and fiscal note summary by tens of millions of dollars.

June 2014

MISSOURI
Restaurant Association
*Eat Out Often!*

# The Impact of a $10.10 Minimum Wage on Jobs and Taxpayer Costs in Missouri

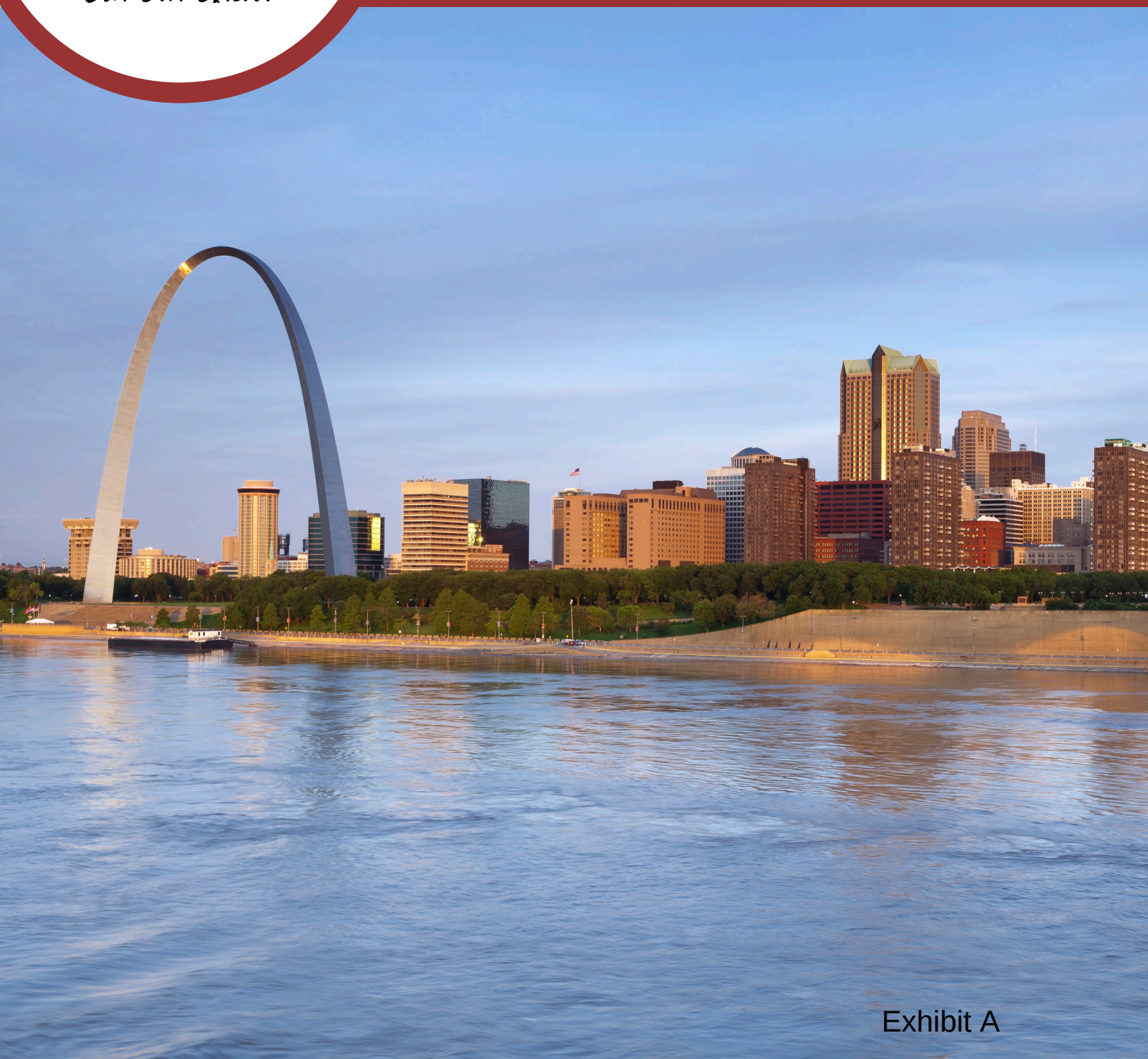

Exhibit A

# ABOUT THE MISSOURI RESTAURANT ASSOCIATION

With origins dating back to 1916, the Missouri Restaurant Association (MRA) is a statewide trade association representing over 1,500 member establishments. The association's membership is diverse, and includes full service, fast casual, and quick service restaurants, cafeterias, hotels, schools, institutions, contract feeders, and ancillary foodservice providers such as theme parks. The association has been successful in securing support from virtually every segment of the foodservice and hospitality industry.

MRA includes seven chapters as extensions of the parent organization, each with its own Officers, Board of Directors, and limited budget. The association is governed by a Board of Directors comprised of five Officers, 33 Directors, and each President of the seven affiliated chapters.

MRA is dedicated to serving the needs of the foodservice and hospitality industry, enhancing and improving its growth and development, assisting and educating its members in operating more effectively, improving the political and social environment in which the industry conducts business, for the benefit of its members, patrons, employees, and the well-being of the community.

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David A. Macpherson is the E.M. Stevens Professor of Economics at Trinity University. He received undergraduate and doctoral degrees in economics from Pennsylvania State University.

Dr. Macpherson has published over 60 articles in leading economics and real estate journals including Review of Economics and Statistics, Industrial and Labor Relations Review, Journal of Labor Economics, Journal of Human Resources, and Journal of Real Estate Economics and Finance. His research has been funded by a variety of entities including the National Science Foundation, Florida Legislature, and the National Association of Realtors. He is co-author of the undergraduate labor economics text, Contemporary Labor Economics, as well as the principles of economics text, Economics: Private and Public Choice. He is included in Who's Who in Economics, Fourth Edition, which includes the 1,200 most frequently cited economists.

# THE IMPACT OF A $10.10 MINIMUM WAGE ON JOBS AND TAXPAYER COSTS IN MISSOURI

June 2014

Economic Analysis by **Dr. David Macpherson**
**Trinity University**

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# EXECUTIVE SUMMARY

Missouri's minimum wage of $7.50 is linked to rise in most years with the inflation rate. But some state legislators and labor unions would like to raise that figure even higher. For instance, a recent labor union-organized bus tour in the state promoted a $10.10 minimum wage in St. Louis.

Proponents have enthusiastically pointed to the benefits of the $10.10 policy. But there's been far less discussion of the costs involved with a $10.10-an-hour minimum wage—both the cost on employment, and the cost to taxpayers.

In this study, labor economist David Macpherson of Trinity University uses Census Bureau data to estimate the impact on Missouri's labor market and budget from raising the minimum wage to $10.10 an hour. He also provides separate results for the St. Louis metropolitan area.

Dr. Macpherson's employment estimates follow the methodology used by the nonpartisan Congressional Budget Office in its report earlier this year estimating the impact of a $10.10 minimum wage nationwide, which in turn relied on 60 different empirical studies to formulate its estimates.

Statewide, he finds that over 15,000 jobs would be lost at the $10.10 wage level—with 9,300 of those jobs being held by women. In the St. Louis metropolitan area, approximately 4,800 jobs would be lost from a $10.10 minimum wage.

The cost to taxpayers would be significant: There are approximately 40,000 state and local employees whose wages would be affected by the $10.10 increase in Missouri, for a combined cost to taxpayers of $87 million annually.

Raising wages is an admirable goal, but the evidence suggests that accomplishing this goal with a blunt wage mandate could do more harm than good.

# RESULTS

The minimum wage is one of the most hotly-debated topics in the political world. Some legislators claim that a higher base wage will stimulate the economy; others claim that it will reduce jobs when affected employers can't offset the higher costs through higher prices.

Economists, who have studied the issue since the late 1940s, tend to take a skeptical view of minimum wage increases. Since the early 1990s, for instance, roughly 85 percent of the most credible research on the minimum wage points to job loss for less-skilled groups. The nonpartisan Congressional Budget Office (CBO), in an evaluation of President Obama's proposed $10.10 minimum wage increase, reviewed 60 different studies and concluded that the policy would eliminate 500,000 jobs if enacted.

The estimates that follow, of the employment impact of a higher minimum wage on Missouri's labor market, were performed by Dr. David Macpherson of Trinity University. Dr. Macpherson followed closely the methodology used by the CBO in its 2014 report. Dr. Macpherson also estimates the taxpayer costs of a higher minimum wage, as many state and local public employees will see their earnings increase when the minimum wage rises.

Dr. Macpherson's methodology is presented in detail in a technical appendix.

## Estimated Employment Effects of a $10.10 Minimum Wage in Missouri

Statewide, Dr. Macpherson finds that increasing the minimum wage to $10.10 would eliminate over 15,000 jobs—approximately 60 percent of which are jobs held by women. The bulk of the job losses would be concentrated among individuals with a high school degree or less, and among people who work in the retail or leisure & hospitality industries.

(Note: Totals have slight discrepancies due to rounding.)

**Estimates by Gender**

| | *Job Losses* |
|---|---|
| **Male** | 6,311 |
| **Female** | 9,364 |
| **TOTAL** | **15,705** |

**Estimates by Age**

| *Age* | *Job Loss* |
|---|---|
| **<=21** | 9,237 |
| **22-25** | 1,532 |
| **26-30** | 1,023 |
| **31-40** | 1,175 |
| **41-50** | 980 |
| **51 +** | 1,759 |

**Estimates by Race**

| *Race* | *Job Loss* |
|---|---|
| **White** | 13,299 |
| **Black or Other Race** | 2,406 |

# RESULTS CONTINUED

| Top Three Industries Affected | |
|---|---|
| *Industry* | *Job Loss* |
| **Retail Trade** | 3,835 |
| **Arts, Entertainment, Recreation, Accommodations, and Food Services** | 6,039 |
| **Healthcare** | 1,199 |

| Estimates by Education | |
|---|---|
| *Education* | *Job Loss* |
| **Less than High School** | 5,555 |
| **High School Grad, No College** | 4,921 |
| **Some College** | 4,428 |
| **Undergrad or Graduate Degree** | 802 |

## City-Specific Minimum Wage Employment Impacts

The city of St. Louis has been the subject of a number of protests calling for a higher minimum wage. Dr. Macpherson analyzed the employment impact of a $10.10 minimum wage in the St. Louis metropolitan area, providing breakouts by gender and education where the data permits. He estimates that the wage hike would eliminate approximately 5,000 jobs—just over half of which would be jobs held by women.

| Impact on St. Louis Metro Area of a $10.10 Minimum Wage | |
|---|---|
| *Gender* | *Job Loss* |
| **Male** | 2,033 |
| **Female** | 2,767 |
| **TOTAL** | **4,800** |
| *Race* | *Job Loss* |
| **White** | 3,641 |
| **Black or Other Race** | 1,158 |
| *Education* | *Job Loss* |
| **High School Grad or Less** | 3,097 |
| **Some College, Undergrad or Graduate Degree** | 1,703 |

# RESULTS CONTINUED

## Missouri Taxpayer Costs of a $10.10 Minimum Wage

Dr. Macpherson estimates that approximately forty thousand state & local public employees would be affected by a minimum wage increase to $10.10 an hour. These additional wage costs translate to new costs for state and local taxpayers. Following the methodology described in detail in the technical appendix, Dr. Macpherson estimates both the straight wage cost of a $10.10 minimum wage, as well as the total compensation cost with Social Security, Medicare, workers compensation, and unemployment insurance included. Statewide, taxpayers would shoulder an additional $87 million in costs if the base wage was increased to $10.10 an hour and public employees were covered by the new wage.

| Missouri Taxpayer Costs of a $10.10 Minimum Wage | |
|---|---|
| **# of State & Local Workers** | 304,588 |
| **# Affected By $10.10 MW** | 40,103 |
| **Annual Wage Cost** | $79,629,374 |
| **Annual Compensation Cost** | $87,004,355 |

*Note: Annual compensation costs include the cost of worker's compensation, FICA, and unemployment insurance benefits.*

MISSOURI Restaurant Association
Eat Out Often!

# TECHNICAL APPENDIX

## Estimating Employment Loss and the Cost to State and Local Government of an Increase in the Minimum Wage

**Dr. David Macpherson**
**E.M. Stevens Professor of Economics**
**Trinity University**

This paper describes how we estimate the employment loss and the cost to state and local governments of a proposed increase in the minimum wage effective on January 1, 2015.

## Data and Sample

First, we use data from the Current Population Survey (CPS) Outgoing Rotation Groups (ORG) from January 2011 through December 2013. For each worker in the sample, we calculate their wage rate. We also adjust the wage rate to reflect a forecast of wages in 2015. This is done in two steps. First, based on legislation enacted as of April 2014, we estimate the minimum wage that would be in effect in January 2015 for each state and city that we consider. If a state or city has an indexed minimum wage, we increase the January 2014 state or city minimum wage by the Congressional Budget Office (CBO) inflation forecast for 2014 of 1.7%.

Since we use data from 2011 through 2013, we also follow the CBO approach for forecasting what the wage distribution would be in 2015. This is done in two steps. First, we adjust wages observed prior to 2013 to reflect 2013 minimum wage legislation. For example, if the minimum wage in a state was $7.25 in 2011 and grew to $8.00 by 2013, anyone who earned between $7.25 and $8.00 in 2011 would have their wage increased to $8.00. After wages are adjusted to 2013 levels, we assume that all wages grow by 2.9% in 2014. Using the resulting 2015 distribution of wages, we adjust for minimum wage legislation that would increase the minimum between 2013 and 2015. Anyone earning a wage between the 2013 and 2015 minimum wage is assigned a wage matching the 2015 minimum wage.

After generating the forecast 2015 distribution of wages reflecting wage growth and existing minimum wage legislation, we identify workers who would be affected by additional changes to the 2015 minimum wage as those with wages between the predicted minimum wage legislated for 2015 (or up to $.25 below it) and the proposed minimum.

To estimate the number of affected workers, we take two steps. First, for each state, we estimate the number of affected workers for 2013. Second, we adjust the weights in the 2011 and 2012 data so that the state-specific number of affected workers implied by the 2011 and 2012 data matches that for 2013. This adjustment is designed to correct for the changing economic climate as the economy recovers from the great recession and to generate estimates that are as close as possible to the most recent data (2013). After we adjust the 2011 and 2012 weights, we estimate the number of affected workers by summing their earnings weights and dividing the total by 36 (the number of months of data).

[1] Also, following CBO, anyone earning up to $.25 less than the 2011 minimum wage would have their wage increased by the amount that the minimum wage increased (i.e. a $7.00 wage would be increased to $7.75 in this example). This approach is used to adjust for the fact that many workers round their answers when asked about their wage.

# TECHINCAL APPENDIX CONTINUED

## Employment Loss

To estimate employment loss, for each affected worker we compute:

**L = e *(Proposed Min Wage /Min Wage 2015 – 1)**

where e is an assumed elasticity of employment with respect to changes in the minimum wage, Min Wage 2015 is the minimum wage currently legislated for 2015, and Proposed Min Wage is the minimum wage that is being proposed for 2015. Thus, for example, if a worker is projected to earn the federal minimum of $7.25 in 2015, the expected reduction in employment resulting from a $10.10 minimum wage in 2015 if e=.45 is .45*(10.10/7.25 – 1) = .18. That is, for every 100 workers currently earning the federal minimum, the expectation is that 18 would lose a job if the minimum wage elasticity is .45.

To estimate the aggregate employment loss in the economy, we use earnings weights to sum L across workers. We also follow the Congressional Budget Office (2014) and use an elasticity of 0.15 for non-teenagers and 0.45 for teenagers.

## Cost to State and Local Government

We use the same data to estimate the cost to state and local government of a proposed minimum wage hike. We apply the same definition of affected workers described above and estimate the number of state and local government workers affected by a minimum wage hike. We do not, however, assume that there is any job loss for state and local workers as we do not have an appropriate elasticity estimate specific to state and local workers. To the extent that state or local governments reduce hours or employment in response tothe minimum wage hike, our estimate of the cost of the hike would be overstated.

To estimate the increase in annual payroll cost resulting from an increase in the minimum wage, we estimate the increase in annual cost for each worker as:

**(Proposed Min Wage-Min Wage 2015)*weekly hours*52**

We then multiply the increase in annual cost by the earnings weight for each worker and sum across workers. Since an increase in wages also requires increased employer contributions for Social Security, Medicare, workers' compensation and unemployment insurance, we apply an estimate of the payroll tax rate for these mandatory programs to calculate the additional cost for these programs.

For each state and city considered, we provide tables summarizing the number of affected workers, employment loss, and the distribution of employment loss by sex, education, race, age and industry. Given that we use three years of data, a rule of thumb for minimum sample size required to achieve a reasonably accurate estimate of the employment loss is to require at least 30,000 people be in the relevant category. For example, if there are fewer than 30,000 people projected to be in a particular industry category, the Bureau of Labor Statistics would not report the estimate due to a lack of reliability based on the variance of the estimate relative to its mean.

In addition to the estimate of employment loss, for each state or city considered, we estimate the number of state and local workers that would be affected by the minimum wage hike and the total annual cost to government in terms of wages and total compensation. As with the employment estimates, we advise caution in interpreting estimates that are based on fewer than 30,000 affected workers.

[3] Congressional Budget Office, "The Effects of a Minimum-Wage Increase on Employment and Family Income," February 2014.

[4] For workers paid by the hour the reported hourly wage was used. For workers who are not paid by the hour, we calculate the hourly wage by dividing usual weekly earnings by usual weekly hours. Overtime pay was calculated as time and one-half for hours above 40 hours for hourly workers.

[5] The assumed payroll tax for Medicare and Social Security is 7.65 percent. To estimate the payroll tax for workers' compensation and unemployment insurance, we use unpublished data from the 2010 Employer Cost of Employee Compensation database for state and local workers in the relevant region in 2010.

# FISCAL ANALYSIS
# OF
# PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

**Prepared for**

**Victor Allred versus Robin Carnahan and Thomas Schweich**
**Circuit Court of Cole County, Missouri**

**Prepared by**

**David A. Macpherson, Ph.D.**
**125 Park Drive**
**San Antonio, TX 78212**

**March 26, 2012**

Exhibit B

# FISCAL ANALYSIS
# OF
# PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

## I. Introduction

This report was undertaken at the request of counsel representing plaintiffs in the case of Victor Allred versus Robin Carnahan and Thomas Schweich. As part of the basis of the lawsuit, the plaintiffs allege that the fiscal note summaries for proposed statutory initiative petitions 2012-084 and 2012-085 are insufficient and unfair. I was asked by counsel to evaluate the fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085.

The results of my analysis indicate:

(1) labor costs to state and local government entities, based on state auditor fiscal notes, will rise by more than $1,352,182. A more inclusive estimate indicates that state and local government labor costs will increase by $16,003,712;

(2) unemployment benefit costs will rise by $4,397,510 during the first year of the minimum wage increase;

(3) individual income tax revenue will rise by at most $4,078,088;

(4) the loss in corporate income tax revenue could be as high as $9,243,105;

(5) state and local sales tax revenue will rise by at most $2,919,327;

(6) during the first year: state and local governments will incur increased costs of $20,401,222; the change in state and local government revenue will

range from -$2,245,690 to +$6,997,415; and the net state and local government fiscal impact will range from -$22,646,912 to -$13,403,807.

The report is organized as follows. My qualifications to prepare this report are contained in Section II. Section III describes the data and records I relied upon for this report. Section IV reviews the estimated fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085. A summary and my conclusions are provided in Section VI.

## II. Qualifications

I am currently the E.M. Stevens Professor of Economics at Trinity University in San Antonio, Texas. Previously, I was employed by Florida State University as Director of the Pepper Institute on Aging and Public Policy and the Rod and Hope Brim Eminent Scholar in Economics. I have taught both undergraduate and graduate Econometrics (statistical analysis of economic data), and Labor Economics. I have published over 50 articles in peer-reviewed professional journals.

I am currently serving on the editorial board of the *Journal of Forensic Economics*, which is a peer-reviewed journal. I have also served as a reviewer or 'referee' for 24 peer-reviewed journals, including the *Journal of Human Resources, Journal of Labor Economics, Quarterly Journal of Economics,* and the *Review of Economics and Statistics*. Based upon these experiences, I am very familiar with the scholarly and professional research process and the concept of peer review.

I have prepared numerous analyses and reports that use statistical methods as applied to specific questions. I have been responsible for developing the techniques and approaches required for these analyses. I routinely use computers and statistical software packages to assist me in my analytical work. I have been qualified as an expert witness on statistical analysis of employment discrimination and economic damages in state courts in Florida and Georgia and Federal Courts, and I have given expert testimony. I have prepared analyses and offered testimony on behalf of both plaintiffs and defendants.

Details of my qualifications are reflected in my current resume and legal cases, attached as Appendix A to the report.

## III. Data and Records

I reviewed the following materials in preparing this report.

- Plaintiff's Complaint
- Material cited in footnotes below.

## IV. Fiscal Impact

*A. Overview*

The proposed statutory initiative petitions 2012-084 and 2012-085 contain many elements in common. Both initiatives would increase the Missouri minimum wage to $8.25 per hour, alter the exemption for retail and service firms, raise the cash wage of tipped workers from 50% to 60% of the minimum wage, and increase the statute of limitation from two to three year for underpayment claims.

The initiatives differ in their linkage to the federal minimum wage. Initiative petition 2012-084 requires that the state minimum wage be automatically increased to the

federal minimum wage if it is higher than the state minimum wage. Initiative petition 2012-085 does not have such a linkage. It only requires that workers be paid the higher of the state minimum wage or the federal minimum wage. The linkage to the federal minimum wage will cause the state minimum wage to be higher under initiative petition 2012-084 over time. This is because the state minimum wage, in contrast to the federal minimum wage, is adjusted for inflation as measured by the Consumer Price Index.

An increase in the minimum wage in Missouri will affect state and local government entities in two ways. First, it will directly increase the cost of labor to state and local government entities. This will occur due to the increase in wages of state and local government workers earning between the existing minimum wage of $7.25 and the new minimum wage of $8.25.[1] In addition, workers laid off due to the minimum wage increase can collect unemployment benefits. The state government will bear the cost of unemployment benefits of these workers for the first 20 weeks. Second, state and local government may gain increased revenue through higher income tax and sales taxes paid by workers affected by the minimum wage who remain employed. However, state and local government will suffer reduced tax revenue to the extent the higher wage cost lowers profits of businesses.

The following sections estimate the cost and revenue effects to state and local government entities of the proposed minimum wage increase.

[1] Information about the minimum wage in Missouri is available at http://www.labor.mo.gov/DLS/minimumwage/.

*B. Direct Labor Cost Impact on State and Local Government Budgets*

There are two possible ways to measure the direct labor cost on state and local government budgets. First, one can use the information included in the fiscal notes prepared by the State Auditor regarding the proposed initiatives. It is important to note that the fiscal notes provide an incomplete and thus too low estimate of the direct labor cost. The fiscal notes indicate that the Office of Administration's (OA) Division of Personnel reported that as of September 2011 there were 834 state workers who would be affected by an increase of the minimum wage to $8.25 and the "approximate annual cost" would be more than $540,000.

This OA estimate excludes seasonal workers such as State Fair employees, State Parks Employees, and tax season staff. The Division of Revenue noted its labor cost would rise by $40,000. The Division of Natural Resources stated they have over 500 workers who would be affected by the increase, but did not provide an estimate of the cost. The State Fair hired 745 workers that would be affected, but no cost estimate was provided.

Thus, the cost to state government, based on the fiscal notes, would be more than $580,000.

The fiscal notes also provide an incomplete and thus too low measure of the cost to local government and public educational institutions. Many cities and educational institutions did not respond to Office of Auditor's survey or provide an estimate of the cost of the higher minimum wage. The City of Columbia, City of Jefferson, City of

Joseph, Linn State Technical College, and Metropolitan Community College did provide such an estimate. The total cost to these five institutions is $772,182.

Based on the fiscal notes, the cost to state and local government entities of the increase in the minimum wage to $8.25 will be more than $1,352,182.

Second, data from the U.S. Census Bureau's Current Population Survey (CPS) can also be used to calculate the cost of the increased labor cost to state and local government entities in Missouri. Using the data from January 2010 to December 2011 Outgoing Rotation Group (ORG) CPS, I calculated that 17,089 state and local government workers would be affected by the minimum wage increase. I defined affected workers as those individuals earning between $7.00 and $8.24 per hour. Though the minimum wage was $7.25 per hour during this period, I also included those workers reporting earnings of $7.00 to $7.24 since some individuals may round their wage rate. I calculated the annual wage cost for each state and local government worker (i) in the ORG CPS as:

$$Annual\ Wage\ Cost_i = (\$8.25 - current\ wage_i) * weekly\ hours_i * 52.$$[2]

The average annual wage cost increase was $870. I summed the cost over each worker (i) to obtain the total wage cost to state and local government entities in Missouri of $14,866,430.

The increased wage cost is not the only labor cost to state and local government entities of the minimum wage increase. Employers are required to pay 7.65% of their wage costs in Social Security and Medicare taxes. Thus, the total labor cost of the minimum wage increase will be 1.0765 times $14,866,430 or $16,003,712.

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[2] I assume that persons reporting an hourly wage rate between $7.00 and $7.24 are actually earning $7.25 per hour.

*C. Unemployment Benefit Impact*

The higher minimum wage will cause firms to reduce their level of employment.[3] As a result, the number of unemployed workers will increase. Thus, another important fiscal cost of the minimum wage increase is the cost of the unemployment insurance benefits for the workers laid off as a result of the minimum wage increase.

To calculate the cost to the unemployment benefits program, I first calculated the number of workers laid off. To do so, I calculated a probability of job loss for each affected Missouri worker (i) in the January 2010 to December 2011 ORG CPS:

$$Probability\ Job\ Loss_{\ i} = \frac{(\$8.25 - Current\ Wage_i)}{Current\ Wage_i} * elasticity_i.$$

I used the preferred employment elasticity (i.e., sensitivity of employment to wage changes) contained in Sabia and Burkhauser (2010), which was -0.6 for individuals aged 16 to 29 without a high school degree and -0.2 for all other individuals. The sole exception was for state and local government workers, where I assumed an elasticity of zero.[4] The sum across all affected workers yielded an estimated job loss of 5,745 jobs.

The next step was to calculate the weekly benefit for the average unemployed worker. Using the benefits calculator on the Missouri unemployment benefits web site and the wage income of average private-sector affected worker ($10,937), yields an average weekly benefit of $109.36[5]. The state of Missouri pays the first 20 weeks of benefits.[6] Thus, each eligible unemployed worker could receive a total of $2,187.20 in

[3] For a survey of research regarding the effect of the minimum wage on employment, see David Neumark and William L. Wascher, *Minimum Wages* (Cambridge, MA: MIT Press, 2008).
[4] Joseph J. Sabia and Richard V. Burkhauser, "Minimum Wages and Poverty: Will a $9.50 Federal Minimum Wage Really Help the Working Poor?" *Southern Economic Journal* (January 2010): 592-623.
[5] http://www.labor.mo.gov/DES/Claims/calculator.asp
[6] See http://www.labor.mo.gov/DES/Claims/

benefits paid for by the state of Missouri. These jobs are permanently eliminated and so it is appropriate to calculate the full amount of benefits for each worker.

Unemployment insurance, however, does not cover all unemployed workers. For example, it does not cover people who leave a job voluntarily, people looking for their first job, and re-entrants who previously left the labor force voluntarily. Furthermore, some individuals don't apply for benefits even though they are eligible. I assume that 35% of the unemployed workers will receive unemployment benefits based on analysis by Wenger (2001).[7]

The last step is to calculate the total cost to the Missouri unemployment benefits program. This done by multiplying the number of jobs lost (5,745) times the average benefit amount ($2,187.20) times the percent of unemployed individuals collecting benefits (35%). This calculation yields a figure of $4,397,510. This cost would be borne only during the first year of the minimum wage increase. The inflation adjustments in the minimum wage will also yield costs to the unemployment insurance program, but it is not possible to estimate the amount.

*D. Impact on State Income Tax Revenue*

The state of Missouri will gain increased revenue through higher income tax taxes paid by workers affected by the minimum wage who remain employed. However, it will

[7] Jeffery Wenger. "Divided We Fall: Deserving Workers Slip through America's Patchwork Unemployment Insurance System." *Economic Policy Institute*, 2001. Sabia and Burkhauser (2010) make the same assumption in their calculation of the amount of unemployment benefits generated by a minimum wage increase.

suffer reduced corporate income tax revenue to the extent the higher wage cost lowers profits of businesses.

To calculate the impact on individual income tax revenue, I again used data from January 2010 to December 2011 ORG CPS. I defined affected workers as those Missouri individuals earning between $7.00 and $8.24 per hour.[8] I used the following formula to estimate the change in income tax revenue:

$$\Delta Tax\ Revenue_i = (Tax_After_i - Tax_Before_i) - Prob_Job_Loss_i * Tax_Before_i,$$

where $Tax_After_i$ is the income tax paid by worker i after the minimum wage increase. $Tax_Before_i$ is the income tax paid by worker i after the minimum wage increase, and $Prob_Job_Loss_i$ is the probability of job loss for worker i. The first term shows the change in individual income tax revenue assuming no job loss and the second term shows the loss in tax revenue due to the employment loss caused by the minimum wage increase.

The income tax calculations were based on two assumptions.[9] First, the 50% percent of affected workers who were under the age 25 who were assumed to be dependents on another person's tax return. As a result, it was assumed that the affected workers' earnings were taxable at the maximum Missouri income tax rate of 6% both and after the minimum wage increase.[10] Second, all persons age 25 and older were assumed to be paying little or no income tax after exemptions and deductions. Thus, about 50% of the earnings increase will be taxed at a rate of 6%.

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[8] I again assume that persons reporting an hourly wage rate between $7.00 and $7.24 are actually earning $7.25 per hour. The annual earnings level was calculated as the worker's wage rate times usual weekly hours worked times 52.

[9] The same assumptions are used in the State Auditor's fiscal notes for the initiatives.

[10] This assumption will overstate the revenue increase as 20% of affected workers under the age 25 are living by themselves and some of these individuals will not be a dependent on another person's tax return.

The tax calculations reveal an increase in income tax revenue increase to the state. Assuming no workers were laid off by the minimum wage increase, income tax revenue would rise by $6,043,534. However, the state will lose $1,965,446 in income tax revenue due to the lost earnings of private-sector workers no longer employed due to the minimum wage hike.[11] Thus, the net increase in individual income tax revenue is $4,078,088.

Businesses have three options to respond to the higher labor costs of a higher minimum wage. They can reduce their profits, raise prices, or lay off workers. Based on the 2010-2011 ORG CPS data, the minimum wage increase will raise private-sector labor costs by $192,620,900 if employment levels are not reduced. However, labor costs will be lowered by $55,240,790 due to the reduction in employment. Thus, labor costs will, on net, rise by $137,380,110. These increased labor costs may be either passed on to consumers through higher prices or reduced profits or more likely some combination of higher prices and reduced profits. Assuming that businesses absorbed all of the higher costs through reduced profits, the corporate income tax revenue would fall by the Missouri corporate income tax of 6.25% times the rise in labor costs of $137,380,110 * 1.0765 (to account for employer-paid Social Security and Medicare taxes) or $9,243,106.[12] Alternatively, if half of the higher labor costs were passed on to consumers, then corporate income tax revenue would fall by $4,621,553.

[11] The probability of job loss was calculated in the same manner as in the prior section.
[12] The corporate income tax for Missouri is available at: http://dor.mo.gov/business/corporate/

*E. Impact on State and Local Sales Tax Revenue*

To calculate the impact on state and local sales tax revenue the following approach was undertaken.[13] First, the total increase in worker earnings, adjusted for employment reductions, was calculated using the 2010-2011 ORG CPS. This figure was $152,246,540. Second, the increase in Missouri taxable sales was calculated as 25% of the earnings increase or $38,061,635. Third, the increase in sales tax revenue was calculated by multiplying the taxable sales change times the average state and local rate of 7.67% or $2,919,327.[14]

The higher minimum wage may decrease sales tax revenue to the extent that it reduces business profits, which will lower spending by business owners.

## VI. Summary and Conclusions

I was asked by counsel to evaluate the fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085.

The results of my analysis indicate:

(1) labor costs to state and local government entities, based on state auditor fiscal notes, will rise by more than $1,352,182. A more inclusive estimate indicates that state and local government labor costs will increase by $16,003,712;

[13] The same general approach is used in the State Auditor's fiscal notes for the initiatives.
[14] The average rate comes from http://taxfoundation.org/news/show/27023.html

(2) unemployment benefit costs will rise by $4,397,510 during the first year of the minimum wage increase;

(3) individual income tax revenue will rise by at most $4,078,088;

(4) the loss in corporate income tax revenue could be as high as $9,243,105;

(5) state and local sales tax revenue will rise by at most $2,919,327;

(6) during the first year: state and local governments will incur increased costs of $20,401,222; the change in state and local government revenue will range from -$2,245,690 to +$6,997,415; and the net state and local government fiscal impact will range from -$22,646,912 to -$13,403,807.

**FISCAL ANALYSIS**
**OF**
**PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085**

David A. Macpherson

David A. Macpherson, Ph.D.
March 26, 2012

# Appendix A

## Resume and Testimony of David A. Macpherson, Ph.D.

# DAVID A. MACPHERSON

3/2012

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Ph.D., Economics, The Pennsylvania State University.
B.S., Economics, The Pennsylvania State University.

## Current Positions

E.M. Stevens Professor of Economics, Trinity University, 2009-
Research Fellow, Institute for the Study of Labor (IZA), Bonn, 2004-.

## Previous Positions

Rod and Hope Brim Eminent Scholar in Economics, FSU 2004-2009.
Director, Pepper Institute on Aging and Public Policy, FSU, 2003-2009.
Abba P. Lerner Professor of Economics, FSU, 2000-2009.
Professor, Department of Economics, Florida State University, 1996-2009.
Director of Research, Pepper Institute on Aging and Public Policy, FSU, 1995-2000.
Associate Professor, Department of Economics, Florida State University, 1993-1996.
Research Associate, Pepper Institute on Aging and Public Policy, FSU, 1993-2001, 2003-2009.
Visiting Associate Professor, Department of Economics, Florida State University, 1992-1993.
Research Affiliate, Pepper Institute on Aging and Public Policy, FSU, 1992-1993, 2001-2003.
Associate Professor, Department of Economics, Miami University, 1991-1993.
Assistant Professor, Department of Economics, Miami University, 1987-1991.

## Research Areas

Labor Economics, Labor Market Aspects of Pensions, Labor Unions, Racial and Gender Differences in the Labor Market, Minimum Wage, Deregulation.

**Teaching Areas**

Principles of Microeconomics and Macroeconomics, Intermediate Microeconomics, Money and Banking, Econometrics (undergraduate and graduate), Labor Economics and Labor Relations (undergraduate and graduate).

**Books**

*Economics: Private and Public Choice*, 14th edition, Southwestern: Cincinnati, OH, 2013, with James Gwartney, Richard Stroup, and Russell Sobel. Co-author on 10th, 11th, 12th, and 13th editions as well.

Instructor's Manual for *Economics: Private and Public Choice*, 14th edition, Southwestern: Cincinnati, OH, 2013. Author for instructor's manual for 10th, 11th, 12th, and 13th editions as well.

*Union Membership and Earnings Data Book: Compilations from the Current Population Survey (2011 Edition)*, Bureau of National Affairs, Washington, D.C., with Barry Hirsch.

Previous Editions: *Union Membership and Earnings Data Book: Compilations from the Current Population Survey* (Washington: Bureau of National Affairs, 1994-2010).

Tables derived from the *Data Book* are included in U.S. Department of Commerce, *Statistical Abstract of the United States 2011,* 130th Edition (Washington: GPO, 2011), Tables 663, 665; *Statistical Abstract of the United States 2010,* 129th Edition (Washington: GPO, 2010), Tables 648, 650; *Statistical Abstract of the United States 2009,* 128th Edition (Washington: GPO, 2009), Tables 642, 644; *Statistical Abstract of the United States 2008,* 127th Edition (Washington: GPO, 2008), Tables 642, 644; *Statistical Abstract of the United States 2007,* 126th Edition (Washington: GPO, 2006), Tables 645, 647; *Statistical Abstract of the United States 2006*, 125th Edition (Washington: GPO, 2005), Tables 647, 649; *Statistical Abstract 2004-2005*, Tables 638, 640; *Statistical Abstract 2003*, Tables 656, 658; *Statistical Abstract 2002*, Tables 628, 630; *Statistical Abstract 2001*, Tables 637, 639; *Statistical Abstract 2000*, Tables 712, 714; *Statistical Abstract 1999*, Tables 718, 720; *Statistical Abstract 1998*, Tables 712, 714; *Statistical Abstract 1997*, Tables 688, 690; *Statistical Abstract 1996*, Tables 681, 683; *Statistical Abstract 1995*, Tables 695, 697; and in U.S. Department of Commerce, *State and Metropolitan Area Data Book, 1997-98*, 5th Edition (Washington: GPO, 1998), Table A-22.

*Contemporary Labor Economics*, 9th edition, McGraw-Hill: New York, NY, 2010, with Campbell McConnell and Stanley Brue. Co-author on 5th, 6th, 7th, and 8th editions as well.

*Pensions and Productivity*, W.E. Upjohn Institute for Employment Research: Kalamazoo, MI, 1998, with Christopher Cornwell and Stuart Dorsey.

**Journal Publications (Economics)**

"Computing Lost Profits in Business Interruption Litigation: A General Model," *Journal of Business Valuation and Economic Loss Analysis*, forthcoming, with Stanley Stephenson and Gauri Prakash-Canjels.

"Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," *Southern Economic Journal*, forthcoming, April 2012, with William Even.

"Growth of Participant Direction in Defined Contribution Plans," April 2010, pp. 190-208, *Industrial Relations*, with William Even.

"Managing Risk Caused by Pension Investments in Company Stock," *National Tax Journal*, September 2009, pp. 439-453, with William Even.

"Pension Investments in Employer Stock," *Journal of Pension Economics and Finance*, March 2008, pp. 67-93, with William Even.

"Defined Contribution Plans and the Distribution of Pension Wealth," *Industrial Relations*, July 2007, pp. 551-581, with William Even.

"Lost Profits Damages to New Businesses: Adjusting for Survival," *Journal of Business Valuation and Economic Loss Analysis*, October 2006, pp. 1-12, with Stanley Stephenson.

"Determinants and Effects of Employer Matching Contributions in 401(k) Plans," *Industrial Relations*, July 2005, pp. 525-549, with William Even.

"When Will the Gender Gap in Retirement Income Narrow?" *Southern Economic Journal*, July 2004, pp. 182-200, with William Even.

"Company Stock in Pension Funds," *National Tax Journal*, June 2004, pp. 299-313, with William Even.

"Wages, Sorting on Skill, and the Racial Composition of Jobs," *Journal of Labor Economics*, January 2004, pp.189-210, with Barry Hirsch.

"Racial and Ethnic Differences in Pension Wealth," *Research in Labor Economics*, 2003, pp. 203-226, with William Even.

"Do Terminated Employees Catch Up? Evidence From the Displaced Worker Survey," *Journal of Forensic Economics*, Spring/Summer 2003, pp. 185-199, with Michael Piette.

"Union Membership and Coverage Database from the Current Population Survey: Note," *Industrial and Labor Relations Review*, January 2003, pp. 349-354, with Barry Hirsch.

"The Wage and Employment Dynamics of Minimum Wage Workers," *Southern Economic Journal,* January 2003, pp. 676-690, with William Even.

"State-Level Estimates of Union Density, 1964 to Present," *Monthly Labor Review*, July 2001, pp. 51-55, with Barry Hirsch and Wayne Vroman (accompanying data online).

"The Changing Distribution of Pension Coverage," *Industrial Relations*, April 2000, pp. 199-227, with William Even.

"Occupational Age Structure and Access for Older Workers," *Industrial and Labor Relations Review*, April 2000, pp. 401-418, with Barry Hirsch and Melissa Hardy.

"Earnings, Rents, and Competition in the Airline Labor Market," *Journal of Labor Economics*, January 2000, pp. 125-155, with Barry Hirsch.

"Estimating Wage Differentials: When Does Cost-of-Living Matter?" *Economic Inquiry*, October 1999, pp. 577-598, with Mike DuMond and Barry Hirsch.

"Worker's Compensation Recipency in Union and Nonunion Workplaces," *Industrial and Labor Relations Review*, January 1997, pp. 213-236, with Barry Hirsch and Michael DuMond.

"Pensions and Training," *Industrial Relations*, January 1997, pp. 81-96, with Stuart Dorsey.

"The Consequences of Indexing Minimum Wages," *Contemporary Economic Policy,* October 1996, pp. 67-77, with William Even.

"Employer Size and Labor Turnover: The Role of Pensions," *Industrial and Labor Relations Review*, July 1996, pp. 707-728, with William Even.

"The Consequences of Non-FICA Status in State and Local Pensions," *Proceedings of National Tax Association Meetings*, 1996, with William Even.

"Wages and Gender Composition: Why Do Women's Jobs Pay Less?" *Journal of Labor Economics*, July 1995, pp. 426-471, with Barry Hirsch.

"Employer Size and Compensation: The Role of Worker Characteristics," *Applied Economics*, September 1994, pp. 897-907, with William Even

"Gender Differences in Pensions," *Journal of Human Resources*, Spring 1994, pp. 555-587, with William Even.

"Why Did Male Pension Coverage Decline in the 1980s?", *Industrial and Labor Relations Review*, April 1994, pp. 439-453, with William Even.

"Unionism and Gross Employment Flows," *Southern Economic Journal*, January 1994, pp. 427-438, with Timothy Dunne.

"The Decline of Private-Sector Unionism and the Gender Wage Gap," *Journal of Human Resources*, Spring 1993, pp. 279-296, with William Even.

"Union Membership and Coverage Data Available From the Current Population Surveys: Note." *Industrial and Labor Relations Review*, April 1993, pp. 574-578, with Barry Hirsch.

"Employer-Provided Retiree Health Insurance: Who is Covered?" *Economics Letters*, May 1992, pp. 95-99.

"Union Wage Differentials and the Effects of Industry and Local Union Density: Evidence from the 1980s," *Journal of Labor Research*, Fall 1991, pp. 419-427, with Michael Curme.

"The Effects of Extended Families and Marital Status on Housing Consumption by Black Female-Headed Households," *Review of Black Political Economy*, Winter/Spring 1991, pp. 65-84, with James Stewart.

"The Impact of Unionism on Fringe Benefit Coverage," *Economics Letters*, May 1991, pp. 87-91, with William Even.

"A Note on Ownership and Performance in Manufacturing Firms," *Southern Economic Journal*, April 1991, pp. 1164-1169, with Timothy Dunne.

"Union Membership and Contract Coverage in the United States, 1983-1988," *Industrial and Labor Relations Review*, October 1990, pp. 5-33, with Michael Curme and Barry Hirsch.

"The Gender Gap in Pensions and Wages," *Review of Economics and Statistics*, May 1990, pp. 259-265, with William Even.

"The Effect of International Competition on Union and Nonunion Wages," *Industrial and Labor Relations Review*, April 1990, pp. 434-446, with James Stewart.

"Plant Size and the Decline of Unionism," *Economics Letters*, April 1990, pp. 393-398, with William Even.

"Trade Unions and Labor's Share in U.S. Manufacturing Industries," *International Journal of Industrial Organization*, March 1990, pp. 143-51.

"The Labor Force Participation and Earnings Profiles of Married Female Immigrants," *Quarterly Review of Economics and Business*, Autumn 1989, pp. 57-72, with James Stewart.

"The Labor Supply and School Attendance of Black Women in Extended and Nonextended Households," *American Economic Review Papers and Proceedings*, May 1989, pp. 71-74, with James Stewart.

"Self-Employment and Married Women," *Economics Letters*, December 1988, pp. 281-284.

"Unionism and the Dispersion of Wages Among Blue-Collar Women," *Journal of Labor Research*, Fall 1987, pp. 395-405, with James Stewart.

**Journal Publications (Real Estate and Insurance)**

"The Use of Post-Loss Assessments in Catastrophic Financing," *Risk Insurance and Management Review*, forthcoming, with Patrick Maroney, Charles Nyce, Kathleen McCullough, James W. Newman Jr., and Cassandra Cole.

"A Meta Analysis of Selling Price and Time on the Market," *Journal of Housing Research,* Issue 2010, pp. 139-152, with Stacy Sirmans and Lynn MacDonald.

"A Comparison of Hurricane Loss Models," *Journal of Insurance Issues*, Spring 2010, pp. 31-53, with Kathleen McCullough and Cassandra Cole.

"A Review of the Development of Residual Market Mechanisms in Florida," *Journal of Insurance Regulation*, Summer 2009, pp. 55-80, with Patrick Maroney, Charles Nyce, Kathleen McCullough, James W. Newman Jr., and Cassandra Cole.

"The History of Property Tax Capitalization in Real Estate," *Journal of Real Estate Literature*, Issue 3 2008, pp. 327-343, with Dean Gatzlaff and Stacy Sirmans.

"Horizontal and Vertical Inequity in Real Property Taxation," *Journal of Real Estate Literature*, Issue 2 2008, pp. 167-180, with Dean Gatzlaff and Stacy Sirmans.

"The Title Insurance Industry: Examining a Decade of Growth," *Journal of Insurance Regulation*, Summer 2007, pp. 23-51, with Randy Dumm and Stacy Sirmans.

"The Value of Housing Characteristics: A Meta Analysis" *Journal of Real Estate Finance and Economics*, November 2006, pp. 215-240, with Stacy Sirmans, Lynn MacDonald, and Emily Zeitz.

"The Composition of Hedonic Pricing Models," *Journal of Real Estate Literature*, Issue 1 2005, pp. 3-43, with Stacy Sirmans.

"The State of Affordable Housing," *Journal of Real Estate Literature*, Issue 2 2003, pp. 133-155, with Stacy Sirmans.

"Affinity Programs and Real Estate Brokerage," *Journal of Real Estate Research*, November-December 2001, pp. 337-351, with Stacy Sirmans.

"Neighborhood Diversity and House Price Appreciation," *Journal of Real Estate Finance and Economics*, January 2001, pp. 81-97, with Stacy Sirmans.

"Forecasting Seniors Housing Demand in Florida," *Journal of Real Estate Portfolio Management*, 1999, pp. 259-74, with G. Stacy Sirmans.

**Publications in Books**

"Improving Pension Coverage at Small Firms," with William Even, in *Overcoming Barriers to Entrepreneurship*, ed. Diana Furchtgott-Roth, Rowman & Littlefield, 2008.

"Measuring Union and Nonunion Wage Growth: Puzzles in Search of Solutions" with Barry Hirsch and Edward Schumacher, in *Changing Role of Unions: New Forms of Representation*, Phanindra Wunnava, M.E. Sharpe, 2004.

"Living Wage Laws and the Case for a Targeted Wage Subsidy," in *Living Wage Movements: Global Perspectives*, ed. Deborah M. Figart, Routledge, 2004.

"Benefits and Worker Productivity," with William Even, in *Benefits for the Workplace of Tomorrow,* eds. Olivia S. Mitchell, David S. Blitzstein, Michael S. Gordon, and Judith F. Mazo, University of Pennsylvania Press, 2003.

"Children's Effects on Women's Labor Market Attachment and Earnings," with William Even, in *Changes in Working Time in Canada and the United States*, eds. Susan Houseman and Alice Nakamura, W.E. Upjohn Institute, 2001.

"Downsizing and Life Course Consequences of Job Loss: The Effect of Age and Gender on Employment and Income Security," with Jill Quadagno, Jennifer Reid, and Lori Parham, in *Restructuring Work and the Life Course*, eds. Victor Marshall, Walter Heinz, Helga Krueger, and Anil Verma, University of Toronto Press, 2001.

"The Effect of a Job Loss on the Employment Experience, Benefits, and Retirement Savings of Bank Officers," with Jill Quadagno and Jennifer Keene, in *Ensuring Health and Income Security for an Aging Workforce*, ed. Peter P. Budetti, W.E. Upjohn Institute, 2001.

"Earnings and Employment in Trucking: Deregulating a Naturally Competitive Industry," with Barry Hirsch, in *Regulatory Reform and Labor Markets*, ed. James Peoples, Kluwer Publishers, 1998.

"Gender-Related Differences in Pension Coverage," with William Even, in *Women and Work: A Handbook*, Garland Publishing, New York, NY, 1996.

"The Pension Coverage of Young and Mature Workers", with William Even, in *Pension Coverage Issues for the '90s*, eds. Richard Hinz, John Turner, and Phyllis Fernandez, U.S. Government Printing Office, Washington, D.C, 1994.

**Working Papers (Economics)**

"Deferred Compensation vs. Efficiency Wages: An Experimental Test of Effort Provision and
Self-Selection," with Tim Salmon and Kislaya Prasad, under review, *Journal of Business and Economic Organization*

"What Do Unions Do to Pension Performance?" with William Even, September 2011, under revision

"Teacher Salaries, State Collective Bargaining Laws, and Union Coverage" March 2011, with Barry Hirsch and John Winters.

"The Effects of the 2007-2009 Federal Minimum Wage Increases on Teen Employment," with William Even, under revision, July 2010.

"Participant Direction in Defined Contribution Plans," April 2006, with William Even, under revision.

"Do Pensions Impede Phased Retirement?" September 2004, with William Even, under revision.

**Working Papers (Real Estate and Insurance)**

"An Empirical Analysis of Socio-Demographic Factors and the Mispricing of Homeowners Insurance in Florida," under review *Journal of Financial Services Research*, with Ronald Cheung, Charles Nyce, Kathleen McCullough, and Cassandra Cole.

"The Impact of No-Fault Legislation on Automobile Insurance Premiums," revised and resubmitted to *North American Actuarial Journal*, with Cassandra Cole, Kevin Eastman, Patrick Maroney, and Kathleen McCullough.

**Funded Projects**

Employment Policies Institute, 5/2010-7/2010, $16,500 (Trinity University portion), "Employment Effects of the 2007-2009 Federal Minimum Wage Increases," with William Even.

National Science Foundation, 9/2009-8/2012, $125,866 (Trinity University portion), "Incentives in the Workplace: An Experimental Examination of How Wage Differences Across Time and Among Peers Affect Productivity and Self-Selection," with Tim Salmon, Kislaya Prasad, and Hyejin Ku.

Florida Legislature, 10/2007-6/2009, $175,000, "Child Support Guidelines," with Stefan Norrbin and Thomas McCaleb.

Florida Legislature (through University of Florida), 12/2006-9/2007, $223,000, "Analysis of Save our Homes Amendment," with Dean Gatzlaff.

U.S. Administration on Aging (through University of South Florida), 5/2005-9/2007, $175,000, "Employment in the Long-Term Care Industry: The Importance of Recruitment and Retention," with William Even.

Florida Legislature, 2/2003-8/2004, $175,000, "Child Support Guidelines," with Stefan Norrbin and Thomas McCaleb.

Florida Department of Environmental Protection, 6/2002-2/2003, $94,157, "Affordability Index," with Stefan Norrbin and William Serow.

University of South Carolina, 4/2000-11/2000, $10,000, "Minority Homeownership in South Carolina," with Stacy Sirmans.

Florida Department of Business and Professional Regulation, 3/1999-6/1999, $21,739, "Forecasting Housing Demand in Florida," with Stacy Sirmans.

University of South Carolina, 4/1999-11/1999, $10,000, "Forecasting Housing Demand in South Carolina," with Stacy Sirmans.

Florida State University, 6/1999-8/1999, $7,500, "Support for Preparing ECO 2000 as a Web-Based Course."

TIAA-CREF, 8/1998-8/1999, $23,000, "Determinants of Savings in Supplemental Pension Plans: A Case Study of Pension Choices in Higher Education," with Melissa Hardy and Larry Hazelrigg.

Florida Department of Business and Professional Regulation, 4/1998-6/1998, $16,638, "Forecasting Seniors' Demand for Housing in Florida," with Stacy Sirmans.

Florida Department of Business and Professional Regulation, 12/1997-6/1998, $18,472, "Housing Price Appreciation in Orlando and Tampa," with Stacy Sirmans.

Florida State University, 6/1998-8/1998, $7,500, "Support for Preparing ECO 2000 as a Web-Assisted Course."

Florida Department of Business and Professional Regulation, 3/1997-6/1997, $17,898, "Minority Homeownership in Florida," with Stacy Sirmans.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 12/1996-8/1997, $20,000, "The Impact of Rising 401(k) Pension Coverage on Retirement Income," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 3/1996-6/1997, $15,000, "The Determinants of 401(k) Participation and Contribution Levels," with William Even.

Florida Department of Business and Professional Regulation, 4/1996-6/1996, $22,702, "Forecasting the Number of New Florida Real Estate Licensees," with Stacy Sirmans.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 3/1995-6/1996, $15,000, "Explaining the Decline in Pension Coverage of Less Educated Workers," with William Even.

Florida State University COFRS Grant, 6/1994-8/1994, $8,000, "The Relative Compensation and Quality of Public and Private Sector Workers."

W.E. Upjohn Institute for Employment Research, 3/1994-12/1995, $35,000, "Pensions and Productivity," with Stuart Dorsey and Christopher Cornwell.

Florida Division of Workers' Compensation, 1/94-12/1995, $100,000, "Worker's Compensation Recipency in Union and Nonunion Workplaces," part of a service contract titled "Research Partnership with the Division of Workers' Compensation," co-investigator (one of several).

University of Wisconsin Institute for Research on Poverty Small Grant Program, 7/1993-6/1994, $15,000, "Racial Composition, Wages, and Quality Sorting," with Barry Hirsch.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 7/1993-6/1993, $10,000, "Trends in Individual and Family Pension Coverage," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 6/1992-5/1993, $10,000, "The Pension Coverage of Young and Mature Workers," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration and American Society of Pension Actuaries, 6/1991-5/1992, $10,000, "A Conference on Current Pension Policy Issues," with William Even.

Miami University Faculty Research Grant, 6/1991-8/1991, $4,000, "Projected Growth in Retiree Health Insurance Liabilities."

Ohio Board of Regents Research Challenge Grant, 1/1990-12/1990, $4,980, "Proposal to Enhance the Data Library of the Center of Pension and Retirement Research," with William Even and Samuel Williamson.

Miami University Faculty Research Grant, 6/1990-8/1990, $4,000, "The Role of Firm Size in Pension Coverage and Options."

Miami University Faculty Research Grant, 6/1989-8/1989, $4,000, "Declining Unionism and the Gender Wage Gap," with William Even.

**Participation in National Meetings**

Panel Discussant, American Real Estate and Urban Economics Association/ASSA meetings, January 2008.

Presented, "Employee Turnover in the Long-Term Care Industry," at Academy Health Annual Research Meetings, June 2007.

Presented, "Participant Direction in Defined Contribution Pension Plans," at International Atlantic Economic Society meetings, October 2006.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at International Atlantic Economic Society meetings, October 2005.

Presented, "Replacing Earnings After Termination: Evidence from the Displaced Worker Survey," at the Allied Social Science Association/National Association of Forensic Economics, January 2002.

Presented, "Labor Market Transitions of Older Workers," at the Allied Social Science Association/Society of Government Economists meetings, January 1999.

Presented, "Why has the Loss in Pension Coverage Accelerated Among Less Educated Workers?" at the American Economic Association Meetings, 1995.

Presented, "Wages and Gender Composition: Why Do Women's Jobs Pay Less?" at the American Economic Association Meetings, 1994, with Barry Hirsch.

Presented, "Pensions, Labor Turnover, and Employer Size" at the American Economic Association Meetings, 1993, with William Even.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the American Economic Association meetings, 1992, with William Even.

**Participation in Regional Meetings**

Presented "Unions and Pension Performance: The Role of Pension Design," at Southern Economics Association meetings, November 2009.

Panel member, "Recent Federal Reserve Policy: An Evaluation" at Southern Economics Association meetings, November 2009.

Discussant, "Topics in Health Economics," at Southern Economics Association meetings, November 2009.

Discussant, "Teacher Pay, Principals, and Schooling," at Southern Economics Association meetings, November 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Western Economic Association meetings, July 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Eastern Economic Association meetings, February 2009.

Panel Discussant at the Southern Economic Association meetings, November 2008.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Southern Economic Association meetings, November 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Western Economic Association meetings, July 2008.

Chair "Pensions and Retirement" Session at Southern Economic Association meetings, November 2007.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Southern Economic Association meetings, November 2007.

Presented, "Participant Direction in Defined Contribution Pension Plans," at Southern Economic Association meetings, November 2006.

Panel Discussant, Southern Economic Association meetings, November 2005.

Presented, "Do Pensions Impede Phased Retirement?" at the Southern Economic Association meetings, November 2004.

Presented, "When Will the Gender Gap in Retirement Income Narrow?" at the Southern Economic Association meetings, November 2003.

Presented, "How Will the Growth of DC and 401(k) Plans Affect Pension Income?" at the Southern Economic Association meetings, November 2002.

Presented, "Racial Composition, Wages, and Quality Sorting," at the Southern Economic Association meetings, November 1999.

Presented, "Racial and Ethnic Differences in Pension Coverage and Benefit Levels," at the Southern Economic Association meetings, November 1998.

Presented, "Factors Influencing Participation and Contribution Levels in 401(k) Plans," at the Western Economics Association meetings, July 1998.

Presented, "Aging at Work: Employment Determination, Firm Strategies, and Public Policy in the United States," at the Western Economic Association meetings, July 1994.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Western Economic Association meetings, July 1992.

Presented "Plant Size and the Decline of Unionism," at the Southern Economic Association meetings, 1989, with William Even.

Panel Discussant, Southern Economic Association meetings, November 1989.

Presented "The Labor Force Participation and Earnings Profiles of Married Female Immigrants," at the Southern Economic Association meetings, November 1988.

Presented "Pensions, Screening, and the Gender Wage Gap," at the Southern Economic Association meetings, November 1988.

Session Chair and Panel Discussant at the Southern Economic Association meetings, November 1988.

**Participation in Invited Seminars, Conferences, and other Presentations**

Presented, "Teaching Macroeconomics During Troubled Times," at Creative Ideas for Your Basic Economics Course Conference at Florida State University, February 2012.

Presented, "Participant Direction in Defined Contribution Pension Plans," at Pennsylvania State University, April 2010.

Presented, "The Parallels Between the Japanese Economic Crisis of the 1990s and the US Today" at Creative Ideas for Your Basic Economics Course Conference at Florida State University, February 2010.

Chair "Minimum Wage & EITC" Session at Society of Labor Economists meetings, May 2009.

Presented "Participant Direction in Defined Contribution Plans," at Lehigh University, April 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Association of Private Enterprise Education meetings, April 2009.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Trinity University, October 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Georgia State University, April 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Association of Private Enterprise Education meetings, April 2008.
Presented, "Improving Pension Coverage at Small Firms," at Hudson Institute, May 2006.

Presented, "Participant Direction in Defined Contribution Plans," at Society of Labor Economics meetings, May 2006.

Presented, "Participant Direction in Defined Contribution Plans," at Association of Private Enterprise Education meetings, April 2006.

Presented, "Participant Direction in Defined Contribution Plans," at University of Wisconsin-Milwaukee, April 2006.

Invited Panel Participant for Pepper Foundation and Center Symposium on pension reform, Washington, DC, February 2006.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at West Virginia University, April 2005.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at the University of Kentucky, November 2004.

Presented, "The Causes and Consequences of Company Stock Holdings in Pension Funds," at the Federal Reserve Bank of Atlanta, April 2004.

Presented, "The Causes and Consequences of Company Stock Holdings in Pension Funds," at the University of Oklahoma, February 2004.

Presented, "Tracking Union and Nonunion Wages in the U.S.: Can the Evidence be Reconciled?" at the Middlebury Annual Conference on Economic Issues, April 2002.

Presented, "How Will the Growth of DC and 401(k) Plans Affect Pension Income?" at the Miami University Center for Pension and Retirement Research Conference, June 2001.

Presented, "Benefits and Worker Productivity," Benefits for the Workplace of Tomorrow Conference, Wharton School, University of Pennsylvania, May 2001.

Participant, Innovations in Managing the Financial Risks of Retirement Conference, Wharton School, University of Pennsylvania, May 2000.

Presented "Using Hi-Tech in Large Lectures," at Association of Private Enterprise Education meetings, April 2000.

Presented "Employee Participation in 401(k) Plans," at University of Wisconsin-Milwaukee, October 1999.

Presented "Gender, Race, and Ethnicity in the Labor Market," as part of the Smith Chair course in Labor Economics at Brigham Young University, September 1999.

Presented, "The Decline in Pension Coverage Among Less Educated Workers," at the Florida State University Economics Department Seminar Series, 1996.

Presented, "Children's Effects on Women's Labor Market Attachment and Earnings" at the Conference on the Changes in Working Time in Canada and the United States, Canadian Employment Research Forum, 1996.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" at the Ohio State University Economics Department Seminar Series, 1996.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" at the Florida State University Economics Department Seminar Series, 1995.

Presented, "Employer Size and Labor Turnover: The Role of Pensions," at Syracuse University, 1995.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" while visiting scholar at the Federal Reserve Bank of Cleveland, 1995.

Presented, "Trends in Individual and Household Pension Coverage," at the Miami University Center for Pension and Retirement Research Conference, 1994.

Presented, "Racial Composition, Quality Sorting, and the Black-White Wage Gap" at the University of Wisconsin, Institute for Research on Poverty, Small Grants Workshop, 1993, with Barry Hirsch.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Florida State University Economics Department Seminar Series, 1992.

Participant at National Bureau of Economic Research (NBER) Labor Studies meetings of the Summer Institute, 1992.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Miami University Conference on Current Pension Policy Issues, 1992.

Organizer and participant at conference on "Contemporary Issues in Pension Economics," hosted by the Center for Pension and Retirement Research, Miami University, 1990.

Presented "The Effect of International Competition on Union and Nonunion Wages," at the University of Cincinnati Seminar Series, 1987.

**Refereeing**

*Bulletin of Economic Research, Canadian Journal of Economics, Contemporary Economic Policy, Eastern Economics Journal, Economic Development and Cultural Change, Economic Inquiry, Industrial Relations, Industrial and Labor Relations Review, International Economic Review, Journal of Economics and Business, Journal of Human Resources, Journal of Labor Economics, Journal of Labor Research, Journal of Pension Economics and Finance, Labour Economics, Mid-American Journal of Business, Policy Studies Review, Quarterly Journal of Economics, Quarterly Review of Economics and Finance, Real Estate Economics,* Review *of Economics and Statistics, Social Science Quarterly, Southern Economic Journal*

Outside reviewer for Department of Economics, UNC-Greensboro, Georgia State University.

Promotion and tenure letters for candidates at Georgia State University, Kansas State University, Monmouth University, Ohio State University, University of Massachusetts, University of Southern California, and University of Wisconsin-Milwaukee.

**Honors and Awards**

Awarded sabbatical, Trinity, Fall 2011.

Nominated for FSU Award for Excellence in Undergraduate Teaching, Spring 2005.

Named Rod and Hope Brim Eminent Scholar in Economics, FSU, Fall 2004.

Research Fellow, Institute for the Study of Labor (IZA), Bonn, 2004-.

*Who's Who in Economics, Fourth Edition*, Mark Blaug and Howard Vane (eds), Edward Elgar Publishing, 2003, pp. 524 (selection criteria: one of the 1,200 most frequently cited economists in the years 1990-2000 using the Social Science Citation Index).

Awarded Abba Lerner named professorship, FSU, Spring 2000.

Awarded sabbatical, FSU, Spring 2000.

Received FSU Award for Excellence in Undergraduate Teaching, Spring 2000.

Received FSU Teaching Incentive Program Award, Fall 1995.

Nominated for FSU Award for Excellence in Undergraduate Teaching, Spring 1994.

Nominated for Outstanding Teaching Award, Associated Student Government, Miami University,1992.
Selected by the Miami University Sisters of Delta Gamma for a "Favorite Professor Award" in Fall 1990.

Honorary Member of Golden Key National Honor Society, Fall 1989.

Selected by the Sisters of Delta Gamma as "One of the twenty five most outstanding faculty members at Miami University" in Fall 1988.

**Service**

Vice President, Southern Economic Association, 2011-

Trinity University

Dick and Peggy Prassel Professor of Business Administration Search Committee, 2011
Faculty and Staff Compensation Committee, 2010-2011
Student Retention Committee, 2010

Florida State University

University and College Committees:

Member, GPC subcommittee for Marketing, Spring 2008.
Member, Graduate Policy Committee, Fall 2007-.
Chair, GPC subcommittee for Political Science, Fall 2006.
Member, Title IV Admissions Attendance Committee, Fall 2003-Spring 2004.
Member, College of Social Sciences Executive Committee, Fall 2003-.
Member, Ad Hoc Committee on COSS Technology, Spring 2003.
Member, Computing and Information Resource Committee, Fall 1999-.
Member, Academic and Policy Affairs Committee, Fall 1996-Spring 1998.

Economics Department Committees:

Member, Ad Hoc Committee on Economics 2000 Level Courses, Spring 1999.
Member, Undergraduate Economics Committee, Fall 1998-
Member, Economics Department Executive Committee, Fall 1994-Spring 1995, Fall 1996-Spring 1999, Fall 2000-.
Economics Department Library Representative, Fall 1993-.
Micro/Macroeconomics Seminar Coordinator, Fall 1993-Spring 1995, Fall 1998-Fall 1999, Fall 2001, Fall 2006-.

Comprehensive Examination Committees:

Member, Masters Comprehensive Exam Committee, Spring 1994.
Member, Ph.D. Labor Field Exam Committee, Fall 1992, Spring 1994, Fall 1994, Fall 1995, Fall 1996, Spring 1997, Spring 1998.
Chair, Masters Comprehensive Exam Committee, Fall 1994, Spring 1998.
Chair, Ph.D. Labor Field Exam Committee, Spring 1993-Fall 1993, Spring 1995, Spring 1996, Spring 2000, Spring 2001, Fall 2001.

Miami University

Computing Task Force, Department of Economics, 1991-92.
Recruiting Committee, Department of Economics, 1990-92.
Economics Club Advisor, 1988-1991.
Research Associate, Center for Pension and Retirement Research, 1988-92.
Delta Sigma Pi Chapter Advisor, 1988-89.
Student Finance Committee, Student Affairs Council, 1988-89.
Omicron Delta Epsilon Advisor, 1987-88.

**Theses, Extended Papers, and Dissertations**

Undergraduate Honors Thesis:

Chair, Leela Hebbar, 1995

Member, Nicole Cubies, 2006
Member, John Stutts, 2006
Member, Todd Crannell, 2000
Member, Mark Plotnick, 2000
Member, Bobby Pittman, 1998

MS Thesis and Extended Paper:

Chair, Maria Arce-Trigatti, 2009
Chair, George Holescko, 2000
Chair, J. Michael DuMond, 1994

Member, Shael Wolfson, 2000

Member, Lehr Eliason, 2000
Member, Steve Muri, 2000
Member, Ken Meier, 1998
Member, Tarteshia Williams, 1995
Member, Richard Page, 1994

PhD Dissertation:

Chair, James Farrell, 2009
Chair, Mark Keightley, 2008
Chair, Ali Al-Malki, 2007
Chair, Carter Doyle, 2005
Chair, Edward Wolpert, 1998
Chair, J. Michael DuMond, 1997

Member, Bogdan Daraban, 2007
Member, Russell Engel, 2007
Member, Li Feng, 2006
Member, Chuck Skipton, 2003
Member, Nicole Yurgin, 2003
Member, Jennifer Troyer, 1999
Member, Josefina Tranfa, 1999
Member, Shaliesh Bandarhi, 1998
Member, James Freeman, 1998
Member, Brian Nottage, 1998
Member, Ben Shippen, 1995
Member, Ed Schumacher, 1994

Outside Member, Stephanie Burge, Sociology, 2006
Outside Member, Reg Albritton, Special Education, 2005
Outside Member, Kim Shuey, Sociology, 2001
Outside Member, Andrea Willson, Sociology, 2001
Outside Member, Phyllis Keys, Finance, 1998

# David A. Macpherson

Depositions and Trial Testimony: 2008 to 2012

1. Angela Speed and Adrian Speed vs. Hertz Corporation
   Atty: Dawn Pompey Whitehurst; Brevard County, Florida; gave deposition; wrongful injury; 2008; Case No: 05-2005-CA-065447

2. Patricia Morrison vs. Anthony Mork and Microspine Surgery
   Atty: Steven Andrews; Walton County, Florida; testified at trial; wrongful injury; 2008; Case No: 06000249CA.

3. James Tomaselli vs. State of Florida, Department of Corrections
   Atty: Gordon Leech; Martin County, Florida; gave deposition; wrongful termination; 2008; Case No: 01-554-CA.

4. Russell Martin, et al. v. City of Atlanta, et al.
   Atty: Andrew Coffman; U.S. District Court, Northern District of Georgia, Atlanta 5Division; gave deposition; racial discrimination; 2008; Case CA File No: 1:07-cv-00326-BBM

5. McCabe, et al. v. Harmon Fruit, et al.
   Atty: Larry Perry; Polk County, Florida; gave deposition; wrongful death; 2008; Case 53-2005-CA-003612-0000-00

6. Thomas Faulkner v. Michael Chertoff and Department of Homeland Security
   Atty: John Davis; U.S. District Court; Northern District of Florida; gave deposition; wrongful termination; 2009; Case 4:08CV341-SPM/WCS

7. Matthew Debord and Tabitha Debord vs. G & S Material Service et al.
   Atty: Hubert Brown; U.S. District Court; Northern District of Florida; gave deposition; wrongful injury; 2009; Case 3:07cv365-LAC/MD

8. Jessica Loveday vs. USA
   Atty: Anthony Caggiano; U.S. District Court; Northern District of Florida; gave deposition; wrongful injury; 2009; Case 1:08cv205/SPM

9. Julia Keyes vs. AIG
   Atty: Larry Perry; Jackson County, Florida; gave deposition; wrongful injury; 2009; Case 08706CA

10. Estate of Linda DePuy vs. Broeseker et al.
    Atty: Steve Andrews; Leon County, Florida; gave deposition; wrongful death; 2009; Case 2007 CA 2509

11. Oliver and Sollman vs. VSoft Inc.
    Atty: Larry Pankey; U.S. District Court, Northern District of Georgia, Atlanta Division; gave deposition; age discrimination; 2009; Case CA File No: 1:09-CV-0185

12. Yolanda Young vs. Covington and Burling, LLP
    Atty: Latif Damon; U.S. District Court for the District of Columbia; gave deposition; racial discrimination; 2009; Case CA File No: 1:09-CV-0464 RBW

13. Deborah Suboh vs. Mark Bergeson et al.
    Atty: Stephanie Wright and Charlotte Perrell; Georgia, Dekalb County; Case 07A77585-5, gave deposition; legal malpractice; 2010.

14. Rolando Simmons vs. Davis and Peterson
    Atty: Hubert Brown; Florida, Calhoun County; Case 2008-0150-CA, gave deposition and testified at trial; medical malpractice; 2010.

15. Lorie J. Marshall, et al. vs. H & R Block Tax Services, Inc.
    Atty: Allan Steyer; U.S, U.S. District Court
    Southern District of Illinois; Case No. 3:08-CV591-MJR; gave deposition; consumer damages; 2010.

16. Daren Davis vs. Joseph Austin and Terry Roberts Work Site
    Atty: Anthony Caggiano; Florida, Osceola County; gave deposition; wrongful injury; 2010; Case 2006 CA 002997 AN

17. David Darrow vs. Adventist Health Systems/Sunbelt Inc.
    Atty: Anthony Caggiano; Florida, Orange County; gave deposition; wrongful injury; 2010; Case 48-2009-CA-004897-0

18. Samuel Gonzalez vs. Gurdev Singh Nijjar et al.
    Atty: Ramon Rodriguez; Texas, El Paso County; gave deposition; wrongful injury; 2010; Case 2007-011

19. John Davis vs. Devereux Foundation.
    Atty: Thomas Brown; Florida, Brevard County; gave deposition; wrongful injury; 2010; Case 99-15992-CA-F

20. Al Kowalski vs. et al. YellowPages.Com, LLC
    Atty: Peter Pearlman; U.S. District Court Southern District of New York; Case No. 10-7318 (PGG); gave deposition; consumer damages; 2011.

21. Christina Glover and Jason Glover vs. Publix Super Markets
    Atty: Phelicia Steill; Florida, Leon; Case No. 08 CA 2695; gave deposition; wrongful injury; 2011.

22. Lissette Cartagena and William Cartagena vs. Bracero et al.
    Atty: Thomas Brown; Florida, Orange County; Case No. 07-CA-2645 DIV 34; gave deposition and testified at trial; wrongful injury; 2011.

23. Lillie Conyers and James Conyers vs. Werner Enterprises et al.
    Atty: Thomas Brown; Florida, Jackson County; Case No. 09-1174-CA; gave deposition; wrongful injury; 2011.

24. Shannon McCants vs. Wackenhut Corporation
    Atty: Dawn Pompey Whitehurst; Duval County, Florida; gave deposition and testified at trial; wrongful death; 2011; Case No: 16-2008-CA-014834

25. Christina Whipple versus R.E.S.A, Inc.
    Atty: Susan Haney; Bexar County, Texas; gave deposition; business damages; 2011; Case No.: 2009-CI-17074

26. Daniel Plouffe, et al. versus General Motors, LLC
    Atty: Michael Pitt; Wayne County, Michigan; gave deposition; age discrimination; 2012; Case No.: Case No. 11-007645-CL

27. Johnny Cash versus State Farm
    Atty: Steven Andrews; Leon County, Florida; testified at trial; wrongful injury; 2012; Case No.: Case No. 10-CA-2429

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Higher Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College**.

**Fiscal Note Summary**

Increased state and local government expenses resulting from this proposal could exceed $420 million annually if funding is appropriated. State and local government tax revenue could increase by an estimated $489 million annually; however, employment decisions made by businesses could impact this estimate.

16-067

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

July 22, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Lara Granich regarding a proposed statutory amendment to Chapter 290, version 5 (2016-067)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Lara Granich on July 21, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

RECEIVED
JUL 22 2015
STATE AUDITORS OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-067

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____
(Name of payer) Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.
Notary Public (Seal)

_____
Signature of Notary

_____
Address of Notary (Street, City, State & Zip Code)

My commission expires _____.

16-067

# Statutory Amendment to Chapter 290, RSMo, Relating to the Minimum Wage, Version 5

*Be it enacted by the people of the State of Missouri:*

Sections 290.502, 290.512, and 290.527 are amended and a new section to be known as section 290.529 is enacted to read as follows:

§ 290.502. Minimum wage rate -- increase or decrease, when

1. Except as may be otherwise provided pursuant to sections 290.500 to 290.530, effective January 1, 2007, every employer shall pay to each employee wages at the rate of $ 6.50 per hour, or wages at the same rate or rates set under the provisions of federal law as the prevailing federal minimum wage applicable to those covered jobs in interstate commerce, whichever rate per hour is higher.

2. The minimum wage shall be increased or decreased on January 1, 2008, and on January 1 of successive years, by the increase or decrease in the cost of living. On September 30, 2007, and on each September 30 of each successive year, the director shall measure the increase or decrease in the cost of living by the percentage increase or decrease as of the preceding July over the level as of July of the immediately preceding year of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) or successor index as published by the U.S. Department of Labor or its successor agency, with the amount of the minimum wage increase or decrease rounded to the nearest five cents.

3. Except as may be otherwise provided pursuant to sections 290.500 to 290.530, notwithstanding subsection 1 of this section, effective January 1, 2017, every employer shall pay to each employee wages at the rate of $9.00 per hour, and effective January 1, 2018 at the rate of $10.00 per hour, and effective January 1, 2019 at the rate of $11.00 per hour, and effective January 1, 2020 at the rate of $12.00 per hour, and effective January 1, 2021 at the rate of $13.00 per hour, and, or wages at the same rate or rates set under the provisions of federal law as the prevailing federal minimum wage applicable to those covered jobs in interstate commerce, whichever rate per hour is higher. Thereafter, the minimum wage rate shall be increased or decreased on January 1, 2022, and on January 1 of successive years, per the method set forth in subsection 2 of this section; but, if the federal minimum wage rate is above or is thereafter increased above the minimum wage rate then in effect under this subsection, the higher federal rate shall become the minimum wage rate for as long as it remains higher and shall be increased or decreased per the method set forth in subsection 2.

4. Every employer that is a public body shall pay to its employees wages at the rates established by subsection 3 of this section only provided there are appropriations for wages at those rates. If appropriations are not provided, the public body shall continue to be subject to the requirements of subsections 1 and 2 of this section. As used in this subsection, a public body means the state of Missouri, or any officer, agency, department, bureau, or division, board or commission of the state, or any municipality, county, township, authority, district, or any other political subdivision of or within the state.

**§ 290.512. Gratuities, goods or services as part of wages, effect on minimum wage requirement**

1. No employer of any employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages in excess of fifty percent of the minimum wage rate specified in sections 290.500 to 290.530, however, total compensation for such employee shall total at least the minimum wage specified in sections 290.500 to 290.530, the difference being made up by the employer.

2. Notwithstanding subsection 1 of this section, effective January 1, 2017, no employer of any employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages in excess of sixty percent of the minimum wage rate specified in sections 290.500 to 290.530, however, total compensation for such employee shall total at least the minimum wage specified in sections 290.500 to 290.530, the difference being made up by the employer.

3. A public body that is the employer of an employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages at the rates established by subsection 2 of this section only provided there are appropriations for wages at those rates. If appropriations are not provided, the public body shall continue to be subject to the requirements of subsection 1 of this section. As used in this subsection, a public body is defined as in subsection 4 of section 290.502.

[2.] 4. If an employee receives and retains compensation in the form of goods or services as an incident of his employment and if he is not required to exercise any discretion in order to receive the goods or services, the employer is required to pay only the difference between the fair market value of the goods and services and the minimum wage otherwise required to be paid by sections 290.500 to 290.530. The fair market value of the goods and services shall be computed on a weekly basis. The director shall provide by regulation a method of valuing the goods and services received by any employee in lieu of the wages otherwise required to be paid under the provisions of sections 290.500 to 290.530. He shall also provide by regulation a method of determining those types of goods and services that are an incident of employment the receipt of which does not require any discretion on the part of the employee.

**§ 290.527. Action for underpayment of wages, employee may bring--limitation**

Any employer who pays any employee less wages than the wages to which the employee is entitled under or by virtue of sections 290.500 to 290.530 shall be liable to the employee affected for the full amount of the wage rate and an additional [equal] amount equal to twice the unpaid wages as liquidated damages, less any amount actually paid to the employee by the employer and for costs and such reasonable attorney fees as may be allowed by the court or jury. The employee may bring any legal action necessary to collect the claim. Any agreement between the employee and the employer to work for less than the wage rate shall be no defense to the action. All actions for the collection of any deficiency in wages shall be commenced within [two] three years of the accrual of the cause of action.

2015 JT 151

§ 290.529. Severability

All the provisions of sections 290.500 to 290.530 are severable. If any provision, including any section, subsection, subdivision, paragraph, sentence, or clause, of sections 290.500 to 290.530, or the application thereof to any person or circumstance, is found by a court of competent jurisdiction to be invalid, unconstitutional, or unconstitutionally enacted, such decision shall not affect other provisions or applications of sections 290.500 to 290.530 that can be given effect without the invalid, unconstitutional, or unconstitutionally enacted provision or application.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-067)**

**Subject**

Initiative petition from Lara Granich regarding a proposed amendment to Chapter 290 of the Revised Statutes of Missouri. (Received July 22, 2015)

**Date**

August 11, 2015

**Description**

This proposal would amend Chapter 290 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Lara Granich** provided information as a proponent of the proposal to the State Auditor's office.

**Edward D. Greim** provided information as an opponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated Section 290.502.3 (for each initiative petition) would require the department to increase wages for several employees each year assuming the money is appropriated for the increase. For each hourly increase proposed, they prepared the estimated increased expenditures on wages per year over the current wages expenditures.

Cost to increase:

- $9.00/hr = $915.20/yr
- $10.00/hr = $1,955.20/yr
- $11.00/hr = $3,995.20/yr
- $12.00/hr = $14,238.61/yr
- $13.00/hr = $39,318.02/yr

They calculated these increased costs by assuming full-time workers work an average of 2087 hours/year. They assumed part-time workers work an average of 20 hours/week for an average of 1040 hours/year.

Officials from the **Department of Elementary and Secondary Education** indicated the total estimated costs for all state funds will be $0 for FY (fiscal year) 2017, $7,078 for FY 2018, $87,363 for FY 2019, $347,819 for FY 2020, $790,578 for FY 2021, and $523,044 for FY 2022.

Officials from the **Department of Health and Senior Services** (DHSS) indicated the total estimated net cost for all state funds will be $5,658,266 for FY 2017, $24,757,841 for FY 2018, $53,680,575 for FY 2019, $87,815,607 for FY 2020, and $127,886,685 for FY 2021.

DHSS defers to the Office of Administration regarding the statewide fiscal impact of this proposed legislation relating to state employee wages.

Small Medicaid Home and Community Based Services (HCBS) vendors and providers would be required to ensure attendants are paid a minimum of $9.00 per hour for calendar year 2017, $10.00 per hour for calendar year 2018, $11.00 per hour for calendar year 2019, $12.00 per hour for calendar year 2020, and $13.00 per hour for calendar year 2021.

DHSS assumes HCBS providers and vendors would request an increase in the reimbursement rate to offset the higher minimum wage rate.

- The average growth in units of service per year from Fiscal Year 2012 to Fiscal Year 2014 is 9.39 percent. (Units are included from Agency Model Personal Care,

Residential Care Facility Personal Care, Consumer Directed Services Personal Care, Adult Day Care, Independent Living Waiver Personal Care, Advanced Personal Care Agency Model, Advanced Personal Care Residential Care Facility, Basic In-Home Respite, Advanced Respite, Healthy Children and Youth Waiver Personal Care, Healthy Children and Youth Program Advanced Personal Care, AIDS Waiver Personal Care, and Medically Fragile Adult Waiver Attendant Care .) Fiscal Year 2014 actual units of service (168,363,392) were multiplied times the 9.39 percent average growth rate, which yields an estimated 220,371,779 units of service for Fiscal Year 2017; 241,060,146 for Fiscal Year 2018; 263,690,724 units for Fiscal Year 2019; 288,445,846 units for Fiscal Year 2020; 315,524,964 units for FY 2021.

- Actual wage data for the individuals involved in delivery of units of service is not available, but DHSS has been advised that the current average wage for personal care attendants is $8.50 + $0.89 in taxes (taxes at 10.45 percent) equals $9.39 per hour, or $2.35 per 15 minute unit.
- The analysis determines the difference between the proposed unit rate for wages and taxes versus the current average wage rate for wages and taxes.
- Services would be reimbursed at the Federal Medical Assistance Percentage (FMAP) rate. For this estimate, DHSS is using FY 2016 blended rate of 36.68 percent General Revenue and 63.32 percent Federal.
- The implementation date is 1/1/2017 for $9.00 per hour for calendar year 2017; one-half of Fiscal Year 2017.
- The implementation date is 1/1/2018 for $10.00 per hour for calendar year 2018.
- The implementation date is 1/1/2019 for $11.00 per hour for calendar year 2019.
- The implementation date is 1/1/2020 for $12.00 per hour for calendar year 2020.
- The implementation date is 1/1/2021 for $13.00 per hour for calendar year 2021.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated they defer to the Office of Administration for response to this petition regarding their employee cost as it relates to raising the minimum wage.

With regard to other issues this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated they defer to the Office of Administration for the fiscal impact.

Officials from the **Department of Natural Resources** indicated the estimated total costs for salaries, fringe benefits, equipment and expenses for all state funds will be $111,081 for FY 2017, $273,155 for FY 2018, $335,573 for FY 2019, $381,796 for FY 2020, and $533,892 for FY 2021.

Section 290.502.3 would require the department to increase the minimum wage rate to $9.00 per hour effective January 1, 2017, to $10 per hour effective January 1, 2018, to $11 per hour effective January 1, 2019, to $12 per hour effective January 1, 2020, and to $13 per hour effective January 1, 2021, or to the wages at the same rate(s) set under the provisions of federal law as the prevailing federal minimum age applicable to those

covered jobs in interstate commerce, whichever is higher the minimum wage shall be updated every January 1 thereafter.

Section 290.502.4 and 290.512.3 provides an exemption for public bodies from the provision of 290.502.3 if appropriations for wages at those rates are not provided.

Section 290.512.2 would require the department to increase minimum wage for employees that receive and retain gratuities effective January 1, 2017 to an excess of sixty percent of the minimum wage rate specified in sections 290.500 to 290.530. This provision also requires that such employee's total compensation be at least the minimum wage specified in 290.500 to 290.530.

Section 290.529 makes the provisions of sections 290.500 to 290.530 severable.

The department anticipates the cost of the proposed legislation to start at $111,081 annually for fiscal year 2017 and ultimately increase to $533,892 in fiscal year 2021.

This legislation requires the minimum wage to be reviewed and adjusted every January 1.

For full time employees throughout their department they compared their current hourly wage rate to the minimum wage rate in the proposed legislation, taking the difference by 2,080 hours multiplied by the fringe rate for full time staff.

Missouri State Parks employs between 500-750 seasonal positions each year. In order to reflect a full year of seasonal employment, they based on their analysis off of FY14 staffing levels and upgraded their hourly wage to January 1, 2015. They then analyzed each January 1 upgrade to minimum wage compared to the prior year estimate. They assumed the per fiscal year designated minimum wage amount would be greater than the federal minimum wage.

Missouri State Parks does employ staff that is eligible for tips. For those individuals, they are required to ensure that their total wage plus tips meet or exceed the established minimum wage rate for non-tip staff. Therefore, they assumed the same minimum wage for estimated impact as other staff.

Seasonal positions' fringe benefit rate is 7.65 percent. Full time staff would begin to be given minimum wage increases in fiscal year 2020.

They also made the assumption that the personal service appropriations would be adjusted according to the levels necessary to provide the increased minimum wages provided in the law.

Officials from the **Department of Corrections** indicated they defer to the Office of Administration.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department and defer to Office of Administration for impact as an employer.

Officials from the **Department of Revenue** indicated this petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they would not be able to determine the effect of this legislation, and would expect there would be a general response provided by OA/Personnel.

Officials from the **Department of Social Services** indicated they defer to the Office of Administration for the costs related to this petition.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated their cost calculations related to this initiative petition is as follows based on 15 part-time employees working 1,039 hours per year:

| | |
|---|---|
| 2017 @ $9.00/hr. | No impact |
| 2018 @ $10.00/hr. | No impact |
| 2019 @ $11.00/hr. | $15,585 annual |
| 2020 @ $12.00/hr. | $30,170 annual |
| 2021 @ $13.00/hr. | $46,755 annual |

Officials from the **Department of Conservation** indicated that this proposal, which would increase the minimum wage, would result in estimated additional annual cost to their department as follows: 1) an increase to $9/hour-$290,319; 2) an increase to $10/hour-$371,906; 3) an increase to $11/hour-$481,557; 4) an increase to $12/hour-$632,118; and 5) an increase to $13/hour-$791,089. This reflects pay increases necessary to increase hourly and salaried pay rates to the proposed new minimum wage.

Officials from the **Office of Administration (OA)** indicated the proposal amends Sections 290.502, 290.512, 290.527, and 290.529 RSMo.

Section 290.502, RSMo. increases the minimum wage to $9.00 per hour, beginning January 1, 2017 and by another $1.00 per hour each year until it reaches $13.00 per hour beginning January 1, 2021. Thereafter, the minimum wage will be adjusted annually based on the increase/decrease in the cost of living. The proposal would also phase in a requirement for employers of employees who receive and retain compensation in the form of gratuities. They would not be required to pay over 60% of the full minimum wage; however they would have to make up the difference between the minimum wage and total compensation of the employee beginning January 1, 2017.

Because no tax rates are affected, there is no direct impact on general and total state revenues. However, these proposals may have several indirect affects which could impact revenue collections by an unknown amount, including but not limited to:

- Increased wages for certain employees. According to the US Bureau of Labor Statistics, in 2013, Missouri had 73,000 hourly employees earning wages at or below the federal minimum wage;[1]
- Increased consumption by those employees;
- Lower overall employment (if employers choose to hold costs steady);
- Lower business investment (if employers' payrolls increase);
- Increased prices as firms pass–through labor costs.

This proposal will increase state personnel costs at various state agencies. However, the proposal makes the increase for public bodies subject to appropriation. The estimated cost of the minimum wage increases are:

| Fiscal Year | Wage Rate | Time period | General Revenue Cost (including fringe benefits) | Total Cost (including fringe benefits) |
|---|---|---|---|---|
| 2017 | $9.00/hr | January –June | $171,193 | $464,938 |
| 2018 | $9.00/hr | July – December | | |
| | $10.00/hr | January – June | $513,523 | $1,673,380 |
| 2019 | $10.00/hr | July – December | | |
| | $11.00/hr | January –June | $1,464,340 | $4,407,549 |
| 2020 | $11.00/hr | July – December | | |
| | $12.00/hr | January – June | $6,222,694 | $13,640,373 |
| 2021 | $12.00/hr | July – December | | |
| | $13.00/hr | January – June | $17,386,077 | $33,385,765 |

Sections 290.512, 290.527 and 290.529 RSMo. will not impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal

[1] http://www.bls.gov/cps/minwage2013.pdf

activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated the following is the estimated fiscal impact to their office for the years 2017 - 2019:

2017: $0
2018: $2,920
2019: $8,760

Officials from the **City of Columbia** provided the following cost estimates:

| Year of Increase | Min. Wage | Total all Employees | Incremental Increase from Previous Year |
|---|---|---|---|
| 1/17 | $9 | $ 945,659 | |
| 1/18 | $10 | $1,646,147 | $700,488 |
| 1/19 | $11 | $2,352,336 | $706,189 |
| 1/20 | $12 | $3,100,824 | $748,488 |
| 1/21 | $13 | $3,938,012 | $837,188 |

Assumption: Only impact is from minimum wage paid to employees and not from gratuities or value of goods and services.

Officials from the **City of Kansas City** indicated approximately 195 employees, mostly part time and seasonal employees, are currently paid less than $13.00. Under this

initiative petition, there would be a salary increase to the city in the approximate amounts per year:

2017 ($9/hr) : $60,000
2018 ($10/hr): $113,000
2019 ($11/hr): $126,500
2020 ($12/hr): $140,000
2021 ($13/hr): $178,000

Officials from the **City of Raymore** indicated the sum effect on each year's proposal that will increase salary within the City's part-time seasonal staff will be $7,238.85 for CY 2017, $12,510,35 for CY 2018 (an increase of $5,271.50), $19,525.72 for CY 2019 (an increase of $7,015.37), $27,836.04 for CY 2020 (an increase of $8,310.32), and $37,202.50 for CY 2021 (an increase of $9,366.46).

The city has calculated the sum effect on each year's proposal that will increase salary within the city's part-time seasonal staff within each petition. At this time, the city is assuming that its proposed step chart will continue to be effected by the minimum wage and be adjusted every couple years to be competitive. However, there are many unknowns, and the city has simply included its part-time staff that will be effected.

Officials from the **City of St. Louis** indicated estimated annualized costs to the city of $116,601 for CY 2017, $211,138 for CY 2018, $420,965 for CY 2019, $706,298 for CY 2020, and $1,196,768 for CY 2021.

This initiative petition proposes an amendment Chapter 290, RSMo, to gradually raise the minimum wage starting at $9.00 per hour on January 1, 2017 to $13.00 per hour on January 1, 2021.

Subject to annual appropriation, this initiative petition would increase costs of salaries of city employees (both full and part-time) that would otherwise not be earning the wages at the levels specified in the proposed amendment. For these purposes, current employee wages are assumed to increase in accordance with existing employee pay plan provisions through 2016. The proposed amendment could also impact city revenues both positively and negatively. Should total wage base rise, employer based earnings and payroll taxes will increase accordingly. Likewise, any job losses that can be attributed to the wage increases will result in a decline in employer based and other tax revenues. The net impact of the changes in city workforce and wage base that would result from the proposed amendment is indeterminate at this time.

Officials from **University of Missouri** indicated they anticipate the legislative proposal would create an overall cost of between $40-50 million after all rate increases were implemented.

**Lara Granich** provided the following information as a proponent of this initiative petition.

August 5, 2015
Missouri State Auditor
Jefferson City, MO
Submitted via email to moaudit@auditor.mo.gov, fiscalnote@auditor.mo.gov

Re: Fiscal Impact Analysis of Minimum Wage Initiative Petitions

Version 4 (Increase to $9, then gradually to $13, tipped 60%)
Version 5 (Increase to $9, then gradually to $14, tipped 60%)
Version 6 (Increase to $9, then gradually to $15, tipped sub-minimum phased out)
Version 7 (Increase to $9, then gradually to $14, tipped sub-minimum phased out)
Version 8 (Increase to $9, then gradually to $13, tipped sub-minimum phased out)
Version 9 (Increase to $9, then gradually to $12, tipped sub-minimum phased out)
Version 10 (Increase to $9, then gradually to $11, tipped sub-minimum phased out)

This letter is from Lara Granich and Missouri Jobs with Justice Voter Action, proponents of the above-referenced initiative petitions. Pursuant to RSMo. Section 116.175, we write to submit the following fiscal impact information to assist your office in its analysis of the fiscal impact of the above mentioned seven proposed Minimum Wage Initiative Petitions.

Our analysis estimates the impact of the seven proposed initiative petitions on state and local sales and personal income tax revenue in Missouri. We follow the process that has been used in the past to estimate the impact of minimum initiative petitions on state and local sales and personal income tax, with some refinements. We also address certain claims that have been made by opponents in the past.

We are building on analysis provided for Versions 1-3 of this initiative. However, some of the analysis tools were unavailable to us in the timeframe for submitting these versions, and therefore we want to acknowledge some gaps in the information provided.

As these petitions exclude public workers, we do not include in our analysis an estimate of the impact on state and local payroll costs of the minimum wage increases.

## I. Estimate of Number of Workers Affected Statewide and the Impact on Their Wages

We estimate that, under the three versions of the petition, increases in total wages in the state will be as follows:

| Proposed Min Wage Level | Size of Increase* | Total Estimated Workers** | Workers Affected*** | Workers Affected as % of Total Workers | Total Wage Increase**** |
|---|---|---|---|---|---|
| $11.00 | $3.20 | 2,845,927 | 880,593 | 30.94% | $4,167,807,617 |
| $12.00 | $4.20 | 2,845,927 | 995,901 | 34.99% | $5,508,377,721 |
| $13.00 | $5.20 | 2,845,927 | 1,092,551 | 38.39% | ***** |
| $14.00 | $6.20 | 2,845,927 | 1,208,950 | 42.48% | ***** |
| $15.00 | $7.20 | 2,845,927 | 1,351,386 | 47.48% | $10,801,510,192 |

*Over the legislated MO 2015 minimum wage of $7.65 + assumed 2% cost of living adjustment to MO minimum wage

**Based on 2013 American Community Survey for the State of Missouri

***The number of wage and salary workers with an hourly wage below the proposed minimum. The hourly wages in 2013 were increased by 5.497%, to account for inflation between 2013 and 2016, prior to comparison with the proposed minimum.

****The hourly wage difference was multiplied by the number of hours worked per year. That amount was then multiplied by the relevant person weight and summed over all persons with hourly wages below the proposed minimum.

*****we were unable to access tools to weight appropriately for this level in the timeframe allowed for input

The wage impact of an increase in the minimum wage for the state of Missouri is calculated using the following procedure. The American Community Survey Public Use Micro Sample for the most recent year available (2013) for the state of Missouri was downloaded from the US Census Bureau. The American Community survey was chosen over the Current Population survey because the ACS has a significantly larger sample.

Calculations were effectuated only for those individuals earning less than the proposed minimum wage. It is likely that there would be indirect impacts on others who earn more than the proposed minimum wage, especially those who earn close to the proposed hourly amount. These estimates therefore are likely to be smaller than the actual impact of increasing the minimum wage to the proposed level.

All wage earners are included in this calculation. To be consistent with past estimates, public employees should have been excluded. Employees in the public sector were included because the American Community Survey does not have a published variable that allows for identification of public employees. This inclusion of public employees will have a minimal impact on our results.[1]

All wages from the 2013 survey were adjusted upward to account for inflation between the time of the survey and the time of measurement of the impact. Actual inflation was used for 2013 and 2014, and a slightly higher rate was used for assumed inflation in 2015. The 2015 Missouri Minimum wage of $7.65 was adjusted by the same factor prior to measuring the impact of a change to the proposed minimum wage in 2016.

After these adjustments, the resulting hourly wage of all employees was compared to the proposed minimum wage. Three proposed levels for the minimum wage were examined: $11, $12, and $15. If the proposed minimum wage was less than the inflation adjusted hourly earnings of an employee, then no impact was calculated. If the proposed

[1] For the Missouri's state employees, this can be validated by viewing the earnings of all state employees at: http://mapyourtaxes.mo.gov/MAP/Employees/. Larger counties and cities will also have almost all public employees earning more than the highest proposed minimum wage. Local public employees in small counties and towns may have some public employees who earn less than the highest proposed minimum.

minimum wage was more than the hourly earnings on an employee, then the difference between the inflation adjusted hourly earnings and the proposed minimum wage was calculated. That difference was multiplied by the number of hours the employee worked in the year to calculate the impact for that employee. The result was then multiplied by a weighting factor for that employee in the population. The total impact for the state of Missouri was calculated by repeating this process for every employee and adding the results.

The impact grows as the proposed minimum wage grows. 31% of the labor force would be directly impacted by an increase in the minimum wage to $11 in 2016, whereas 47% would be impacted if the minimum wage were increased to $15 per hour.

It should be emphasized that there is no reason to expect even a substantial increase in the minimum wage to reduce employment. No credible research has demonstrated a negative employment effect of increases in the minimum wage and there is substantial research to indicate that increases in the minimum wage have multiplier effects that increase the direct effects. For this reason and because of the likely increases in wages to individuals who earn above the proposed minimum wages, the impacts summarized in the table are likely to be low, relative to the total impact that would occur as a result of increasing the minimum wage to the proposed levels.

## II. Economic Literature on the Impact of Minimum Wage Increases on Employment

Next it is necessary to review the economic literature on the impact of minimum wage increases on employment. Opponents often claim that minimum wage increases may reduce employment in a state. If that is true, then those employment reductions would result in reductions in state income and sales tax revenue. However, review of the most credible recent empirical research on the minimum wage shows that increases in the minimum wage have had no discernible impact on employment. We thus conclude that it is not appropriate to project that the proposed initiative petitions would result in any detectable employment reduction, and resulting losses in income and sales tax revenue, or increases in unemployment-related costs to the state.

Economists have conducted hundreds of studies of the employment impact of the minimum wage. A recent meta-study – a formal statistical study of studies – by Doucouliagos and Stanley (2009) reviewed all the research conducted over the last three decades on the employment impact of minimum-wage increases on teenagers in the United States. The researchers concluded that the minimum wage has little or no discernible effect on the employment prospects of low-wage workers. Their study followed a rigorous, peer-reviewed procedure and has the advantage of using a set of predetermined, objective criteria for weighing the validity of statistical findings across studies with different results. (Source: Doucouliagos, Hristos and T. D. Stanley. 2009. “Publication Selection Bias in Minimum-Wage Research? A Meta-Regression Analysis.” British Journal of Industrial Relations,vol. 47, no. 2, pp. 406-428.)

Recent theoretical and empirical research emphasizes several explanations for the consistently negligible employment impacts of moderate increases in the minimum wage. First, relative to total wage costs, minimum-wage increases are small. Second, employers and workers appear to respond to minimum-wage increases in many ways that reduce the direct cost to employers and substantially reduce or eliminate the need to cut employment.

Probably the most important economic response to a higher minimum wage is a reduction in turnover. At higher wages, employers fill vacancies faster and retain employees longer, boosting total employment and average productivity per worker while reducing direct and indirect training costs. Dube, Lester, and Reich (2012), for example, examined the effect of the minimum wage on labor turnover among teens and restaurant workers. They find “...striking evidence that separations, new hires, and turnover rates for teens and restaurant workers fall substantially following a minimum wage increase...” (p. 2) Their findings, using nationally representative data, are consistent with local case studies of the

minimum wage and related "living wage" laws, including Dube, Naidu, and Reich's (2007) analysis of the San Francisco city-wide minimum wage; Fairris's (2005) study of local government contractors in Los Angeles; Howes (2005) on homecare workers in California; and Reich, Hall, and Jacobs (2005) on workers at the San Francisco airport. (Sources: Dube, Arindrajit, T. William Lester, and Michael Reich. 2012. "Minimum Wage Shocks, Employment Flows and Labor Market Frictions." Berkeley, CA: Institute for Research on Labor and Employment. http://escholarship.org/uc/item/76p927ks; Dube, Arindrajit, Suresh Naidu, and Michael Reich. 2007. "The Economic Effects of a Citywide Minimum Wage." *Industrial and Labor Relations Review*, vol. 60, no. 4, pp. 522-543; Fairris, David. 2005. "The Impact of Living Wages on Employers: A Control Group Analysis of the Los Angeles Ordinance." *Industrial Relations*, vol. 44, no. 1, pp. 84-105; Howes, Candace. 2005. "Living Wages and the Retention of Home Care Workers in San Francisco." *Industrial Relations*, vol. 44, 5 no. 1, pp. 139-163; Reich, Michael, Peter Hall, and Ken Jacobs. 2005. "Living Wage Policies at the San Francisco Airport: Impacts on Workers and Businesses." *Industrial Relations*, vol. 44, no. 1, pp. 106-138.)

Employers also appear to respond to increases in the minimum wage by taking measures to boost productivity. Hirsch, Kaufman, and Zelenska's (2011) study of the impact of the federal minimum-wage increase on 81 fast-food restaurants in Georgia and Alabama, for example, asked fast-food managers about the scope for efficiency improvements in response to the minimum-wage rise. About 90 percent of managers indicated that they planned to respond to the minimum-wage increase with increased performance standards such as "requiring a better attendance and on-time record, faster and more proficient performance of job duties, taking on additional tasks, and faster termination of poor performers." (p. 27) Roughly the same share of managers said that they sought to "boost morale" by presenting the minimum-wage increase as a "challenge to the store" and using this as a way "to energize employees to improve productivity." (pp. 28-29) Based on their interviews with store managers, the researchers concluded that a minimum-wage increase may function as a "catalyst or shock that forces managers to step out of the daily routine and think about where cost savings can occur." (p. 29) (Source: Hirsch, Barry T., Bruce Kaufman, and Tetyana Zelenska, "Minimum Wage Channels of Adjustment." IZA Discussion Paper No. 6132. Germany: Institute for the Study of Labor. http://www2.gsu.edu/~ecobth/IZA_HKZ_MinWageCoA_dp6132.pdf)

A higher minimum wage may also motivate workers to work harder, independently of any actions by employers to increase productivity. According to "efficiency wage" theory, wages above the competitive-market rate may elicit greater work effort for several reasons. As Carl Shapiro and Joseph Stiglitz (1984) have argued, higher pay increases the cost to workers of losing their job, potentially inducing greater effort from workers in order to reduce their chances of being fired. George Akerlof (1982), arguing from a more sociological point of view, has suggested that workers may see higher wages as a gift from employers, leading workers to reciprocate by working harder. (Sources: Shapiro, Carl and Joseph E. Stiglitz. 1984. "Equilibrium unemployment as a worker discipline device." *American Economic Review*, vol. 74, no. 3, pp. 433-444; Akerlof, George A. 1982. "Labor contracts as partial gift exchange." *Quarterly Journal of Economics*, vol. 97, no. 4, pp. 543-569.)

We therefore conclude that the proposed increase in the Missouri minimum wage would have no discernible impact on the employment levels of low-wage workers. Accordingly, we do not factor in reductions in employment, or any resulting decrease in sales tax or income tax. We also do not project any increased unemployment insurance costs – both because we do not project any resulting job losses, and additionally because unemployment insurance costs are paid for by employer premiums, and so are ultimately not a cost to the state.

### III. State and Local Sales and Personal Income Tax Revenue Impact of Raising the Minimum Wage

Based on the wage impact figures calculated above, and the understanding that the minimum wage increases would be unlikely to result in offsetting job losses, we next calculate the impact of the projected wage increases on state and local

sales and personal income tax revenue in Missouri. We project only the direct impact of the three minimum wage increase scenarios on such tax revenue. We do not attempt to project the additional impact through a GDP multiplier effect.

**Increase in Personal Income Tax Revenue and Sales Tax Revenue Due to Increased Wages Personal Income Tax Revenue.** In order to determine the projected increase in personal income tax revenues that would result directly from the increased wages, we had to develop assumptions about the effective income tax rates of the affected workers. We made the following assumptions with respect to the effective tax rate:

1. That 25% of affected workers can be claimed as a dependent on another party's Missouri income tax return and as a result would pay an effective tax rate of 6.0% on the increase in income;
2. That 50% of the affected workers would file as single taxpayers, would claim one deduction of $2,100, and would be entitled to a standard deduction of $5,800. This would result in an effective tax rate of 2.47%;
3. The remaining 25% would, we assumed, would pay no additional Missouri income tax. In light of these assumptions, the increased Missouri income tax revenue for each petition version can be calculated as follows: (total wage increase * 25% * 6.0%) + (total wage increase * 50% * 2.47%) + (total wage increase *25% * 0%).

**Sales Tax Revenue.** The State of Missouri imposes a 4.225% state sales tax on those items that are not exempt from the sales tax base. In addition, the average local sales tax rate is 2.95%. As a result, the average Missouri net sales tax rate is 7.175%. We have conservatively estimated that just 25% of the higher wages would be spent on the purchase of goods that are subject to state and local sales tax in Missouri.

Based upon the above assumptions, and the total wage increase calculations for each version of the petition, we estimate that the increase in state income tax revenue resulting from the increased wages would be as follows:

| Increase in Sales and Personal Income Tax from Increased Wages | | | | | | |
|---|---|---|---|---|---|---|
| **Proposed Min Wage Level** | **Total Wage Increase** | **State Sales Tax (4.225%)** | **Local Sales Tax Revenue (2.95%)** | **Total Sales Tax Revenue Increase** | **Personal Income Tax Revenue** | **Total Sales and Personal Income Tax Revenue Increase** |
| $11.00 | $4,167,807,617 | $44,022,468 | $30,737,581.17 | $74,760,049.13 | $113,989,538 | $188,749,587 |
| $12.00 | $5,508,377,721 | $58,182,240 | $40,624,285.69 | $98,806,525.38 | $150,654,131 | $249,460,656 |
| $13.00 | *We were unable to access a tool to weight calculations of the total wage increase for these levels in the timeframe allotted.* | | | | | |
| $14.00 | | | | | | |
| $15.00 | $10,801,510,192 | $114,090,951 | $79,661,137.67 | $193,752,089.08 | $295,421,304 | $489,173,393 |

Moreover, one often-cited authority on tax information, the Tax Foundation, reports that the average local sales tax rate in Missouri is even higher at 3.53%. See http://taxfoundation.org/article/state-and-local-sales-taxes-midyear-2012 If one uses this higher rate, total revenue increases additionally by hundreds of thousand dollars.

We hope that this information is useful to your office as your prepare your analyses of the petitions.

Respectfully submitted,
Lara Granich
Missouri Jobs with Justice Voter Action

**Edward D. Greim** provided the following information as an opponent of this initiative petition.

He writes on behalf of Robert Bonney. Mr. Bonney is the Chief Executive Officer of the Missouri Restaurant Association. Please consider this letter and the accompanying studies as his fiscal impact statement as an opponent of Initiative Petitions 2016-066, 2016-067, 2016-068, 2016-069, 2016-070, 2016-071 and 2016-072 (the "Initiative Petitions"). Initiative Petitions 2016-066 and 2016-067 appear to be substantially similar to the previously-submitted Initiative Petitions 2016-045, 2016-046 and 2016-047—which will cause significant negative impacts, if passed. Moreover, Initiative Petitions 2016-068, 2016-069, 2016-070, 2016-071 and 2016-072 only work to further negatively impact the Missouri economy by phasing out tipped wage percentages entirely. In short, any of these seven initiatives would have a substantial negative impact on state and local governments.

The two fiscal impact studies attached hereto were authored by Dr. David Macpherson, a nationally-recognized labor economist and expert on the impact of minimum wage increases. In reviewing previous minimum wage petitions, the Auditor's Office has previously found Dr. Macpherson's analyses to be helpful and persuasive.

The first study was prepared by Dr. Macpherson in June 2014 and details how a $10.10 per hour minimum wage would have impacted Missouri and the St. Louis area were it to have become effective in 2015. *See* Exhibit A. In addition to the estimated loss of nearly 15,000 jobs statewide, Dr. Macpherson estimated that the cost to taxpayers of a $10.10 minimum wage would be $87 million annually. While this study did not address the specific proposals in the Initiative Petitions, Dr. Macpherson's methodology applies directly to the impact of the proposed minimum wage increases.

The second fiscal study was reviewed and used by this office in evaluating earlier minimum wage proposals. It was prepared by Dr. Macpherson in March 2012 and details the impact of a statewide minimum wage increase to $8.25 per hour. This study is attached hereto as Exhibit B. In this study, Dr. Macpherson concluded that state and local entities would pay out $16 million in increased wages. What's more, Dr. Macpherson estimated that the net state and local fiscal impact would range from a loss of over $22 million to a loss of $13 million. While this study is now three years old, the analysis is pertinent to the proposed wage increase in the Initiative Petitions. Notably, using Dr. Macpherson's methodology, the heightened minimum wage proposals contained in the Initiative Petitions would have a substantially greater negative fiscal impact than that found in the 2012 study.

The proponents of the Initiative Petitions will likely rely on data sourced from political activist groups who claim increases in minimum wage only serve to create new taxable income. The reality is that such groups approach this issue with indisputable political bias. Further, that type of analysis is one-sided, disregarding the significant impact on Missouri businesses. True, some workers will collect increased wages, but no new money is created; Missouri businesses will be the source of the increase which will lower their taxable income and, from time to time, cause them to forego hiring or to cut employment. Regarding secondary employment and tax revenue effects, the Auditor must refrain from assessing only one half of the wage increase equation.

In addition, the most significant and most direct effect of a minimum wage increase is the amount of the increased wages that will actually be paid by state and local governments. As has been shown during prior efforts to increase the minimum wage, very few of the hundreds of state and local entities who actually employ minimum wage workers will take the time to provide fiscal impact estimates in response to the Auditor's requests. Further, the Auditor's requests are simply sent to a sample of governmental employers. The more appropriate method to calculate the fiscal impact of the wage increase is to use the actual number of minimum wage workers who work for state and local governments, as calculated by the United States Census Bureau's CPS. Rather than simply adding the sums reported in the scattershot and unreliable fiscal note responses from state and local entities, the Auditor should supplement them with broader analyses such as those of Dr. Macpherson. At the very least, the Auditor should state in the fiscal note summary that state and local impacts are "large" or "substantial," rather than simply reporting impacts of "at least" the few thousand dollars in costs that may or may not be reported by those local entities that take the time to respond to the Auditor's sampling.

Finally, the proponents of the Initiative Petitions may argue that the Auditor should abandon the state and local cost estimates altogether. The proponents will argue that a new provision they have inserted in the statute would make the increases apply only if "there are appropriations for wages at those [i.e., the newly-increased] rates." The proponents will urge the Auditor's Office to assume that legislators will not actually fund the increases, and that therefore there will be no cost to taxpayers. Setting aside unjustifiable projections about the political judgments of legislators, the provision is of uncertain legal effect and constitutionality. On the one hand, it may not change existing law, since arguably the legislature always has the power to reduce or increase appropriations. But it is also unclear whether the legislature has the power to fix wage rates within an appropriations bill, or whether a mere statutory petition can confer this type of power upon the legislature. The application of the requirement for a specific type and manner of appropriation is also unclear in the context of political subdivisions and other public bodies whose funds are generally not appropriated by the general assembly. These are just a few examples of the serious flaws with the proposal itself that may have to be addressed by the courts. Suffice it to say that as a matter of law, it would be insufficient and unfair for the Auditor's fiscal note or summary to simply assume that these legal issues do not exist, or to make a political judgment that legislators will not in fact fund any of the minimum wage increases at any level of state government. Such assumptions would only serve to artificially deflate the fiscal note and fiscal note summary by tens of millions of dollars.

June 2014

MISSOURI
Restaurant Association
*Eat Out Often!*

# The Impact of a $10.10 Minimum Wage on Jobs and Taxpayer Costs in Missouri

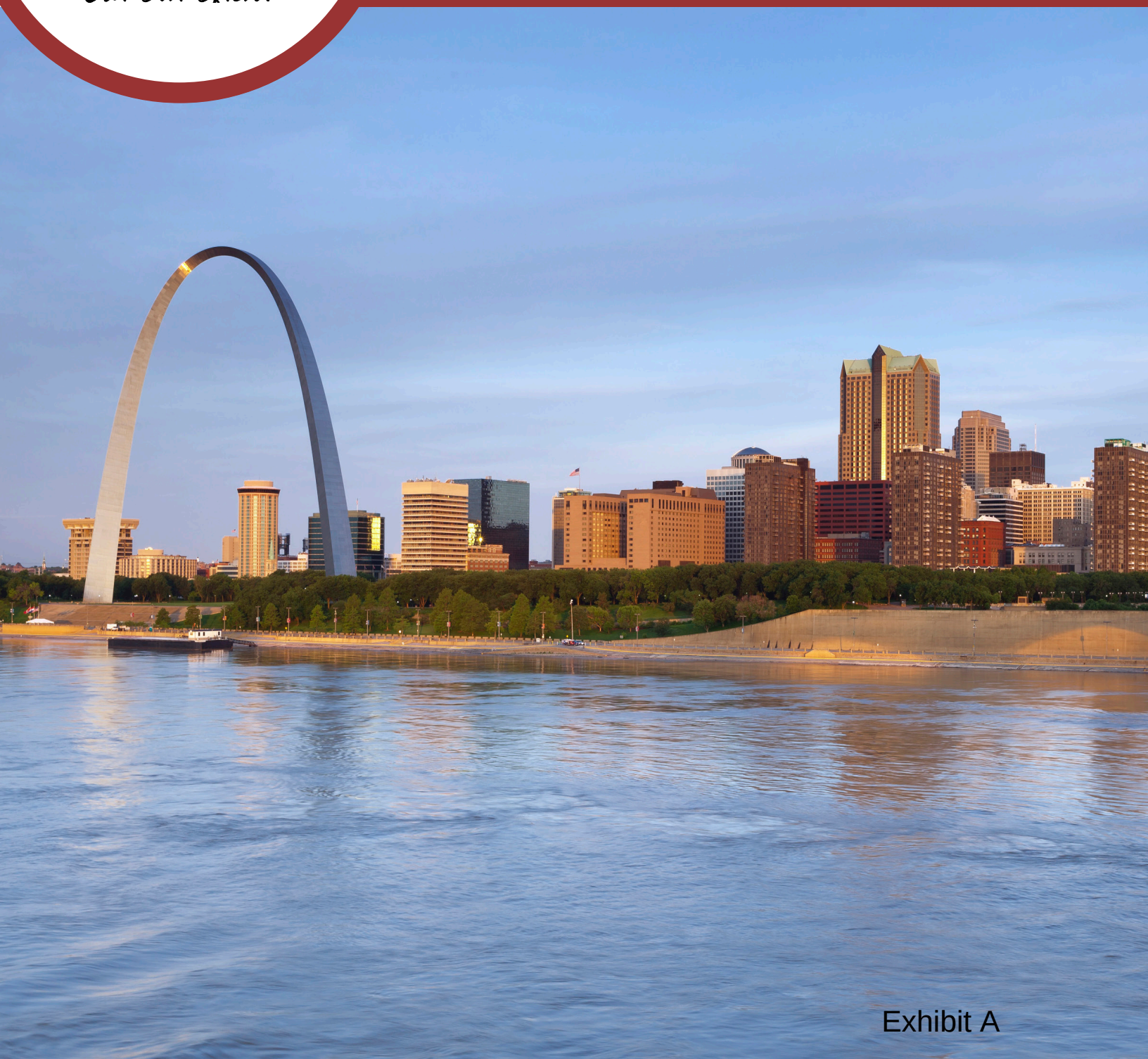

Exhibit A

# ABOUT THE MISSOURI RESTAURANT ASSOCIATION

With origins dating back to 1916, the Missouri Restaurant Association (MRA) is a statewide trade association representing over 1,500 member establishments. The association's membership is diverse, and includes full service, fast casual, and quick service restaurants, cafeterias, hotels, schools, institutions, contract feeders, and ancillary foodservice providers such as theme parks. The association has been successful in securing support from virtually every segment of the foodservice and hospitality industry.

MRA includes seven chapters as extensions of the parent organization, each with its own Officers, Board of Directors, and limited budget. The association is governed by a Board of Directors comprised of five Officers, 33 Directors, and each President of the seven affiliated chapters.

MRA is dedicated to serving the needs of the foodservice and hospitality industry, enhancing and improving its growth and development, assisting and educating its members in operating more effectively, improving the political and social environment in which the industry conducts business, for the benefit of its members, patrons, employees, and the well-being of the community.

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David A. Macpherson is the E.M. Stevens Professor of Economics at Trinity University. He received undergraduate and doctoral degrees in economics from Pennsylvania State University.

Dr. Macpherson has published over 60 articles in leading economics and real estate journals including Review of Economics and Statistics, Industrial and Labor Relations Review, Journal of Labor Economics, Journal of Human Resources, and Journal of Real Estate Economics and Finance. His research has been funded by a variety of entities including the National Science Foundation, Florida Legislature, and the National Association of Realtors. He is co-author of the undergraduate labor economics text, Contemporary Labor Economics, as well as the principles of economics text, Economics: Private and Public Choice. He is included in Who's Who in Economics, Fourth Edition, which includes the 1,200 most frequently cited economists.

# THE IMPACT OF A $10.10 MINIMUM WAGE ON JOBS AND TAXPAYER COSTS IN MISSOURI

June 2014

Economic Analysis by **Dr. David Macpherson**
**Trinity University**

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# EXECUTIVE SUMMARY

Missouri's minimum wage of $7.50 is linked to rise in most years with the inflation rate. But some state legislators and labor unions would like to raise that figure even higher. For instance, a recent labor union-organized bus tour in the state promoted a $10.10 minimum wage in St. Louis.

Proponents have enthusiastically pointed to the benefits of the $10.10 policy. But there's been far less discussion of the costs involved with a $10.10-an-hour minimum wage—both the cost on employment, and the cost to taxpayers.

In this study, labor economist David Macpherson of Trinity University uses Census Bureau data to estimate the impact on Missouri's labor market and budget from raising the minimum wage to $10.10 an hour. He also provides separate results for the St. Louis metropolitan area.

Dr. Macpherson's employment estimates follow the methodology used by the nonpartisan Congressional Budget Office in its report earlier this year estimating the impact of a $10.10 minimum wage nationwide, which in turn relied on 60 different empirical studies to formulate its estimates.

Statewide, he finds that over 15,000 jobs would be lost at the $10.10 wage level—with 9,300 of those jobs being held by women. In the St. Louis metropolitan area, approximately 4,800 jobs would be lost from a $10.10 minimum wage.

The cost to taxpayers would be significant: There are approximately 40,000 state and local employees whose wages would be affected by the $10.10 increase in Missouri, for a combined cost to taxpayers of $87 million annually.

Raising wages is an admirable goal, but the evidence suggests that accomplishing this goal with a blunt wage mandate could do more harm than good.

# RESULTS

The minimum wage is one of the most hotly-debated topics in the political world. Some legislators claim that a higher base wage will stimulate the economy; others claim that it will reduce jobs when affected employers can't offset the higher costs through higher prices.

Economists, who have studied the issue since the late 1940s, tend to take a skeptical view of minimum wage increases. Since the early 1990s, for instance, roughly 85 percent of the most credible research on the minimum wage points to job loss for less-skilled groups. The nonpartisan Congressional Budget Office (CBO), in an evaluation of President Obama's proposed $10.10 minimum wage increase, reviewed 60 different studies and concluded that the policy would eliminate 500,000 jobs if enacted.

The estimates that follow, of the employment impact of a higher minimum wage on Missouri's labor market, were performed by Dr. David Macpherson of Trinity University. Dr. Macpherson followed closely the methodology used by the CBO in its 2014 report. Dr. Macpherson also estimates the taxpayer costs of a higher minimum wage, as many state and local public employees will see their earnings increase when the minimum wage rises.

Dr. Macpherson's methodology is presented in detail in a technical appendix.

## Estimated Employment Effects of a $10.10 Minimum Wage in Missouri

Statewide, Dr. Macpherson finds that increasing the minimum wage to $10.10 would eliminate over 15,000 jobs—approximately 60 percent of which are jobs held by women. The bulk of the job losses would be concentrated among individuals with a high school degree or less, and among people who work in the retail or leisure & hospitality industries.

(Note: Totals have slight discrepancies due to rounding.)

**Estimates by Gender**

| | *Job Losses* |
|---|---|
| **Male** | 6,311 |
| **Female** | 9,364 |
| **TOTAL** | **15,705** |

**Estimates by Age**

| *Age* | *Job Loss* |
|---|---|
| **<=21** | 9,237 |
| **22-25** | 1,532 |
| **26-30** | 1,023 |
| **31-40** | 1,175 |
| **41-50** | 980 |
| **51 +** | 1,759 |

**Estimates by Race**

| *Race* | *Job Loss* |
|---|---|
| **White** | 13,299 |
| **Black or Other Race** | 2,406 |

# RESULTS CONTINUED

| Top Three Industries Affected | |
|---|---|
| *Industry* | *Job Loss* |
| **Retail Trade** | 3,835 |
| **Arts, Entertainment, Recreation, Accommodations, and Food Services** | 6,039 |
| **Healthcare** | 1,199 |

| Estimates by Education | |
|---|---|
| *Education* | *Job Loss* |
| **Less than High School** | 5,555 |
| **High School Grad, No College** | 4,921 |
| **Some College** | 4,428 |
| **Undergrad or Graduate Degree** | 802 |

## City-Specific Minimum Wage Employment Impacts

The city of St. Louis has been the subject of a number of protests calling for a higher minimum wage. Dr. Macpherson analyzed the employment impact of a $10.10 minimum wage in the St. Louis metropolitan area, providing breakouts by gender and education where the data permits. He estimates that the wage hike would eliminate approximately 5,000 jobs—just over half of which would be jobs held by women.

| Impact on St. Louis Metro Area of a $10.10 Minimum Wage | |
|---|---|
| *Gender* | *Job Loss* |
| **Male** | 2,033 |
| **Female** | 2,767 |
| **TOTAL** | **4,800** |
| *Race* | *Job Loss* |
| **White** | 3,641 |
| **Black or Other Race** | 1,158 |
| *Education* | *Job Loss* |
| **High School Grad or Less** | 3,097 |
| **Some College, Undergrad or Graduate Degree** | 1,703 |

# RESULTS CONTINUED

## Missouri Taxpayer Costs of a $10.10 Minimum Wage

Dr. Macpherson estimates that approximately forty thousand state & local public employees would be affected by a minimum wage increase to $10.10 an hour. These additional wage costs translate to new costs for state and local taxpayers. Following the methodology described in detail in the technical appendix, Dr. Macpherson estimates both the straight wage cost of a $10.10 minimum wage, as well as the total compensation cost with Social Security, Medicare, workers compensation, and unemployment insurance included. Statewide, taxpayers would shoulder an additional $87 million in costs if the base wage was increased to $10.10 an hour and public employees were covered by the new wage.

| Missouri Taxpayer Costs of a $10.10 Minimum Wage | |
|---|---|
| **# of State & Local Workers** | 304,588 |
| **# Affected By $10.10 MW** | 40,103 |
| **Annual Wage Cost** | $79,629,374 |
| **Annual Compensation Cost** | $87,004,355 |

*Note: Annual compensation costs include the cost of worker's compensation, FICA, and unemployment insurance benefits.*

MISSOURI Restaurant Association
Eat Out Often!

# TECHNICAL APPENDIX

## Estimating Employment Loss and the Cost to State and Local Government of an Increase in the Minimum Wage

**Dr. David Macpherson**
**E.M. Stevens Professor of Economics**
**Trinity University**

This paper describes how we estimate the employment loss and the cost to state and local governments of a proposed increase in the minimum wage effective on January 1, 2015.

## Data and Sample

First, we use data from the Current Population Survey (CPS) Outgoing Rotation Groups (ORG) from January 2011 through December 2013. For each worker in the sample, we calculate their wage rate. We also adjust the wage rate to reflect a forecast of wages in 2015. This is done in two steps. First, based on legislation enacted as of April 2014, we estimate the minimum wage that would be in effect in January 2015 for each state and city that we consider. If a state or city has an indexed minimum wage, we increase the January 2014 state or city minimum wage by the Congressional Budget Office (CBO) inflation forecast for 2014 of 1.7%.

Since we use data from 2011 through 2013, we also follow the CBO approach for forecasting what the wage distribution would be in 2015. This is done in two steps. First, we adjust wages observed prior to 2013 to reflect 2013 minimum wage legislation. For example, if the minimum wage in a state was $7.25 in 2011 and grew to $8.00 by 2013, anyone who earned between $7.25 and $8.00 in 2011 would have their wage increased to $8.00. After wages are adjusted to 2013 levels, we assume that all wages grow by 2.9% in 2014. Using the resulting 2015 distribution of wages, we adjust for minimum wage legislation that would increase the minimum between 2013 and 2015. Anyone earning a wage between the 2013 and 2015 minimum wage is assigned a wage matching the 2015 minimum wage.

After generating the forecast 2015 distribution of wages reflecting wage growth and existing minimum wage legislation, we identify workers who would be affected by additional changes to the 2015 minimum wage as those with wages between the predicted minimum wage legislated for 2015 (or up to $.25 below it) and the proposed minimum.

To estimate the number of affected workers, we take two steps. First, for each state, we estimate the number of affected workers for 2013. Second, we adjust the weights in the 2011 and 2012 data so that the state-specific number of affected workers implied by the 2011 and 2012 data matches that for 2013. This adjustment is designed to correct for the changing economic climate as the economy recovers from the great recession and to generate estimates that are as close as possible to the most recent data (2013). After we adjust the 2011 and 2012 weights, we estimate the number of affected workers by summing their earnings weights and dividing the total by 36 (the number of months of data).

[1] Also, following CBO, anyone earning up to $.25 less than the 2011 minimum wage would have their wage increased by the amount that the minimum wage increased (i.e. a $7.00 wage would be increased to $7.75 in this example). This approach is used to adjust for the fact that many workers round their answers when asked about their wage.

# TECHINCAL APPENDIX CONTINUED

## Employment Loss

To estimate employment loss, for each affected worker we compute:

**L = e *(Proposed Min Wage /Min Wage 2015 – 1)**

where e is an assumed elasticity of employment with respect to changes in the minimum wage, Min Wage 2015 is the minimum wage currently legislated for 2015, and Proposed Min Wage is the minimum wage that is being proposed for 2015. Thus, for example, if a worker is projected to earn the federal minimum of $7.25 in 2015, the expected reduction in employment resulting from a $10.10 minimum wage in 2015 if e=.45 is .45*(10.10/7.25 – 1) = .18. That is, for every 100 workers currently earning the federal minimum, the expectation is that 18 would lose a job if the minimum wage elasticity is .45.

To estimate the aggregate employment loss in the economy, we use earnings weights to sum L across workers. We also follow the Congressional Budget Office (2014) and use an elasticity of 0.15 for non-teenagers and 0.45 for teenagers.

## Cost to State and Local Government

We use the same data to estimate the cost to state and local government of a proposed minimum wage hike. We apply the same definition of affected workers described above and estimate the number of state and local government workers affected by a minimum wage hike. We do not, however, assume that there is any job loss for state and local workers as we do not have an appropriate elasticity estimate specific to state and local workers. To the extent that state or local governments reduce hours or employment in response tothe minimum wage hike, our estimate of the cost of the hike would be overstated.

To estimate the increase in annual payroll cost resulting from an increase in the minimum wage, we estimate the increase in annual cost for each worker as:

**(Proposed Min Wage-Min Wage 2015)*weekly hours*52**

We then multiply the increase in annual cost by the earnings weight for each worker and sum across workers. Since an increase in wages also requires increased employer contributions for Social Security, Medicare, workers' compensation and unemployment insurance, we apply an estimate of the payroll tax rate for these mandatory programs to calculate the additional cost for these programs.

For each state and city considered, we provide tables summarizing the number of affected workers, employment loss, and the distribution of employment loss by sex, education, race, age and industry. Given that we use three years of data, a rule of thumb for minimum sample size required to achieve a reasonably accurate estimate of the employment loss is to require at least 30,000 people be in the relevant category. For example, if there are fewer than 30,000 people projected to be in a particular industry category, the Bureau of Labor Statistics would not report the estimate due to a lack of reliability based on the variance of the estimate relative to its mean.

In addition to the estimate of employment loss, for each state or city considered, we estimate the number of state and local workers that would be affected by the minimum wage hike and the total annual cost to government in terms of wages and total compensation. As with the employment estimates, we advise caution in interpreting estimates that are based on fewer than 30,000 affected workers.

[3] Congressional Budget Office, "The Effects of a Minimum-Wage Increase on Employment and Family Income," February 2014.

[4] For workers paid by the hour the reported hourly wage was used. For workers who are not paid by the hour, we calculate the hourly wage by dividing usual weekly earnings by usual weekly hours. Overtime pay was calculated as time and one-half for hours above 40 hours for hourly workers.

[5] The assumed payroll tax for Medicare and Social Security is 7.65 percent. To estimate the payroll tax for workers' compensation and unemployment insurance, we use unpublished data from the 2010 Employer Cost of Employee Compensation database for state and local workers in the relevant region in 2010.

# FISCAL ANALYSIS
# OF
# PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

**Prepared for**

**Victor Allred versus Robin Carnahan and Thomas Schweich**
**Circuit Court of Cole County, Missouri**

**Prepared by**

**David A. Macpherson, Ph.D.**
**125 Park Drive**
**San Antonio, TX 78212**

**March 26, 2012**

Exhibit B

# FISCAL ANALYSIS
# OF
# PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

## I. Introduction

This report was undertaken at the request of counsel representing plaintiffs in the case of Victor Allred versus Robin Carnahan and Thomas Schweich. As part of the basis of the lawsuit, the plaintiffs allege that the fiscal note summaries for proposed statutory initiative petitions 2012-084 and 2012-085 are insufficient and unfair. I was asked by counsel to evaluate the fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085.

The results of my analysis indicate:

(1) labor costs to state and local government entities, based on state auditor fiscal notes, will rise by more than $1,352,182. A more inclusive estimate indicates that state and local government labor costs will increase by $16,003,712;

(2) unemployment benefit costs will rise by $4,397,510 during the first year of the minimum wage increase;

(3) individual income tax revenue will rise by at most $4,078,088;

(4) the loss in corporate income tax revenue could be as high as $9,243,105;

(5) state and local sales tax revenue will rise by at most $2,919,327;

(6) during the first year: state and local governments will incur increased costs of $20,401,222; the change in state and local government revenue will

range from -$2,245,690 to +$6,997,415; and the net state and local government fiscal impact will range from -$22,646,912 to -$13,403,807.

The report is organized as follows. My qualifications to prepare this report are contained in Section II. Section III describes the data and records I relied upon for this report. Section IV reviews the estimated fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085. A summary and my conclusions are provided in Section VI.

## II. Qualifications

I am currently the E.M. Stevens Professor of Economics at Trinity University in San Antonio, Texas. Previously, I was employed by Florida State University as Director of the Pepper Institute on Aging and Public Policy and the Rod and Hope Brim Eminent Scholar in Economics. I have taught both undergraduate and graduate Econometrics (statistical analysis of economic data), and Labor Economics. I have published over 50 articles in peer-reviewed professional journals.

I am currently serving on the editorial board of the *Journal of Forensic Economics*, which is a peer-reviewed journal. I have also served as a reviewer or 'referee' for 24 peer-reviewed journals, including the *Journal of Human Resources, Journal of Labor Economics, Quarterly Journal of Economics,* and the *Review of Economics and Statistics*. Based upon these experiences, I am very familiar with the scholarly and professional research process and the concept of peer review.

I have prepared numerous analyses and reports that use statistical methods as applied to specific questions. I have been responsible for developing the techniques and approaches required for these analyses. I routinely use computers and statistical software packages to assist me in my analytical work. I have been qualified as an expert witness on statistical analysis of employment discrimination and economic damages in state courts in Florida and Georgia and Federal Courts, and I have given expert testimony. I have prepared analyses and offered testimony on behalf of both plaintiffs and defendants.

Details of my qualifications are reflected in my current resume and legal cases, attached as Appendix A to the report.

## III. Data and Records

I reviewed the following materials in preparing this report.

- Plaintiff's Complaint
- Material cited in footnotes below.

## IV. Fiscal Impact

*A. Overview*

The proposed statutory initiative petitions 2012-084 and 2012-085 contain many elements in common. Both initiatives would increase the Missouri minimum wage to $8.25 per hour, alter the exemption for retail and service firms, raise the cash wage of tipped workers from 50% to 60% of the minimum wage, and increase the statute of limitation from two to three year for underpayment claims.

The initiatives differ in their linkage to the federal minimum wage. Initiative petition 2012-084 requires that the state minimum wage be automatically increased to the

federal minimum wage if it is higher than the state minimum wage. Initiative petition 2012-085 does not have such a linkage. It only requires that workers be paid the higher of the state minimum wage or the federal minimum wage. The linkage to the federal minimum wage will cause the state minimum wage to be higher under initiative petition 2012-084 over time. This is because the state minimum wage, in contrast to the federal minimum wage, is adjusted for inflation as measured by the Consumer Price Index.

An increase in the minimum wage in Missouri will affect state and local government entities in two ways. First, it will directly increase the cost of labor to state and local government entities. This will occur due to the increase in wages of state and local government workers earning between the existing minimum wage of $7.25 and the new minimum wage of $8.25.[1] In addition, workers laid off due to the minimum wage increase can collect unemployment benefits. The state government will bear the cost of unemployment benefits of these workers for the first 20 weeks. Second, state and local government may gain increased revenue through higher income tax and sales taxes paid by workers affected by the minimum wage who remain employed. However, state and local government will suffer reduced tax revenue to the extent the higher wage cost lowers profits of businesses.

The following sections estimate the cost and revenue effects to state and local government entities of the proposed minimum wage increase.

[1] Information about the minimum wage in Missouri is available at http://www.labor.mo.gov/DLS/minimumwage/.

*B. Direct Labor Cost Impact on State and Local Government Budgets*

There are two possible ways to measure the direct labor cost on state and local government budgets. First, one can use the information included in the fiscal notes prepared by the State Auditor regarding the proposed initiatives. It is important to note that the fiscal notes provide an incomplete and thus too low estimate of the direct labor cost. The fiscal notes indicate that the Office of Administration's (OA) Division of Personnel reported that as of September 2011 there were 834 state workers who would be affected by an increase of the minimum wage to $8.25 and the "approximate annual cost" would be more than $540,000.

This OA estimate excludes seasonal workers such as State Fair employees, State Parks Employees, and tax season staff. The Division of Revenue noted its labor cost would rise by $40,000. The Division of Natural Resources stated they have over 500 workers who would be affected by the increase, but did not provide an estimate of the cost. The State Fair hired 745 workers that would be affected, but no cost estimate was provided.

Thus, the cost to state government, based on the fiscal notes, would be more than $580,000.

The fiscal notes also provide an incomplete and thus too low measure of the cost to local government and public educational institutions. Many cities and educational institutions did not respond to Office of Auditor's survey or provide an estimate of the cost of the higher minimum wage. The City of Columbia, City of Jefferson, City of

Joseph, Linn State Technical College, and Metropolitan Community College did provide such an estimate. The total cost to these five institutions is $772,182.

Based on the fiscal notes, the cost to state and local government entities of the increase in the minimum wage to $8.25 will be more than $1,352,182.

Second, data from the U.S. Census Bureau's Current Population Survey (CPS) can also be used to calculate the cost of the increased labor cost to state and local government entities in Missouri. Using the data from January 2010 to December 2011 Outgoing Rotation Group (ORG) CPS, I calculated that 17,089 state and local government workers would be affected by the minimum wage increase. I defined affected workers as those individuals earning between $7.00 and $8.24 per hour. Though the minimum wage was $7.25 per hour during this period, I also included those workers reporting earnings of $7.00 to $7.24 since some individuals may round their wage rate. I calculated the annual wage cost for each state and local government worker (i) in the ORG CPS as:

$$Annual\ Wage\ Cost_i = (\$8.25 - current\ wage_i) * weekly\ hours_i * 52.$$[2]

The average annual wage cost increase was $870. I summed the cost over each worker (i) to obtain the total wage cost to state and local government entities in Missouri of $14,866,430.

The increased wage cost is not the only labor cost to state and local government entities of the minimum wage increase. Employers are required to pay 7.65% of their wage costs in Social Security and Medicare taxes. Thus, the total labor cost of the minimum wage increase will be 1.0765 times $14,866,430 or $16,003,712.

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[2] I assume that persons reporting an hourly wage rate between $7.00 and $7.24 are actually earning $7.25 per hour.

*C. Unemployment Benefit Impact*

The higher minimum wage will cause firms to reduce their level of employment.[3] As a result, the number of unemployed workers will increase. Thus, another important fiscal cost of the minimum wage increase is the cost of the unemployment insurance benefits for the workers laid off as a result of the minimum wage increase.

To calculate the cost to the unemployment benefits program, I first calculated the number of workers laid off. To do so, I calculated a probability of job loss for each affected Missouri worker (i) in the January 2010 to December 2011 ORG CPS:

$$Probability\ Job\ Loss_{\ i} = \frac{(\$8.25 - Current\ Wage_i)}{Current\ Wage_i} * elasticity_i.$$

I used the preferred employment elasticity (i.e., sensitivity of employment to wage changes) contained in Sabia and Burkhauser (2010), which was -0.6 for individuals aged 16 to 29 without a high school degree and -0.2 for all other individuals. The sole exception was for state and local government workers, where I assumed an elasticity of zero.[4] The sum across all affected workers yielded an estimated job loss of 5,745 jobs.

The next step was to calculate the weekly benefit for the average unemployed worker. Using the benefits calculator on the Missouri unemployment benefits web site and the wage income of average private-sector affected worker ($10,937), yields an average weekly benefit of $109.36[5]. The state of Missouri pays the first 20 weeks of benefits.[6] Thus, each eligible unemployed worker could receive a total of $2,187.20 in

[3] For a survey of research regarding the effect of the minimum wage on employment, see David Neumark and William L. Wascher, *Minimum Wages* (Cambridge, MA: MIT Press, 2008).
[4] Joseph J. Sabia and Richard V. Burkhauser, "Minimum Wages and Poverty: Will a $9.50 Federal Minimum Wage Really Help the Working Poor?" *Southern Economic Journal* (January 2010): 592-623.
[5] http://www.labor.mo.gov/DES/Claims/calculator.asp
[6] See http://www.labor.mo.gov/DES/Claims/

benefits paid for by the state of Missouri. These jobs are permanently eliminated and so it is appropriate to calculate the full amount of benefits for each worker.

Unemployment insurance, however, does not cover all unemployed workers. For example, it does not cover people who leave a job voluntarily, people looking for their first job, and re-entrants who previously left the labor force voluntarily. Furthermore, some individuals don't apply for benefits even though they are eligible. I assume that 35% of the unemployed workers will receive unemployment benefits based on analysis by Wenger (2001).[7]

The last step is to calculate the total cost to the Missouri unemployment benefits program. This done by multiplying the number of jobs lost (5,745) times the average benefit amount ($2,187.20) times the percent of unemployed individuals collecting benefits (35%). This calculation yields a figure of $4,397,510. This cost would be borne only during the first year of the minimum wage increase. The inflation adjustments in the minimum wage will also yield costs to the unemployment insurance program, but it is not possible to estimate the amount.

*D. Impact on State Income Tax Revenue*

The state of Missouri will gain increased revenue through higher income tax taxes paid by workers affected by the minimum wage who remain employed. However, it will

[7] Jeffery Wenger. "Divided We Fall: Deserving Workers Slip through America's Patchwork Unemployment Insurance System." *Economic Policy Institute*, 2001. Sabia and Burkhauser (2010) make the same assumption in their calculation of the amount of unemployment benefits generated by a minimum wage increase.

suffer reduced corporate income tax revenue to the extent the higher wage cost lowers profits of businesses.

To calculate the impact on individual income tax revenue, I again used data from January 2010 to December 2011 ORG CPS. I defined affected workers as those Missouri individuals earning between $7.00 and $8.24 per hour.[8] I used the following formula to estimate the change in income tax revenue:

$$\Delta Tax\ Revenue_i = (Tax_After_i - Tax_Before_i) - Prob_Job_Loss_i * Tax_Before_i,$$

where $Tax_After_i$ is the income tax paid by worker i after the minimum wage increase. $Tax_Before_i$ is the income tax paid by worker i after the minimum wage increase, and $Prob_Job_Loss_i$ is the probability of job loss for worker i. The first term shows the change in individual income tax revenue assuming no job loss and the second term shows the loss in tax revenue due to the employment loss caused by the minimum wage increase.

The income tax calculations were based on two assumptions.[9] First, the 50% percent of affected workers who were under the age 25 who were assumed to be dependents on another person's tax return. As a result, it was assumed that the affected workers' earnings were taxable at the maximum Missouri income tax rate of 6% both and after the minimum wage increase.[10] Second, all persons age 25 and older were assumed to be paying little or no income tax after exemptions and deductions. Thus, about 50% of the earnings increase will be taxed at a rate of 6%.

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[8] I again assume that persons reporting an hourly wage rate between $7.00 and $7.24 are actually earning $7.25 per hour. The annual earnings level was calculated as the worker's wage rate times usual weekly hours worked times 52.

[9] The same assumptions are used in the State Auditor's fiscal notes for the initiatives.

[10] This assumption will overstate the revenue increase as 20% of affected workers under the age 25 are living by themselves and some of these individuals will not be a dependent on another person's tax return.

The tax calculations reveal an increase in income tax revenue increase to the state. Assuming no workers were laid off by the minimum wage increase, income tax revenue would rise by $6,043,534. However, the state will lose $1,965,446 in income tax revenue due to the lost earnings of private-sector workers no longer employed due to the minimum wage hike.[11] Thus, the net increase in individual income tax revenue is $4,078,088.

Businesses have three options to respond to the higher labor costs of a higher minimum wage. They can reduce their profits, raise prices, or lay off workers. Based on the 2010-2011 ORG CPS data, the minimum wage increase will raise private-sector labor costs by $192,620,900 if employment levels are not reduced. However, labor costs will be lowered by $55,240,790 due to the reduction in employment. Thus, labor costs will, on net, rise by $137,380,110. These increased labor costs may be either passed on to consumers through higher prices or reduced profits or more likely some combination of higher prices and reduced profits. Assuming that businesses absorbed all of the higher costs through reduced profits, the corporate income tax revenue would fall by the Missouri corporate income tax of 6.25% times the rise in labor costs of $137,380,110 * 1.0765 (to account for employer-paid Social Security and Medicare taxes) or $9,243,106.[12] Alternatively, if half of the higher labor costs were passed on to consumers, then corporate income tax revenue would fall by $4,621,553.

[11] The probability of job loss was calculated in the same manner as in the prior section.
[12] The corporate income tax for Missouri is available at: http://dor.mo.gov/business/corporate/

*E. Impact on State and Local Sales Tax Revenue*

To calculate the impact on state and local sales tax revenue the following approach was undertaken.[13] First, the total increase in worker earnings, adjusted for employment reductions, was calculated using the 2010-2011 ORG CPS. This figure was $152,246,540. Second, the increase in Missouri taxable sales was calculated as 25% of the earnings increase or $38,061,635. Third, the increase in sales tax revenue was calculated by multiplying the taxable sales change times the average state and local rate of 7.67% or $2,919,327.[14]

The higher minimum wage may decrease sales tax revenue to the extent that it reduces business profits, which will lower spending by business owners.

## VI. Summary and Conclusions

I was asked by counsel to evaluate the fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085.

The results of my analysis indicate:

(1) labor costs to state and local government entities, based on state auditor fiscal notes, will rise by more than $1,352,182. A more inclusive estimate indicates that state and local government labor costs will increase by $16,003,712;

[13] The same general approach is used in the State Auditor's fiscal notes for the initiatives.
[14] The average rate comes from http://taxfoundation.org/news/show/27023.html

(2) unemployment benefit costs will rise by $4,397,510 during the first year of the minimum wage increase;

(3) individual income tax revenue will rise by at most $4,078,088;

(4) the loss in corporate income tax revenue could be as high as $9,243,105;

(5) state and local sales tax revenue will rise by at most $2,919,327;

(6) during the first year: state and local governments will incur increased costs of $20,401,222; the change in state and local government revenue will range from -$2,245,690 to +$6,997,415; and the net state and local government fiscal impact will range from -$22,646,912 to -$13,403,807.

**FISCAL ANALYSIS**
**OF**
**PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085**

David A. Macpherson

David A. Macpherson, Ph.D.
March 26, 2012

# Appendix A

## Resume and Testimony of David A. Macpherson, Ph.D.

# DAVID A. MACPHERSON

3/2012

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Ph.D., Economics, The Pennsylvania State University.
B.S., Economics, The Pennsylvania State University.

## Current Positions

E.M. Stevens Professor of Economics, Trinity University, 2009-
Research Fellow, Institute for the Study of Labor (IZA), Bonn, 2004-.

## Previous Positions

Rod and Hope Brim Eminent Scholar in Economics, FSU 2004-2009.
Director, Pepper Institute on Aging and Public Policy, FSU, 2003-2009.
Abba P. Lerner Professor of Economics, FSU, 2000-2009.
Professor, Department of Economics, Florida State University, 1996-2009.
Director of Research, Pepper Institute on Aging and Public Policy, FSU, 1995-2000.
Associate Professor, Department of Economics, Florida State University, 1993-1996.
Research Associate, Pepper Institute on Aging and Public Policy, FSU, 1993-2001, 2003-2009.
Visiting Associate Professor, Department of Economics, Florida State University, 1992-1993.
Research Affiliate, Pepper Institute on Aging and Public Policy, FSU, 1992-1993, 2001-2003.
Associate Professor, Department of Economics, Miami University, 1991-1993.
Assistant Professor, Department of Economics, Miami University, 1987-1991.

## Research Areas

Labor Economics, Labor Market Aspects of Pensions, Labor Unions, Racial and Gender Differences in the Labor Market, Minimum Wage, Deregulation.

**Teaching Areas**

Principles of Microeconomics and Macroeconomics, Intermediate Microeconomics, Money and Banking, Econometrics (undergraduate and graduate), Labor Economics and Labor Relations (undergraduate and graduate).

**Books**

*Economics: Private and Public Choice*, 14th edition, Southwestern: Cincinnati, OH, 2013, with James Gwartney, Richard Stroup, and Russell Sobel. Co-author on 10th, 11th, 12th, and 13th editions as well.

Instructor's Manual for *Economics: Private and Public Choice*, 14th edition, Southwestern: Cincinnati, OH, 2013. Author for instructor's manual for 10th, 11th, 12th, and 13th editions as well.

*Union Membership and Earnings Data Book: Compilations from the Current Population Survey (2011 Edition)*, Bureau of National Affairs, Washington, D.C., with Barry Hirsch.

Previous Editions: *Union Membership and Earnings Data Book: Compilations from the Current Population Survey* (Washington: Bureau of National Affairs, 1994-2010).

Tables derived from the *Data Book* are included in U.S. Department of Commerce, *Statistical Abstract of the United States 2011,* 130th Edition (Washington: GPO, 2011), Tables 663, 665; *Statistical Abstract of the United States 2010,* 129th Edition (Washington: GPO, 2010), Tables 648, 650; *Statistical Abstract of the United States 2009,* 128th Edition (Washington: GPO, 2009), Tables 642, 644; *Statistical Abstract of the United States 2008,* 127th Edition (Washington: GPO, 2008), Tables 642, 644; *Statistical Abstract of the United States 2007,* 126th Edition (Washington: GPO, 2006), Tables 645, 647; *Statistical Abstract of the United States 2006*, 125th Edition (Washington: GPO, 2005), Tables 647, 649; *Statistical Abstract 2004-2005*, Tables 638, 640; *Statistical Abstract 2003*, Tables 656, 658; *Statistical Abstract 2002*, Tables 628, 630; *Statistical Abstract 2001*, Tables 637, 639; *Statistical Abstract 2000*, Tables 712, 714; *Statistical Abstract 1999*, Tables 718, 720; *Statistical Abstract 1998*, Tables 712, 714; *Statistical Abstract 1997*, Tables 688, 690; *Statistical Abstract 1996*, Tables 681, 683; *Statistical Abstract 1995*, Tables 695, 697; and in U.S. Department of Commerce, *State and Metropolitan Area Data Book, 1997-98*, 5th Edition (Washington: GPO, 1998), Table A-22.

*Contemporary Labor Economics*, 9th edition, McGraw-Hill: New York, NY, 2010, with Campbell McConnell and Stanley Brue. Co-author on 5th, 6th, 7th, and 8th editions as well.

*Pensions and Productivity*, W.E. Upjohn Institute for Employment Research: Kalamazoo, MI, 1998, with Christopher Cornwell and Stuart Dorsey.

**Journal Publications (Economics)**

"Computing Lost Profits in Business Interruption Litigation: A General Model," *Journal of Business Valuation and Economic Loss Analysis*, forthcoming, with Stanley Stephenson and Gauri Prakash-Canjels.

"Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," *Southern Economic Journal*, forthcoming, April 2012, with William Even.

"Growth of Participant Direction in Defined Contribution Plans," April 2010, pp. 190-208, *Industrial Relations*, with William Even.

"Managing Risk Caused by Pension Investments in Company Stock," *National Tax Journal*, September 2009, pp. 439-453, with William Even.

"Pension Investments in Employer Stock," *Journal of Pension Economics and Finance*, March 2008, pp. 67-93, with William Even.

"Defined Contribution Plans and the Distribution of Pension Wealth," *Industrial Relations*, July 2007, pp. 551-581, with William Even.

"Lost Profits Damages to New Businesses: Adjusting for Survival," *Journal of Business Valuation and Economic Loss Analysis*, October 2006, pp. 1-12, with Stanley Stephenson.

"Determinants and Effects of Employer Matching Contributions in 401(k) Plans," *Industrial Relations*, July 2005, pp. 525-549, with William Even.

"When Will the Gender Gap in Retirement Income Narrow?" *Southern Economic Journal*, July 2004, pp. 182-200, with William Even.

"Company Stock in Pension Funds," *National Tax Journal*, June 2004, pp. 299-313, with William Even.

"Wages, Sorting on Skill, and the Racial Composition of Jobs," *Journal of Labor Economics*, January 2004, pp.189-210, with Barry Hirsch.

"Racial and Ethnic Differences in Pension Wealth," *Research in Labor Economics*, 2003, pp. 203-226, with William Even.

"Do Terminated Employees Catch Up? Evidence From the Displaced Worker Survey," *Journal of Forensic Economics*, Spring/Summer 2003, pp. 185-199, with Michael Piette.

"Union Membership and Coverage Database from the Current Population Survey: Note," *Industrial and Labor Relations Review*, January 2003, pp. 349-354, with Barry Hirsch.

"The Wage and Employment Dynamics of Minimum Wage Workers," *Southern Economic Journal,* January 2003, pp. 676-690, with William Even.

"State-Level Estimates of Union Density, 1964 to Present," *Monthly Labor Review*, July 2001, pp. 51-55, with Barry Hirsch and Wayne Vroman (accompanying data online).

"The Changing Distribution of Pension Coverage," *Industrial Relations*, April 2000, pp. 199-227, with William Even.

"Occupational Age Structure and Access for Older Workers," *Industrial and Labor Relations Review*, April 2000, pp. 401-418, with Barry Hirsch and Melissa Hardy.

"Earnings, Rents, and Competition in the Airline Labor Market," *Journal of Labor Economics*, January 2000, pp. 125-155, with Barry Hirsch.

"Estimating Wage Differentials: When Does Cost-of-Living Matter?" *Economic Inquiry*, October 1999, pp. 577-598, with Mike DuMond and Barry Hirsch.

"Worker's Compensation Recipency in Union and Nonunion Workplaces," *Industrial and Labor Relations Review*, January 1997, pp. 213-236, with Barry Hirsch and Michael DuMond.

"Pensions and Training," *Industrial Relations*, January 1997, pp. 81-96, with Stuart Dorsey.

"The Consequences of Indexing Minimum Wages," *Contemporary Economic Policy,* October 1996, pp. 67-77, with William Even.

"Employer Size and Labor Turnover: The Role of Pensions," *Industrial and Labor Relations Review*, July 1996, pp. 707-728, with William Even.

"The Consequences of Non-FICA Status in State and Local Pensions," *Proceedings of National Tax Association Meetings*, 1996, with William Even.

"Wages and Gender Composition: Why Do Women's Jobs Pay Less?" *Journal of Labor Economics*, July 1995, pp. 426-471, with Barry Hirsch.

"Employer Size and Compensation: The Role of Worker Characteristics," *Applied Economics*, September 1994, pp. 897-907, with William Even

"Gender Differences in Pensions," *Journal of Human Resources*, Spring 1994, pp. 555-587, with William Even.

"Why Did Male Pension Coverage Decline in the 1980s?", *Industrial and Labor Relations Review*, April 1994, pp. 439-453, with William Even.

"Unionism and Gross Employment Flows," *Southern Economic Journal*, January 1994, pp. 427-438, with Timothy Dunne.

"The Decline of Private-Sector Unionism and the Gender Wage Gap," *Journal of Human Resources*, Spring 1993, pp. 279-296, with William Even.

"Union Membership and Coverage Data Available From the Current Population Surveys: Note." *Industrial and Labor Relations Review*, April 1993, pp. 574-578, with Barry Hirsch.

"Employer-Provided Retiree Health Insurance: Who is Covered?" *Economics Letters*, May 1992, pp. 95-99.

"Union Wage Differentials and the Effects of Industry and Local Union Density: Evidence from the 1980s," *Journal of Labor Research*, Fall 1991, pp. 419-427, with Michael Curme.

"The Effects of Extended Families and Marital Status on Housing Consumption by Black Female-Headed Households," *Review of Black Political Economy*, Winter/Spring 1991, pp. 65-84, with James Stewart.

"The Impact of Unionism on Fringe Benefit Coverage," *Economics Letters*, May 1991, pp. 87-91, with William Even.

"A Note on Ownership and Performance in Manufacturing Firms," *Southern Economic Journal*, April 1991, pp. 1164-1169, with Timothy Dunne.

"Union Membership and Contract Coverage in the United States, 1983-1988," *Industrial and Labor Relations Review*, October 1990, pp. 5-33, with Michael Curme and Barry Hirsch.

"The Gender Gap in Pensions and Wages," *Review of Economics and Statistics*, May 1990, pp. 259-265, with William Even.

"The Effect of International Competition on Union and Nonunion Wages," *Industrial and Labor Relations Review*, April 1990, pp. 434-446, with James Stewart.

"Plant Size and the Decline of Unionism," *Economics Letters*, April 1990, pp. 393-398, with William Even.

"Trade Unions and Labor's Share in U.S. Manufacturing Industries," *International Journal of Industrial Organization*, March 1990, pp. 143-51.

"The Labor Force Participation and Earnings Profiles of Married Female Immigrants," *Quarterly Review of Economics and Business*, Autumn 1989, pp. 57-72, with James Stewart.

"The Labor Supply and School Attendance of Black Women in Extended and Nonextended Households," *American Economic Review Papers and Proceedings*, May 1989, pp. 71-74, with James Stewart.

"Self-Employment and Married Women," *Economics Letters*, December 1988, pp. 281-284.

"Unionism and the Dispersion of Wages Among Blue-Collar Women," *Journal of Labor Research*, Fall 1987, pp. 395-405, with James Stewart.

**Journal Publications (Real Estate and Insurance)**

"The Use of Post-Loss Assessments in Catastrophic Financing," *Risk Insurance and Management Review*, forthcoming, with Patrick Maroney, Charles Nyce, Kathleen McCullough, James W. Newman Jr., and Cassandra Cole.

"A Meta Analysis of Selling Price and Time on the Market," *Journal of Housing Research,* Issue 2010, pp. 139-152, with Stacy Sirmans and Lynn MacDonald.

"A Comparison of Hurricane Loss Models," *Journal of Insurance Issues*, Spring 2010, pp. 31-53, with Kathleen McCullough and Cassandra Cole.

"A Review of the Development of Residual Market Mechanisms in Florida," *Journal of Insurance Regulation*, Summer 2009, pp. 55-80, with Patrick Maroney, Charles Nyce, Kathleen McCullough, James W. Newman Jr., and Cassandra Cole.

"The History of Property Tax Capitalization in Real Estate," *Journal of Real Estate Literature*, Issue 3 2008, pp. 327-343, with Dean Gatzlaff and Stacy Sirmans.

"Horizontal and Vertical Inequity in Real Property Taxation," *Journal of Real Estate Literature*, Issue 2 2008, pp. 167-180, with Dean Gatzlaff and Stacy Sirmans.

"The Title Insurance Industry: Examining a Decade of Growth," *Journal of Insurance Regulation*, Summer 2007, pp. 23-51, with Randy Dumm and Stacy Sirmans.

"The Value of Housing Characteristics: A Meta Analysis" *Journal of Real Estate Finance and Economics*, November 2006, pp. 215-240, with Stacy Sirmans, Lynn MacDonald, and Emily Zeitz.

"The Composition of Hedonic Pricing Models," *Journal of Real Estate Literature*, Issue 1 2005, pp. 3-43, with Stacy Sirmans.

"The State of Affordable Housing," *Journal of Real Estate Literature*, Issue 2 2003, pp. 133-155, with Stacy Sirmans.

"Affinity Programs and Real Estate Brokerage," *Journal of Real Estate Research*, November-December 2001, pp. 337-351, with Stacy Sirmans.

"Neighborhood Diversity and House Price Appreciation," *Journal of Real Estate Finance and Economics*, January 2001, pp. 81-97, with Stacy Sirmans.

"Forecasting Seniors Housing Demand in Florida," *Journal of Real Estate Portfolio Management*, 1999, pp. 259-74, with G. Stacy Sirmans.

**Publications in Books**

"Improving Pension Coverage at Small Firms," with William Even, in *Overcoming Barriers to Entrepreneurship*, ed. Diana Furchtgott-Roth, Rowman & Littlefield, 2008.

"Measuring Union and Nonunion Wage Growth: Puzzles in Search of Solutions" with Barry Hirsch and Edward Schumacher, in *Changing Role of Unions: New Forms of Representation*, Phanindra Wunnava, M.E. Sharpe, 2004.

"Living Wage Laws and the Case for a Targeted Wage Subsidy," in *Living Wage Movements: Global Perspectives*, ed. Deborah M. Figart, Routledge, 2004.

"Benefits and Worker Productivity," with William Even, in *Benefits for the Workplace of Tomorrow,* eds. Olivia S. Mitchell, David S. Blitzstein, Michael S. Gordon, and Judith F. Mazo, University of Pennsylvania Press, 2003.

"Children's Effects on Women's Labor Market Attachment and Earnings," with William Even, in *Changes in Working Time in Canada and the United States*, eds. Susan Houseman and Alice Nakamura, W.E. Upjohn Institute, 2001.

"Downsizing and Life Course Consequences of Job Loss: The Effect of Age and Gender on Employment and Income Security," with Jill Quadagno, Jennifer Reid, and Lori Parham, in *Restructuring Work and the Life Course*, eds. Victor Marshall, Walter Heinz, Helga Krueger, and Anil Verma, University of Toronto Press, 2001.

"The Effect of a Job Loss on the Employment Experience, Benefits, and Retirement Savings of Bank Officers," with Jill Quadagno and Jennifer Keene, in *Ensuring Health and Income Security for an Aging Workforce*, ed. Peter P. Budetti, W.E. Upjohn Institute, 2001.

"Earnings and Employment in Trucking: Deregulating a Naturally Competitive Industry," with Barry Hirsch, in *Regulatory Reform and Labor Markets*, ed. James Peoples, Kluwer Publishers, 1998.

"Gender-Related Differences in Pension Coverage," with William Even, in *Women and Work: A Handbook*, Garland Publishing, New York, NY, 1996.

"The Pension Coverage of Young and Mature Workers", with William Even, in *Pension Coverage Issues for the '90s*, eds. Richard Hinz, John Turner, and Phyllis Fernandez, U.S. Government Printing Office, Washington, D.C, 1994.

**Working Papers (Economics)**

"Deferred Compensation vs. Efficiency Wages: An Experimental Test of Effort Provision and
Self-Selection," with Tim Salmon and Kislaya Prasad, under review, *Journal of Business and Economic Organization*

"What Do Unions Do to Pension Performance?" with William Even, September 2011, under revision

"Teacher Salaries, State Collective Bargaining Laws, and Union Coverage" March 2011, with Barry Hirsch and John Winters.

"The Effects of the 2007-2009 Federal Minimum Wage Increases on Teen Employment," with William Even, under revision, July 2010.

"Participant Direction in Defined Contribution Plans," April 2006, with William Even, under revision.

"Do Pensions Impede Phased Retirement?" September 2004, with William Even, under revision.

**Working Papers (Real Estate and Insurance)**

"An Empirical Analysis of Socio-Demographic Factors and the Mispricing of Homeowners Insurance in Florida," under review *Journal of Financial Services Research*, with Ronald Cheung, Charles Nyce, Kathleen McCullough, and Cassandra Cole.

"The Impact of No-Fault Legislation on Automobile Insurance Premiums," revised and resubmitted to *North American Actuarial Journal*, with Cassandra Cole, Kevin Eastman, Patrick Maroney, and Kathleen McCullough.

**Funded Projects**

Employment Policies Institute, 5/2010-7/2010, $16,500 (Trinity University portion), "Employment Effects of the 2007-2009 Federal Minimum Wage Increases," with William Even.

National Science Foundation, 9/2009-8/2012, $125,866 (Trinity University portion), "Incentives in the Workplace: An Experimental Examination of How Wage Differences Across Time and Among Peers Affect Productivity and Self-Selection," with Tim Salmon, Kislaya Prasad, and Hyejin Ku.

Florida Legislature, 10/2007-6/2009, $175,000, "Child Support Guidelines," with Stefan Norrbin and Thomas McCaleb.

Florida Legislature (through University of Florida), 12/2006-9/2007, $223,000, "Analysis of Save our Homes Amendment," with Dean Gatzlaff.

U.S. Administration on Aging (through University of South Florida), 5/2005-9/2007, $175,000, "Employment in the Long-Term Care Industry: The Importance of Recruitment and Retention," with William Even.

Florida Legislature, 2/2003-8/2004, $175,000, "Child Support Guidelines," with Stefan Norrbin and Thomas McCaleb.

Florida Department of Environmental Protection, 6/2002-2/2003, $94,157, "Affordability Index," with Stefan Norrbin and William Serow.

University of South Carolina, 4/2000-11/2000, $10,000, "Minority Homeownership in South Carolina," with Stacy Sirmans.

Florida Department of Business and Professional Regulation, 3/1999-6/1999, $21,739, "Forecasting Housing Demand in Florida," with Stacy Sirmans.

University of South Carolina, 4/1999-11/1999, $10,000, "Forecasting Housing Demand in South Carolina," with Stacy Sirmans.

Florida State University, 6/1999-8/1999, $7,500, "Support for Preparing ECO 2000 as a Web-Based Course."

TIAA-CREF, 8/1998-8/1999, $23,000, "Determinants of Savings in Supplemental Pension Plans: A Case Study of Pension Choices in Higher Education," with Melissa Hardy and Larry Hazelrigg.

Florida Department of Business and Professional Regulation, 4/1998-6/1998, $16,638, "Forecasting Seniors' Demand for Housing in Florida," with Stacy Sirmans.

Florida Department of Business and Professional Regulation, 12/1997-6/1998, $18,472, "Housing Price Appreciation in Orlando and Tampa," with Stacy Sirmans.

Florida State University, 6/1998-8/1998, $7,500, "Support for Preparing ECO 2000 as a Web-Assisted Course."

Florida Department of Business and Professional Regulation, 3/1997-6/1997, $17,898, "Minority Homeownership in Florida," with Stacy Sirmans.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 12/1996-8/1997, $20,000, "The Impact of Rising 401(k) Pension Coverage on Retirement Income," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 3/1996-6/1997, $15,000, "The Determinants of 401(k) Participation and Contribution Levels," with William Even.

Florida Department of Business and Professional Regulation, 4/1996-6/1996, $22,702, "Forecasting the Number of New Florida Real Estate Licensees," with Stacy Sirmans.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 3/1995-6/1996, $15,000, "Explaining the Decline in Pension Coverage of Less Educated Workers," with William Even.

Florida State University COFRS Grant, 6/1994-8/1994, $8,000, "The Relative Compensation and Quality of Public and Private Sector Workers."

W.E. Upjohn Institute for Employment Research, 3/1994-12/1995, $35,000, "Pensions and Productivity," with Stuart Dorsey and Christopher Cornwell.

Florida Division of Workers' Compensation, 1/94-12/1995, $100,000, "Worker's Compensation Recipency in Union and Nonunion Workplaces," part of a service contract titled "Research Partnership with the Division of Workers' Compensation," co-investigator (one of several).

University of Wisconsin Institute for Research on Poverty Small Grant Program, 7/1993-6/1994, $15,000, "Racial Composition, Wages, and Quality Sorting," with Barry Hirsch.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 7/1993-6/1993, $10,000, "Trends in Individual and Family Pension Coverage," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 6/1992-5/1993, $10,000, "The Pension Coverage of Young and Mature Workers," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration and American Society of Pension Actuaries, 6/1991-5/1992, $10,000, "A Conference on Current Pension Policy Issues," with William Even.

Miami University Faculty Research Grant, 6/1991-8/1991, $4,000, "Projected Growth in Retiree Health Insurance Liabilities."

Ohio Board of Regents Research Challenge Grant, 1/1990-12/1990, $4,980, "Proposal to Enhance the Data Library of the Center of Pension and Retirement Research," with William Even and Samuel Williamson.

Miami University Faculty Research Grant, 6/1990-8/1990, $4,000, "The Role of Firm Size in Pension Coverage and Options."

Miami University Faculty Research Grant, 6/1989-8/1989, $4,000, "Declining Unionism and the Gender Wage Gap," with William Even.

**Participation in National Meetings**

Panel Discussant, American Real Estate and Urban Economics Association/ASSA meetings, January 2008.

Presented, "Employee Turnover in the Long-Term Care Industry," at Academy Health Annual Research Meetings, June 2007.

Presented, "Participant Direction in Defined Contribution Pension Plans," at International Atlantic Economic Society meetings, October 2006.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at International Atlantic Economic Society meetings, October 2005.

Presented, "Replacing Earnings After Termination: Evidence from the Displaced Worker Survey," at the Allied Social Science Association/National Association of Forensic Economics, January 2002.

Presented, "Labor Market Transitions of Older Workers," at the Allied Social Science Association/Society of Government Economists meetings, January 1999.

Presented, "Why has the Loss in Pension Coverage Accelerated Among Less Educated Workers?" at the American Economic Association Meetings, 1995.

Presented, "Wages and Gender Composition: Why Do Women's Jobs Pay Less?" at the American Economic Association Meetings, 1994, with Barry Hirsch.

Presented, "Pensions, Labor Turnover, and Employer Size" at the American Economic Association Meetings, 1993, with William Even.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the American Economic Association meetings, 1992, with William Even.

**Participation in Regional Meetings**

Presented "Unions and Pension Performance: The Role of Pension Design," at Southern Economics Association meetings, November 2009.

Panel member, "Recent Federal Reserve Policy: An Evaluation" at Southern Economics Association meetings, November 2009.

Discussant, "Topics in Health Economics," at Southern Economics Association meetings, November 2009.

Discussant, "Teacher Pay, Principals, and Schooling," at Southern Economics Association meetings, November 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Western Economic Association meetings, July 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Eastern Economic Association meetings, February 2009.

Panel Discussant at the Southern Economic Association meetings, November 2008.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Southern Economic Association meetings, November 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Western Economic Association meetings, July 2008.

Chair "Pensions and Retirement" Session at Southern Economic Association meetings, November 2007.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Southern Economic Association meetings, November 2007.

Presented, "Participant Direction in Defined Contribution Pension Plans," at Southern Economic Association meetings, November 2006.

Panel Discussant, Southern Economic Association meetings, November 2005.

Presented, "Do Pensions Impede Phased Retirement?" at the Southern Economic Association meetings, November 2004.

Presented, "When Will the Gender Gap in Retirement Income Narrow?" at the Southern Economic Association meetings, November 2003.

Presented, "How Will the Growth of DC and 401(k) Plans Affect Pension Income?" at the Southern Economic Association meetings, November 2002.

Presented, "Racial Composition, Wages, and Quality Sorting," at the Southern Economic Association meetings, November 1999.

Presented, "Racial and Ethnic Differences in Pension Coverage and Benefit Levels," at the Southern Economic Association meetings, November 1998.

Presented, "Factors Influencing Participation and Contribution Levels in 401(k) Plans," at the Western Economics Association meetings, July 1998.

Presented, "Aging at Work: Employment Determination, Firm Strategies, and Public Policy in the United States," at the Western Economic Association meetings, July 1994.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Western Economic Association meetings, July 1992.

Presented "Plant Size and the Decline of Unionism," at the Southern Economic Association meetings, 1989, with William Even.

Panel Discussant, Southern Economic Association meetings, November 1989.

Presented "The Labor Force Participation and Earnings Profiles of Married Female Immigrants," at the Southern Economic Association meetings, November 1988.

Presented "Pensions, Screening, and the Gender Wage Gap," at the Southern Economic Association meetings, November 1988.

Session Chair and Panel Discussant at the Southern Economic Association meetings, November 1988.

**Participation in Invited Seminars, Conferences, and other Presentations**

Presented, "Teaching Macroeconomics During Troubled Times," at Creative Ideas for Your Basic Economics Course Conference at Florida State University, February 2012.

Presented, "Participant Direction in Defined Contribution Pension Plans," at Pennsylvania State University, April 2010.

Presented, "The Parallels Between the Japanese Economic Crisis of the 1990s and the US Today" at Creative Ideas for Your Basic Economics Course Conference at Florida State University, February 2010.

Chair "Minimum Wage & EITC" Session at Society of Labor Economists meetings, May 2009.

Presented "Participant Direction in Defined Contribution Plans," at Lehigh University, April 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Association of Private Enterprise Education meetings, April 2009.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Trinity University, October 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Georgia State University, April 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Association of Private Enterprise Education meetings, April 2008.
Presented, "Improving Pension Coverage at Small Firms," at Hudson Institute, May 2006.

Presented, "Participant Direction in Defined Contribution Plans," at Society of Labor Economics meetings, May 2006.

Presented, "Participant Direction in Defined Contribution Plans," at Association of Private Enterprise Education meetings, April 2006.

Presented, "Participant Direction in Defined Contribution Plans," at University of Wisconsin-Milwaukee, April 2006.

Invited Panel Participant for Pepper Foundation and Center Symposium on pension reform, Washington, DC, February 2006.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at West Virginia University, April 2005.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at the University of Kentucky, November 2004.

Presented, "The Causes and Consequences of Company Stock Holdings in Pension Funds," at the Federal Reserve Bank of Atlanta, April 2004.

Presented, "The Causes and Consequences of Company Stock Holdings in Pension Funds," at the University of Oklahoma, February 2004.

Presented, "Tracking Union and Nonunion Wages in the U.S.: Can the Evidence be Reconciled?" at the Middlebury Annual Conference on Economic Issues, April 2002.

Presented, "How Will the Growth of DC and 401(k) Plans Affect Pension Income?" at the Miami University Center for Pension and Retirement Research Conference, June 2001.

Presented, "Benefits and Worker Productivity," Benefits for the Workplace of Tomorrow Conference, Wharton School, University of Pennsylvania, May 2001.

Participant, Innovations in Managing the Financial Risks of Retirement Conference, Wharton School, University of Pennsylvania, May 2000.

Presented "Using Hi-Tech in Large Lectures," at Association of Private Enterprise Education meetings, April 2000.

Presented "Employee Participation in 401(k) Plans," at University of Wisconsin-Milwaukee, October 1999.

Presented "Gender, Race, and Ethnicity in the Labor Market," as part of the Smith Chair course in Labor Economics at Brigham Young University, September 1999.

Presented, "The Decline in Pension Coverage Among Less Educated Workers," at the Florida State University Economics Department Seminar Series, 1996.

Presented, "Children's Effects on Women's Labor Market Attachment and Earnings" at the Conference on the Changes in Working Time in Canada and the United States, Canadian Employment Research Forum, 1996.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" at the Ohio State University Economics Department Seminar Series, 1996.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" at the Florida State University Economics Department Seminar Series, 1995.

Presented, "Employer Size and Labor Turnover: The Role of Pensions," at Syracuse University, 1995.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" while visiting scholar at the Federal Reserve Bank of Cleveland, 1995.

Presented, "Trends in Individual and Household Pension Coverage," at the Miami University Center for Pension and Retirement Research Conference, 1994.

Presented, "Racial Composition, Quality Sorting, and the Black-White Wage Gap" at the University of Wisconsin, Institute for Research on Poverty, Small Grants Workshop, 1993, with Barry Hirsch.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Florida State University Economics Department Seminar Series, 1992.

Participant at National Bureau of Economic Research (NBER) Labor Studies meetings of the Summer Institute, 1992.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Miami University Conference on Current Pension Policy Issues, 1992.

Organizer and participant at conference on "Contemporary Issues in Pension Economics," hosted by the Center for Pension and Retirement Research, Miami University, 1990.

Presented "The Effect of International Competition on Union and Nonunion Wages," at the University of Cincinnati Seminar Series, 1987.

**Refereeing**

*Bulletin of Economic Research, Canadian Journal of Economics, Contemporary Economic Policy, Eastern Economics Journal, Economic Development and Cultural Change, Economic Inquiry, Industrial Relations, Industrial and Labor Relations Review, International Economic Review, Journal of Economics and Business, Journal of Human Resources, Journal of Labor Economics, Journal of Labor Research, Journal of Pension Economics and Finance, Labour Economics, Mid-American Journal of Business, Policy Studies Review, Quarterly Journal of Economics, Quarterly Review of Economics and Finance, Real Estate Economics,* Review *of Economics and Statistics, Social Science Quarterly, Southern Economic Journal*

Outside reviewer for Department of Economics, UNC-Greensboro, Georgia State University.

Promotion and tenure letters for candidates at Georgia State University, Kansas State University, Monmouth University, Ohio State University, University of Massachusetts, University of Southern California, and University of Wisconsin-Milwaukee.

**Honors and Awards**

Awarded sabbatical, Trinity, Fall 2011.

Nominated for FSU Award for Excellence in Undergraduate Teaching, Spring 2005.

Named Rod and Hope Brim Eminent Scholar in Economics, FSU, Fall 2004.

Research Fellow, Institute for the Study of Labor (IZA), Bonn, 2004-.

*Who's Who in Economics, Fourth Edition*, Mark Blaug and Howard Vane (eds), Edward Elgar Publishing, 2003, pp. 524 (selection criteria: one of the 1,200 most frequently cited economists in the years 1990-2000 using the Social Science Citation Index).

Awarded Abba Lerner named professorship, FSU, Spring 2000.

Awarded sabbatical, FSU, Spring 2000.

Received FSU Award for Excellence in Undergraduate Teaching, Spring 2000.

Received FSU Teaching Incentive Program Award, Fall 1995.

Nominated for FSU Award for Excellence in Undergraduate Teaching, Spring 1994.

Nominated for Outstanding Teaching Award, Associated Student Government, Miami University,1992.
Selected by the Miami University Sisters of Delta Gamma for a "Favorite Professor Award" in Fall 1990.

Honorary Member of Golden Key National Honor Society, Fall 1989.

Selected by the Sisters of Delta Gamma as "One of the twenty five most outstanding faculty members at Miami University" in Fall 1988.

**Service**

Vice President, Southern Economic Association, 2011-

Trinity University

Dick and Peggy Prassel Professor of Business Administration Search Committee, 2011
Faculty and Staff Compensation Committee, 2010-2011
Student Retention Committee, 2010

Florida State University

University and College Committees:

Member, GPC subcommittee for Marketing, Spring 2008.
Member, Graduate Policy Committee, Fall 2007-.
Chair, GPC subcommittee for Political Science, Fall 2006.
Member, Title IV Admissions Attendance Committee, Fall 2003-Spring 2004.
Member, College of Social Sciences Executive Committee, Fall 2003-.
Member, Ad Hoc Committee on COSS Technology, Spring 2003.
Member, Computing and Information Resource Committee, Fall 1999-.
Member, Academic and Policy Affairs Committee, Fall 1996-Spring 1998.

Economics Department Committees:

Member, Ad Hoc Committee on Economics 2000 Level Courses, Spring 1999.
Member, Undergraduate Economics Committee, Fall 1998-
Member, Economics Department Executive Committee, Fall 1994-Spring 1995, Fall 1996-Spring 1999, Fall 2000-.
Economics Department Library Representative, Fall 1993-.
Micro/Macroeconomics Seminar Coordinator, Fall 1993-Spring 1995, Fall 1998-Fall 1999, Fall 2001, Fall 2006-.

Comprehensive Examination Committees:

Member, Masters Comprehensive Exam Committee, Spring 1994.
Member, Ph.D. Labor Field Exam Committee, Fall 1992, Spring 1994, Fall 1994, Fall 1995, Fall 1996, Spring 1997, Spring 1998.
Chair, Masters Comprehensive Exam Committee, Fall 1994, Spring 1998.
Chair, Ph.D. Labor Field Exam Committee, Spring 1993-Fall 1993, Spring 1995, Spring 1996, Spring 2000, Spring 2001, Fall 2001.

Miami University

Computing Task Force, Department of Economics, 1991-92.
Recruiting Committee, Department of Economics, 1990-92.
Economics Club Advisor, 1988-1991.
Research Associate, Center for Pension and Retirement Research, 1988-92.
Delta Sigma Pi Chapter Advisor, 1988-89.
Student Finance Committee, Student Affairs Council, 1988-89.
Omicron Delta Epsilon Advisor, 1987-88.

**Theses, Extended Papers, and Dissertations**

Undergraduate Honors Thesis:

Chair, Leela Hebbar, 1995

Member, Nicole Cubies, 2006
Member, John Stutts, 2006
Member, Todd Crannell, 2000
Member, Mark Plotnick, 2000
Member, Bobby Pittman, 1998

MS Thesis and Extended Paper:

Chair, Maria Arce-Trigatti, 2009
Chair, George Holescko, 2000
Chair, J. Michael DuMond, 1994

Member, Shael Wolfson, 2000

Member, Lehr Eliason, 2000
Member, Steve Muri, 2000
Member, Ken Meier, 1998
Member, Tarteshia Williams, 1995
Member, Richard Page, 1994

PhD Dissertation:

Chair, James Farrell, 2009
Chair, Mark Keightley, 2008
Chair, Ali Al-Malki, 2007
Chair, Carter Doyle, 2005
Chair, Edward Wolpert, 1998
Chair, J. Michael DuMond, 1997

Member, Bogdan Daraban, 2007
Member, Russell Engel, 2007
Member, Li Feng, 2006
Member, Chuck Skipton, 2003
Member, Nicole Yurgin, 2003
Member, Jennifer Troyer, 1999
Member, Josefina Tranfa, 1999
Member, Shaliesh Bandarhi, 1998
Member, James Freeman, 1998
Member, Brian Nottage, 1998
Member, Ben Shippen, 1995
Member, Ed Schumacher, 1994

Outside Member, Stephanie Burge, Sociology, 2006
Outside Member, Reg Albritton, Special Education, 2005
Outside Member, Kim Shuey, Sociology, 2001
Outside Member, Andrea Willson, Sociology, 2001
Outside Member, Phyllis Keys, Finance, 1998

# David A. Macpherson

Depositions and Trial Testimony: 2008 to 2012

1. Angela Speed and Adrian Speed vs. Hertz Corporation
   Atty: Dawn Pompey Whitehurst; Brevard County, Florida; gave deposition; wrongful injury; 2008; Case No: 05-2005-CA-065447

2. Patricia Morrison vs. Anthony Mork and Microspine Surgery
   Atty: Steven Andrews; Walton County, Florida; testified at trial; wrongful injury; 2008; Case No: 06000249CA.

3. James Tomaselli vs. State of Florida, Department of Corrections
   Atty: Gordon Leech; Martin County, Florida; gave deposition; wrongful termination; 2008; Case No: 01-554-CA.

4. Russell Martin, et al. v. City of Atlanta, et al.
   Atty: Andrew Coffman; U.S. District Court, Northern District of Georgia, Atlanta 5Division; gave deposition; racial discrimination; 2008; Case CA File No: 1:07-cv-00326-BBM

5. McCabe, et al. v. Harmon Fruit, et al.
   Atty: Larry Perry; Polk County, Florida; gave deposition; wrongful death; 2008; Case 53-2005-CA-003612-0000-00

6. Thomas Faulkner v. Michael Chertoff and Department of Homeland Security
   Atty: John Davis; U.S. District Court; Northern District of Florida; gave deposition; wrongful termination; 2009; Case 4:08CV341-SPM/WCS

7. Matthew Debord and Tabitha Debord vs. G & S Material Service et al.
   Atty: Hubert Brown; U.S. District Court; Northern District of Florida; gave deposition; wrongful injury; 2009; Case 3:07cv365-LAC/MD

8. Jessica Loveday vs. USA
   Atty: Anthony Caggiano; U.S. District Court; Northern District of Florida; gave deposition; wrongful injury; 2009; Case 1:08cv205/SPM

9. Julia Keyes vs. AIG
   Atty: Larry Perry; Jackson County, Florida; gave deposition; wrongful injury; 2009; Case 08706CA

10. Estate of Linda DePuy vs. Broeseker et al.
    Atty: Steve Andrews; Leon County, Florida; gave deposition; wrongful death; 2009; Case 2007 CA 2509

11. Oliver and Sollman vs. VSoft Inc.
    Atty: Larry Pankey; U.S. District Court, Northern District of Georgia, Atlanta Division; gave deposition; age discrimination; 2009; Case CA File No: 1:09-CV-0185

12. Yolanda Young vs. Covington and Burling, LLP
    Atty: Latif Damon; U.S. District Court for the District of Columbia; gave deposition; racial discrimination; 2009; Case CA File No: 1:09-CV-0464 RBW

13. Deborah Suboh vs. Mark Bergeson et al.
    Atty: Stephanie Wright and Charlotte Perrell; Georgia, Dekalb County; Case 07A77585-5, gave deposition; legal malpractice; 2010.

14. Rolando Simmons vs. Davis and Peterson
    Atty: Hubert Brown; Florida, Calhoun County; Case 2008-0150-CA, gave deposition and testified at trial; medical malpractice; 2010.

15. Lorie J. Marshall, et al. vs. H & R Block Tax Services, Inc.
    Atty: Allan Steyer; U.S, U.S. District Court
    Southern District of Illinois; Case No. 3:08-CV591-MJR; gave deposition; consumer damages; 2010.

16. Daren Davis vs. Joseph Austin and Terry Roberts Work Site
    Atty: Anthony Caggiano; Florida, Osceola County; gave deposition; wrongful injury; 2010; Case 2006 CA 002997 AN

17. David Darrow vs. Adventist Health Systems/Sunbelt Inc.
    Atty: Anthony Caggiano; Florida, Orange County; gave deposition; wrongful injury; 2010; Case 48-2009-CA-004897-0

18. Samuel Gonzalez vs. Gurdev Singh Nijjar et al.
    Atty: Ramon Rodriguez; Texas, El Paso County; gave deposition; wrongful injury; 2010; Case 2007-011

19. John Davis vs. Devereux Foundation.
    Atty: Thomas Brown; Florida, Brevard County; gave deposition; wrongful injury; 2010; Case 99-15992-CA-F

20. Al Kowalski vs. et al. YellowPages.Com, LLC
    Atty: Peter Pearlman; U.S. District Court Southern District of New York; Case No. 10-7318 (PGG); gave deposition; consumer damages; 2011.

21. Christina Glover and Jason Glover vs. Publix Super Markets
    Atty: Phelicia Steill; Florida, Leon; Case No. 08 CA 2695; gave deposition; wrongful injury; 2011.

22. Lissette Cartagena and William Cartagena vs. Bracero et al.
    Atty: Thomas Brown; Florida, Orange County; Case No. 07-CA-2645 DIV 34; gave deposition and testified at trial; wrongful injury; 2011.

23. Lillie Conyers and James Conyers vs. Werner Enterprises et al.
    Atty: Thomas Brown; Florida, Jackson County; Case No. 09-1174-CA; gave deposition; wrongful injury; 2011.

24. Shannon McCants vs. Wackenhut Corporation
    Atty: Dawn Pompey Whitehurst; Duval County, Florida; gave deposition and testified at trial; wrongful death; 2011; Case No: 16-2008-CA-014834

25. Christina Whipple versus R.E.S.A, Inc.
    Atty: Susan Haney; Bexar County, Texas; gave deposition; business damages; 2011; Case No.: 2009-CI-17074

26. Daniel Plouffe, et al. versus General Motors, LLC
    Atty: Michael Pitt; Wayne County, Michigan; gave deposition; age discrimination; 2012; Case No.: Case No. 11-007645-CL

27. Johnny Cash versus State Farm
    Atty: Steven Andrews; Leon County, Florida; testified at trial; wrongful injury; 2012; Case No.: Case No. 10-CA-2429

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Higher Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College**.

**Fiscal Note Summary**

Increased state and local government expenses resulting from this proposal could exceed $216 million annually if funding is appropriated. State and local government tax revenue could increase by more than $249 million annually; however, employment decisions made by businesses could impact this estimate.

16-066

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

July 22, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Lara Granich regarding a proposed statutory amendment to Chapter 290, version 4 (2016-066)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Lara Granich on July 21, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

RECEIVED
JUL 22 2015
STATE AUDITORS OFFICE

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-066

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____

(Name of payer) Signature of Affiant (Person obtaining signatures)

_____

Printed Name of Affiant

_____

Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____

Signature of Notary

_____

My commission expires _____. Address of Notary (Street, City, State & Zip Code)

16-Add

# Statutory Amendment to Chapter 290, RSMo, Relating to the Minimum Wage, Version 4

*Be it enacted by the people of the State of Missouri:*

Sections 290.502, 290.512, and 290.527 are amended and a new section to be known as section 290.529 is enacted to read as follows:

§ 290.502. Minimum wage rate -- increase or decrease, when

1. Except as may be otherwise provided pursuant to sections 290.500 to 290.530, effective January 1, 2007, every employer shall pay to each employee wages at the rate of $ 6.50 per hour, or wages at the same rate or rates set under the provisions of federal law as the prevailing federal minimum wage applicable to those covered jobs in interstate commerce, whichever rate per hour is higher.

2. The minimum wage shall be increased or decreased on January 1, 2008, and on January 1 of successive years, by the increase or decrease in the cost of living. On September 30, 2007, and on each September 30 of each successive year, the director shall measure the increase or decrease in the cost of living by the percentage increase or decrease as of the preceding July over the level as of July of the immediately preceding year of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) or successor index as published by the U.S. Department of Labor or its successor agency, with the amount of the minimum wage increase or decrease rounded to the nearest five cents.

3. Except as may be otherwise provided pursuant to sections 290.500 to 290.530, notwithstanding subsection 1 of this section, effective January 1, 2017, every employer shall pay to each employee wages at the rate of $9.00 per hour, and effective January 1, 2018 at the rate of $10.00 per hour, and effective January 1, 2019 at the rate of $11.00 per hour, and effective January 1, 2020 at the rate of $12.00 per hour, and effective January 1, 2021 at the rate of $13.00 per hour, and effective January 1, 2022 at the rate of $14.00 per hour, or wages at the same rate or rates set under the provisions of federal law as the prevailing federal minimum wage applicable to those covered jobs in interstate commerce, whichever rate per hour is higher. Thereafter, the minimum wage rate shall be increased or decreased on January 1, 2023, and on January 1 of successive years, per the method set forth in subsection 2 of this section; but, if the federal minimum wage rate is above or is thereafter increased above the minimum wage rate then in effect under this subsection, the higher federal rate shall become the minimum wage rate for as long as it remains higher and shall be increased or decreased per the method set forth in subsection 2.

4. Every employer that is a public body shall pay to its employees wages at the rates established by subsection 3 of this section only provided there are appropriations for wages at those rates. If appropriations are not provided, the public body shall continue to be subject to the requirements of subsections 1 and 2 of this section. As used in this subsection, a public body means the state of Missouri, or any officer, agency, department, bureau, or division, board or commission of the state, or any municipality, county, township, authority, district, or any other political subdivision of or within the state.

**§ 290.512. Gratuities, goods or services as part of wages, effect on minimum wage requirement**

1. No employer of any employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages in excess of fifty percent of the minimum wage rate specified in sections 290.500 to 290.530, however, total compensation for such employee shall total at least the minimum wage specified in sections 290.500 to 290.530, the difference being made up by the employer.

2. Notwithstanding subsection 1 of this section, effective January 1, 2017, no employer of any employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages in excess of sixty percent of the minimum wage rate specified in sections 290.500 to 290.530, however, total compensation for such employee shall total at least the minimum wage specified in sections 290.500 to 290.530, the difference being made up by the employer.

3. A public body that is the employer of an employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages at the rates established by subsection 2 of this section only provided there are appropriations for wages at those rates. If appropriations are not provided, the public body shall continue to be subject to the requirements of subsection 1 of this section. As used in this subsection, a public body is defined as in subsection 4 of section 290.502.

[2.] 4. If an employee receives and retains compensation in the form of goods or services as an incident of his employment and if he is not required to exercise any discretion in order to receive the goods or services, the employer is required to pay only the difference between the fair market value of the goods and services and the minimum wage otherwise required to be paid by sections 290.500 to 290.530. The fair market value of the goods and services shall be computed on a weekly basis. The director shall provide by regulation a method of valuing the goods and services received by any employee in lieu of the wages otherwise required to be paid under the provisions of sections 290.500 to 290.530. He shall also provide by regulation a method of determining those types of goods and services that are an incident of employment the receipt of which does not require any discretion on the part of the employee.

**§ 290.527. Action for underpayment of wages, employee may bring--limitation**

Any employer who pays any employee less wages than the wages to which the employee is entitled under or by virtue of sections 290.500 to 290.530 shall be liable to the employee affected for the full amount of the wage rate and an additional [equal] amount equal to twice the unpaid wages as liquidated damages, less any amount actually paid to the employee by the employer and for costs and such reasonable attorney fees as may be allowed by the court or jury. The employee may bring any legal action necessary to collect the claim. Any agreement between the employee and the employer to work for less than the wage rate shall be no defense to the action. All actions for the collection of any deficiency in wages shall be commenced within [two] three years of the accrual of the cause of action.

§ 290.529. Severability

All the provisions of sections 290.500 to 290.530 are severable. If any provision, including any section, subsection, subdivision, paragraph, sentence, or clause, of sections 290.500 to 290.530, or the application thereof to any person or circumstance, is found by a court of competent jurisdiction to be invalid, unconstitutional, or unconstitutionally enacted, such decision shall not affect other provisions or applications of sections 290.500 to 290.530 that can be given effect without the invalid, unconstitutional, or unconstitutionally enacted provision or application.

2015 JUN 16

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-066)**

## Subject

Initiative petition from Lara Granich regarding a proposed amendment to Chapter 290 of the Revised Statutes of Missouri. (Received July 22, 2015)

## Date

August 11, 2015

## Description

This proposal would amend Chapter 290 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Lara Granich** provided information as a proponent of the proposal to the State Auditor's office.

**Edward D. Greim** provided information as an opponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated Section 290.502.3 (for each initiative petition) would require the department to increase wages for several employees each year assuming the money is appropriated for the increase. For each hourly increase proposed, they prepared the estimated increased expenditures on wages per year over the current wages expenditures.

Cost to increase:

- $9.00/hr = $915.20/yr
- $10.00/hr = $1,955.20/yr
- $11.00/hr = $3,995.20/yr
- $12.00/hr = $14,238.61/yr
- $13.00/hr = $39,318.02/yr
- $14.00/hr = $78,388.75/yr

They calculated these increased costs by assuming full-time workers work an average of 2087 hours/year. They assumed part-time workers work an average of 20 hours/week for an average of 1040 hours/year.

Officials from the **Department of Elementary and Secondary Education** indicated the total estimated costs for all state funds will be $0 for FY (fiscal year) 2017, $7,078 for FY 2018, $87,363 for FY 2019, $347,819 for FY 2020, $790,578 for FY 2021, $1,164,782 for FY 2022, and $641,738 for FY 2023.

Officials from the **Department of Health and Senior Services** (DHSS) indicated the total estimated net cost for all state funds will be $5,658,266 for FY 2017, $24,757,841 for FY 2018, $53,680,575 for FY 2019, $87,815,607 for FY 2020, $127,886,685 for FY 2021, and $174,707,511 for FY 2022.

DHSS defers to the Office of Administration regarding the statewide fiscal impact of this proposed legislation relating to state employee wages.

Small Medicaid Home and Community Based Services (HCBS) vendors and providers would be required to ensure attendants are paid a minimum of $9.00 per hour for calendar year 2017, $10.00 per hour for calendar year 2018, $11.00 per hour for calendar year 2019, $12.00 per hour for calendar year 2020, $13.00 per hour for calendar year 2021, and $14.00 per hour for calendar year 2022.

DHSS assumes HCBS providers and vendors would request an increase in the reimbursement rate to offset the higher minimum wage rate.

- The average growth in units of service per year from Fiscal Year 2012 to Fiscal Year 2014 is 9.39 percent. (Units are included from Agency Model Personal Care, Residential Care Facility Personal Care, Consumer Directed Services Personal Care, Adult Day Care, Independent Living Waiver Personal Care, Advanced Personal Care Agency Model, Advanced Personal Care Residential Care Facility, Basic In-Home Respite, Advanced Respite, Healthy Children and Youth Waiver Personal Care, Healthy Children and Youth Program Advanced Personal Care, AIDS Waiver Personal Care, and Medically Fragile Adult Waiver Attendant Care .) Fiscal Year 2014 actual units of service (168,363,392) were multiplied times the 9.39 percent average growth rate, which yields an estimated 220,371,779 units of service for Fiscal Year 2017; 241,060,146 for Fiscal Year 2018; 263,690,724 units for Fiscal Year 2019; 288,445,846 units for Fiscal Year 2020; 315,524,964 units for FY 2021; and 345,146,253 units for FY 2022.
- Actual wage data for the individuals involved in delivery of units of service is not available, but DHSS has been advised that the current average wage for personal care attendants is $8.50 + $0.89 in taxes (taxes at 10.45 percent) equals $9.39 per hour, or $2.35 per 15 minute unit.
- The analysis determines the difference between the proposed unit rate for wages and taxes versus the current average wage rate for wages and taxes.
- Services would be reimbursed at the Federal Medical Assistance Percentage (FMAP) rate. For this estimate, DHSS is using FY 2016 blended rate of 36.68 percent General Revenue and 63.32 percent Federal.
- The implementation date is 1/1/2017 for $9.00 per hour for calendar year 2017; one-half of Fiscal Year 2017.
- The implementation date is 1/1/2018 for $10.00 per hour for calendar year 2018.
- The implementation date is 1/1/2019 for $11.00 per hour for calendar year 2019.
- The implementation date is 1/1/2020 for $12.00 per hour for calendar year 2020.
- The implementation date is 1/1/2021 for $13.00 per hour for calendar year 2021.
- The implementation date is 1/1/2022 for $14.00 per hour for calendar year 2022.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated they defer to the Office of Administration for response to this petition regarding their employee cost as it relates to raising the minimum wage.

With regard to other issues this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated they defer to the Office of Administration for the fiscal impact.

Officials from the **Department of Natural Resources** indicated the estimated total costs for salaries, fringe benefits, equipment and expenses for all state funds will be $111,081 for FY 2017, $273,155 for FY 2018, $335,573 for FY 2019, $381,796 for FY 2020, $533,892 for FY 2021, and $931,422 for FY 2022.

Section 290.502.3 would require the department to increase the minimum wage rate to $9.00 per hour effective January 1, 2017, to $10 per hour effective January 1, 2018, to $11 per hour effective January 1, 2019, to $12 per hour effective January 1, 2020, to $13 per hour effective January 1, 2021, and to $14 per hour effective January 1, 2022, or to the wages at the same rate(s) set under the provisions of federal law as the prevailing federal minimum age applicable to those covered jobs in interstate commerce, whichever is higher the minimum wage shall be updated every January 1 thereafter.

Section 290.502.4 and 290.512.3 provides an exemption for public bodies from the provision of 290.502.3 if appropriations for wages at those rates are not provided.

Section 290.512.2 would require the department to increase minimum wage for employees that receive and retain gratuities effective January 1, 2017 to an excess of sixty percent of the minimum wage rate specified in sections 290.500 to 290.530. This provision also requires that such employee's total compensation be at least the minimum wage specified in 290.500 to 290.530.

Section 290.529 makes the provisions of sections 290.500 to 290.530 severable.

The department anticipates the cost of the proposed legislation to start at $111,081 annually for fiscal year 2017 and ultimately increase to $931,422 in fiscal year 2022.

This legislation requires the minimum wage to be reviewed and adjusted every January 1.

For full time employees throughout their department they compared their current hourly wage rate to the minimum wage rate in the proposed legislation, taking the difference by 2,080 hours multiplied by the fringe rate for full time staff.

Missouri State Parks employs between 500-750 seasonal positions each year. In order to reflect a full year of seasonal employment, they based on their analysis off of FY14 staffing levels and upgraded their hourly wage to January 1, 2015. They then analyzed each January 1 upgrade to minimum wage compared to the prior year estimate. They assumed the per fiscal year designated minimum wage amount would be greater than the federal minimum wage.

Missouri State Parks does employ staff that is eligible for tips. For those individuals, they are required to ensure that their total wage plus tips meet or exceed the established minimum wage rate for non-tip staff. Therefore, they assumed the same minimum wage for estimated impact as other staff.

Seasonal positions' fringe benefit rate is 7.65 percent. Full time staff would begin to be given minimum wage increases in fiscal year 2020.

They also made the assumption that the personal service appropriations would be adjusted according to the levels necessary to provide the increased minimum wages provided in the law.

Officials from the **Department of Corrections** indicated they defer to the Office of Administration.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department and defer to Office of Administration for impact as an employer.

Officials from the **Department of Revenue** indicated this petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they would not be able to determine the effect of this legislation, and would expect there would be a general response provided by OA/Personnel.

Officials from the **Department of Social Services** indicated they defer to the Office of Administration for the costs related to this petition.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated their cost calculations related to this initiative petition is as follows based on 15 part-time employees working 1,039 hours per year:

| | |
|---|---|
| 2017 @ $9.00/hr. | No impact |
| 2018 @ $10.00/hr. | No impact |
| 2019 @ $11.00/hr. | $15,585 annual |
| 2020 @ $12.00/hr. | $30,170 annual |
| 2021 @ $13.00/hr. | $46,755 annual |
| 2022 @ $14.00/hr. | $62,340 annual |

Officials from the **Department of Conservation** indicated that this proposal, which would increase the minimum wage, would result in estimated additional annual cost to their department as follows: 1) an increase to $9/hour-$290,319; 2) an increase to $10/hour-$371,906; 3) an increase to $11/hour-$481,557; 4) an increase to $12/hour-$632,118; 5) an increase to $13/hour-$791,089; and 6) an increase to $14/hour-$850,229. This reflects pay increases necessary to increase hourly and salaried pay rates to the proposed new minimum wage.

Officials from the **Office of Administration (OA)** indicated the proposal amends Sections 290.502, 290.512, 290.527, and 290.529 RSMo.

Section 290.502, RSMo. increases the minimum wage to $9.00 per hour, beginning January 1, 2017 and by another $1.00 per hour each year until it reaches $14.00 per hour beginning January 1, 2022. Thereafter, the minimum wage will be adjusted annually based on the increase/decrease in the cost of living. The proposal would also phase in a

requirement for employers of employees who receive and retain compensation in the form of gratuities. They would not be required to pay over 60% of the full minimum wage; however they would have to make up the difference between the minimum wage and total compensation of the employee beginning January 1, 2017.

Because no tax rates are affected, there is no direct impact on general and total state revenues. However, these proposals may have several indirect affects which could impact revenue collections by an unknown amount, including but not limited to:

- Increased wages for certain employees. According to the US Bureau of Labor Statistics, in 2013, Missouri had 73,000 hourly employees earning wages at or below the federal minimum wage;[1]
- Increased consumption by those employees;
- Lower overall employment (if employers choose to hold costs steady);
- Lower business investment (if employers' payrolls increase);
- Increased prices as firms pass–through labor costs.

This proposal will increase state personnel costs at various state agencies. However, the proposal makes the increase for public bodies subject to appropriation. The estimated cost of the minimum wage increases are:

| Fiscal Year | Wage Rate | Time period | General Revenue Cost (including fringe benefits) | Total Cost (including fringe benefits) |
|---|---|---|---|---|
| 2017 | $9.00/hr | January –June | $171,193 | $464,938 |
| 2018 | $9.00/hr | July – December | | |
| | $10.00/hr | January – June | $513,523 | $1,673,380 |
| 2019 | $10.00/hr | July – December | | |
| | $11.00/hr | January –June | $1,464,340 | $4,407,549 |
| 2020 | $11.00/hr | July – December | | |
| | $12.00/hr | January – June | $6,222,694 | $13,640,373 |
| 2021 | $12.00/hr | July – December | | |
| | $13.00/hr | January – June | $17,386,077 | $33,385,765 |
| 2022 | $13.00/hr | July – December | | |
| | $14.00/hr | January – June | $34,452,207 | $63,042,619 |

Sections 290.512, 290.527 and 290.529 RSMo. will not impact their office.

[1] http://www.bls.gov/cps/minwage2013.pdf

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial direct impact on their office.

Officials from the **State Treasurer's office** indicated the following is the estimated fiscal impact to their office for the years 2017 - 2019:

2017: $0
2018: $2,920
2019: $8,760

Officials from the **City of Columbia** provided the following cost estimates:

| Year of Increase | Min. Wage | Total all Employees | Incremental Increase from Previous Year |
|---|---|---|---|
| 1/17 | $9 | $ 945,659 | |
| 1/18 | $10 | $1,646,147 | $700,488 |
| 1/19 | $11 | $2,352,336 | $706,189 |
| 1/20 | $12 | $3,100,824 | $748,488 |
| 1/21 | $13 | $3,938,012 | $837,188 |
| 1/22 | $14 | $4,929,800 | $991,788 |

Assumption: Only impact is from minimum wage paid to employees and not from gratuities or value of goods and services.

Officials from the **City of Kansas City** indicated approximately 200 employees, mostly part time and seasonal employees, are currently paid less than $14.00. Under this initiative petition, there would be a salary increase to the city in the approximate amounts per year:

2017 ($9/hr) : $60,000
2018 ($10/hr): $113,000
2019 ($11/hr): $126,500
2020 ($12/hr): $140,000
2021 ($13/hr): $178,000
2022 ($14/hr): $197,000

Officials from the **City of Raymore** indicated the sum effect on each year's proposal that will increase salary within the City's part-time seasonal staff will be $7,238.85 for CY 2017, $12,510,35 for CY 2018 (an increase of $5,271.50), $19,525.72 for CY 2019 (an increase of $7,015.37), $27,836.04 for CY 2020 (an increase of $8,310.32), $37,202.50 for CY 2021 (an increase of $9,366.46), and $48,103.75 for CY 2022 (an increase of $10,901.25).

The city has calculated the sum effect on each year's proposal that will increase salary within the city's part-time seasonal staff within each petition. At this time, the city is assuming that its proposed step chart will continue to be effected by the minimum wage and be adjusted every couple years to be competitive. However, there are many unknowns, and the city has simply included its part-time staff that will be effected.

Officials from the **City of St. Louis** indicated estimated annualized costs to the city of $116,601 for CY 2017, $211,138 for CY 2018, $420,965 for CY 2019, $706,298 for CY 2020, $1,196,768 for CY 2021, and $2,704,098 for CY 2022.

This initiative petition proposes an amendment Chapter 290, RSMo, to gradually raise the minimum wage starting at $9.00 per hour on January 1, 2017 to $14.00 per hour on January 1, 2022.

Subject to annual appropriation, this initiative petition would increase costs of salaries of city employees (both full and part-time) that would otherwise not be earning the wages at the levels specified in the proposed amendment. For these purposes, current employee wages are assumed to increase in accordance with existing employee pay plan provisions through 2016. The proposed amendment could also impact city revenues both positively and negatively. Should total wage base rise, employer based earnings and payroll taxes will increase accordingly. Likewise, any job losses that can be attributed to the wage increases will result in a decline in employer based and other tax revenues. The net impact of the changes in city workforce and wage base that would result from the proposed amendment is indeterminate at this time.

Officials from **University of Missouri** indicated they anticipate the legislative proposal would create an overall cost of between $50-60 million after all rate increases were implemented.

**Lara Granich** provided the following information as a proponent of this initiative petition.

August 5, 2015
Missouri State Auditor
Jefferson City, MO
Submitted via email to moaudit@auditor.mo.gov, fiscalnote@auditor.mo.gov

Re: Fiscal Impact Analysis of Minimum Wage Initiative Petitions

Version 4 (Increase to $9, then gradually to $13, tipped 60%)
Version 5 (Increase to $9, then gradually to $14, tipped 60%)
Version 6 (Increase to $9, then gradually to $15, tipped sub-minimum phased out)
Version 7 (Increase to $9, then gradually to $14, tipped sub-minimum phased out)
Version 8 (Increase to $9, then gradually to $13, tipped sub-minimum phased out)
Version 9 (Increase to $9, then gradually to $12, tipped sub-minimum phased out)
Version 10 (Increase to $9, then gradually to $11, tipped sub-minimum phased out)

This letter is from Lara Granich and Missouri Jobs with Justice Voter Action, proponents of the above-referenced initiative petitions. Pursuant to RSMo. Section 116.175, we write to submit the following fiscal impact information to assist your office in its analysis of the fiscal impact of the above mentioned seven proposed Minimum Wage Initiative Petitions.

Our analysis estimates the impact of the seven proposed initiative petitions on state and local sales and personal income tax revenue in Missouri. We follow the process that has been used in the past to estimate the impact of minimum initiative petitions on state and local sales and personal income tax, with some refinements. We also address certain claims that have been made by opponents in the past.

We are building on analysis provided for Versions 1-3 of this initiative. However, some of the analysis tools were unavailable to us in the timeframe for submitting these versions, and therefore we want to acknowledge some gaps in the information provided.

As these petitions exclude public workers, we do not include in our analysis an estimate of the impact on state and local payroll costs of the minimum wage increases.

## I. Estimate of Number of Workers Affected Statewide and the Impact on Their Wages

We estimate that, under the three versions of the petition, increases in total wages in the state will be as follows:

| Proposed Min Wage Level | Size of Increase* | Total Estimated Workers** | Workers Affected*** | Workers Affected as % of Total Workers | Total Wage Increase**** |
|---|---|---|---|---|---|
| $11.00 | $3.20 | 2,845,927 | 880,593 | 30.94% | $4,167,807,617 |
| $12.00 | $4.20 | 2,845,927 | 995,901 | 34.99% | $5,508,377,721 |
| $13.00 | $5.20 | 2,845,927 | 1,092,551 | 38.39% | ***** |
| $14.00 | $6.20 | 2,845,927 | 1,208,950 | 42.48% | ***** |
| $15.00 | $7.20 | 2,845,927 | 1,351,386 | 47.48% | $10,801,510,192 |

*Over the legislated MO 2015 minimum wage of $7.65 + assumed 2% cost of living adjustment to MO minimum wage

**Based on 2013 American Community Survey for the State of Missouri

***The number of wage and salary workers with an hourly wage below the proposed minimum. The hourly wages in 2013 were increased by 5.497%, to account for inflation between 2013 and 2016, prior to comparison with the proposed minimum.

****The hourly wage difference was multiplied by the number of hours worked per year. That amount was then multiplied by the relevant person weight and summed over all persons with hourly wages below the proposed minimum.

*****we were unable to access tools to weight appropriately for this level in the timeframe allowed for input

The wage impact of an increase in the minimum wage for the state of Missouri is calculated using the following procedure. The American Community Survey Public Use Micro Sample for the most recent year available (2013) for the state of Missouri was downloaded from the US Census Bureau. The American Community survey was chosen over the Current Population survey because the ACS has a significantly larger sample.

Calculations were effectuated only for those individuals earning less than the proposed minimum wage. It is likely that there would be indirect impacts on others who earn more than the proposed minimum wage, especially those who earn close to the proposed hourly amount. These estimates therefore are likely to be smaller than the actual impact of increasing the minimum wage to the proposed level.

All wage earners are included in this calculation. To be consistent with past estimates, public employees should have been excluded. Employees in the public sector were included because the American Community Survey does not have a published variable that allows for identification of public employees. This inclusion of public employees will have a minimal impact on our results.[1]

All wages from the 2013 survey were adjusted upward to account for inflation between the time of the survey and the time of measurement of the impact. Actual inflation was used for 2013 and 2014, and a slightly higher rate was used for assumed inflation in 2015. The 2015 Missouri Minimum wage of $7.65 was adjusted by the same factor prior to measuring the impact of a change to the proposed minimum wage in 2016.

After these adjustments, the resulting hourly wage of all employees was compared to the proposed minimum wage. Three proposed levels for the minimum wage were examined: $11, $12, and $15. If the proposed minimum wage was less than the inflation adjusted hourly earnings of an employee, then no impact was calculated. If the proposed

[1] For the Missouri's state employees, this can be validated by viewing the earnings of all state employees at: http://mapyourtaxes.mo.gov/MAP/Employees/. Larger counties and cities will also have almost all public employees earning more than the highest proposed minimum wage. Local public employees in small counties and towns may have some public employees who earn less than the highest proposed minimum.

minimum wage was more than the hourly earnings on an employee, then the difference between the inflation adjusted hourly earnings and the proposed minimum wage was calculated. That difference was multiplied by the number of hours the employee worked in the year to calculate the impact for that employee. The result was then multiplied by a weighting factor for that employee in the population. The total impact for the state of Missouri was calculated by repeating this process for every employee and adding the results.

The impact grows as the proposed minimum wage grows. 31% of the labor force would be directly impacted by an increase in the minimum wage to $11 in 2016, whereas 47% would be impacted if the minimum wage were increased to $15 per hour.

It should be emphasized that there is no reason to expect even a substantial increase in the minimum wage to reduce employment. No credible research has demonstrated a negative employment effect of increases in the minimum wage and there is substantial research to indicate that increases in the minimum wage have multiplier effects that increase the direct effects. For this reason and because of the likely increases in wages to individuals who earn above the proposed minimum wages, the impacts summarized in the table are likely to be low, relative to the total impact that would occur as a result of increasing the minimum wage to the proposed levels.

## II. Economic Literature on the Impact of Minimum Wage Increases on Employment

Next it is necessary to review the economic literature on the impact of minimum wage increases on employment. Opponents often claim that minimum wage increases may reduce employment in a state. If that is true, then those employment reductions would result in reductions in state income and sales tax revenue. However, review of the most credible recent empirical research on the minimum wage shows that increases in the minimum wage have had no discernible impact on employment. We thus conclude that it is not appropriate to project that the proposed initiative petitions would result in any detectable employment reduction, and resulting losses in income and sales tax revenue, or increases in unemployment-related costs to the state.

Economists have conducted hundreds of studies of the employment impact of the minimum wage. A recent meta-study – a formal statistical study of studies – by Doucouliagos and Stanley (2009) reviewed all the research conducted over the last three decades on the employment impact of minimum-wage increases on teenagers in the United States. The researchers concluded that the minimum wage has little or no discernible effect on the employment prospects of low-wage workers. Their study followed a rigorous, peer-reviewed procedure and has the advantage of using a set of predetermined, objective criteria for weighing the validity of statistical findings across studies with different results. (Source: Doucouliagos, Hristos and T. D. Stanley. 2009. “Publication Selection Bias in Minimum-Wage Research? A Meta-Regression Analysis.” British Journal of Industrial Relations,vol. 47, no. 2, pp. 406-428.)

Recent theoretical and empirical research emphasizes several explanations for the consistently negligible employment impacts of moderate increases in the minimum wage. First, relative to total wage costs, minimum-wage increases are small. Second, employers and workers appear to respond to minimum-wage increases in many ways that reduce the direct cost to employers and substantially reduce or eliminate the need to cut employment.

Probably the most important economic response to a higher minimum wage is a reduction in turnover. At higher wages, employers fill vacancies faster and retain employees longer, boosting total employment and average productivity per worker while reducing direct and indirect training costs. Dube, Lester, and Reich (2012), for example, examined the effect of the minimum wage on labor turnover among teens and restaurant workers. They find “...striking evidence that separations, new hires, and turnover rates for teens and restaurant workers fall substantially following a minimum wage increase...” (p. 2) Their findings, using nationally representative data, are consistent with local case studies of the

minimum wage and related "living wage" laws, including Dube, Naidu, and Reich's (2007) analysis of the San Francisco city-wide minimum wage; Fairris's (2005) study of local government contractors in Los Angeles; Howes (2005) on homecare workers in California; and Reich, Hall, and Jacobs (2005) on workers at the San Francisco airport. (Sources: Dube, Arindrajit, T. William Lester, and Michael Reich. 2012. "Minimum Wage Shocks, Employment Flows and Labor Market Frictions." Berkeley, CA: Institute for Research on Labor and Employment. http://escholarship.org/uc/item/76p927ks; Dube, Arindrajit, Suresh Naidu, and Michael Reich. 2007. "The Economic Effects of a Citywide Minimum Wage." *Industrial and Labor Relations Review*, vol. 60, no. 4, pp. 522-543; Fairris, David. 2005. "The Impact of Living Wages on Employers: A Control Group Analysis of the Los Angeles Ordinance." *Industrial Relations*, vol. 44, no. 1, pp. 84-105; Howes, Candace. 2005. "Living Wages and the Retention of Home Care Workers in San Francisco." *Industrial Relations*, vol. 44, 5 no. 1, pp. 139-163; Reich, Michael, Peter Hall, and Ken Jacobs. 2005. "Living Wage Policies at the San Francisco Airport: Impacts on Workers and Businesses." *Industrial Relations*, vol. 44, no. 1, pp. 106-138.)

Employers also appear to respond to increases in the minimum wage by taking measures to boost productivity. Hirsch, Kaufman, and Zelenska's (2011) study of the impact of the federal minimum-wage increase on 81 fast-food restaurants in Georgia and Alabama, for example, asked fast-food managers about the scope for efficiency improvements in response to the minimum-wage rise. About 90 percent of managers indicated that they planned to respond to the minimum-wage increase with increased performance standards such as "requiring a better attendance and on-time record, faster and more proficient performance of job duties, taking on additional tasks, and faster termination of poor performers." (p. 27) Roughly the same share of managers said that they sought to "boost morale" by presenting the minimum-wage increase as a "challenge to the store" and using this as a way "to energize employees to improve productivity." (pp. 28-29) Based on their interviews with store managers, the researchers concluded that a minimum-wage increase may function as a "catalyst or shock that forces managers to step out of the daily routine and think about where cost savings can occur." (p. 29) (Source: Hirsch, Barry T., Bruce Kaufman, and Tetyana Zelenska, "Minimum Wage Channels of Adjustment." IZA Discussion Paper No. 6132. Germany: Institute for the Study of Labor. http://www2.gsu.edu/~ecobth/IZA_HKZ_MinWageCoA_dp6132.pdf)

A higher minimum wage may also motivate workers to work harder, independently of any actions by employers to increase productivity. According to "efficiency wage" theory, wages above the competitive-market rate may elicit greater work effort for several reasons. As Carl Shapiro and Joseph Stiglitz (1984) have argued, higher pay increases the cost to workers of losing their job, potentially inducing greater effort from workers in order to reduce their chances of being fired. George Akerlof (1982), arguing from a more sociological point of view, has suggested that workers may see higher wages as a gift from employers, leading workers to reciprocate by working harder. (Sources: Shapiro, Carl and Joseph E. Stiglitz. 1984. "Equilibrium unemployment as a worker discipline device." *American Economic Review*, vol. 74, no. 3, pp. 433-444; Akerlof, George A. 1982. "Labor contracts as partial gift exchange." *Quarterly Journal of Economics*, vol. 97, no. 4, pp. 543-569.)

We therefore conclude that the proposed increase in the Missouri minimum wage would have no discernible impact on the employment levels of low-wage workers. Accordingly, we do not factor in reductions in employment, or any resulting decrease in sales tax or income tax. We also do not project any increased unemployment insurance costs – both because we do not project any resulting job losses, and additionally because unemployment insurance costs are paid for by employer premiums, and so are ultimately not a cost to the state.

### III. State and Local Sales and Personal Income Tax Revenue Impact of Raising the Minimum Wage

Based on the wage impact figures calculated above, and the understanding that the minimum wage increases would be unlikely to result in offsetting job losses, we next calculate the impact of the projected wage increases on state and local

sales and personal income tax revenue in Missouri. We project only the direct impact of the three minimum wage increase scenarios on such tax revenue. We do not attempt to project the additional impact through a GDP multiplier effect.

**Increase in Personal Income Tax Revenue and Sales Tax Revenue Due to Increased Wages Personal Income Tax Revenue.** In order to determine the projected increase in personal income tax revenues that would result directly from the increased wages, we had to develop assumptions about the effective income tax rates of the affected workers. We made the following assumptions with respect to the effective tax rate:

1. That 25% of affected workers can be claimed as a dependent on another party's Missouri income tax return and as a result would pay an effective tax rate of 6.0% on the increase in income;
2. That 50% of the affected workers would file as single taxpayers, would claim one deduction of $2,100, and would be entitled to a standard deduction of $5,800. This would result in an effective tax rate of 2.47%;
3. The remaining 25% would, we assumed, would pay no additional Missouri income tax. In light of these assumptions, the increased Missouri income tax revenue for each petition version can be calculated as follows: (total wage increase * 25% * 6.0%) + (total wage increase * 50% * 2.47%) + (total wage increase *25% * 0%).

**Sales Tax Revenue.** The State of Missouri imposes a 4.225% state sales tax on those items that are not exempt from the sales tax base. In addition, the average local sales tax rate is 2.95%. As a result, the average Missouri net sales tax rate is 7.175%. We have conservatively estimated that just 25% of the higher wages would be spent on the purchase of goods that are subject to state and local sales tax in Missouri.

Based upon the above assumptions, and the total wage increase calculations for each version of the petition, we estimate that the increase in state income tax revenue resulting from the increased wages would be as follows:

| Increase in Sales and Personal Income Tax from Increased Wages | | | | | | |
|---|---|---|---|---|---|---|
| **Proposed Min Wage Level** | **Total Wage Increase** | **State Sales Tax (4.225%)** | **Local Sales Tax Revenue (2.95%)** | **Total Sales Tax Revenue Increase** | **Personal Income Tax Revenue** | **Total Sales and Personal Income Tax Revenue Increase** |
| $11.00 | $4,167,807,617 | $44,022,468 | $30,737,581.17 | $74,760,049.13 | $113,989,538 | $188,749,587 |
| $12.00 | $5,508,377,721 | $58,182,240 | $40,624,285.69 | $98,806,525.38 | $150,654,131 | $249,460,656 |
| $13.00 | *We were unable to access a tool to weight calculations of the total wage increase for these levels in the timeframe allotted.* | | | | | |
| $14.00 | | | | | | |
| $15.00 | $10,801,510,192 | $114,090,951 | $79,661,137.67 | $193,752,089.08 | $295,421,304 | $489,173,393 |

Moreover, one often-cited authority on tax information, the Tax Foundation, reports that the average local sales tax rate in Missouri is even higher at 3.53%. See http://taxfoundation.org/article/state-and-local-sales-taxes-midyear-2012 If one uses this higher rate, total revenue increases additionally by hundreds of thousand dollars.

We hope that this information is useful to your office as your prepare your analyses of the petitions.

Respectfully submitted,
Lara Granich
Missouri Jobs with Justice Voter Action

**Edward D. Greim** provided the following information as an opponent of this initiative petition.

He writes on behalf of Robert Bonney. Mr. Bonney is the Chief Executive Officer of the Missouri Restaurant Association. Please consider this letter and the accompanying studies as his fiscal impact statement as an opponent of Initiative Petitions 2016-066, 2016-067, 2016-068, 2016-069, 2016-070, 2016-071 and 2016-072 (the "Initiative Petitions"). Initiative Petitions 2016-066 and 2016-067 appear to be substantially similar to the previously-submitted Initiative Petitions 2016-045, 2016-046 and 2016-047—which will cause significant negative impacts, if passed. Moreover, Initiative Petitions 2016-068, 2016-069, 2016-070, 2016-071 and 2016-072 only work to further negatively impact the Missouri economy by phasing out tipped wage percentages entirely. In short, any of these seven initiatives would have a substantial negative impact on state and local governments.

The two fiscal impact studies attached hereto were authored by Dr. David Macpherson, a nationally-recognized labor economist and expert on the impact of minimum wage increases. In reviewing previous minimum wage petitions, the Auditor's Office has previously found Dr. Macpherson's analyses to be helpful and persuasive.

The first study was prepared by Dr. Macpherson in June 2014 and details how a $10.10 per hour minimum wage would have impacted Missouri and the St. Louis area were it to have become effective in 2015. *See* Exhibit A. In addition to the estimated loss of nearly 15,000 jobs statewide, Dr. Macpherson estimated that the cost to taxpayers of a $10.10 minimum wage would be $87 million annually. While this study did not address the specific proposals in the Initiative Petitions, Dr. Macpherson's methodology applies directly to the impact of the proposed minimum wage increases.

The second fiscal study was reviewed and used by this office in evaluating earlier minimum wage proposals. It was prepared by Dr. Macpherson in March 2012 and details the impact of a statewide minimum wage increase to $8.25 per hour. This study is attached hereto as Exhibit B. In this study, Dr. Macpherson concluded that state and local entities would pay out $16 million in increased wages. What's more, Dr. Macpherson estimated that the net state and local fiscal impact would range from a loss of over $22 million to a loss of $13 million. While this study is now three years old, the analysis is pertinent to the proposed wage increase in the Initiative Petitions. Notably, using Dr. Macpherson's methodology, the heightened minimum wage proposals contained in the Initiative Petitions would have a substantially greater negative fiscal impact than that found in the 2012 study.

The proponents of the Initiative Petitions will likely rely on data sourced from political activist groups who claim increases in minimum wage only serve to create new taxable income. The reality is that such groups approach this issue with indisputable political bias. Further, that type of analysis is one-sided, disregarding the significant impact on Missouri businesses. True, some workers will collect increased wages, but no new money is created; Missouri businesses will be the source of the increase which will lower their taxable income and, from time to time, cause them to forego hiring or to cut employment. Regarding secondary employment and tax revenue effects, the Auditor must refrain from assessing only one half of the wage increase equation.

In addition, the most significant and most direct effect of a minimum wage increase is the amount of the increased wages that will actually be paid by state and local governments. As has been shown during prior efforts to increase the minimum wage, very few of the hundreds of state and local entities who actually employ minimum wage workers will take the time to provide fiscal impact estimates in response to the Auditor's requests. Further, the Auditor's requests are simply sent to a sample of governmental employers. The more appropriate method to calculate the fiscal impact of the wage increase is to use the actual number of minimum wage workers who work for state and local governments, as calculated by the United States Census Bureau's CPS. Rather than simply adding the sums reported in the scattershot and unreliable fiscal note responses from state and local entities, the Auditor should supplement them with broader analyses such as those of Dr. Macpherson. At the very least, the Auditor should state in the fiscal note summary that state and local impacts are "large" or "substantial," rather than simply reporting impacts of "at least" the few thousand dollars in costs that may or may not be reported by those local entities that take the time to respond to the Auditor's sampling.

Finally, the proponents of the Initiative Petitions may argue that the Auditor should abandon the state and local cost estimates altogether. The proponents will argue that a new provision they have inserted in the statute would make the increases apply only if "there are appropriations for wages at those [i.e., the newly-increased] rates." The proponents will urge the Auditor's Office to assume that legislators will not actually fund the increases, and that therefore there will be no cost to taxpayers. Setting aside unjustifiable projections about the political judgments of legislators, the provision is of uncertain legal effect and constitutionality. On the one hand, it may not change existing law, since arguably the legislature always has the power to reduce or increase appropriations. But it is also unclear whether the legislature has the power to fix wage rates within an appropriations bill, or whether a mere statutory petition can confer this type of power upon the legislature. The application of the requirement for a specific type and manner of appropriation is also unclear in the context of political subdivisions and other public bodies whose funds are generally not appropriated by the general assembly. These are just a few examples of the serious flaws with the proposal itself that may have to be addressed by the courts. Suffice it to say that as a matter of law, it would be insufficient and unfair for the Auditor's fiscal note or summary to simply assume that these legal issues do not exist, or to make a political judgment that legislators will not in fact fund any of the minimum wage increases at any level of state government. Such assumptions would only serve to artificially deflate the fiscal note and fiscal note summary by tens of millions of dollars.

June 2014

MISSOURI
Restaurant Association
*Eat Out Often!*

# The Impact of a $10.10 Minimum Wage on Jobs and Taxpayer Costs in Missouri

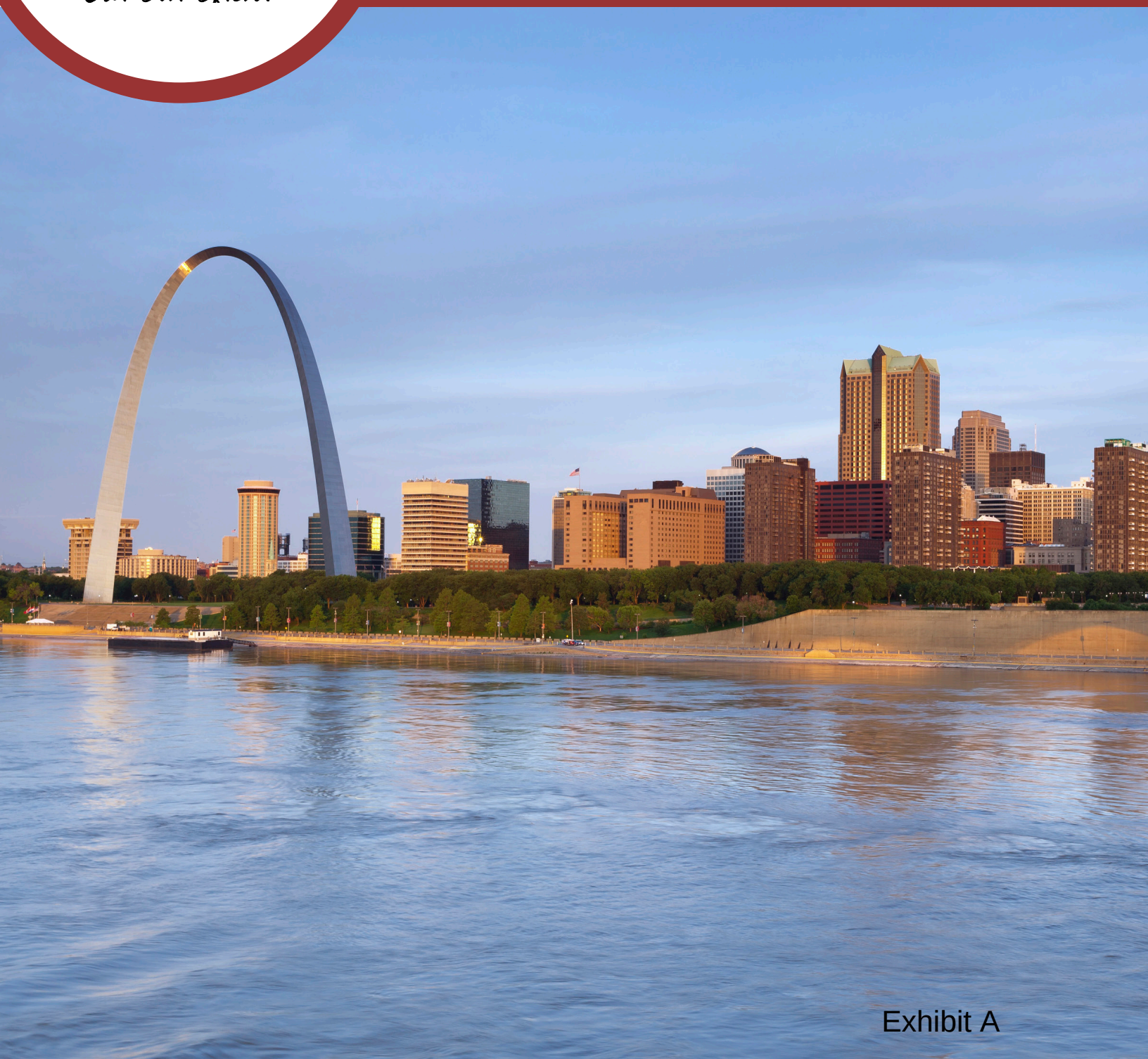

Exhibit A

# ABOUT THE MISSOURI RESTAURANT ASSOCIATION

With origins dating back to 1916, the Missouri Restaurant Association (MRA) is a statewide trade association representing over 1,500 member establishments. The association's membership is diverse, and includes full service, fast casual, and quick service restaurants, cafeterias, hotels, schools, institutions, contract feeders, and ancillary foodservice providers such as theme parks. The association has been successful in securing support from virtually every segment of the foodservice and hospitality industry.

MRA includes seven chapters as extensions of the parent organization, each with its own Officers, Board of Directors, and limited budget. The association is governed by a Board of Directors comprised of five Officers, 33 Directors, and each President of the seven affiliated chapters.

MRA is dedicated to serving the needs of the foodservice and hospitality industry, enhancing and improving its growth and development, assisting and educating its members in operating more effectively, improving the political and social environment in which the industry conducts business, for the benefit of its members, patrons, employees, and the well-being of the community.

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David A. Macpherson is the E.M. Stevens Professor of Economics at Trinity University. He received undergraduate and doctoral degrees in economics from Pennsylvania State University.

Dr. Macpherson has published over 60 articles in leading economics and real estate journals including Review of Economics and Statistics, Industrial and Labor Relations Review, Journal of Labor Economics, Journal of Human Resources, and Journal of Real Estate Economics and Finance. His research has been funded by a variety of entities including the National Science Foundation, Florida Legislature, and the National Association of Realtors. He is co-author of the undergraduate labor economics text, Contemporary Labor Economics, as well as the principles of economics text, Economics: Private and Public Choice. He is included in Who's Who in Economics, Fourth Edition, which includes the 1,200 most frequently cited economists.

# THE IMPACT OF A $10.10 MINIMUM WAGE ON JOBS AND TAXPAYER COSTS IN MISSOURI

June 2014

Economic Analysis by **Dr. David Macpherson**
**Trinity University**

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# EXECUTIVE SUMMARY

Missouri's minimum wage of $7.50 is linked to rise in most years with the inflation rate. But some state legislators and labor unions would like to raise that figure even higher. For instance, a recent labor union-organized bus tour in the state promoted a $10.10 minimum wage in St. Louis.

Proponents have enthusiastically pointed to the benefits of the $10.10 policy. But there's been far less discussion of the costs involved with a $10.10-an-hour minimum wage—both the cost on employment, and the cost to taxpayers.

In this study, labor economist David Macpherson of Trinity University uses Census Bureau data to estimate the impact on Missouri's labor market and budget from raising the minimum wage to $10.10 an hour. He also provides separate results for the St. Louis metropolitan area.

Dr. Macpherson's employment estimates follow the methodology used by the nonpartisan Congressional Budget Office in its report earlier this year estimating the impact of a $10.10 minimum wage nationwide, which in turn relied on 60 different empirical studies to formulate its estimates.

Statewide, he finds that over 15,000 jobs would be lost at the $10.10 wage level—with 9,300 of those jobs being held by women. In the St. Louis metropolitan area, approximately 4,800 jobs would be lost from a $10.10 minimum wage.

The cost to taxpayers would be significant: There are approximately 40,000 state and local employees whose wages would be affected by the $10.10 increase in Missouri, for a combined cost to taxpayers of $87 million annually.

Raising wages is an admirable goal, but the evidence suggests that accomplishing this goal with a blunt wage mandate could do more harm than good.

# RESULTS

The minimum wage is one of the most hotly-debated topics in the political world. Some legislators claim that a higher base wage will stimulate the economy; others claim that it will reduce jobs when affected employers can't offset the higher costs through higher prices.

Economists, who have studied the issue since the late 1940s, tend to take a skeptical view of minimum wage increases. Since the early 1990s, for instance, roughly 85 percent of the most credible research on the minimum wage points to job loss for less-skilled groups. The nonpartisan Congressional Budget Office (CBO), in an evaluation of President Obama's proposed $10.10 minimum wage increase, reviewed 60 different studies and concluded that the policy would eliminate 500,000 jobs if enacted.

The estimates that follow, of the employment impact of a higher minimum wage on Missouri's labor market, were performed by Dr. David Macpherson of Trinity University. Dr. Macpherson followed closely the methodology used by the CBO in its 2014 report. Dr. Macpherson also estimates the taxpayer costs of a higher minimum wage, as many state and local public employees will see their earnings increase when the minimum wage rises.

Dr. Macpherson's methodology is presented in detail in a technical appendix.

## Estimated Employment Effects of a $10.10 Minimum Wage in Missouri

Statewide, Dr. Macpherson finds that increasing the minimum wage to $10.10 would eliminate over 15,000 jobs—approximately 60 percent of which are jobs held by women. The bulk of the job losses would be concentrated among individuals with a high school degree or less, and among people who work in the retail or leisure & hospitality industries.

(Note: Totals have slight discrepancies due to rounding.)

**Estimates by Gender**

| | *Job Losses* |
|---|---|
| **Male** | 6,311 |
| **Female** | 9,364 |
| **TOTAL** | **15,705** |

**Estimates by Age**

| *Age* | *Job Loss* |
|---|---|
| **<=21** | 9,237 |
| **22-25** | 1,532 |
| **26-30** | 1,023 |
| **31-40** | 1,175 |
| **41-50** | 980 |
| **51 +** | 1,759 |

**Estimates by Race**

| *Race* | *Job Loss* |
|---|---|
| **White** | 13,299 |
| **Black or Other Race** | 2,406 |

# RESULTS CONTINUED

| Top Three Industries Affected | |
|---|---|
| *Industry* | *Job Loss* |
| **Retail Trade** | 3,835 |
| **Arts, Entertainment, Recreation, Accommodations, and Food Services** | 6,039 |
| **Healthcare** | 1,199 |

| Estimates by Education | |
|---|---|
| *Education* | *Job Loss* |
| **Less than High School** | 5,555 |
| **High School Grad, No College** | 4,921 |
| **Some College** | 4,428 |
| **Undergrad or Graduate Degree** | 802 |

## City-Specific Minimum Wage Employment Impacts

The city of St. Louis has been the subject of a number of protests calling for a higher minimum wage. Dr. Macpherson analyzed the employment impact of a $10.10 minimum wage in the St. Louis metropolitan area, providing breakouts by gender and education where the data permits. He estimates that the wage hike would eliminate approximately 5,000 jobs—just over half of which would be jobs held by women.

| Impact on St. Louis Metro Area of a $10.10 Minimum Wage | |
|---|---|
| *Gender* | *Job Loss* |
| **Male** | 2,033 |
| **Female** | 2,767 |
| **TOTAL** | **4,800** |
| *Race* | *Job Loss* |
| **White** | 3,641 |
| **Black or Other Race** | 1,158 |
| *Education* | *Job Loss* |
| **High School Grad or Less** | 3,097 |
| **Some College, Undergrad or Graduate Degree** | 1,703 |

# RESULTS CONTINUED

## Missouri Taxpayer Costs of a $10.10 Minimum Wage

Dr. Macpherson estimates that approximately forty thousand state & local public employees would be affected by a minimum wage increase to $10.10 an hour. These additional wage costs translate to new costs for state and local taxpayers. Following the methodology described in detail in the technical appendix, Dr. Macpherson estimates both the straight wage cost of a $10.10 minimum wage, as well as the total compensation cost with Social Security, Medicare, workers compensation, and unemployment insurance included. Statewide, taxpayers would shoulder an additional $87 million in costs if the base wage was increased to $10.10 an hour and public employees were covered by the new wage.

| Missouri Taxpayer Costs of a $10.10 Minimum Wage | |
|---|---|
| **# of State & Local Workers** | 304,588 |
| **# Affected By $10.10 MW** | 40,103 |
| **Annual Wage Cost** | $79,629,374 |
| **Annual Compensation Cost** | $87,004,355 |

*Note: Annual compensation costs include the cost of worker's compensation, FICA, and unemployment insurance benefits.*

MISSOURI Restaurant Association
Eat Out Often!

# TECHNICAL APPENDIX

## Estimating Employment Loss and the Cost to State and Local Government of an Increase in the Minimum Wage

**Dr. David Macpherson**
**E.M. Stevens Professor of Economics**
**Trinity University**

This paper describes how we estimate the employment loss and the cost to state and local governments of a proposed increase in the minimum wage effective on January 1, 2015.

## Data and Sample

First, we use data from the Current Population Survey (CPS) Outgoing Rotation Groups (ORG) from January 2011 through December 2013. For each worker in the sample, we calculate their wage rate. We also adjust the wage rate to reflect a forecast of wages in 2015. This is done in two steps. First, based on legislation enacted as of April 2014, we estimate the minimum wage that would be in effect in January 2015 for each state and city that we consider. If a state or city has an indexed minimum wage, we increase the January 2014 state or city minimum wage by the Congressional Budget Office (CBO) inflation forecast for 2014 of 1.7%.

Since we use data from 2011 through 2013, we also follow the CBO approach for forecasting what the wage distribution would be in 2015. This is done in two steps. First, we adjust wages observed prior to 2013 to reflect 2013 minimum wage legislation. For example, if the minimum wage in a state was $7.25 in 2011 and grew to $8.00 by 2013, anyone who earned between $7.25 and $8.00 in 2011 would have their wage increased to $8.00. After wages are adjusted to 2013 levels, we assume that all wages grow by 2.9% in 2014. Using the resulting 2015 distribution of wages, we adjust for minimum wage legislation that would increase the minimum between 2013 and 2015. Anyone earning a wage between the 2013 and 2015 minimum wage is assigned a wage matching the 2015 minimum wage.

After generating the forecast 2015 distribution of wages reflecting wage growth and existing minimum wage legislation, we identify workers who would be affected by additional changes to the 2015 minimum wage as those with wages between the predicted minimum wage legislated for 2015 (or up to $.25 below it) and the proposed minimum.

To estimate the number of affected workers, we take two steps. First, for each state, we estimate the number of affected workers for 2013. Second, we adjust the weights in the 2011 and 2012 data so that the state-specific number of affected workers implied by the 2011 and 2012 data matches that for 2013. This adjustment is designed to correct for the changing economic climate as the economy recovers from the great recession and to generate estimates that are as close as possible to the most recent data (2013). After we adjust the 2011 and 2012 weights, we estimate the number of affected workers by summing their earnings weights and dividing the total by 36 (the number of months of data).

[1] Also, following CBO, anyone earning up to $.25 less than the 2011 minimum wage would have their wage increased by the amount that the minimum wage increased (i.e. a $7.00 wage would be increased to $7.75 in this example). This approach is used to adjust for the fact that many workers round their answers when asked about their wage.

# TECHINCAL APPENDIX CONTINUED

## Employment Loss

To estimate employment loss, for each affected worker we compute:

**L = e *(Proposed Min Wage /Min Wage 2015 – 1)**

where e is an assumed elasticity of employment with respect to changes in the minimum wage, Min Wage 2015 is the minimum wage currently legislated for 2015, and Proposed Min Wage is the minimum wage that is being proposed for 2015. Thus, for example, if a worker is projected to earn the federal minimum of $7.25 in 2015, the expected reduction in employment resulting from a $10.10 minimum wage in 2015 if e=.45 is .45*(10.10/7.25 – 1) = .18. That is, for every 100 workers currently earning the federal minimum, the expectation is that 18 would lose a job if the minimum wage elasticity is .45.

To estimate the aggregate employment loss in the economy, we use earnings weights to sum L across workers. We also follow the Congressional Budget Office (2014) and use an elasticity of 0.15 for non-teenagers and 0.45 for teenagers.

## Cost to State and Local Government

We use the same data to estimate the cost to state and local government of a proposed minimum wage hike. We apply the same definition of affected workers described above and estimate the number of state and local government workers affected by a minimum wage hike. We do not, however, assume that there is any job loss for state and local workers as we do not have an appropriate elasticity estimate specific to state and local workers. To the extent that state or local governments reduce hours or employment in response tothe minimum wage hike, our estimate of the cost of the hike would be overstated.

To estimate the increase in annual payroll cost resulting from an increase in the minimum wage, we estimate the increase in annual cost for each worker as:

**(Proposed Min Wage-Min Wage 2015)*weekly hours*52**

We then multiply the increase in annual cost by the earnings weight for each worker and sum across workers. Since an increase in wages also requires increased employer contributions for Social Security, Medicare, workers' compensation and unemployment insurance, we apply an estimate of the payroll tax rate for these mandatory programs to calculate the additional cost for these programs.

For each state and city considered, we provide tables summarizing the number of affected workers, employment loss, and the distribution of employment loss by sex, education, race, age and industry. Given that we use three years of data, a rule of thumb for minimum sample size required to achieve a reasonably accurate estimate of the employment loss is to require at least 30,000 people be in the relevant category. For example, if there are fewer than 30,000 people projected to be in a particular industry category, the Bureau of Labor Statistics would not report the estimate due to a lack of reliability based on the variance of the estimate relative to its mean.

In addition to the estimate of employment loss, for each state or city considered, we estimate the number of state and local workers that would be affected by the minimum wage hike and the total annual cost to government in terms of wages and total compensation. As with the employment estimates, we advise caution in interpreting estimates that are based on fewer than 30,000 affected workers.

[3] Congressional Budget Office, "The Effects of a Minimum-Wage Increase on Employment and Family Income," February 2014.

[4] For workers paid by the hour the reported hourly wage was used. For workers who are not paid by the hour, we calculate the hourly wage by dividing usual weekly earnings by usual weekly hours. Overtime pay was calculated as time and one-half for hours above 40 hours for hourly workers.

[5] The assumed payroll tax for Medicare and Social Security is 7.65 percent. To estimate the payroll tax for workers' compensation and unemployment insurance, we use unpublished data from the 2010 Employer Cost of Employee Compensation database for state and local workers in the relevant region in 2010.

# FISCAL ANALYSIS
# OF
# PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

**Prepared for**

**Victor Allred versus Robin Carnahan and Thomas Schweich**
**Circuit Court of Cole County, Missouri**

**Prepared by**

**David A. Macpherson, Ph.D.**
**125 Park Drive**
**San Antonio, TX 78212**

**March 26, 2012**

Exhibit B

# FISCAL ANALYSIS
# OF
# PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

## I. Introduction

This report was undertaken at the request of counsel representing plaintiffs in the case of Victor Allred versus Robin Carnahan and Thomas Schweich. As part of the basis of the lawsuit, the plaintiffs allege that the fiscal note summaries for proposed statutory initiative petitions 2012-084 and 2012-085 are insufficient and unfair. I was asked by counsel to evaluate the fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085.

The results of my analysis indicate:

(1) labor costs to state and local government entities, based on state auditor fiscal notes, will rise by more than $1,352,182. A more inclusive estimate indicates that state and local government labor costs will increase by $16,003,712;

(2) unemployment benefit costs will rise by $4,397,510 during the first year of the minimum wage increase;

(3) individual income tax revenue will rise by at most $4,078,088;

(4) the loss in corporate income tax revenue could be as high as $9,243,105;

(5) state and local sales tax revenue will rise by at most $2,919,327;

(6) during the first year: state and local governments will incur increased costs of $20,401,222; the change in state and local government revenue will

range from -$2,245,690 to +$6,997,415; and the net state and local government fiscal impact will range from -$22,646,912 to -$13,403,807.

The report is organized as follows. My qualifications to prepare this report are contained in Section II. Section III describes the data and records I relied upon for this report. Section IV reviews the estimated fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085. A summary and my conclusions are provided in Section VI.

## II. Qualifications

I am currently the E.M. Stevens Professor of Economics at Trinity University in San Antonio, Texas. Previously, I was employed by Florida State University as Director of the Pepper Institute on Aging and Public Policy and the Rod and Hope Brim Eminent Scholar in Economics. I have taught both undergraduate and graduate Econometrics (statistical analysis of economic data), and Labor Economics. I have published over 50 articles in peer-reviewed professional journals.

I am currently serving on the editorial board of the *Journal of Forensic Economics*, which is a peer-reviewed journal. I have also served as a reviewer or 'referee' for 24 peer-reviewed journals, including the *Journal of Human Resources, Journal of Labor Economics, Quarterly Journal of Economics,* and the *Review of Economics and Statistics*. Based upon these experiences, I am very familiar with the scholarly and professional research process and the concept of peer review.

I have prepared numerous analyses and reports that use statistical methods as applied to specific questions. I have been responsible for developing the techniques and approaches required for these analyses. I routinely use computers and statistical software packages to assist me in my analytical work. I have been qualified as an expert witness on statistical analysis of employment discrimination and economic damages in state courts in Florida and Georgia and Federal Courts, and I have given expert testimony. I have prepared analyses and offered testimony on behalf of both plaintiffs and defendants.

Details of my qualifications are reflected in my current resume and legal cases, attached as Appendix A to the report.

## III. Data and Records

I reviewed the following materials in preparing this report.

- Plaintiff's Complaint
- Material cited in footnotes below.

## IV. Fiscal Impact

*A. Overview*

The proposed statutory initiative petitions 2012-084 and 2012-085 contain many elements in common. Both initiatives would increase the Missouri minimum wage to $8.25 per hour, alter the exemption for retail and service firms, raise the cash wage of tipped workers from 50% to 60% of the minimum wage, and increase the statute of limitation from two to three year for underpayment claims.

The initiatives differ in their linkage to the federal minimum wage. Initiative petition 2012-084 requires that the state minimum wage be automatically increased to the

federal minimum wage if it is higher than the state minimum wage. Initiative petition 2012-085 does not have such a linkage. It only requires that workers be paid the higher of the state minimum wage or the federal minimum wage. The linkage to the federal minimum wage will cause the state minimum wage to be higher under initiative petition 2012-084 over time. This is because the state minimum wage, in contrast to the federal minimum wage, is adjusted for inflation as measured by the Consumer Price Index.

An increase in the minimum wage in Missouri will affect state and local government entities in two ways. First, it will directly increase the cost of labor to state and local government entities. This will occur due to the increase in wages of state and local government workers earning between the existing minimum wage of $7.25 and the new minimum wage of $8.25.[1] In addition, workers laid off due to the minimum wage increase can collect unemployment benefits. The state government will bear the cost of unemployment benefits of these workers for the first 20 weeks. Second, state and local government may gain increased revenue through higher income tax and sales taxes paid by workers affected by the minimum wage who remain employed. However, state and local government will suffer reduced tax revenue to the extent the higher wage cost lowers profits of businesses.

The following sections estimate the cost and revenue effects to state and local government entities of the proposed minimum wage increase.

[1] Information about the minimum wage in Missouri is available at http://www.labor.mo.gov/DLS/minimumwage/.

*B. Direct Labor Cost Impact on State and Local Government Budgets*

There are two possible ways to measure the direct labor cost on state and local government budgets. First, one can use the information included in the fiscal notes prepared by the State Auditor regarding the proposed initiatives. It is important to note that the fiscal notes provide an incomplete and thus too low estimate of the direct labor cost. The fiscal notes indicate that the Office of Administration's (OA) Division of Personnel reported that as of September 2011 there were 834 state workers who would be affected by an increase of the minimum wage to $8.25 and the "approximate annual cost" would be more than $540,000.

This OA estimate excludes seasonal workers such as State Fair employees, State Parks Employees, and tax season staff. The Division of Revenue noted its labor cost would rise by $40,000. The Division of Natural Resources stated they have over 500 workers who would be affected by the increase, but did not provide an estimate of the cost. The State Fair hired 745 workers that would be affected, but no cost estimate was provided.

Thus, the cost to state government, based on the fiscal notes, would be more than $580,000.

The fiscal notes also provide an incomplete and thus too low measure of the cost to local government and public educational institutions. Many cities and educational institutions did not respond to Office of Auditor's survey or provide an estimate of the cost of the higher minimum wage. The City of Columbia, City of Jefferson, City of

Joseph, Linn State Technical College, and Metropolitan Community College did provide such an estimate. The total cost to these five institutions is $772,182.

Based on the fiscal notes, the cost to state and local government entities of the increase in the minimum wage to $8.25 will be more than $1,352,182.

Second, data from the U.S. Census Bureau's Current Population Survey (CPS) can also be used to calculate the cost of the increased labor cost to state and local government entities in Missouri. Using the data from January 2010 to December 2011 Outgoing Rotation Group (ORG) CPS, I calculated that 17,089 state and local government workers would be affected by the minimum wage increase. I defined affected workers as those individuals earning between $7.00 and $8.24 per hour. Though the minimum wage was $7.25 per hour during this period, I also included those workers reporting earnings of $7.00 to $7.24 since some individuals may round their wage rate. I calculated the annual wage cost for each state and local government worker (i) in the ORG CPS as:

$$Annual\ Wage\ Cost_i = (\$8.25 - current\ wage_i) * weekly\ hours_i * 52.$$[2]

The average annual wage cost increase was $870. I summed the cost over each worker (i) to obtain the total wage cost to state and local government entities in Missouri of $14,866,430.

The increased wage cost is not the only labor cost to state and local government entities of the minimum wage increase. Employers are required to pay 7.65% of their wage costs in Social Security and Medicare taxes. Thus, the total labor cost of the minimum wage increase will be 1.0765 times $14,866,430 or $16,003,712.

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[2] I assume that persons reporting an hourly wage rate between $7.00 and $7.24 are actually earning $7.25 per hour.

*C. Unemployment Benefit Impact*

The higher minimum wage will cause firms to reduce their level of employment.[3] As a result, the number of unemployed workers will increase. Thus, another important fiscal cost of the minimum wage increase is the cost of the unemployment insurance benefits for the workers laid off as a result of the minimum wage increase.

To calculate the cost to the unemployment benefits program, I first calculated the number of workers laid off. To do so, I calculated a probability of job loss for each affected Missouri worker (i) in the January 2010 to December 2011 ORG CPS:

$$Probability\ Job\ Loss_{\ i} = \frac{(\$8.25 - Current\ Wage_i)}{Current\ Wage_i} * elasticity_i.$$

I used the preferred employment elasticity (i.e., sensitivity of employment to wage changes) contained in Sabia and Burkhauser (2010), which was -0.6 for individuals aged 16 to 29 without a high school degree and -0.2 for all other individuals. The sole exception was for state and local government workers, where I assumed an elasticity of zero.[4] The sum across all affected workers yielded an estimated job loss of 5,745 jobs.

The next step was to calculate the weekly benefit for the average unemployed worker. Using the benefits calculator on the Missouri unemployment benefits web site and the wage income of average private-sector affected worker ($10,937), yields an average weekly benefit of $109.36[5]. The state of Missouri pays the first 20 weeks of benefits.[6] Thus, each eligible unemployed worker could receive a total of $2,187.20 in

[3] For a survey of research regarding the effect of the minimum wage on employment, see David Neumark and William L. Wascher, *Minimum Wages* (Cambridge, MA: MIT Press, 2008).
[4] Joseph J. Sabia and Richard V. Burkhauser, "Minimum Wages and Poverty: Will a $9.50 Federal Minimum Wage Really Help the Working Poor?" *Southern Economic Journal* (January 2010): 592-623.
[5] http://www.labor.mo.gov/DES/Claims/calculator.asp
[6] See http://www.labor.mo.gov/DES/Claims/

benefits paid for by the state of Missouri. These jobs are permanently eliminated and so it is appropriate to calculate the full amount of benefits for each worker.

Unemployment insurance, however, does not cover all unemployed workers. For example, it does not cover people who leave a job voluntarily, people looking for their first job, and re-entrants who previously left the labor force voluntarily. Furthermore, some individuals don't apply for benefits even though they are eligible. I assume that 35% of the unemployed workers will receive unemployment benefits based on analysis by Wenger (2001).[7]

The last step is to calculate the total cost to the Missouri unemployment benefits program. This done by multiplying the number of jobs lost (5,745) times the average benefit amount ($2,187.20) times the percent of unemployed individuals collecting benefits (35%). This calculation yields a figure of $4,397,510. This cost would be borne only during the first year of the minimum wage increase. The inflation adjustments in the minimum wage will also yield costs to the unemployment insurance program, but it is not possible to estimate the amount.

*D. Impact on State Income Tax Revenue*

The state of Missouri will gain increased revenue through higher income tax taxes paid by workers affected by the minimum wage who remain employed. However, it will

[7] Jeffery Wenger. "Divided We Fall: Deserving Workers Slip through America's Patchwork Unemployment Insurance System." *Economic Policy Institute*, 2001. Sabia and Burkhauser (2010) make the same assumption in their calculation of the amount of unemployment benefits generated by a minimum wage increase.

suffer reduced corporate income tax revenue to the extent the higher wage cost lowers profits of businesses.

To calculate the impact on individual income tax revenue, I again used data from January 2010 to December 2011 ORG CPS. I defined affected workers as those Missouri individuals earning between $7.00 and $8.24 per hour.[8] I used the following formula to estimate the change in income tax revenue:

$$\Delta Tax\ Revenue_i = (Tax_After_i - Tax_Before_i) - Prob_Job_Loss_i * Tax_Before_i,$$

where $Tax_After_i$ is the income tax paid by worker i after the minimum wage increase. $Tax_Before_i$ is the income tax paid by worker i after the minimum wage increase, and $Prob_Job_Loss_i$ is the probability of job loss for worker i. The first term shows the change in individual income tax revenue assuming no job loss and the second term shows the loss in tax revenue due to the employment loss caused by the minimum wage increase.

The income tax calculations were based on two assumptions.[9] First, the 50% percent of affected workers who were under the age 25 who were assumed to be dependents on another person's tax return. As a result, it was assumed that the affected workers' earnings were taxable at the maximum Missouri income tax rate of 6% both and after the minimum wage increase.[10] Second, all persons age 25 and older were assumed to be paying little or no income tax after exemptions and deductions. Thus, about 50% of the earnings increase will be taxed at a rate of 6%.

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[8] I again assume that persons reporting an hourly wage rate between $7.00 and $7.24 are actually earning $7.25 per hour. The annual earnings level was calculated as the worker's wage rate times usual weekly hours worked times 52.

[9] The same assumptions are used in the State Auditor's fiscal notes for the initiatives.

[10] This assumption will overstate the revenue increase as 20% of affected workers under the age 25 are living by themselves and some of these individuals will not be a dependent on another person's tax return.

The tax calculations reveal an increase in income tax revenue increase to the state. Assuming no workers were laid off by the minimum wage increase, income tax revenue would rise by $6,043,534. However, the state will lose $1,965,446 in income tax revenue due to the lost earnings of private-sector workers no longer employed due to the minimum wage hike.[11] Thus, the net increase in individual income tax revenue is $4,078,088.

Businesses have three options to respond to the higher labor costs of a higher minimum wage. They can reduce their profits, raise prices, or lay off workers. Based on the 2010-2011 ORG CPS data, the minimum wage increase will raise private-sector labor costs by $192,620,900 if employment levels are not reduced. However, labor costs will be lowered by $55,240,790 due to the reduction in employment. Thus, labor costs will, on net, rise by $137,380,110. These increased labor costs may be either passed on to consumers through higher prices or reduced profits or more likely some combination of higher prices and reduced profits. Assuming that businesses absorbed all of the higher costs through reduced profits, the corporate income tax revenue would fall by the Missouri corporate income tax of 6.25% times the rise in labor costs of $137,380,110 * 1.0765 (to account for employer-paid Social Security and Medicare taxes) or $9,243,106.[12] Alternatively, if half of the higher labor costs were passed on to consumers, then corporate income tax revenue would fall by $4,621,553.

[11] The probability of job loss was calculated in the same manner as in the prior section.
[12] The corporate income tax for Missouri is available at: http://dor.mo.gov/business/corporate/

*E. Impact on State and Local Sales Tax Revenue*

To calculate the impact on state and local sales tax revenue the following approach was undertaken.[13] First, the total increase in worker earnings, adjusted for employment reductions, was calculated using the 2010-2011 ORG CPS. This figure was $152,246,540. Second, the increase in Missouri taxable sales was calculated as 25% of the earnings increase or $38,061,635. Third, the increase in sales tax revenue was calculated by multiplying the taxable sales change times the average state and local rate of 7.67% or $2,919,327.[14]

The higher minimum wage may decrease sales tax revenue to the extent that it reduces business profits, which will lower spending by business owners.

## VI. Summary and Conclusions

I was asked by counsel to evaluate the fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085.

The results of my analysis indicate:

(1) labor costs to state and local government entities, based on state auditor fiscal notes, will rise by more than $1,352,182. A more inclusive estimate indicates that state and local government labor costs will increase by $16,003,712;

[13] The same general approach is used in the State Auditor's fiscal notes for the initiatives.
[14] The average rate comes from http://taxfoundation.org/news/show/27023.html

(2) unemployment benefit costs will rise by $4,397,510 during the first year of the minimum wage increase;

(3) individual income tax revenue will rise by at most $4,078,088;

(4) the loss in corporate income tax revenue could be as high as $9,243,105;

(5) state and local sales tax revenue will rise by at most $2,919,327;

(6) during the first year: state and local governments will incur increased costs of $20,401,222; the change in state and local government revenue will range from -$2,245,690 to +$6,997,415; and the net state and local government fiscal impact will range from -$22,646,912 to -$13,403,807.

**FISCAL ANALYSIS**
**OF**
**PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085**

David A. Macpherson

David A. Macpherson, Ph.D.
March 26, 2012

# Appendix A

## Resume and Testimony of David A. Macpherson, Ph.D.

# DAVID A. MACPHERSON

3/2012

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Ph.D., Economics, The Pennsylvania State University.
B.S., Economics, The Pennsylvania State University.

## Current Positions

E.M. Stevens Professor of Economics, Trinity University, 2009-
Research Fellow, Institute for the Study of Labor (IZA), Bonn, 2004-.

## Previous Positions

Rod and Hope Brim Eminent Scholar in Economics, FSU 2004-2009.
Director, Pepper Institute on Aging and Public Policy, FSU, 2003-2009.
Abba P. Lerner Professor of Economics, FSU, 2000-2009.
Professor, Department of Economics, Florida State University, 1996-2009.
Director of Research, Pepper Institute on Aging and Public Policy, FSU, 1995-2000.
Associate Professor, Department of Economics, Florida State University, 1993-1996.
Research Associate, Pepper Institute on Aging and Public Policy, FSU, 1993-2001, 2003-2009.
Visiting Associate Professor, Department of Economics, Florida State University, 1992-1993.
Research Affiliate, Pepper Institute on Aging and Public Policy, FSU, 1992-1993, 2001-2003.
Associate Professor, Department of Economics, Miami University, 1991-1993.
Assistant Professor, Department of Economics, Miami University, 1987-1991.

## Research Areas

Labor Economics, Labor Market Aspects of Pensions, Labor Unions, Racial and Gender Differences in the Labor Market, Minimum Wage, Deregulation.

**Teaching Areas**

Principles of Microeconomics and Macroeconomics, Intermediate Microeconomics, Money and Banking, Econometrics (undergraduate and graduate), Labor Economics and Labor Relations (undergraduate and graduate).

**Books**

*Economics: Private and Public Choice*, 14th edition, Southwestern: Cincinnati, OH, 2013, with James Gwartney, Richard Stroup, and Russell Sobel. Co-author on 10th, 11th, 12th, and 13th editions as well.

Instructor's Manual for *Economics: Private and Public Choice*, 14th edition, Southwestern: Cincinnati, OH, 2013. Author for instructor's manual for 10th, 11th, 12th, and 13th editions as well.

*Union Membership and Earnings Data Book: Compilations from the Current Population Survey (2011 Edition)*, Bureau of National Affairs, Washington, D.C., with Barry Hirsch.

Previous Editions: *Union Membership and Earnings Data Book: Compilations from the Current Population Survey* (Washington: Bureau of National Affairs, 1994-2010).

Tables derived from the *Data Book* are included in U.S. Department of Commerce, *Statistical Abstract of the United States 2011,* 130th Edition (Washington: GPO, 2011), Tables 663, 665; *Statistical Abstract of the United States 2010,* 129th Edition (Washington: GPO, 2010), Tables 648, 650; *Statistical Abstract of the United States 2009,* 128th Edition (Washington: GPO, 2009), Tables 642, 644; *Statistical Abstract of the United States 2008,* 127th Edition (Washington: GPO, 2008), Tables 642, 644; *Statistical Abstract of the United States 2007,* 126th Edition (Washington: GPO, 2006), Tables 645, 647; *Statistical Abstract of the United States 2006*, 125th Edition (Washington: GPO, 2005), Tables 647, 649; *Statistical Abstract 2004-2005*, Tables 638, 640; *Statistical Abstract 2003*, Tables 656, 658; *Statistical Abstract 2002*, Tables 628, 630; *Statistical Abstract 2001*, Tables 637, 639; *Statistical Abstract 2000*, Tables 712, 714; *Statistical Abstract 1999*, Tables 718, 720; *Statistical Abstract 1998*, Tables 712, 714; *Statistical Abstract 1997*, Tables 688, 690; *Statistical Abstract 1996*, Tables 681, 683; *Statistical Abstract 1995*, Tables 695, 697; and in U.S. Department of Commerce, *State and Metropolitan Area Data Book, 1997-98*, 5th Edition (Washington: GPO, 1998), Table A-22.

*Contemporary Labor Economics*, 9th edition, McGraw-Hill: New York, NY, 2010, with Campbell McConnell and Stanley Brue. Co-author on 5th, 6th, 7th, and 8th editions as well.

*Pensions and Productivity*, W.E. Upjohn Institute for Employment Research: Kalamazoo, MI, 1998, with Christopher Cornwell and Stuart Dorsey.

**Journal Publications (Economics)**

"Computing Lost Profits in Business Interruption Litigation: A General Model," *Journal of Business Valuation and Economic Loss Analysis*, forthcoming, with Stanley Stephenson and Gauri Prakash-Canjels.

"Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," *Southern Economic Journal*, forthcoming, April 2012, with William Even.

"Growth of Participant Direction in Defined Contribution Plans," April 2010, pp. 190-208, *Industrial Relations*, with William Even.

"Managing Risk Caused by Pension Investments in Company Stock," *National Tax Journal*, September 2009, pp. 439-453, with William Even.

"Pension Investments in Employer Stock," *Journal of Pension Economics and Finance*, March 2008, pp. 67-93, with William Even.

"Defined Contribution Plans and the Distribution of Pension Wealth," *Industrial Relations*, July 2007, pp. 551-581, with William Even.

"Lost Profits Damages to New Businesses: Adjusting for Survival," *Journal of Business Valuation and Economic Loss Analysis*, October 2006, pp. 1-12, with Stanley Stephenson.

"Determinants and Effects of Employer Matching Contributions in 401(k) Plans," *Industrial Relations*, July 2005, pp. 525-549, with William Even.

"When Will the Gender Gap in Retirement Income Narrow?" *Southern Economic Journal*, July 2004, pp. 182-200, with William Even.

"Company Stock in Pension Funds," *National Tax Journal*, June 2004, pp. 299-313, with William Even.

"Wages, Sorting on Skill, and the Racial Composition of Jobs," *Journal of Labor Economics*, January 2004, pp.189-210, with Barry Hirsch.

"Racial and Ethnic Differences in Pension Wealth," *Research in Labor Economics*, 2003, pp. 203-226, with William Even.

"Do Terminated Employees Catch Up? Evidence From the Displaced Worker Survey," *Journal of Forensic Economics*, Spring/Summer 2003, pp. 185-199, with Michael Piette.

"Union Membership and Coverage Database from the Current Population Survey: Note," *Industrial and Labor Relations Review*, January 2003, pp. 349-354, with Barry Hirsch.

"The Wage and Employment Dynamics of Minimum Wage Workers," *Southern Economic Journal,* January 2003, pp. 676-690, with William Even.

"State-Level Estimates of Union Density, 1964 to Present," *Monthly Labor Review*, July 2001, pp. 51-55, with Barry Hirsch and Wayne Vroman (accompanying data online).

"The Changing Distribution of Pension Coverage," *Industrial Relations*, April 2000, pp. 199-227, with William Even.

"Occupational Age Structure and Access for Older Workers," *Industrial and Labor Relations Review*, April 2000, pp. 401-418, with Barry Hirsch and Melissa Hardy.

"Earnings, Rents, and Competition in the Airline Labor Market," *Journal of Labor Economics*, January 2000, pp. 125-155, with Barry Hirsch.

"Estimating Wage Differentials: When Does Cost-of-Living Matter?" *Economic Inquiry*, October 1999, pp. 577-598, with Mike DuMond and Barry Hirsch.

"Worker's Compensation Recipency in Union and Nonunion Workplaces," *Industrial and Labor Relations Review*, January 1997, pp. 213-236, with Barry Hirsch and Michael DuMond.

"Pensions and Training," *Industrial Relations*, January 1997, pp. 81-96, with Stuart Dorsey.

"The Consequences of Indexing Minimum Wages," *Contemporary Economic Policy,* October 1996, pp. 67-77, with William Even.

"Employer Size and Labor Turnover: The Role of Pensions," *Industrial and Labor Relations Review*, July 1996, pp. 707-728, with William Even.

"The Consequences of Non-FICA Status in State and Local Pensions," *Proceedings of National Tax Association Meetings*, 1996, with William Even.

"Wages and Gender Composition: Why Do Women's Jobs Pay Less?" *Journal of Labor Economics*, July 1995, pp. 426-471, with Barry Hirsch.

"Employer Size and Compensation: The Role of Worker Characteristics," *Applied Economics*, September 1994, pp. 897-907, with William Even

"Gender Differences in Pensions," *Journal of Human Resources*, Spring 1994, pp. 555-587, with William Even.

"Why Did Male Pension Coverage Decline in the 1980s?", *Industrial and Labor Relations Review*, April 1994, pp. 439-453, with William Even.

"Unionism and Gross Employment Flows," *Southern Economic Journal*, January 1994, pp. 427-438, with Timothy Dunne.

"The Decline of Private-Sector Unionism and the Gender Wage Gap," *Journal of Human Resources*, Spring 1993, pp. 279-296, with William Even.

"Union Membership and Coverage Data Available From the Current Population Surveys: Note." *Industrial and Labor Relations Review*, April 1993, pp. 574-578, with Barry Hirsch.

"Employer-Provided Retiree Health Insurance: Who is Covered?" *Economics Letters*, May 1992, pp. 95-99.

"Union Wage Differentials and the Effects of Industry and Local Union Density: Evidence from the 1980s," *Journal of Labor Research*, Fall 1991, pp. 419-427, with Michael Curme.

"The Effects of Extended Families and Marital Status on Housing Consumption by Black Female-Headed Households," *Review of Black Political Economy*, Winter/Spring 1991, pp. 65-84, with James Stewart.

"The Impact of Unionism on Fringe Benefit Coverage," *Economics Letters*, May 1991, pp. 87-91, with William Even.

"A Note on Ownership and Performance in Manufacturing Firms," *Southern Economic Journal*, April 1991, pp. 1164-1169, with Timothy Dunne.

"Union Membership and Contract Coverage in the United States, 1983-1988," *Industrial and Labor Relations Review*, October 1990, pp. 5-33, with Michael Curme and Barry Hirsch.

"The Gender Gap in Pensions and Wages," *Review of Economics and Statistics*, May 1990, pp. 259-265, with William Even.

"The Effect of International Competition on Union and Nonunion Wages," *Industrial and Labor Relations Review*, April 1990, pp. 434-446, with James Stewart.

"Plant Size and the Decline of Unionism," *Economics Letters*, April 1990, pp. 393-398, with William Even.

"Trade Unions and Labor's Share in U.S. Manufacturing Industries," *International Journal of Industrial Organization*, March 1990, pp. 143-51.

"The Labor Force Participation and Earnings Profiles of Married Female Immigrants," *Quarterly Review of Economics and Business*, Autumn 1989, pp. 57-72, with James Stewart.

"The Labor Supply and School Attendance of Black Women in Extended and Nonextended Households," *American Economic Review Papers and Proceedings*, May 1989, pp. 71-74, with James Stewart.

"Self-Employment and Married Women," *Economics Letters*, December 1988, pp. 281-284.

"Unionism and the Dispersion of Wages Among Blue-Collar Women," *Journal of Labor Research*, Fall 1987, pp. 395-405, with James Stewart.

**Journal Publications (Real Estate and Insurance)**

"The Use of Post-Loss Assessments in Catastrophic Financing," *Risk Insurance and Management Review*, forthcoming, with Patrick Maroney, Charles Nyce, Kathleen McCullough, James W. Newman Jr., and Cassandra Cole.

"A Meta Analysis of Selling Price and Time on the Market," *Journal of Housing Research,* Issue 2010, pp. 139-152, with Stacy Sirmans and Lynn MacDonald.

"A Comparison of Hurricane Loss Models," *Journal of Insurance Issues*, Spring 2010, pp. 31-53, with Kathleen McCullough and Cassandra Cole.

"A Review of the Development of Residual Market Mechanisms in Florida," *Journal of Insurance Regulation*, Summer 2009, pp. 55-80, with Patrick Maroney, Charles Nyce, Kathleen McCullough, James W. Newman Jr., and Cassandra Cole.

"The History of Property Tax Capitalization in Real Estate," *Journal of Real Estate Literature*, Issue 3 2008, pp. 327-343, with Dean Gatzlaff and Stacy Sirmans.

"Horizontal and Vertical Inequity in Real Property Taxation," *Journal of Real Estate Literature*, Issue 2 2008, pp. 167-180, with Dean Gatzlaff and Stacy Sirmans.

"The Title Insurance Industry: Examining a Decade of Growth," *Journal of Insurance Regulation*, Summer 2007, pp. 23-51, with Randy Dumm and Stacy Sirmans.

"The Value of Housing Characteristics: A Meta Analysis" *Journal of Real Estate Finance and Economics*, November 2006, pp. 215-240, with Stacy Sirmans, Lynn MacDonald, and Emily Zeitz.

"The Composition of Hedonic Pricing Models," *Journal of Real Estate Literature*, Issue 1 2005, pp. 3-43, with Stacy Sirmans.

"The State of Affordable Housing," *Journal of Real Estate Literature*, Issue 2 2003, pp. 133-155, with Stacy Sirmans.

"Affinity Programs and Real Estate Brokerage," *Journal of Real Estate Research*, November-December 2001, pp. 337-351, with Stacy Sirmans.

"Neighborhood Diversity and House Price Appreciation," *Journal of Real Estate Finance and Economics*, January 2001, pp. 81-97, with Stacy Sirmans.

"Forecasting Seniors Housing Demand in Florida," *Journal of Real Estate Portfolio Management*, 1999, pp. 259-74, with G. Stacy Sirmans.

**Publications in Books**

"Improving Pension Coverage at Small Firms," with William Even, in *Overcoming Barriers to Entrepreneurship*, ed. Diana Furchtgott-Roth, Rowman & Littlefield, 2008.

"Measuring Union and Nonunion Wage Growth: Puzzles in Search of Solutions" with Barry Hirsch and Edward Schumacher, in *Changing Role of Unions: New Forms of Representation*, Phanindra Wunnava, M.E. Sharpe, 2004.

"Living Wage Laws and the Case for a Targeted Wage Subsidy," in *Living Wage Movements: Global Perspectives*, ed. Deborah M. Figart, Routledge, 2004.

"Benefits and Worker Productivity," with William Even, in *Benefits for the Workplace of Tomorrow,* eds. Olivia S. Mitchell, David S. Blitzstein, Michael S. Gordon, and Judith F. Mazo, University of Pennsylvania Press, 2003.

"Children's Effects on Women's Labor Market Attachment and Earnings," with William Even, in *Changes in Working Time in Canada and the United States*, eds. Susan Houseman and Alice Nakamura, W.E. Upjohn Institute, 2001.

"Downsizing and Life Course Consequences of Job Loss: The Effect of Age and Gender on Employment and Income Security," with Jill Quadagno, Jennifer Reid, and Lori Parham, in *Restructuring Work and the Life Course*, eds. Victor Marshall, Walter Heinz, Helga Krueger, and Anil Verma, University of Toronto Press, 2001.

"The Effect of a Job Loss on the Employment Experience, Benefits, and Retirement Savings of Bank Officers," with Jill Quadagno and Jennifer Keene, in *Ensuring Health and Income Security for an Aging Workforce*, ed. Peter P. Budetti, W.E. Upjohn Institute, 2001.

"Earnings and Employment in Trucking: Deregulating a Naturally Competitive Industry," with Barry Hirsch, in *Regulatory Reform and Labor Markets*, ed. James Peoples, Kluwer Publishers, 1998.

"Gender-Related Differences in Pension Coverage," with William Even, in *Women and Work: A Handbook*, Garland Publishing, New York, NY, 1996.

"The Pension Coverage of Young and Mature Workers", with William Even, in *Pension Coverage Issues for the '90s*, eds. Richard Hinz, John Turner, and Phyllis Fernandez, U.S. Government Printing Office, Washington, D.C, 1994.

**Working Papers (Economics)**

"Deferred Compensation vs. Efficiency Wages: An Experimental Test of Effort Provision and
Self-Selection," with Tim Salmon and Kislaya Prasad, under review, *Journal of Business and Economic Organization*

"What Do Unions Do to Pension Performance?" with William Even, September 2011, under revision

"Teacher Salaries, State Collective Bargaining Laws, and Union Coverage" March 2011, with Barry Hirsch and John Winters.

"The Effects of the 2007-2009 Federal Minimum Wage Increases on Teen Employment," with William Even, under revision, July 2010.

"Participant Direction in Defined Contribution Plans," April 2006, with William Even, under revision.

"Do Pensions Impede Phased Retirement?" September 2004, with William Even, under revision.

**Working Papers (Real Estate and Insurance)**

"An Empirical Analysis of Socio-Demographic Factors and the Mispricing of Homeowners Insurance in Florida," under review *Journal of Financial Services Research*, with Ronald Cheung, Charles Nyce, Kathleen McCullough, and Cassandra Cole.

"The Impact of No-Fault Legislation on Automobile Insurance Premiums," revised and resubmitted to *North American Actuarial Journal*, with Cassandra Cole, Kevin Eastman, Patrick Maroney, and Kathleen McCullough.

**Funded Projects**

Employment Policies Institute, 5/2010-7/2010, $16,500 (Trinity University portion), "Employment Effects of the 2007-2009 Federal Minimum Wage Increases," with William Even.

National Science Foundation, 9/2009-8/2012, $125,866 (Trinity University portion), "Incentives in the Workplace: An Experimental Examination of How Wage Differences Across Time and Among Peers Affect Productivity and Self-Selection," with Tim Salmon, Kislaya Prasad, and Hyejin Ku.

Florida Legislature, 10/2007-6/2009, $175,000, "Child Support Guidelines," with Stefan Norrbin and Thomas McCaleb.

Florida Legislature (through University of Florida), 12/2006-9/2007, $223,000, "Analysis of Save our Homes Amendment," with Dean Gatzlaff.

U.S. Administration on Aging (through University of South Florida), 5/2005-9/2007, $175,000, "Employment in the Long-Term Care Industry: The Importance of Recruitment and Retention," with William Even.

Florida Legislature, 2/2003-8/2004, $175,000, "Child Support Guidelines," with Stefan Norrbin and Thomas McCaleb.

Florida Department of Environmental Protection, 6/2002-2/2003, $94,157, "Affordability Index," with Stefan Norrbin and William Serow.

University of South Carolina, 4/2000-11/2000, $10,000, "Minority Homeownership in South Carolina," with Stacy Sirmans.

Florida Department of Business and Professional Regulation, 3/1999-6/1999, $21,739, "Forecasting Housing Demand in Florida," with Stacy Sirmans.

University of South Carolina, 4/1999-11/1999, $10,000, "Forecasting Housing Demand in South Carolina," with Stacy Sirmans.

Florida State University, 6/1999-8/1999, $7,500, "Support for Preparing ECO 2000 as a Web-Based Course."

TIAA-CREF, 8/1998-8/1999, $23,000, "Determinants of Savings in Supplemental Pension Plans: A Case Study of Pension Choices in Higher Education," with Melissa Hardy and Larry Hazelrigg.

Florida Department of Business and Professional Regulation, 4/1998-6/1998, $16,638, "Forecasting Seniors' Demand for Housing in Florida," with Stacy Sirmans.

Florida Department of Business and Professional Regulation, 12/1997-6/1998, $18,472, "Housing Price Appreciation in Orlando and Tampa," with Stacy Sirmans.

Florida State University, 6/1998-8/1998, $7,500, "Support for Preparing ECO 2000 as a Web-Assisted Course."

Florida Department of Business and Professional Regulation, 3/1997-6/1997, $17,898, "Minority Homeownership in Florida," with Stacy Sirmans.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 12/1996-8/1997, $20,000, "The Impact of Rising 401(k) Pension Coverage on Retirement Income," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 3/1996-6/1997, $15,000, "The Determinants of 401(k) Participation and Contribution Levels," with William Even.

Florida Department of Business and Professional Regulation, 4/1996-6/1996, $22,702, "Forecasting the Number of New Florida Real Estate Licensees," with Stacy Sirmans.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 3/1995-6/1996, $15,000, "Explaining the Decline in Pension Coverage of Less Educated Workers," with William Even.

Florida State University COFRS Grant, 6/1994-8/1994, $8,000, "The Relative Compensation and Quality of Public and Private Sector Workers."

W.E. Upjohn Institute for Employment Research, 3/1994-12/1995, $35,000, "Pensions and Productivity," with Stuart Dorsey and Christopher Cornwell.

Florida Division of Workers' Compensation, 1/94-12/1995, $100,000, "Worker's Compensation Recipency in Union and Nonunion Workplaces," part of a service contract titled "Research Partnership with the Division of Workers' Compensation," co-investigator (one of several).

University of Wisconsin Institute for Research on Poverty Small Grant Program, 7/1993-6/1994, $15,000, "Racial Composition, Wages, and Quality Sorting," with Barry Hirsch.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 7/1993-6/1993, $10,000, "Trends in Individual and Family Pension Coverage," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 6/1992-5/1993, $10,000, "The Pension Coverage of Young and Mature Workers," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration and American Society of Pension Actuaries, 6/1991-5/1992, $10,000, "A Conference on Current Pension Policy Issues," with William Even.

Miami University Faculty Research Grant, 6/1991-8/1991, $4,000, "Projected Growth in Retiree Health Insurance Liabilities."

Ohio Board of Regents Research Challenge Grant, 1/1990-12/1990, $4,980, "Proposal to Enhance the Data Library of the Center of Pension and Retirement Research," with William Even and Samuel Williamson.

Miami University Faculty Research Grant, 6/1990-8/1990, $4,000, "The Role of Firm Size in Pension Coverage and Options."

Miami University Faculty Research Grant, 6/1989-8/1989, $4,000, "Declining Unionism and the Gender Wage Gap," with William Even.

**Participation in National Meetings**

Panel Discussant, American Real Estate and Urban Economics Association/ASSA meetings, January 2008.

Presented, "Employee Turnover in the Long-Term Care Industry," at Academy Health Annual Research Meetings, June 2007.

Presented, "Participant Direction in Defined Contribution Pension Plans," at International Atlantic Economic Society meetings, October 2006.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at International Atlantic Economic Society meetings, October 2005.

Presented, "Replacing Earnings After Termination: Evidence from the Displaced Worker Survey," at the Allied Social Science Association/National Association of Forensic Economics, January 2002.

Presented, "Labor Market Transitions of Older Workers," at the Allied Social Science Association/Society of Government Economists meetings, January 1999.

Presented, "Why has the Loss in Pension Coverage Accelerated Among Less Educated Workers?" at the American Economic Association Meetings, 1995.

Presented, "Wages and Gender Composition: Why Do Women's Jobs Pay Less?" at the American Economic Association Meetings, 1994, with Barry Hirsch.

Presented, "Pensions, Labor Turnover, and Employer Size" at the American Economic Association Meetings, 1993, with William Even.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the American Economic Association meetings, 1992, with William Even.

**Participation in Regional Meetings**

Presented "Unions and Pension Performance: The Role of Pension Design," at Southern Economics Association meetings, November 2009.

Panel member, "Recent Federal Reserve Policy: An Evaluation" at Southern Economics Association meetings, November 2009.

Discussant, "Topics in Health Economics," at Southern Economics Association meetings, November 2009.

Discussant, "Teacher Pay, Principals, and Schooling," at Southern Economics Association meetings, November 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Western Economic Association meetings, July 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Eastern Economic Association meetings, February 2009.

Panel Discussant at the Southern Economic Association meetings, November 2008.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Southern Economic Association meetings, November 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Western Economic Association meetings, July 2008.

Chair "Pensions and Retirement" Session at Southern Economic Association meetings, November 2007.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Southern Economic Association meetings, November 2007.

Presented, "Participant Direction in Defined Contribution Pension Plans," at Southern Economic Association meetings, November 2006.

Panel Discussant, Southern Economic Association meetings, November 2005.

Presented, "Do Pensions Impede Phased Retirement?" at the Southern Economic Association meetings, November 2004.

Presented, "When Will the Gender Gap in Retirement Income Narrow?" at the Southern Economic Association meetings, November 2003.

Presented, "How Will the Growth of DC and 401(k) Plans Affect Pension Income?" at the Southern Economic Association meetings, November 2002.

Presented, "Racial Composition, Wages, and Quality Sorting," at the Southern Economic Association meetings, November 1999.

Presented, "Racial and Ethnic Differences in Pension Coverage and Benefit Levels," at the Southern Economic Association meetings, November 1998.

Presented, "Factors Influencing Participation and Contribution Levels in 401(k) Plans," at the Western Economics Association meetings, July 1998.

Presented, "Aging at Work: Employment Determination, Firm Strategies, and Public Policy in the United States," at the Western Economic Association meetings, July 1994.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Western Economic Association meetings, July 1992.

Presented "Plant Size and the Decline of Unionism," at the Southern Economic Association meetings, 1989, with William Even.

Panel Discussant, Southern Economic Association meetings, November 1989.

Presented "The Labor Force Participation and Earnings Profiles of Married Female Immigrants," at the Southern Economic Association meetings, November 1988.

Presented "Pensions, Screening, and the Gender Wage Gap," at the Southern Economic Association meetings, November 1988.

Session Chair and Panel Discussant at the Southern Economic Association meetings, November 1988.

**Participation in Invited Seminars, Conferences, and other Presentations**

Presented, "Teaching Macroeconomics During Troubled Times," at Creative Ideas for Your Basic Economics Course Conference at Florida State University, February 2012.

Presented, "Participant Direction in Defined Contribution Pension Plans," at Pennsylvania State University, April 2010.

Presented, "The Parallels Between the Japanese Economic Crisis of the 1990s and the US Today" at Creative Ideas for Your Basic Economics Course Conference at Florida State University, February 2010.

Chair "Minimum Wage & EITC" Session at Society of Labor Economists meetings, May 2009.

Presented "Participant Direction in Defined Contribution Plans," at Lehigh University, April 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Association of Private Enterprise Education meetings, April 2009.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Trinity University, October 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Georgia State University, April 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Association of Private Enterprise Education meetings, April 2008.
Presented, "Improving Pension Coverage at Small Firms," at Hudson Institute, May 2006.

Presented, "Participant Direction in Defined Contribution Plans," at Society of Labor Economics meetings, May 2006.

Presented, "Participant Direction in Defined Contribution Plans," at Association of Private Enterprise Education meetings, April 2006.

Presented, "Participant Direction in Defined Contribution Plans," at University of Wisconsin-Milwaukee, April 2006.

Invited Panel Participant for Pepper Foundation and Center Symposium on pension reform, Washington, DC, February 2006.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at West Virginia University, April 2005.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at the University of Kentucky, November 2004.

Presented, "The Causes and Consequences of Company Stock Holdings in Pension Funds," at the Federal Reserve Bank of Atlanta, April 2004.

Presented, "The Causes and Consequences of Company Stock Holdings in Pension Funds," at the University of Oklahoma, February 2004.

Presented, "Tracking Union and Nonunion Wages in the U.S.: Can the Evidence be Reconciled?" at the Middlebury Annual Conference on Economic Issues, April 2002.

Presented, "How Will the Growth of DC and 401(k) Plans Affect Pension Income?" at the Miami University Center for Pension and Retirement Research Conference, June 2001.

Presented, "Benefits and Worker Productivity," Benefits for the Workplace of Tomorrow Conference, Wharton School, University of Pennsylvania, May 2001.

Participant, Innovations in Managing the Financial Risks of Retirement Conference, Wharton School, University of Pennsylvania, May 2000.

Presented "Using Hi-Tech in Large Lectures," at Association of Private Enterprise Education meetings, April 2000.

Presented "Employee Participation in 401(k) Plans," at University of Wisconsin-Milwaukee, October 1999.

Presented "Gender, Race, and Ethnicity in the Labor Market," as part of the Smith Chair course in Labor Economics at Brigham Young University, September 1999.

Presented, "The Decline in Pension Coverage Among Less Educated Workers," at the Florida State University Economics Department Seminar Series, 1996.

Presented, "Children's Effects on Women's Labor Market Attachment and Earnings" at the Conference on the Changes in Working Time in Canada and the United States, Canadian Employment Research Forum, 1996.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" at the Ohio State University Economics Department Seminar Series, 1996.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" at the Florida State University Economics Department Seminar Series, 1995.

Presented, "Employer Size and Labor Turnover: The Role of Pensions," at Syracuse University, 1995.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" while visiting scholar at the Federal Reserve Bank of Cleveland, 1995.

Presented, "Trends in Individual and Household Pension Coverage," at the Miami University Center for Pension and Retirement Research Conference, 1994.

Presented, "Racial Composition, Quality Sorting, and the Black-White Wage Gap" at the University of Wisconsin, Institute for Research on Poverty, Small Grants Workshop, 1993, with Barry Hirsch.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Florida State University Economics Department Seminar Series, 1992.

Participant at National Bureau of Economic Research (NBER) Labor Studies meetings of the Summer Institute, 1992.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Miami University Conference on Current Pension Policy Issues, 1992.

Organizer and participant at conference on "Contemporary Issues in Pension Economics," hosted by the Center for Pension and Retirement Research, Miami University, 1990.

Presented "The Effect of International Competition on Union and Nonunion Wages," at the University of Cincinnati Seminar Series, 1987.

**Refereeing**

*Bulletin of Economic Research, Canadian Journal of Economics, Contemporary Economic Policy, Eastern Economics Journal, Economic Development and Cultural Change, Economic Inquiry, Industrial Relations, Industrial and Labor Relations Review, International Economic Review, Journal of Economics and Business, Journal of Human Resources, Journal of Labor Economics, Journal of Labor Research, Journal of Pension Economics and Finance, Labour Economics, Mid-American Journal of Business, Policy Studies Review, Quarterly Journal of Economics, Quarterly Review of Economics and Finance, Real Estate Economics,* Review *of Economics and Statistics, Social Science Quarterly, Southern Economic Journal*

Outside reviewer for Department of Economics, UNC-Greensboro, Georgia State University.

Promotion and tenure letters for candidates at Georgia State University, Kansas State University, Monmouth University, Ohio State University, University of Massachusetts, University of Southern California, and University of Wisconsin-Milwaukee.

**Honors and Awards**

Awarded sabbatical, Trinity, Fall 2011.

Nominated for FSU Award for Excellence in Undergraduate Teaching, Spring 2005.

Named Rod and Hope Brim Eminent Scholar in Economics, FSU, Fall 2004.

Research Fellow, Institute for the Study of Labor (IZA), Bonn, 2004-.

*Who's Who in Economics, Fourth Edition*, Mark Blaug and Howard Vane (eds), Edward Elgar Publishing, 2003, pp. 524 (selection criteria: one of the 1,200 most frequently cited economists in the years 1990-2000 using the Social Science Citation Index).

Awarded Abba Lerner named professorship, FSU, Spring 2000.

Awarded sabbatical, FSU, Spring 2000.

Received FSU Award for Excellence in Undergraduate Teaching, Spring 2000.

Received FSU Teaching Incentive Program Award, Fall 1995.

Nominated for FSU Award for Excellence in Undergraduate Teaching, Spring 1994.

Nominated for Outstanding Teaching Award, Associated Student Government, Miami University,1992.
Selected by the Miami University Sisters of Delta Gamma for a "Favorite Professor Award" in Fall 1990.

Honorary Member of Golden Key National Honor Society, Fall 1989.

Selected by the Sisters of Delta Gamma as "One of the twenty five most outstanding faculty members at Miami University" in Fall 1988.

**Service**

Vice President, Southern Economic Association, 2011-

Trinity University

Dick and Peggy Prassel Professor of Business Administration Search Committee, 2011
Faculty and Staff Compensation Committee, 2010-2011
Student Retention Committee, 2010

Florida State University

University and College Committees:

Member, GPC subcommittee for Marketing, Spring 2008.
Member, Graduate Policy Committee, Fall 2007-.
Chair, GPC subcommittee for Political Science, Fall 2006.
Member, Title IV Admissions Attendance Committee, Fall 2003-Spring 2004.
Member, College of Social Sciences Executive Committee, Fall 2003-.
Member, Ad Hoc Committee on COSS Technology, Spring 2003.
Member, Computing and Information Resource Committee, Fall 1999-.
Member, Academic and Policy Affairs Committee, Fall 1996-Spring 1998.

Economics Department Committees:

Member, Ad Hoc Committee on Economics 2000 Level Courses, Spring 1999.
Member, Undergraduate Economics Committee, Fall 1998-
Member, Economics Department Executive Committee, Fall 1994-Spring 1995, Fall 1996-Spring 1999, Fall 2000-.
Economics Department Library Representative, Fall 1993-.
Micro/Macroeconomics Seminar Coordinator, Fall 1993-Spring 1995, Fall 1998-Fall 1999, Fall 2001, Fall 2006-.

Comprehensive Examination Committees:

Member, Masters Comprehensive Exam Committee, Spring 1994.
Member, Ph.D. Labor Field Exam Committee, Fall 1992, Spring 1994, Fall 1994, Fall 1995, Fall 1996, Spring 1997, Spring 1998.
Chair, Masters Comprehensive Exam Committee, Fall 1994, Spring 1998.
Chair, Ph.D. Labor Field Exam Committee, Spring 1993-Fall 1993, Spring 1995, Spring 1996, Spring 2000, Spring 2001, Fall 2001.

Miami University

Computing Task Force, Department of Economics, 1991-92.
Recruiting Committee, Department of Economics, 1990-92.
Economics Club Advisor, 1988-1991.
Research Associate, Center for Pension and Retirement Research, 1988-92.
Delta Sigma Pi Chapter Advisor, 1988-89.
Student Finance Committee, Student Affairs Council, 1988-89.
Omicron Delta Epsilon Advisor, 1987-88.

**Theses, Extended Papers, and Dissertations**

Undergraduate Honors Thesis:

Chair, Leela Hebbar, 1995

Member, Nicole Cubies, 2006
Member, John Stutts, 2006
Member, Todd Crannell, 2000
Member, Mark Plotnick, 2000
Member, Bobby Pittman, 1998

MS Thesis and Extended Paper:

Chair, Maria Arce-Trigatti, 2009
Chair, George Holescko, 2000
Chair, J. Michael DuMond, 1994

Member, Shael Wolfson, 2000

Member, Lehr Eliason, 2000
Member, Steve Muri, 2000
Member, Ken Meier, 1998
Member, Tarteshia Williams, 1995
Member, Richard Page, 1994

PhD Dissertation:

Chair, James Farrell, 2009
Chair, Mark Keightley, 2008
Chair, Ali Al-Malki, 2007
Chair, Carter Doyle, 2005
Chair, Edward Wolpert, 1998
Chair, J. Michael DuMond, 1997

Member, Bogdan Daraban, 2007
Member, Russell Engel, 2007
Member, Li Feng, 2006
Member, Chuck Skipton, 2003
Member, Nicole Yurgin, 2003
Member, Jennifer Troyer, 1999
Member, Josefina Tranfa, 1999
Member, Shaliesh Bandarhi, 1998
Member, James Freeman, 1998
Member, Brian Nottage, 1998
Member, Ben Shippen, 1995
Member, Ed Schumacher, 1994

Outside Member, Stephanie Burge, Sociology, 2006
Outside Member, Reg Albritton, Special Education, 2005
Outside Member, Kim Shuey, Sociology, 2001
Outside Member, Andrea Willson, Sociology, 2001
Outside Member, Phyllis Keys, Finance, 1998

# David A. Macpherson

Depositions and Trial Testimony: 2008 to 2012

1. Angela Speed and Adrian Speed vs. Hertz Corporation
   Atty: Dawn Pompey Whitehurst; Brevard County, Florida; gave deposition; wrongful injury; 2008; Case No: 05-2005-CA-065447

2. Patricia Morrison vs. Anthony Mork and Microspine Surgery
   Atty: Steven Andrews; Walton County, Florida; testified at trial; wrongful injury; 2008; Case No: 06000249CA.

3. James Tomaselli vs. State of Florida, Department of Corrections
   Atty: Gordon Leech; Martin County, Florida; gave deposition; wrongful termination; 2008; Case No: 01-554-CA.

4. Russell Martin, et al. v. City of Atlanta, et al.
   Atty: Andrew Coffman; U.S. District Court, Northern District of Georgia, Atlanta 5Division; gave deposition; racial discrimination; 2008; Case CA File No: 1:07-cv-00326-BBM

5. McCabe, et al. v. Harmon Fruit, et al.
   Atty: Larry Perry; Polk County, Florida; gave deposition; wrongful death; 2008; Case 53-2005-CA-003612-0000-00

6. Thomas Faulkner v. Michael Chertoff and Department of Homeland Security
   Atty: John Davis; U.S. District Court; Northern District of Florida; gave deposition; wrongful termination; 2009; Case 4:08CV341-SPM/WCS

7. Matthew Debord and Tabitha Debord vs. G & S Material Service et al.
   Atty: Hubert Brown; U.S. District Court; Northern District of Florida; gave deposition; wrongful injury; 2009; Case 3:07cv365-LAC/MD

8. Jessica Loveday vs. USA
   Atty: Anthony Caggiano; U.S. District Court; Northern District of Florida; gave deposition; wrongful injury; 2009; Case 1:08cv205/SPM

9. Julia Keyes vs. AIG
   Atty: Larry Perry; Jackson County, Florida; gave deposition; wrongful injury; 2009; Case 08706CA

10. Estate of Linda DePuy vs. Broeseker et al.
    Atty: Steve Andrews; Leon County, Florida; gave deposition; wrongful death; 2009; Case 2007 CA 2509

11. Oliver and Sollman vs. VSoft Inc.
    Atty: Larry Pankey; U.S. District Court, Northern District of Georgia, Atlanta Division; gave deposition; age discrimination; 2009; Case CA File No: 1:09-CV-0185

12. Yolanda Young vs. Covington and Burling, LLP
    Atty: Latif Damon; U.S. District Court for the District of Columbia; gave deposition; racial discrimination; 2009; Case CA File No: 1:09-CV-0464 RBW

13. Deborah Suboh vs. Mark Bergeson et al.
    Atty: Stephanie Wright and Charlotte Perrell; Georgia, Dekalb County; Case 07A77585-5, gave deposition; legal malpractice; 2010.

14. Rolando Simmons vs. Davis and Peterson
    Atty: Hubert Brown; Florida, Calhoun County; Case 2008-0150-CA, gave deposition and testified at trial; medical malpractice; 2010.

15. Lorie J. Marshall, et al. vs. H & R Block Tax Services, Inc.
    Atty: Allan Steyer; U.S, U.S. District Court
    Southern District of Illinois; Case No. 3:08-CV591-MJR; gave deposition; consumer damages; 2010.

16. Daren Davis vs. Joseph Austin and Terry Roberts Work Site
    Atty: Anthony Caggiano; Florida, Osceola County; gave deposition; wrongful injury; 2010; Case 2006 CA 002997 AN

17. David Darrow vs. Adventist Health Systems/Sunbelt Inc.
    Atty: Anthony Caggiano; Florida, Orange County; gave deposition; wrongful injury; 2010; Case 48-2009-CA-004897-0

18. Samuel Gonzalez vs. Gurdev Singh Nijjar et al.
    Atty: Ramon Rodriguez; Texas, El Paso County; gave deposition; wrongful injury; 2010; Case 2007-011

19. John Davis vs. Devereux Foundation.
    Atty: Thomas Brown; Florida, Brevard County; gave deposition; wrongful injury; 2010; Case 99-15992-CA-F

20. Al Kowalski vs. et al. YellowPages.Com, LLC
    Atty: Peter Pearlman; U.S. District Court Southern District of New York; Case No. 10-7318 (PGG); gave deposition; consumer damages; 2011.

21. Christina Glover and Jason Glover vs. Publix Super Markets
    Atty: Phelicia Steill; Florida, Leon; Case No. 08 CA 2695; gave deposition; wrongful injury; 2011.

22. Lissette Cartagena and William Cartagena vs. Bracero et al.
    Atty: Thomas Brown; Florida, Orange County; Case No. 07-CA-2645 DIV 34; gave deposition and testified at trial; wrongful injury; 2011.

23. Lillie Conyers and James Conyers vs. Werner Enterprises et al.
    Atty: Thomas Brown; Florida, Jackson County; Case No. 09-1174-CA; gave deposition; wrongful injury; 2011.

24. Shannon McCants vs. Wackenhut Corporation
    Atty: Dawn Pompey Whitehurst; Duval County, Florida; gave deposition and testified at trial; wrongful death; 2011; Case No: 16-2008-CA-014834

25. Christina Whipple versus R.E.S.A, Inc.
    Atty: Susan Haney; Bexar County, Texas; gave deposition; business damages; 2011; Case No.: 2009-CI-17074

26. Daniel Plouffe, et al. versus General Motors, LLC
    Atty: Michael Pitt; Wayne County, Michigan; gave deposition; age discrimination; 2012; Case No.: Case No. 11-007645-CL

27. Johnny Cash versus State Farm
    Atty: Steven Andrews; Leon County, Florida; testified at trial; wrongful injury; 2012; Case No.: Case No. 10-CA-2429

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Higher Education,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College**.

**Fiscal Note Summary**

Increased state and local government expenses resulting from this proposal could exceed $305 million annually if funding is appropriated. State and local government tax revenue could increase by more than $249 million annually; however, employment decisions made by businesses could impact this estimate.

RECEIVED
JUN 03 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

June 3, 2015

2016-065

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Winston Apple regarding a proposed constitutional amendment to Article III (2016-065)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Winston Apple on June 3, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-065

County:_____
Page number: _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021 RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail, or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

RECEIVED
2015 JUN -3 AM 9:20
MO SEC. OF STATE

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print of type names of signers)

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong Dist | NAME (Print or Typed) |
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Signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____.

_____
Signature of Affiant (Person obtaining signatures)

_____
(Printed Name of Affiant)

_____
Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A. D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)
My commission expires _____

16-065

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article III, Section 2 of the Constitution is repealed and one new section enacted in lieu thereof, to be known as Article III, Section 2, to read as follows:

**[Section 2. Election of representatives—apportionment commission, appointment, duties, compensation.**—The house of representatives shall consist of one hundred sixty-three members elected at each general election and apportioned in the following manner: Within sixty days after the population of this state is reported to the President for each decennial census of the United States and, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.

Each district shall be composed of contiguous territory as compact as may be.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.

Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

No reapportionment shall be subject to the referendum.]

16-065

**Section 2. Election of representatives.** The house of representatives shall consist of 50 members, elected by votes cast, in each general election, for a political party, and its ordered list of candidates, or votes cast for independent candidates.

Political parties are free to determine their candidates, and the order in which they will be awarded seats in the house of representatives, through a primary election, caucuses, a statewide party nominating convention, or a combination of caucuses and a statewide party nominating convention.

For a political party having had a candidate for any statewide office receiving one per cent or more of the legal votes in the preceding general election, a primary election will be the default method for selecting candidates. Should a political party determine that they will select candidates for the house from said party by caucuses, statewide party convention, or a combination of caucuses and a statewide party convention, a legally designated representative of the party will notify the secretary of state, in writing, of the method to be used, no later than the first day of April of an election year.

If a political party elects to use a primary election as the means of determining its ordered list of candidates for the general election, all qualified candidates who file for said party's nomination will appear on the primary ballot for that party. Registered voters will be allowed to vote in one, and only one, party's primary election, and for one, and only one, candidate from that party. Based on the results of the primary election, candidates for each political party will be placed in an ordered list, with the candidate receiving the most votes listed first and the remaining candidates listed in descending order based on the number of votes received from highest to lowest total votes. A total of up to fifty candidates for each party will be eligible for seats in the house of representatives based on vote totals in the general election. Should a party elect to nominate candidates for the general election by means of caucuses and/or a statewide party convention, an ordered list of up to fifty candidates representing each political party shall be filed with the secretary of state's office no less than 90 days before the general election date in election years.

A political party having no candidate for statewide office receiving, nor having received as a political party, at least one per cent of the total vote in the preceding general election, may qualify for a place on the ballot by presenting petitions signed by one-half of one per cent of the legal voters, as determined by the total vote for governor in the general election last preceding. Said petitions to be delivered to the secretary of state no later than ninety days preceding the general election. At the time the petitions are presented, the political party will also notify the secretary of state of the method to be used by said party in nominating a slate of candidates.

To qualify for a place on the ballot, an independent candidate must present petitions signed by one-quarter of one percent of the legal voters, as determined by the total vote for governor in the general election last preceding. Said petitions must be delivered to the secretary of state no later than one-hundred and twenty days before the general election.

The signatures on petitions submitted by independent candidates and political parties shall be subject to verification according to the procedures in the code of state regulations for independent candidate petitions in force at the time the petitions are submitted.

In each general election, each voter will cast a single vote for a political party or for a single independent candidate appearing on the ballot, or a single write-in vote for a candidate not appearing on the ballot, having properly registered with the secretary of state as a write-in candidate.

Each political party will receive one seat in the house of representatives for each two percent of the vote received statewide for that party and its ordered list of candidates in the general election (rounded to account for fractions as necessary). Candidates from each political party will be awarded seats based on the ordered list submitted by each political party, with seats awarded, in order, from most votes received to least, by candidates in the primary election, caucuses, or nominating convention of that political party.

For purposes of apportioning seats in the house of representatives, any and all independent candidates will be treated jointly as a political party, with the total number of seats awarded to independent candidates based on the total number of votes cast for all independent candidates in the general election, with seats awarded to that number of independent candidates from an ordered list of all independent candidates, in descending order of the votes cast for each independent candidate, beginning with the independent candidate receiving the most votes.

Should the total number of votes for independent candidates exceed the sum of 2 percent per candidate, all of the independent candidates will be awarded seats and the percentage required for the remaining seats will be recalculated based on the number of seats remaining.

In the event that a representative resigns, dies, or is removed from office for any reason during the subsequent legislative sessions, the seat shall be filled by the next nominee from that party's ordered list of candidates or by the independent candidate who would have been seated next based on the total number of votes cast for independent candidates. In the event that there are no candidates remaining on the ordered list for a political party or from the list of independent candidates, the next candidate who would have been seated according to the system of apportionment described herein shall be seated.

This amendment shall take effect January 1, 2017 and beginning with the selection of candidates and election of representatives in the general election to be held in November of 2018.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-065)**

## Subject

Initiative petition from Winston Apple regarding a proposed constitutional amendment to Article III. (Received June 3, 2015)

## Date

June 23, 2015

## Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College, St. Louis County Election Board, St. Louis City Election Board, Kansas City Election Board, Platte County Board of Elections, Jackson County Election Board,** and **Clay County Election Board.**

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no fiscal impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated there is no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated the effective date is January 2019 or the 1st regular session of the 100th general assembly. Using today's costs, here are the estimated savings resulting from the reduction of 113 House members:

**SAVINGS:**
Member salaries = 113 x $35,915 = $4,058,395
Legislative assistant salaries = 113 x $29,500 = $3,333,500
Member $700 accounts = 113 x $8,400 = $949,200
Session per diem = 113 x $103.20 x 70 days = $816,312
Session mileage = 113 x 270 miles x $0.37 x 19 weeks = $214,485
Total Estimated Savings = $9,371,892

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated this proposal will have no impact on their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated:

This proposal will require changes be made regarding elections in the State of Missouri. These changes will likely include: the re-programing of voting machines, changes to the Missouri Centralized Voter Registration system, and postage costs for absentee ballots. Each of these changes is likely to include additional costs which must be covered by both the State of Missouri and local election authorities. Under this proposal, the State and local election authorities are also likely to incur additional costs associated with petition signature verification. Their office contacted vendors regarding the potential costs of these changes. Vendors were unable to provide an estimate of these potential costs. There is also the possibility of a special statewide primary election. If necessary, a special statewide primary election would have an estimated cost of $7.1 million (based on the cost of the 2012 Presidential Preference Primary).

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office

reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **St. Louis County** indicated this is essentially a proportional representation system, much like what many European countries use. If there was any fiscal impact at all, it would probably be positive for their county. Their county could probably consolidate some election precincts, since state representative districts would no longer exist. If parties chose to have a caucus rather than a primary, it could potentially save significant costs in terms of ballot printing. However, an exact cost savings cannot be determined.

Officials from the **University of Missouri** indicated they have determined there will be no estimated costs or savings.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Higher Education,** the **Department of Transportation,** the **Missouri Senate, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, St. Louis Community College, St. Louis County Election Board, St. Louis City Election Board, Kansas City Election Board, Platte County Board of Elections, Jackson County Election Board,** and **Clay County Election Board.**

**Fiscal Note Summary**

Reduced legislative operating costs would result in annual estimated savings to state government of at least $9.3 million. An unknown change in election related costs is expected for state and local governments.

RECEIVED
MAY 21 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-064

May 21, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from John Ashcroft regarding a proposed constitutional amendment to Article VIII (2016-064)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by John Ashcroft on May 21, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-064

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

RECEIVED
2015 MAY 21 AM 11:24
SECRETARY OF STATE

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong. Dist. | NAME (Printed or Typed) |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant
(Person obtaining Signatures)

_____
(Printed Name of Affiant)

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary

Address of Notary: _____

_____

Notary Public (Seal)
My commission expires _____

*Be it resolved by the people of the State of Missouri that the Constitution be amended:*

16-064

Article VIII is amended by adding one new section, to be known as section 8, to read as follows:

Section 8. A person seeking to vote in public elections may be required by general law to identify himself or herself and verify his or her qualifications as a citizen of the United States of America and a resident of the state of Missouri by providing election officials with a form of identification, which may include valid government-issued photo identification. Exceptions to the identification requirement may also be provided for by general law.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-064)**

## Subject

Initiative petition from John Ashcroft regarding a proposed constitutional amendment to Article VIII. (Received May 21, 2015)

## Date

June 10, 2015

## Description

This proposal would amend Article VIII of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated this legislation does not impact their department or local schools.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a direct fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated:

This language may have an impact on local public health agencies. Individuals may obtain a copy of their certified birth certificate through a local public health agency. The cost is $15 per birth certificate; however, the revenue generated is retained by the local health agency for local public health purposes.

The proposed language could result in an increase in revenue to General Revenue, the Children's Trust Fund, the Endowed Care Cemetery Audit Fund, and the Missouri Public Health Services Fund.

The fee for a certified copy of a birth certificate is $15.00. This revenue is divided between four funds. Funds affected include the Children's Trust Fund, which would collect $5.00 per certificate; General Revenue would collect $4.00 per certificate; the Endowed Care Cemetery Audit Fund would collect $1.00 per certificate; and the Missouri Public Health Services Fund (MOPHS) would collect $5.00 per certificate. There is an additional $15.00 fee to establish a delayed birth record, in which revenue is distributed using this same distribution. The Department of Health and Senior Services is unable to determine how many additional birth certificates will be issued as a result of this language, and therefore, assumes an unknown amount of revenue will be deposited in these funds.

Individuals may also obtain a certified copy of their birth certificate at a local public health agency. The cost is still the same; however, the revenue generated is retained by the local public health agency for local public health purposes. This revenue is not considered state revenue.

Section 8 of the proposed initiative petition may require voters to establish their identity and eligibility to vote by providing a form of personal identification to election officials. It may cause an increase in the number of certified birth certificates issued for those without a Missouri driver's license or non-driver's license. It could also impact the number of applicants for delayed birth certificates.

Section 8 of the proposed initiative petition may require voters to establish their identity and eligibility to vote by providing a form of personal identification to election officials. If an individual does not possess a valid form of personal identification, it may require them to obtain a copy of his/her certified birth certificate to acquire a driver's or non-

driver's license. For individuals whose birth has not been recorded, it may cause them to apply for a delayed birth certificate. It is unknown and difficult to estimate the number that might be required to apply to the Bureau of Vital Records for these records.

The proposed language does not appear to exempt the Department of Health and Senior Services from collecting the necessary fees for copies of certified birth certificates as set forth in Section 193.265.1, RSMo. The proposed language could result in an unknown increase in revenue to General Revenue, the Children's Trust Fund, the Endowed Care Cemetery Audit Fund, and the Missouri Public Health Service Fund. The proposed language could also result in an unknown impact to the Bureau of Vital Records to issue the increased demand for birth certificate records.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will not have a fiscal impact on their department. Their department does not indicate on the driver license, non-driver license or permit that the individual is a U.S. Citizen or Non-U.S. Citizen.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their agency.

Officials from the **Governor's office** indicated there should be no added costs or savings to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated this proposal will have no impact on their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated:

For the purposes of this fiscal note, the following costs assume that both the constitutional amendment proposed by this initiative petition and any companion statutory changes are passed.

Implementation of any new identification provisions would necessitate the state's election authority (the Secretary of State) and/or local election authorities to provide advance notice.

For fiscal year 2017 advance notice advertisements will be provided upon approval by the voters of the constitutional amendment and enactment of implementing legislation and prior to the April 2017 election. For fiscal year 2018 advance notice advertisements will be provided to voters prior to the February and April 2018 elections. For fiscal year 2019 advance notice advertisements will be provided to voters prior to the August 2018 and November 2018 elections. For all subsequent years advance notice advertisements will be provided to voters prior to each federal primary and general election.

Assumptions include:

Production of radio and TV public service announcements- $2,000
Print ad to run twice before an election- $203,284
Cable television ad to run twice every day for eight weeks- $299,472
TV and Radio ad to run through broadcast media- $497,311
Total- $1,002,067

Upon enactment of implementing legislation, the Secretary of State will send a mailer to all registered voters to notify them of any new identification requirements at a cost of $1,985,577.51. A similar mailer will be sent before the 2018 Primary Election. For all other elections, their office will send mailings to newly registered voters prior to each election. Based on the estimated 355,007 newly registered voters in 2014, this mailer could cost $173,953.43.

Mailing to all registered voters:
4,089,038 registered voters x $0.49 postage, printing and processing= $1,985,577.51

Mailing to newly registered voters prior to each election:

355,007 new registered voters x $0.49 postage, printing and processing = $173,953.43

Implementation of this measure's provisions imposes new requirements on election authorities in notifications, additional provisional ballots, trainings, affidavits and processes with regard to notifying and processing voters. Whether the notice requirements fall on the Secretary of State or local election authorities, it will be necessary for their office to request appropriation for these costs. Section 115.430 RSMo requires the Secretary of State to provide provisional ballot envelopes to local election authorities. This amendment and any companion legislation will likely increase the number of elections in which provisional ballots are available and the number of provisional ballots that will be cast. Based on previous history, the Secretary of State will require additional funding for printing provisional ballot envelopes in the amount of $9,800 per election.

Furthermore, any new state mandates must be funded as additional responsibilities under Article X, section 21 of the Missouri Constitution.

These provisions are not limited to statewide elections but will affect every election. The cost per fiscal year will vary based on the number of elections held. In addition to the general municipal election each April and the primary and general elections in August and November of even numbered years, there are additional days available for public elections in February, March and in August and November of odd numbered years, which are used only as needed.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, we reserve the right to request

funding to meet the cost of our publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Additionally, any companion legislation may include provisions allowing or requiring agencies to submit rules and regulations to implement the act. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislation session. The fiscal impact to the Administrative Rules Division for their office for this requirement is less than $2,500. Their office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, they also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, they reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

FY 2017:
April 2017
$1,985,577.51 (Notice to all voters)
$1,002,067 (Public advertisements)
$9,800 (Provisional ballots)

$2,997,444.51 (FY 2017 Total)

FY 2018:
February 2018
$1,002,067 (Public advertisements)
$9,800 (Provisional ballots)

April 2018
$1,002,067 (Public advertisements)
$9,800 (Provisional ballots)

+ $173,953.43 (notice to newly registered voters)

$2,197,687.43 (FY 2018 Total)

FY 2019:
August 2018
$1,985,577.51 (notice to all voters)
$1,002,067 (public advertisements)
$9,800 (provisional ballots)

November 2018
$1,002,067 (Public advertisements)
$9,800 (provisional ballots)

+ 173,953.43 (notice to newly registered voters)

$4,183,264.94 (FY 2019 total)

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Columbia** indicated they do not expect a fiscal impact to their city from this proposed amendment.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

Officials from **Metropolitan Community College** indicated there is no anticipated impact for their college.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, University of Missouri, St. Louis Community College**

**Fiscal Note Summary**

The proposal will result in no direct costs or savings for state and local governmental entities. If the state legislature passes a general law as allowed by this proposal the potential costs or savings would be based on the legislation established, which is unknown at this time.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
MAY 18 2015
STATE AUDITORS OFFICE

16-063

May 18, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Winston Apple regarding a proposed statutory amendment to Chapter 192 (2016-063)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Winston Apple on May 18, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-063

County:_____
Page number: _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021 RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail, or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

RECEIVED
2015 MAY 18 AM 11:18
SEC. OF STATE

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print of type names of signers)

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong Dist | NAME (Print or Typed) |
|---|---|---|---|---|---|---|
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| 13. | | | | | | |
| 14. | | | | | | |
| 15. | | | | | | |

Signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____.

_____
Signature of Affiant (Person obtaining signatures)

_____
(Printed Name of Affiant)

_____
Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A. D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)
My commission expires _____

16-063

*Be it enacted by the people of the state of Missouri:*

*One new section of the Revised Missouri Statutes is enacted, to be known as section 192.008, to read as follows:*

192.008. 1. "The Missouri Health Insurance Cooperative" (hereinafter referred to as "MHIC") is hereby created, within the department of health and senior services, to provide health insurance for citizens of Missouri who wish to become members of the cooperative.

2. The MHIC shall be administered by the director of the department of health and senior services.

3. The state of Missouri is authorized to issue bonds to cover the start-up costs for the MHIC and any shortages of funds needed to pay authorized benefits until such time as the premiums and out-of-pocket maximums for members have been adjusted to fully cover administrative expenses and benefits paid with money collected from premiums paid by members.

4. Memberships in The Missouri Health Insurance Cooperative shall be available beginning no later than January 1, 2018.

5. Enrollment in The Missouri Health Insurance Cooperative (hereinafter referred to as "MHIC") shall be voluntary and limited to citizens of the state of Missouri.

6. Premiums for insurance coverage through MHIC, as well as the out-of-pocket maximum for members will be based on a percentage of each member's gross annual income, as determined by the board. Premiums and out-of-pocket maximums will be adjusted annually, with premiums set as low as possible and out-of-pocket maximums set as high as possible.

7. The MHIC shall be revenue-neutral. The percentages of income established for premiums and out-of-pocket maximums shall be adjusted annually and set at levels that will insure that revenues are sufficient to cover all costs, including amounts paid out to members for health care expenses in excess of their out-of-pocket maximum and all administrative expenses; as well as funds necessary to pay principal and interest on bonds issued to fund start-up costs for MHIC.

8. Only treatments and procedures deemed medically necessary, as determined by the department of health and senior services shall be covered through the MHIC.

9. Members who waive coverage for health care expenses and treatments commonly associated with smoking tobacco or consuming alcohol will receive a discount on their premiums that reflects, as accurately as possible the benefits to The MHIC as a result of not having to pay for such care and treatment. Should the general assembly elect to provide subsidies to MHIC for health care expenses and treatments commonly associated with smoking tobacco, consuming alcohol, or other recreational drug use through the collection of excise taxes on tobacco products, alcohol, or recreational drugs, this discount will be suspended and all members of MHIC will pay the same percentage of their income as premiums.

10. Members of the MHIC and health care providers in the state of Missouri, are responsible for keeping records and receipts for covered health care, to be furnished to the MHIC in the event that expenses for needed health care exceed the out-of-pocket maximum for a given calendar year and reimbursement is thereby requested.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-063)**

## Subject

Initiative petition from Winston Apple regarding a proposed amendment to Chapter 192 of the Revised Statutes of Missouri. (Received May 18, 2015)

## Date

June 8, 2015

## Description

This proposal would amend Chapter 192 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated legislation does not impact their department or local schools.

Officials from the **Department of Higher Education** indicated they reviewed the provisions of this initiative petition and determined it would not have a direct fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated:

An unknown number of staff to oversee the Missouri Health Insurance Cooperative program would require rental space, located in Jefferson City.

Unknown IT costs or savings related to this proposal.

Section 192.008.7 of the petition states that program would be revenue-neutral.

Section 192.008 creates a new health insurance program, *The Missouri Health Insurance Cooperative* (MHIC), with oversight by the Department of Health and Senior Services (DHSS). MHIC is to be available by January 1, 2018 which is six months of FY 2018.

The program is to be self-supporting by annually adjusting premiums and out-of-pocket maximums to ensure that all costs as well as funds necessary to pay principal and interest on bonds issued to fund start-up costs for the MHIC.

DHSS is unable to determine the number of individuals who would participate in MHIC. In addition, the premium rates charged by MHIC could be affected by items such as (1) costs for covered services, (2) the scope of benefits that are included, (3) the plan's cost-sharing requirements, and (4) the health status of the plan's enrollees. Also, the MHIC program oversight responsibilities and costs would be directly impacted by the size of the program (i.e., number of participants, list of covered services, etc). The Office of Administration could issue bonds for startup costs and to cover initial shortages. DHSS is not able to determine the amount of startup cost, premium rates, etc. DHSS does not administer a similar program of any kind, so significant unknown staffing or contractual costs would be necessary. Due to the numerous unknown factors, DHSS is submitting an Unknown Expense equal to Unknown Revenue (Revenue Neutral-zero impact) fiscal note.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no impact to their office resulting from this initiative petition.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

The proposal adds Section 192.008, RSMo, to create the Missouri Health Insurance Cooperative (MHIC) which will be administered by the Department of Health and Senior Services. The state is authorized to issue bonds to cover start-up costs and funds needed for the program until the premium base has been established and is able to pay benefits and administrative costs. Premium levels are to be set and adjusted annually in order to raise sufficient funds to cover all costs, including principal and interest on bonds.

This initiative does not specify who within the state has the authority to issue bonds. There must be a vote of the citizens or there must be a specifically named Board of which a majority vote is required before bonds are issued. If it was determined that the Board of Public Buildings would issue the bonds, the bond issuance duties would be carried out by their office. Those duties could be assumed by current staff at no additional cost. However, there would be a cost to the state for the bond issuance and potentially for the principal and interest payments until the MHIC became self-supporting. Their office is unable to estimate the cost as it would be dependent upon the amount of bonds issued. For example, issuing $10,000,000 would cost about $692,000 per year for 25 years plus an issuance cost of $250,000. It is expensive to issue bonds regularly, especially for relatively small amounts of money such as this. It may make more sense for an entity to

borrow funds from a bank in the form of a revolving loan instead of through the municipal markets.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Columbia** indicated they would not expect this proposed amendment to affect their city unless the terms of coverage were so attractive that employees chose to switch from city-provided health benefits. Presumably, that could affect the insured pool and associated premiums.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

Officials from **Metropolitan Community College** indicated no anticipated impact for their college.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, University of Missouri,** and **St. Louis Community College.**

**Fiscal Note Summary**

The program is required to be revenue neutral. Therefore no costs or savings are expected for state and local governmental entities.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
MAY 18 2015
STATE AUDITORS OFFICE

16-062

May 18, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Winston Apple regarding a proposed statutory amendment to Chapters 286 & 143 (2016-062)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Winston Apple on May 18, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-062

County:_____
Page number: _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021 RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail, or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

RECEIVED
2015 MAY 18 AM 11:0
SEC. OF STATE

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print of type names of signers)

| | NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong Dist | NAME (Print or Typed) |
|---|---|---|---|---|---|---|---|
| 1. | | | | | | | |
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| 13. | | | | | | | |
| 14. | | | | | | | |
| 15. | | | | | | | |

Signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____.

_____
Signature of Affiant (Person obtaining signatures)

_____
(Printed Name of Affiant)

_____
Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A. D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)
My commission expires _____

16-062

*Be it enacted by the people of the state of Missouri:*

*Two new sections of the Revised Missouri Statutes are hereby enacted, to be known as sections 286.131 and 143.012, to read as follows:*

286.131. 1. Effective June 1, 2017, the division of employment security will begin to provide employment through a program to be known as "public sector employment," in lieu of unemployment benefits to as many eligible citizens of Missouri as possible with the funds available.

2. Bonds shall be issued to provide initial funding for public sector employment, with principle and interest on said bonds being paid with funds collected through the surtax on capital gains, as provided for in Section 143.012, as funds become available through that surtax.

3. Public sector employment will be available only to residents of the state of Missouri.

4. If funding is insufficient to provide employment for all applicants, priority placement will be given to the applicants with the greatest number of dependents (as claimed on the applicant's federal Form W-4).

5. The compensation provided for, and other specific policies related to, work done through public sector employment shall be determined and set by the labor and industrial relations commission.

6. The work done as public sector employment should be directed toward projects that have some public benefit for the state of Missouri. Initial projects should have a particular focus on improving the energy efficiency of existing publically owned buildings, constructing state-owned and operated wind and solar projects, and planting trees.

7. Applicants for public sector employment may be required to take aptitude tests to determine the jobs for which they may be best suited and to receive training designed to improve their skills. Normal rates of compensation provided under this program will be paid for time spent testing and training.

8. In the event that an applicant employed through these public works projects consistently fails to provide adequately for the needs of his or her dependents, as a result of substance abuse problems, other addictions, or other mental health issues, guidance and assistance in financial management shall be offered. Should the applicant continue to misuse the income being provided through these public works projects, an amount equal to ninety percent of the income earned may be paid in the form of vouchers to be used exclusively to pay for rent, food, utilities, and medical care for the employee and her or his dependents.

143.012. 1. Beginning with the 2017 calendar year, a surtax of ten percent on the amount of capital gains reported on each Missouri resident's Federal tax return (Form 1040), will be imposed, with the funds collected dedicated to providing funding for public sector employment through the division of employment security.

2. To the extent that public sector employment reduces the funding needed to provide various forms of public assistance, the state of Missouri shall seek approval from the government of the United States of America to transfer funding provided for such assistance programs to the division of employment security.

3. In the event that excess funds remain after all applicants for employment have been employed, all funds beyond a reserve sufficient to meet anticipated funding for the succeeding twelve-month period, as determined by the commission, shall be transferred to the general fund. If, after funds have been transferred to the general fund, unexpected demand for public sector employment results in a shortfall of revenue needed to fully fund the program, an amount equal to all funds transferred to the general fund during the preceding 12 month period shall be returned to the division of employment security.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-062)**

## Subject

Initiative petition from Winston Apple regarding a proposed amendment to Chapters 286 and 143 of the Revised Statutes of Missouri. (Received May 18, 2015)

## Date

June 8, 2015

## Description

This proposal would amend Chapters 286 and 143 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated legislation does not impact their department or local schools.

Officials from the **Department of Higher Education** indicated they reviewed the provisions of this initiative petition and determined it would not have a direct fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated:

It could affect any agency that administers any public assistance programs.

Space will be required for 948 FTE throughout the state.

There are over 138,000 small businesses covered under Missouri's unemployment insurance system. Because Missouri's Unemployment Insurance Compensation (UI) program is certified in conformity with Federal UI laws, most employers never actually pay the total 6.0% in FUTA taxes due to the credits they receive for the payment of state unemployment taxes and for paying reduced rates under an approved experience rating plan. However, since this bill could cause Missouri's program to be out of compliance or out of conformity, Missouri employers would pay the full 6.0%. If this petition causes Missouri's program to be out of compliance or out of conformity, Missouri employers would pay the full 6.0% or approximately an additional $889 million per year.

In addition to standard per FTE costs for IT services. ITSD estimated costs of $299,538 in FY 2017 and $61,045 in FY 2018 to set up and implement the computer system.

A surtax on capital gains of 10% would be imposed beginning with the 2017 tax year. DOLIR defers to the Office of Administration regarding the estimate of revenue collected from this surtax.

This petition seeks to create a new section 286.131 requiring the Division of Employment Security to provide employment through a program called "Public Sector Employment" in lieu of unemployment benefits. It is unclear to the DES whether this public works program is designed to be voluntary or mandatory. If this language is interpreted to prohibit otherwise eligible individuals from filing claims for the payment of unemployment benefits, a conformity issue with federal law would be raised.

This petition also creates section 143.012.2 that, under certain conditions, would permit the state to seek funding for the program from various forms of public assistance. If this provision would allow the state to seek funding from the unemployment insurance trust fund for the public works program then a conformity issue with federal law would be raised.

The federal and state governments are jointly responsible for administering the Unemployment Insurance (UI) program. State administrative grants are needed to operate the UI program and for employers to qualify for certain tax credits.

Depending upon interpretation, this bill could create several conformity issues with federal unemployment law. Non-conformity with federal law could jeopardize the certification of Missouri's UI program. If the program fails to be certified, Missouri would lose approximately $38 million in federal funds the state receives each year to administer the UI program. Additionally, Missouri would lose the approximately $12 million in federal funds each year the Department of Economic Development-Division of Workforce Development uses for Wagner-Peyser reemployment services.

The FUTA imposes a 6.0% payroll tax on employers. Most employers never actually pay the total 6.0% due to credits they receive for the payment of state unemployment taxes and for paying reduced rates under an approved experience rating plan. FUTA allows employers tax credits up to a maximum of 5.4% against the FUTA payroll tax if the state UI law is approved by the Secretary of Labor. However, if this bill causes Missouri's program to be out of compliance or out of conformity, Missouri employers would pay the full 6.0% or approximately an additional $889 million per year.

DOLIR assumes the state unemployment tax would still be collected and deposited into the Unemployment Insurance (UI) Trust Fund because the proposal does not repeal those statutes. If the UI Trust Fund no longer pays out unemployment benefits, the lack of unemployment payouts would lead to a 0% contribution rate for employers with no revenue deposited to the UI Trust. This would effectively negate the purpose of the fund and the statutes that govern it.

Regardless of whether the program would be mandatory, DOLIR estimates it would need FTE and ongoing costs to set up and administer the program.

As the program becomes established, individuals would be deferred from public assistance to the "Public Sector Employment" program, which could result in a decrease in unemployment benefit payments by DOLIR and in public assistance payments from other agencies.

Ongoing costs associated with the program would be the same as those covered in the estimate period.

Revenue Estimate

The Department of Labor and Industrial Relations (DOLIR) defers to the Office of Administration (OA), Budget and Planning, for a projection of revenue generated based on the 10% surtax of capital gains. For the purpose of this estimate, the revenue is projected at $617,500,000 annually.

*Division of Employment Security*

This petition creates a new section 286.131 to establish a public sector works program to be operated by the Missouri Division of Employment Security (DES) to provide employment in lieu of unemployment benefits to as many eligible citizens as possible. It is unclear whether this program would be voluntary or mandatory. If the program is interpreted to be a mandatory program and prohibits otherwise eligible individuals from filing claims for the payment of unemployment benefits, a conformity issue with federal law would be raised.

The federal and state governments are jointly responsible for administering the Unemployment Insurance (UI) program. State administrative grants are needed to operate the UI program and for employers to qualify for certain tax credits. Non-conformity with federal law could jeopardize the certification of Missouri's UI program. If the program fails to be certified, Missouri would lose approximately $38 million in federal funds the state receives each year to administer the UI program. Additionally, Missouri would lose the approximately $12 million in federal funds each year the Department of Economic Development-Division of Workforce Development uses for Wagner-Peyser reemployment services.

If this program is designed to be voluntary, meaning individuals have a choice between accepting a public works position or claiming unemployment benefits, then no federal conformity issue is raised. However, the DES receives a federal unemployment insurance (UI) administrative grant to operate Missouri's UI program. Section 303(a)(8) of the Social Security Act limits the expenditure of UI grant funds to amounts necessary for "the proper and efficient administration" of the state's UI law. The costs for developing, administering, and maintaining the "Public Sector Employment" program are not considered a necessary expense for the "proper and efficient administration" of the state's UI law; therefore, they are not allowable expenditures from the state's UI grant. As such, all funding necessary to develop, administer and maintain this program will need to come from the bonds and surtax established by the proposed statutes or from general revenue.

The DES estimates the total cost to develop, adminsister and maintain the Public Sector Employment program to be roughly $1.4 billion per year if it were to serve the entire population of unemployed individuals which currently claim benefits. In estimating the total costs of the program, the DES made the following assumptions and estimates.

Placement and DES Administrative Costs

The DES estimates 120,000 individuals will qualify for unemployment benefits annually and be placed in the Public Sector Employment program. The DES estimates the average costs, with fringe, per DES employee is about $30.00 per hour. The DES assumes it will take a total of 15 hours staff time for each Public Sector Employment job placement/ enrollment at $30 per hour for a total cost of $54,000,000.00 (120,000 x $450). This equates to approximately 865 staff. Additional funds will be needed for ongoing equipment and operating supplies to support the operation of the program.

In addition, the DES assumes it will need 10% of the DES staffing costs for making placements to manage and administer the Public Sector Employment program. This equates to $5,400,000.00 ($54,000,000 X .10) and approximately 51 FTE and ongoing expenses related to managing the program.

Wages Paid to Participants

The DES assumes the applicants placed in the job programs will be considered state employees. The DES assumes it will provide 20 weeks of work (40 hours each week) for each applicant. The DES assumes most of the position will be minimum wage jobs, and the DES estimates that average hourly wage, with fringe, for each participant placed in the program will be $12.00 per hour. If the DES were to employ all 120,000 estimated applicants, at $12.00 per hour, for 20 weeks, the total cost of the annual wages paid to the participants would be $1,152,000,000.00 (120,000 X 20 X 40 X $12).

Material Costs for Construction Projects

In calculating the material costs, the DES assumes labor to material costs at 3 to 1 ratio. Using this ratio, the annual material cost is estimated at $380,160,000.00 ($1,152,000,000 X .33).

Management of Construction Projects

The DES will contract the management of the construction projects to the Office of Administration, Division of Design and Construction. The DES assumes management fees will be 10% of the cost of wages and material, which equates to $153,216,000.00 ($1,532,160,000 X .10).

Skill Assessment and Training Costs

The DES will contract with the Department of Economic Development, Division of Workforce Development for the cost of administering skills test and job training to each applicant in the Public Sector Employment program. The DES estimates the skills test of each participant will require 0.5 hours of time at $30.00 per hour for a total cost of $1,800,000 (120,000 X $15). In addition, the DES estimates the average training for

each participant will require 20 hours of time at $30.00 per hour for a total cost of $72,000,000 (120,000 X $600).

Monitoring of Participants
The DES will contract with the Department of Social Services for the cost of monitoring each participant in the Public Sector Employment program. The DES estimates the monitoring of each participant will require 8 hours of time at $30.00 per hour for a total cost of $28,800,000 (120,000 X $240).

Section 143.012.2 stipulates that under certain conditions the state shall seek funding for the public sector works program from various forms of public assistance, if approved by the federal government. If there are no public assistance funds available, the program would be supported by the capital gains surtax and general revenue.

DOLIR assumes the state unemployment tax would still be collected and deposited into the Unemployment Insurance (UI) Trust Fund because the proposal does not repeal those statutes. If the UI Trust Fund no longer pays out unemployment benefits, the lack of unemployment payouts would lead to a 0% contribution rate for employers with no revenue deposited to the UI Trust. This would effectively negate the purpose of the UI Trust fund and the statutes that govern it.

*Labor and Industrial Relations Commission (LIRC)*
The LIRC would be responsible for compensation of the individuals working in this program, setting the policies and defining the work done through the program.

A Project Director will work with the Commissioners to set policy and oversee the efficiency and ongoing needs of the program. This position will be responsible to coordinate the solicitation and approval of qualifying work, coordinate the establishment of wages for all work, oversee compensation surveys, set and review performance measures, determine the effectiveness of the program, and provide oversight to ensure DES is implementing the program in accordance with the policies enacted by the LIRC.

Set up of the program will require legal research, promulgation of rules and regulations, and contract oversight which would be performed by one Legal Counsel.

Two Special Assistants/Office and Clerical would provide support to the Project Director and Legal Counsel, including routine clerical duties; scheduling meetings with the Commission; performing data entry; and updating rules, regulations, and policies as necessary.

*Departmental Administration*
The DES assumes the 120,000 participants would be treated as employees of the state for the weeks worked in the program. Therefore, in order to process and support administrative functions associated with the additional 933 FTE required to implement the program and the 120,000 participants in the program, additional administrative staff will be required. The majority of administrative functions would be absorbed by the

department. However, DOLIR assumes it would require up to 28 FTE to process employment documents for the 120,000 program participants annually.

Information Technology needs:

The assumptions made are to import information from a new client public service job application form into a database. Build new web pages to display and update the client information. Create a new exchange of data with DMH to retrieve information on substance abuse, other additions, and mental health issues for clients that have a public service job. Create a new exchange of data with DSS to gather information on clients that have a public service job that are failing to provide adequately for their dependents. Create a new exchange with DSS to send client information to have vouchers produced from the DSS programs currently in place like food stamps. Create a new exchange with Revenue to receive client information for the W-4 dependent. Create a new exchange with DED to receive client information on aptitude test and training. Create a new exchange with a vendor to send payment information for them to produce the payment. Create a new exchange with a SAMII. If DOLIR cannot use DSS voucher system then the cost will increase significantly for DOLIR to produce vouchers. Create a financial min system to track the financial piece along with financial reports. Scanning and imaging of the form. The system will require a new database and services from the State Data Center.

SUMMARY

The effective date of the program start is June 1, 2017. DOLIR assumes that there would be ramp-up time required to develop the program, implement the systems and framework, and train staff in order to begin June 1, 2017. The estimated cost per participant in the Public Sector Employment Program is $15,688 ($1,882,606,164 ÷ 120,000) in FY 2018. Using the annual revenue estimate of $617,500,000, they estimate 39,361 individuals could participate in the Public Sector Work Program each year ($617,500,000 ÷ $15,688). If revenues increase or decrease in any given year, the number of participants in the program would rise or fall proportionally. DOLIR estimates the fiscal impact of this petition at $0-($667,500,000) annually, but could be up to $1,882,606,164 if funds were available based on the current rate of unemployment insurance claims.

Officials from the **Department of Revenue** indicated the total increased costs would be $149,929 for FY 2016, $165,921 for FY 2017, and $167,614 for FY 2018. Increased revenue is expected to be $617,500,000 per year.

If excess funds remain after all applicants have been employed, the legislation transfers this excess to General Revenue, less the reserve sufficient to meet the next 12 month period.

This legislation may create a positive impact on state revenues.

Section 143.012
Beginning January 1, 2017, the legislation imposes a ten percent (10%) surtax on capital gains reported on a Missouri resident taxpayer's federal tax return. Once implemented, if excess funds exist after all applicants are employed, less the reserve necessary to fund the next twelve months, the excess funds shall be transferred to General Revenue.

For tax year 2012, positive capital gains of $6.175 billion were reported on federal tax returns filed by Missouri residents. The Department estimates $617.5 million will be collected from the 10 percent surtax to provide funding for public sector employment through the Division of Employment Security.

Administrative Impact:
Personal Tax
Personal Tax requires form and programming changes. Additionally, Personal Tax requires two (2) Revenue Processing Technicians I (Range 10, Step L) for error correction and correspondence.

Collections & Tax Assistance:
This section will see additional contacts on the surtax, notice of adjustment, and billings. Collections & Tax Assistance requires two (2) Tax Collection Technicians I (Range 10, Step L) for additional contacts on the delinquent and non-delinquent tax lines. Each technician requires CARES equipment and license.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no impact to their office resulting from this initiative petition.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

The proposal adds Sections 286.131 and 143.012, RSMo, to create a Public Sector Employment program, administered by the Division of Employment Security. The program is to provide employment to eligible citizens in lieu of unemployment benefits. Bonds are to be issued to provide initial funding and a new 10% surcharge on capital gains imposed to pay for the principle and interest on bonds along with the program costs.

This initiative does not specify who within the state has the authority to issue bonds. There must be a vote of the citizens or there must be a specifically named Board of which a majority vote is required before bonds are issued. If it was determined that the Board of Public Buildings would issue the bonds, the bond issuance duties would be carried out by the Office of Administration. Those duties could be assumed by current staff at no additional cost. However, there would be a cost to the state for the bond issuance and potentially for the principal and interest payments until the MHIC became self-supporting. The Office of Administration is unable to estimate the cost as it would be dependent upon the amount of bonds issued. For example, issuing $10,000,000 would cost about $692,000 per year for 25 years plus an issuance cost of $250,000. It is expensive to issue bonds regularly, especially for relatively small amounts of money such as this. It may make more sense for an entity to borrow funds from a bank in the form of a revolving loan instead of through the municipal markets.

This initiative also enacts a 10 percent capital gains surtax to provide funding for the public sector employment through the Division of Employment Security. Using Tax Year 2012 data, capital games for Missouri taxpayers totaled $617.5 billion; therefore, we estimate that 10 percent surtax would increase total state revenue by up to $617.5 million with the revenue directed to the program. If it is determined there are excess funds from the surtax, those excess funds shall be transferred to the general fund.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it

needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Columbia** indicated it's not clear if the proposed amendment would have a fiscal impact on their city. If the work program is limited solely to state-funded projects, direct impact is less likely. If the work also extends to local public projects, the new workers could displace public employees or local or regional contractors who normally bid for this work. Personal and corporate income, and taxes paid on income, as well as sales taxes paid on purchases in Columbia, could be affected.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal cost to their city. It would have a positive fiscal impact if these citizens worked on KCMO projects and were funded by this program. It is impossible to estimate the fiscal impact until the number of positions funded for KCMO projects was determined.

Officials from **Metropolitan Community College** indicated no anticipated impact for their college.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, University of Missouri,** and **St. Louis Community College.**

**Fiscal Note Summary**

If approved, state governmental entities estimate annual revenue increases of about $617 million to fund the proposed program. State government may lose $50 million in federal funding annually and businesses in the state may have increased federal unemployment tax costs of $889 million annually. The fiscal impact to local government is unknown.

16-061

RECEIVED

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

May 18, 2015

RECEIVED
MAY 18 2015
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Winston Apple regarding a proposed statutory amendment to Chapters 130 & 143 (2016-061)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Winston Apple on May 18, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-061

County:_____
Page number: _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021 RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail, or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

RECEIVED
2015 MAY 18 AM 11:02
SECY. OF STATE

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print of type names of signers)

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong Dist | NAME (Print or Typed) |
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Signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____.

_____
Signature of Affiant (Person obtaining signatures)

_____
(Printed Name of Affiant)

_____
Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A. D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)
My commission expires _____

16-061

*Be it enacted by the people of the state of Missouri:*

*Two new sections of the Revised Missouri Statutes are hereby enacted, to be known as sections 130.230 and 143.990, to read as follows:*

130.230. 1. "The Missouri elections trust fund" is hereby created to provide public financing for candidates for office in Missouri who agree to accept and meet certain conditions and limitations.
2. The government by the people trust fund will be administered by a board, to be known as the "public finance commission" consisting of seven members, to be nominated by the governor and approved by the senate.

(1) No individual may be appointed to the public finance commission who is:

(a) a government employee;

(b) a registered lobbyist, or who has been a registered lobbyist at any time during the 5-year period preceding their appointment to the commission;

(c) an officer or employee of a political party or political campaign;

(d) an elected official, senator, or representative.

(2) Members of the public finance commission shall be appointed for a term of five years; except the second and third classes of the first seven members of the public finance commission , who shall be divided into three classes, as follows;

(a) The first three members to be confirmed shall serve a full five-year term;

(b) The fourth and fifth members to be confirmed shall serve a three-year term;

(c) The sixth and seventh members to be confirmed shall serve a one-year term.

(3) Members of the public finance commission may be removed from office if convicted of fraud or mismanagement of funds administered by the public finance commission, or conviction of a felony.

3. Members of the public finance commission will be reimbursed for travel and other expenses at the prevailing rate for other employees and officers of the state of Missouri.
4. The funds collected under this program will be distributed only to candidates who accept the conditions required to qualify for public financing.
5. Candidates accepting public funds must agree to and meet the following conditions:

(1) Not to accept contributions from corporations or political action committees that include corporate contributions in their fund-raising;

(2) Not to accept donations totaling more than $1000 from any individual or other source, other than themselves, excluding a political party of which they are a member, during an election cycle (defined as the period between two general elections for the same office); and

(3) That at least half of the money they raise will come from individuals, political action committees, or other sources that contribute no more than $100 to them during an election cycle.
6. The funding provided to eligible candidates will be in the form of matching funds, with the size of the match (2 to 1; 5 to 1; etcetera) to be determined by the commission based on the total amount of money raised by all candidates who have elected to accept public funds and the total amount of money available from the fund during each election year.

(1) Thirty-five percent of the funds available shall be distributed on the first day of June of each general election year, based on total monetary contributions received during the election cycle up to the date of the quarterly report filed with the Missouri Ethics Commission for the quarter ending on the thirty-first day of March. (In-kind contributions are not eligible for matching funds.)

(2) The balance of available funds shall be distributed on the third Monday in September of each general election year to eligible candidates in the general election, based on total monetary contributions received and reported through the thirtieth day of August.
7. When a candidate or committee files a termination statement and disclosure report with the Missouri Ethics Commission, any and all funds remaining after dissolving any debt are to be paid over to the government by the people fund, up to and including an amount equal to the full amount of matching funds received by said candidate.

143.990. 1. In each taxable year beginning on or after January 1, 2016, each individual or corporation having paid state income taxes in the amount of twenty-five dollars or more may designate that five dollars of the tax paid shall be paid over to the Missouri elections trust fund as provided in section 130.230. In the case of a husband and wife with a filing status of married filing combined having paid state income tax in the amount of fifty dollars or more, each spouse may designate that five dollars shall be paid to the fund.

2. The designation authorized by this section shall be clearly and unambiguously printed on the same page of each income tax return form provided by the state upon which the amount of the amount of tax owed is indicated, and shall provide a statement that contributing to the fund will not increase the amount of tax owed or reduce the amount of overpayment to be refunded. The department of revenue shall deposit such amount to the Missouri election trust fund as created in section 130.230.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-061)**

## Subject

Initiative petition from Winston Apple regarding a proposed amendment to Chapters 130 and 143 of the Revised Statutes of Missouri. (Received May 18, 2015)

## Date

June 8, 2015

## Description

This proposal would amend Chapters 130 and 143 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact on their department.

Officials from the **Department of Higher Education** indicated they reviewed the provisions of this initiative petition and determined that, because it would redirect a portion of an individual's tax payment to a dedicated new fund, the provisions would reduce the amount of state tax revenue available for other purposes, including higher education programs and state agencies. However, because they were unable to determine what percent of taxpayers would elect to make the redirection, it is unknown how large this impact would be. Consequently, the impact in their department is unknown.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated the total estimated costs would be $254,025 for FY 2016 including one-time information technology costs of $159,084, $100,157 for FY 2017, and $101,192 for FY 2018.

This petition redirects revenues from General Revenue to the Missouri Elections Trust Fund.

Section 130.230
This petition creates the Missouri Elections Trust Fund to provide public campaign financing for candidates for office. This section also creates the Public Finance Commission to administer the trust fund.

Section 143.990
This section allows single taxpayers or corporations who have paid at least $25 in state income tax to designate $5 of the tax to be paid to the Missouri Elections Trust Fund. Those taxpayers who are married, filing combined returns, and have paid at least $50 may designate $10 to the Missouri Elections Trust Fund.

Administrative Impact:
The Department requires form and programming changes to personal and corporate tax systems. The information technology costs for FY 2016 would be $159,084.

Personal Tax:
Personal Tax requires two (2) Temporary Tax Employees for keying returns and one (1) Revenue Processing Technician I (Range 10, Step L) for processing returns.

Corporate Tax:
Corporate tax requires one (1) Revenue Processing Technician I (Range 10, Step L).

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated this proposal requires the Governor to nominate the seven members of the Public Finance Commission. This can be completed by existing staff so there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no impact to their office resulting from this initiative petition.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

The proposal enacts two new sections of law.

Section 130.230 creates the Missouri Elections Trust Fund to provide public financing for candidates who agree to meet certain conditions and limitations.

Section 143.990 allows individuals and corporations to designate five dollars of their taxes paid to be deposited in the Missouri Elections Trust Fund instead of into the General Revenue Fund. This will be a cost to general revenue of an unknown amount.

This proposal will have no impact on the Office of Administration.

NOTE: There appear to be multiple drafting errors in the proposal. The Missouri Elections Trust Fund is created in 130.230.1, however there are multiple references to the Government by the People Trust Fund, which is not defined, throughout the remainder of that section.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Columbia** indicated they do not expect a fiscal impact from this proposed amendment.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

Officials from **Metropolitan Community College** indicated no anticipated impact for their college.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, University of Missouri,** and **St. Louis Community College.**

**Fiscal Note Summary**

State government entities expect one-time costs of about $159,000 and annual costs exceeding $100,000. Also, an unknown amount of revenue will not be available for state General Revenue Fund spending. Local governmental entities expect no costs or savings from this proposal.

RECEIVED
MAY 13 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-060

May 13, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Chuck Hatfield regarding a proposed constitutional amendment to Article X, version E (2016-060)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Chuck Hatfield on May 13, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-060

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and name of the city, town or village in which I live are correctly written after my name.

(Official Ballot title)

RECEIVED
2015 MAY 13 AM 11:36
SEC. OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI,

COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)
(Petition Circulator's Printed Name)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | Zip Code | Congr. Dist. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
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| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer _____.

_____
Signature of Affiant (Person obtaining signatures)

_____
Street address of Affiant

_____
Printed Name of Affiant

_____
City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My commission expires:

16-060

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Article X is amended by adding one new section to be known as Section 26, to read as follows:

Section 26. In order to prohibit an increase in the tax burden on the citizens of Missouri, state and local sales and use taxes (or any similar transaction-based tax) shall not be expanded to impose taxes on any service or transaction that was not subject to sales, use or similar transaction-based tax on January 1, 2015.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-060)**

## Subject

Initiative petition from Chuck Hatfield regarding a proposed constitutional amendment to Article X. (Received May 13, 2015)

## Date

June 2, 2015

## Description

This proposal would amend Article X of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **State Tax Commission.**

**Marc Ellinger** provided information on this proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated no cost to their department.

Officials from the **Department of Higher Education** indicated they have reviewed the provisions of this initiative petition. Although the proposal would limit the ability of the state to revise its tax structure, it is impossible for their department to determine what tax revenues the state might forgo as a result or the impact the limit would have on appropriations to higher education. Consequently, while they do not believe the proposal would have a direct fiscal impact on their department, the actual potential impact is unknown.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated the fiscal impact from this proposal is unknown. While there would appear to be no current and direct fiscal impact from these provisions on their department, they would certainly and perhaps severely limit what state and local governments can do in the future in terms of changing the way taxes are handled.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this petition will have no fiscal impact on their department.

Department officials provided the following additional information:

They reviewed the comments submitted and disagree with the assumptions. Please see below:

**The Initiative Petition will require a substantial increase in Department of Revenue lawyer FTEs**
The Department feels there is already a sufficient legal staff available to handle any possible new litigation.

**The Initiative Petition will require a substantial increase in Department of Revenue non-lawyer FTEs**
The Department currently maintains records of all exemptions under Missouri law and how they apply. These provisions will not change anything.

**The Initiative Petition will eliminate the revenue from the Parks and Soils tax**
Both are constitutional provisions. This provision does not trump the tax or the need for election in another provision. Also, the tax is imposed as of January 1, 2015. Therefore, it may still be approved to continue after that date.

**The Initiative Petition will eliminate the revenue from the Kansas City transportation sales tax**
The tax is imposed as of January 1, 2015. Therefore, it may still be approved to continue after that date. Where there is some litigation risk, the law already says that there must be a vote to extend. This provision should not impact that fact.

Officials from the **Department of Public Safety** indicated this petition could restrict their ability to establish a way to fund public safety programs going forward, but the fiscal impact would not measurable at this point.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated they assume there will be no fiscal impact.

Officials from the **Office of Administration** indicated:

The proposal enacts a new section (Section 26) in Article X of the Missouri Constitution. This section would prohibit any new state or local sales or use tax (or any similar transaction-based tax) on services or activities not subject to tax on January 1, 2015.

The state sales tax base continues to shrink as the amount of Internet sales increases. This proposal would prevent the state from modernizing its taxing structure in the future to include Internet sales, which would negatively impact the state's ability to raise sufficient revenue to support vital state services. This proposal would also negatively impact the state's ability to restructure tax policy in the future. Counties and political subdivisions would likely experience the same revenue issues if this proposal were to be enacted.

This proposal will not impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from the **City of Columbia** indicated this amendment could severely hamper local taxpayers ability to fund and support local needs. Without the ability to seek approval even for currently authorized taxes, their city could find that it is unable to meet expectations for public safety, economic development, capital improvements and other services. It is not possible to quantify the fiscal impact.

Officials from the **City of Kansas City** indicated they estimate an annual revenue loss of at least $203,000,000 if either Initiative Petition 16-058, 16-059, or 16-060 is adopted. These losses result from the prohibition on new local sales and use taxes, which would include a ban on new sales taxes on Internet purchases of goods and services by city residents from out-of-state merchants. Their city would also lose substantial sales tax revenues because these initiatives would cancel any revenues otherwise gained from the elimination of exemptions under the Streamlined Sales Tax Act.

The projected loss of $203 million is based on the following data and assumptions:

According to a study reported on the web site of the National Conference of State Legislatures, approximately 49 percent of Missouri sales commerce in 2009 was electronic (online) commerce. The study was performed by the Center for Business and Economic Research of the University of Tennessee.

Only a negligible amount of online commerce actually results in the payment of use taxes to the jurisdiction where the purchaser resides. Few purchasers voluntarily report and pay use taxes on online purchases.

This unreported and unpaid use tax on online commerce could be captured if (1) Congress passed the Marketplace Fairness Act, and (2) Missouri enacted the Streamlined Sales Tax. Arguably, Initiative Petitions 16-058, 16-059, and 16-060 would prevent Missouri from adopting the Streamlined Sales Tax.

Assuming that their city has the same level of electronic commerce as the entire state of Missouri according to the study (49%), the city is losing 49 percent of its potential sales & use taxes as the result on unreported and unpaid use taxes on online transactions.

Their city's estimated sales tax revenue for fiscal year 2015-16 is $212 million according to its budget.

Their city's loss from uncaptured use taxes on 49 percent of total sales tax revenue is estimated as follows:

If x = total potential sales and use tax revenue (both paid and unpaid)

212,000,000 = .51x

X = 212,000,000 / .51
X = 415,686,275
Unreported/unpaid use tax = 415,686,275 – 212,000,000 = 203,686,275

Officials from **Metropolitan Community College** indicated no anticipated impact for their college.

Officials from **University of Missouri** indicated this initiative petition would not have a significant fiscal impact on their university.

**Marc Ellinger** provided the following information on this initiative petition.

I submit the following proposed statement of fiscal impact for the Initiative Petition that was filed by Chuck Hatfield on May 13, 2015. The initiative petition has been labeled by the Secretary of State as 2016-060.

The initiative petition would prohibit the state, counties and other political subdivisions from imposing a sales or use tax on any service or activity that was not subject to a sales or use tax on January 1, 2015.

**(1) Initiative Petition 2016-060 will require a substantial increase in Department of Revenue lawyer FTEs**

The Initiative Petition will increase costs to the state due to increased litigation as a result of the proposed measure. The largest component of "litigation costs" is the personnel costs. The Department of Revenue currently employs a small army of lawyers. In 2014, the State spent more than 1.6 million dollars of taxpayer money to fund the salaries of the Department's lawyers. (See Appendix A). Since 2010, the Director of Revenue has been a party to more than fifty Missouri Supreme Court cases.[1]

Whether or not a service or activity is currently subject to sales or use tax has been subject the focus of considerable litigation, especially in recent years. Already this year, the Missouri Supreme Court has decided *Alberici Constructors, Inc. v. Director of Revenue*, 452 S.W.3d 632 (Mo. banc 2015) (a use tax case), *Fred Weber Inc. v. Director of Revenue*, 452 S.W.3d 628 (Mo. banc 2015) (a sales tax case), *Ben Hur Steel Worx v. Director of Revenue*, 452 S.W.3d 624 (Mo. banc 2015) (a sales and use tax case), *Five*

[1] See, generally, www.courts.mo.gov/casenet.

*Delta Alpha, LLC v. Director of Revenue*, --- S.W.3d ---, 2015 WL 777898 (Mo. banc 2015) (a use tax case), and *Tatson, LLC v. Director of Revenue*, 456 S.W.3d 43 (Mo. banc 2015) (a sales tax case). These cases account for 14% of the total cases handed down so far this year by the Missouri Supreme Court.

Furthermore, an amendment of this type would incentivize parties, who previously would have reached a settlement with the Department, to seek a legal determination that their services and/or activities were not subject to a sales or use tax on January 1, 2015. Such determination would essentially provide them with a perpetual exemption from tax.

The increase in litigation will necessitate additional lawyer FTEs for the Department of Revenue. These costs should be included in the Fiscal Note Summary. At the very least, the Fiscal Note Summary should state "the proposal's passage will likely lead to increased litigation-related costs." [2]

**(2) Initiative Petition 2016-060 will require a substantial increase in Department of Revenue non-lawyer FTEs**

The initiative would also prohibit the state from repealing any of the current exemptions in Missouri's sales and use tax law. Thus, the initiative would require the Department to track current exemptions. In a 2013 audit, the Department of Revenue

[2] This language was previously adopted by the Auditor for Initiative Petitions 2016-021 and 2016-022 (attached hereto as Appendix B).

admitted it does not currently track or report exemptions and stated "to track and report exemptions, the Department would require a substantial increase in FTE[.]" [3]

**(3) Initiative Petition 2016-060 will eliminate the revenue from the Parks and Soils tax**

The proposed measure essentially prohibits any new sales or use taxes. The existing Parks and Soils tax in Article IV, Section 47(a) of the Missouri Constitution, which imposes a sales tax of one-tenth of one percent, expires in 2016. Mo. Const. art. IV, Section 47(c). Without additional voter approval, Sections 47(a), (b), and (c) terminate. As of January 1, 2015 there is not a sales or use tax under Section 47 of the Missouri Constitution on or after 2016. The initiative effectively eliminates the Parks and Soils tax after 2016. The amount collected in FY2014 from the state sales and use tax for Parks and Soils was $76,121,334.[4] That is an increase over the $67.9 million that was collected in FY2010. The loss to the state in 2017 as a result of the elimination of the Parks and Soils tax in Article IV, Section 47 will be at least $76 million dollars.

**(4) Initiative Petition 2016-060 will eliminate the revenue from the Kansas City transportation sales tax**

In 2015, the legislature passed Senate Bill 190 (attached as Appendix D) which would extend the Kansas City transportation sales tax indefinitely. However, the

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[3] http://auditor.mo.gov/Repository/Press/2013-015.pdf (attached hereto, without Appendixes, as Appendix C).
[4] http://dor.mo.gov/pdf/financialstatreport14.pdf.

proposed measure prohibits any new sales or use taxes that were not in effect as of January 1, 2015. As of January 1, 2015, there was no Kansas City transportation sales tax on or after December 31, 2015. As such, the state would be prohibited from imposing or extending such tax as a result of Initiative Petition 2016-060. If the sales tax expires, the result is a loss to the City of Kansas City in the amount of $36.5 million dollars annually (Fiscal Note for SB 190 attached as Appendix E).

**(5) Initiative Petition 2016-060 will repeal any local taxes voted on and approved by the people after January 1, 2015.**

Since January 1, 2015, a number of local governments put tax measures before their voters for approval. Many passed by overwhelming margins. Still, these taxes would be repealed by the Initiative Petition because it prohibits a local government or political subdivision from imposing any sales or use tax that was not already imposed on January 1, 2015. The taxes listed below are a sampling of the taxes that were passed in April 2015 that would be repealed by the Initiative Petition:

- Country Club Hills Prop S - Sales Tax
- Crawford County Prop 1 - Sales Tax
- Crystal City Prop E - Sales Tax
- Hazelwood Prop P - Sales Tax
- Hillsboro, MO Fire Prop F - Sales Tax
- Kirkwood Prop 1 - Sales Tax
- Pleasant Valley Sales Tax

- Rolla Prop P - Sales Tax
- Sni-Valley Fire Prot. Distr. Sales Tax
- St. John Prop S - Sales Tax
- Ste. Genevieve Co. Prop A - Sales Tax
- Valle Ambulance Dist. Prop Valle - Sales Tax
- Washington County Road & Bridge Sales Tax

The loss to local governments as a result of the repeal of these taxes would be significant and such costs should be included in the Fiscal Note Summary.

**Conclusion**

No savings or reduction in costs to state government can be gleaned in any manner from the proposed Initiative Petition. Additionally, this measure expressly restricts the ability of counties, cities, and other political subdivisions from imposing certain taxes. Local governments will see reduced revenues in the future as a result of the proposed measure.

The proposed measure would have a significant negative economic impact on the state. The proposed measure will increase litigation related costs, eliminate the state Parks and Soils tax, and eliminate the Kansas City transportation sales tax. Any estimate of fiscal impact of the proposed measure must include these significant losses in order to adequately inform potential signors and voters. The use of the phrase "unknown" suggests an ambiguity regarding costs or savings – that such costs or savings could be positive or negative. Since there is no evidence to support (1) any reduction in costs (2)

any savings, or (3) any increased revenues, such ambiguity cannot be included in the fiscal note summary. Therefore use of the word "unknown," unless it includes the phrase "negative impact," is improper.

| | | | |
|---|---|---|---|
| 2014 REVENUE | ASSOCIATE COUNSEL | ALLEN, CHANDREKA N. | 26,374.38 |
| 2014 REVENUE | ASSOCIATE COUNSEL | AUSMUS, MARK DAVID | 5,859.96 |
| 2014 REVENUE | ASSOCIATE COUNSEL | BRIGHT, DEANNA MARIE | 33,185.44 |
| 2014 REVENUE | ASSOCIATE COUNSEL | FEHR, CHRISTOPHER R. | 46,858.68 |
| 2014 REVENUE | ASSOCIATE COUNSEL | HOUDEK, THOMAS A | 9,766.60 |
| 2014 REVENUE | ASSOCIATE COUNSEL | MARTIN, SPENCER ADAM | 9,766.60 |
| 2014 REVENUE | ASSOCIATE COUNSEL | SANDERS, MARIA A | 30,983.49 |
| 2014 REVENUE | CHIEF COUNSEL | MONAGHAN, MAUREEN M | 65,583.00 |
| 2014 REVENUE | GENERAL COUNSEL - DIVISION | HALE, JONATHAN HOWARD | 41,588.75 |
| 2014 REVENUE | GENERAL COUNSEL - DIVISION | KISLING, MICHAEL SHAYNE | 70,483.08 |
| 2014 REVENUE | GENERAL COUNSEL - DIVISION | PLAGGENBERG, JOSEPH G | 1,875.00 |
| 2014 REVENUE | LEGAL COUNSEL | AUSMUS, MARK DAVID | 37,642.50 |
| 2014 REVENUE | LEGAL COUNSEL | BERNSEN, TORY DOWD | 43,023.00 |
| 2014 REVENUE | LEGAL COUNSEL | CONWAY, STEPHEN | 43,023.00 |
| 2014 REVENUE | LEGAL COUNSEL | COOPER, CAMERON H | 43,023.00 |
| 2014 REVENUE | LEGAL COUNSEL | HOUDEK, THOMAS A | 34,055.50 |
| 2014 REVENUE | LEGAL COUNSEL | KENNEDY, DANIEL J | 43,023.00 |
| 2014 REVENUE | LEGAL COUNSEL | MARTIN, SPENCER ADAM | 34,055.50 |
| 2014 REVENUE | LEGAL COUNSEL | SLAWSON, BENJAMIN C | 43,023.00 |
| 2014 REVENUE | LEGAL COUNSEL | VEIT, DAWN RENEE | 12,228.41 |
| 2014 REVENUE | LEGAL COUNSEL | VITALE, DESIREE JUDE | 48,483.00 |
| 2014 REVENUE | MANAGING COUNSEL | BERTELS, RYAN EUGENE | 4,361.59 |
| 2014 REVENUE | MANAGING COUNSEL | FREUDENBERG, ROGER L. | 67,602.12 |
| 2014 REVENUE | MANAGING COUNSEL | GINTHER, STEVEN ALLAN | 67,602.12 |
| 2014 REVENUE | MANAGING COUNSEL | GOOCH, CHARLES L | 67,602.12 |
| 2014 REVENUE | MANAGING COUNSEL | LAKS, YAMINI A. | 51,729.10 |
| 2014 REVENUE | MANAGING COUNSEL | MILLER, DALE WOOD | 39,660.62 |
| 2014 REVENUE | SENIOR COUNSEL | ALLEN, CHANDREKA N. | 15,642.69 |
| 2014 REVENUE | SENIOR COUNSEL | BRIGHT, DEANNA MARIE | 15,642.69 |
| 2014 REVENUE | SENIOR COUNSEL | CHENAULT, JAMES A. | 60,363.48 |
| 2014 REVENUE | SENIOR COUNSEL | COX, JOSEPH M | 53,611.08 |
| 2014 REVENUE | SENIOR COUNSEL | LAFAVER, BEVERLY L | 54,718.44 |
| 2014 REVENUE | SENIOR COUNSEL | LAKS, YAMINI A. | 2,708.33 |
| 2014 REVENUE | SENIOR COUNSEL | LAUGHLIN, JANE A | 59,983.08 |
| 2014 REVENUE | SENIOR COUNSEL | LISSANT, SUSAN LEAH | 53,611.08 |
| 2014 REVENUE | SENIOR COUNSEL | MOREAU, SHERYL L | 28,738.76 |
| 2014 REVENUE | SENIOR COUNSEL | MURRAY, MICHAEL LEE | 56,987.16 |
| 2014 REVENUE | SENIOR COUNSEL | PRITCHARD, JAN | 53,611.08 |
| 2014 REVENUE | SENIOR COUNSEL | ROSE, GLORIA JEAN | 59,445.71 |
| 2014 REVENUE | SENIOR COUNSEL | SANDERS, MARIA A | 20,112.03 |
| 2014 REVENUE | SENIOR COUNSEL | SPRADLIN, JAMES L | 53,611.08 |
| 2014 REVENUE | SENIOR COUNSEL | SULLIVAN, STEPHEN PATRICK | 56,987.16 |
| | | Total | 1,668,236.41 |

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY
65102

CHRIS KOSTER
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

March 12, 2015

OPINION LETTER NO. 26-2015

The Honorable John Watson
Missouri State Auditor
State Capitol, Room 121
Jefferson City, MO 65101

Dear Auditor Watson:

This office received your letter of March 2, 2015, submitting a fiscal note and fiscal note summary prepared under § 116.175, RSMo, for an initiative petition submitted by Jill Carter, version 1 (16-021). The fiscal note summary that you submitted is as follows:

> Any potential costs or savings from this proposal to state and local governmental entities is unknown. However, the proposal's passage will likely lead to increased litigation-related costs and impact the ability of state and local governments to provide certain health and welfare services.

Under § 116.175.4, RSMo, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the initiative petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

**CHRIS KOSTER**
Attorney General

OP-2015-0031

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY
65102

CHRIS KOSTER
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

March 12, 2015

OPINION LETTER NO. 27-2015

The Honorable John Watson
Missouri State Auditor
State Capitol, Room 121
Jefferson City, MO 65101

Dear Auditor Watson:

This office received your letter of March 2, 2015, submitting a fiscal note and fiscal note summary prepared under § 116.175, RSMo, for an initiative petition submitted by Jill Carter, version 2 (16-022). The fiscal note summary that you submitted is as follows:

> Any potential costs or savings from this proposal to state and local governmental entities is unknown. However, the proposal's passage will likely lead to increased litigation-related costs and impact the ability of state and local governments to provide certain health and welfare services.

Under § 116.175.4, RSMo, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the initiative petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

**CHRIS KOSTER**
Attorney General

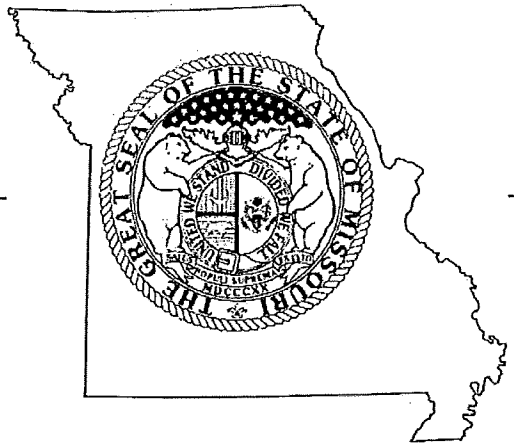
OP-2015-0032

# Thomas A. Schweich

**Missouri State Auditor**

# REVENUE

# Sales and Use Tax



**February 2013**

**Report No. 2013-15**

**http://auditor.mo.gov**

APPENDIX C

**Thomas A. Schweich**
**Missouri State Auditor**

# CITIZENS SUMMARY

## Findings in the audit of the Department of Revenue, Sales and Use Tax

### Individual Consumer Use Tax and Internet Sales

Missouri's individual consumer use tax requirements are not well known by the general public and are difficult to enforce and administer. The audit report expresses no opinion on the economic effect of collecting the tax but notes the unworkable structure in place now. Missouri law imposes an individual consumer use tax on the storage, use, or consumption of tangible personal property which is required to be paid unless sales or use tax is paid to the seller or the property is tax exempt. Also, use tax is due on purchases from a seller which is not engaged in business. A purchaser is required to file a use tax return if the cumulative purchases subject to use tax exceed $2,000 in a calendar year. The United States Supreme Court has held that states cannot require companies that do not have a physical presence in the state to collect state and local sales taxes. University studies have estimated that Missouri state and local governments have lost and will continue to lose sales/use tax revenue of between $358 million and $474 million annually by not collecting taxes on these sales. The Streamlined Sales and Use Tax Agreement (Agreement) is a cooperative effort among states, local governments, and businesses to simplify sales and use tax collection and administration by retailers and states, intended to minimize costs and administrative burdens on retailers that collect sales tax while encouraging out-of-state sellers to collect tax on sales to customers in the Streamlined states. Forty-four states, including Missouri, signed the Agreement, but Missouri has not passed implementing legislation.

The Department of Revenue (DOR) does not include a specific line that requires state individual income taxpayers to state whether they made purchases exceeding $2,000 for which sales or use tax was not paid, and, as a result, most taxpayers are not likely aware of the consumer use tax requirement. If the state continues to impose the individual consumer use tax, there are additional enforcement procedures the DOR should consider.

### Ongoing Concerns

The DOR does not track and report information regarding some sales and use tax exemptions, and so the cost in terms of reduced state revenue for each exemption cannot be determined. DOR records indicate adjustments to gross sales receipts totaled over $154 billion, $144 billion, and $147 billion in fiscal years 2011, 2010, and 2009, respectively. The DOR has agreed that tracking exemptions is a good idea, but it believes the recommendation increases the reporting burden on vendors and has indicated the current sales tax system might not have the capacity to handle the additional information. However, the DOR and the Office of Administration awarded a contract in February 2012 for a new Missouri Integrated Revenue System (MIRS) which should not have similar limitations.

The state is foregoing a significant amount of sales tax revenue because there is no cap on the amount of timely discounts large vendors can take. Business were allowed to keep approximately $102 million, $94 million, and $95 million in state and local sales tax revenues collected from purchases in fiscal years 2011, 2010, and 2009, respectively, as an incentive for timely submitting state sales tax payments. Moreover, the DOR does not routinely report the amount of timely discounts to the General Assembly.

When consumers overpay sales or use taxes, the DOR refunds the vendor the overpayment plus interest, but vendors are not required to return these funds to the original purchaser, resulting in a windfall for the vendor. The DOR has previously agreed to support legislation that would require sales and use tax refunds and related interest to be returned to the original purchaser, but, to date, such legislation has not been successful.

The General Revenue Fund (GRF) does not receive reimbursement from local funds for their proportionate share of interest paid on refunds of sales and use taxes. Sales and use tax refunds, including interest, are made from the GRF, and adjustments are automatically made to reimburse the GRF for the principal amount due from local funds. However, adjustments are not automatically made to reimburse the GRF for the amount of interest due from local funds. Although the DOR has previously agreed that local funds should pay their proportionate share of this interest, the DOR has not been able to develop a method for recovering this interest with the current tax system, but according to DOR personnel the new MIRS should not have this limitation.

## Automated Sales Suppression Device

Missouri law does not prohibit the creation, sale, purchase, installation, transfer, or possession of an automated sales suppression device (a software program commonly known as a zapper). Zapper software enables businesses to evade tax liability by altering the electronic sales records in a cash register to make it appear that fewer transactions have occurred. At least 10 other states have passed or are considering similar legislation.

In the areas audited, the overall performance of this entity was **Good**.*

## American Recovery and Reinvestment Act (Federal Stimulus)

The Department of Revenue did not receive any federal stimulus monies for sales and use tax operations during the audited time period.

*The rating(s) cover only audited areas and do not reflect an opinion on the overall operation of the entity. Within that context, the rating scale indicates the following:

**Excellent:** The audit results indicate this entity is very well managed. The report contains no findings. In addition, if applicable, prior recommendations have been implemented.

**Good:** The audit results indicate this entity is well managed. The report contains few findings, and the entity has indicated most or all recommendations have already been, or will be, implemented. In addition, if applicable, many of the prior recommendations have been implemented.

**Fair:** The audit results indicate this entity needs to improve operations in several areas. The report contains several findings, or one or more findings that require management's immediate attention, and/or the entity has indicated several recommendations will not be implemented. In addition, if applicable, several prior recommendations have not been implemented.

**Poor:** The audit results indicate this entity needs to significantly improve operations. The report contains numerous findings that require management's immediate attention, and/or the entity has indicated most recommendations will not be implemented. In addition, if applicable, most prior recommendations have not been implemented.

# Department of Revenue
# Sales and Use Tax
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# THOMAS A. SCHWEICH
## Missouri State Auditor

Honorable Jeremiah W. (Jay) Nixon, Governor
and
Brian K. Long, Director
Department of Revenue
Jefferson City, Missouri

We have audited certain operations of the Department of Revenue, sales and use tax collections, as required by Sections 32.087 and 67.525, RSMo. The scope of our audit included, but was not necessarily limited to, the years ended June 30, 2011, 2010, and 2009. The objectives of our audit were to:

1. Evaluate the department's internal controls over significant management and financial functions.

2. Evaluate the department's compliance with certain legal provisions.

3. Evaluate the economy and efficiency of certain management practices and operations, including certain financial transactions.

Our methodology included reviewing written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the department; analysis of comparative data obtained from internal sources; and testing selected transactions. We obtained an understanding of internal controls that are significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We tested certain of those controls to obtain evidence regarding the effectiveness of their design and operation. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contract or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

The accompanying Organization and Statistical Information is presented for informational purposes. This information was obtained from the department's management and was not subjected to the procedures applied in our audit of the department.

For the areas audited, we identified (1) a deficiency in internal controls, (2) no significant noncompliance with legal provision, and (3) the need for improvement in management practices and procedures. The accompanying Management Advisory Report presents our findings arising from our audit of the Department of Revenue, sales and use tax collections.

Thomas A. Schweich
State Auditor

The following auditors participated in the preparation of this report:

| | |
|---|---|
| Deputy State Auditor: | Harry J. Otto, CPA |
| Director of Audits: | John Luetkemeyer, CPA |
| Audit Manager: | Toni Crabtree, CPA |
| In-Charge Auditor: | Robyn Vogt, M.Acct., CPA |
| Audit Staff: | Corey McComas, M.Acct., CPA |
| | Aaron D. Allen |

# Department of Revenue
# Sales and Use Tax
# Management Advisory Report - State Auditor's Findings

## 1. Individual Consumer Use Tax and Internet Sales

Missouri's individual consumer use tax requirements are not well known by the general public, require extensive taxpayer record keeping, are generally not complied with, and are difficult to enforce and administer. This report expresses no opinion on the economic effect of collecting the tax on the economy of Missouri; the report simply notes the unworkable structure in place now.

### Background information

State law imposes an individual consumer use tax on the storage, use, or consumption of tangible personal property in Missouri. The consumer use tax is required to be paid unless sales or use tax is paid to the seller or the property is tax exempt. Also, use tax should be paid on purchases from a seller which is not engaged in business. A purchaser is required to file an annual use tax return with the Department of Revenue (DOR) if the cumulative purchases subject to use tax exceed $2,000 in a calendar year. The use tax is computed on the purchase price of all goods once purchases exceed $2,000. Consumer use tax information and requirements are posted on the DOR website.

The type of purchases subject to use tax include, but are not limited to, 1) catalog purchases, 2) magazine subscriptions, 3) cross-border purchases of goods, 4) TV marketing purchases, 5) computer software and hardware, 6) mail-order supply purchases, 7) furniture and equipment purchases from out-of-state sellers, 8) purchases of goods over the Internet (e-commerce) and by phone, and 9) purchases of goods from outside the United States. Currently, state law requires local businesses to collect sales tax, even if they have an online business, because these businesses have a physical presence (nexus) in the state. However, under a 1992 U.S. Supreme Court ruling[1], states cannot require companies that do not have nexus to collect state and local sales taxes. As a result, Missouri cannot require businesses without nexus to collect sales tax on goods sold to Missouri residents. Federal legislation has been proposed that would enable states to require online retailers to collect and remit sales taxes, while also providing businesses with an effective means to comply. Such legislation includes the Marketplace Fairness Act, the Main Street Fairness Act, and the Marketplace Equity Act.

With the increasing popularity and usage of the Internet, e-commerce sales have grown significantly over recent years. University studies[2] have

[1] Quill orp v, North Dakota, 504 U.S.298 (1992)

[2] Bruce, Donald, William F. Fox, LeAnn Luna, "State and Local Government Sales Tax Revenue Losses from Electronic Commerce," University of Tennessee, Center for Business and Economic Research, <http://cber.bus.utk.edu/ecomm.htm>, accessed on April 27,2012; and Huanfm Ting, John Kosash and Andrew Wesemann (2012). "Internet Sales and Use Tax Issues in Missouri" Report 01-2012, University of Missouri Columbia, Institute of Public Policy, <http://ipp.missouri.edu/Publications/306>, accessed on June 5, 2012.

estimated that Missouri state and local governments have lost and will continue to lose sales/use tax revenue of between $358 million and $474 million annually by not collecting taxes on these sales. Both studies also noted that local vendors face a competitive disadvantage because consumers that make purchases online avoid paying sales/use taxes. However, it is possible that if taxes were collected on e-commerce sales, consumer purchasing habits could change resulting in less revenue for the state than forecasted. The issues of revenue, consumer spending habits, and the economic effect of increased taxation are beyond the scope of this report.

## Streamlined Sales and Use Tax Agreement

The Streamlined Sales and Use Tax Agreement (Agreement) is a cooperative effort among states, local governments, and businesses to simplify sales and use tax collection and administration by retailers and states. The Agreement aims to minimize costs and administrative burdens on retailers that collect sales tax, while also encouraging out-of-state sellers to collect tax on sales to customers in the Streamlined states. Forty-four states, including Missouri, signed the Agreement, originally adopted in November 2002, and 24 of these states have passed legislation to conform to the Agreement. Legislation was introduced in Missouri during the 2012 legislative session and in prior years to implement the provisions of the Agreement; however, such legislation has not passed. Participation in the Agreement is voluntary for businesses and consumers; therefore, Missouri cannot require out-of-state sellers without nexus to collect sales taxes on purchases made by Missouri residents. However, according to the University of Missouri report, each state that has entered into the Agreement collected, on average, an additional $30.7 million, in total, in e-commerce tax revenue between 2005 to 2010.

Some states (such as Washington, North Dakota, New York, Kansas, and Kentucky) have entered into agreements with large Internet sellers, to collect and remit state and local sales taxes. Large Internet sellers have also negotiated deals with other states to collect sales tax in the future. In other instances, Internet sellers have agreed to disclose sales and use tax requirements on their Internet sites for certain states. Such disclosures inform customers that many states require purchasers to file a sales or use tax return reporting all taxable purchases that were not taxed and to pay tax on those purchases, and may include a link to that state's website.

## Individual income tax forms

The DOR does not include a specific line that requires state individual income taxpayers to state whether they made purchases exceeding $2,000 for which sales or use tax was not paid. As a result, most taxpayers are not likely aware of the consumer use tax requirements as evidenced by the small amount of consumer use tax collections.

According to DOR records, the following consumer use tax was paid:

| Tax Year | 2011 (1) | 2010 | 2009 | 2008 |
|---|---|---|---|---|
| Number of individual tax returns | 2,917,023 | 2,876,787 | 3,019,358 | 3,080,945 |
| Number of use tax returns | 168 | 190 | 125 | 96 |
| Use tax paid | $205,087 | 301,474 | 110,784 | 40,714 |

(1) Tax year 2011 information through August, 2012.

If the state continues to impose the individual consumer use tax, there are additional enforcement procedures the DOR should consider. Our review of other states' procedures noted some states include a specific line on its individual income tax return to report purchases made for which sales or use tax was not paid. In addition, to reduce taxpayer recordkeeping burden, some states provide an optional use tax reporting table which bases the consumer's use tax liability on a percentage of adjusted gross income rather than actual purchases.

To increase taxpayer compliance with existing individual consumer use tax laws, the DOR should consider revising individual income tax forms to include a specific line regarding purchases made for which sales or use tax was not paid, and an optional use tax reporting table which bases consumer use tax liability on a percentage of adjusted gross income rather than actual purchases.

## Recommendation

The DOR revise the individual income tax forms to increase taxpayer compliance with existing individual consumer use tax laws.

## Auditee's Response

*The Department supports the collection of all taxes due the state of Missouri, including use taxes. However, adding a line on the return may not have much impact on use tax collections, but it would delay the availability of general revenue funds. This delay could be substantial in the April-May time frame when the majority of individual income tax revenues are received.*

*Individual income tax revenues are all general revenue funds and currently are deposited very quickly, usually the same or next day even during the April-May time frame. If those funds were combined with use tax funds, all money would need to be deposited in a suspense account until the return is processed and the appropriate local and state fund distribution can be determined. This could delay availability of the funds by as much as six weeks. The Department will continue to explore other ways to encourage compliance with use tax laws that do not negatively affect the timely transfer of funds to the general revenue fund.*

## Auditor's Comment

We do not agree with the Department's contention that enforcing existing consumer use tax law would need to unnecessarily delay the availability of general revenue funds. The DOR could place only the consumer use tax portion in the suspense account thereby eliminating any need to delay the availability of general revenue funds.

# 2. Ongoing Concerns

The DOR does not track and report information regarding some sales and use tax exemptions or routinely report to the General Assembly for its consideration the amount of timely discounts taken by businesses. Under Missouri law, vendors are not required to return sales and use tax refunds to the original purchaser when applicable, and local funds are not paying their proportionate share of interest paid on refunds of sales and use taxes.

These issues are ongoing concerns and have been reported in prior audit reports.

## 2.1 Sales and use tax exemptions

The DOR does not track and report information regarding some sales and use tax exemptions. As a result, the cost in terms of reduced state revenue for each exemption cannot be determined.

According to DOR records, there are currently 150 sales and use tax exemptions provided by state law. The DOR only tracks exemptions related to the 3 percent reduction on food sales, textbook sales, and manufacturing sales.

Vendors remit monthly, quarterly, or annual sales and use tax returns to the DOR. The returns include gross sales receipts, adjustments to gross sales receipts, and taxable sales. The adjustment amounts include, but are not limited to, exempt sales for the period of the sales tax return (file period), and corrections of errors from previous file periods.

DOR records indicate adjustments to gross sales receipts totaled over $154 billion, $144 billion, and $147 billion in fiscal years 2011, 2010, and 2009, respectively. Detailed information of what is included in the adjustments total is not required to be provided on returns, and according to DOR personnel, only taxable sales are reported on some returns, with the gross sales receipts or adjustment amounts not included.

Although the DOR has previously agreed that tracking exemptions is a laudable goal, the DOR believes the recommendation increases the burden of reporting on taxpayers (vendor) and is contrary to the provision which requires simplified returns in the Streamlined Sales and Use Tax Agreement, (see MAR finding number 1). The DOR has indicated that when Missouri comes into substantial conformity with the Agreement, the DOR will require filers to submit a report of consolidated exempt sales by exemption type in accordance with the Agreement. However, as previously

noted, legislation is required to put the state into conformity with the Agreement and Missouri has yet to pass such legislation.

The DOR has also indicated the current sales tax system would require significant reprogramming, and might not have the capacity to handle the additional information from tracking and reporting exemptions. In February 2012, the DOR and the Office of Administration awarded a contract for a new Missouri Integrated Revenue System (MIRS). According to DOR personnel, although the new system is currently in the developmental stages, it should not have similar limitations.

## 2.2 Timely discounts

The DOR does not routinely report to the General Assembly for its consideration the amount of timely discounts taken by businesses. This discount was established for businesses to recover a portion of their costs for compliance with state sales tax laws. However, the state is foregoing a significant amount of sales taxes revenue because there is not a cap on the amount of timely discounts taken by large vendors.

Approximately $102 million, $94 million, and $95 million in state and local sales tax revenues were collected from purchasers but retained as timely discounts by businesses remitting sales and use taxes in fiscal years 2011, 2010, and 2009, respectively.

Section 144.710, RSMo, allows businesses remitting sales and use taxes to retain 2 percent of taxes payable to the DOR if the business remits payments in a timely manner. These discounts reduce the amount of sales and use taxes received by the state and local governments. According to a November 2008 report[3], 46 states (including the District of Columbia) impose state sales taxes, 26 states allow businesses a discount and/or compensation for recording and remitting sales tax collections, and 13 states, including Missouri, have not established a ceiling to limit amount of taxes businesses can retain. Of the eight states contiguous to Missouri, three (Iowa, Kansas and Tennessee) do not allow businesses to retain any compensation, and four (Arkansas, Kentucky, Nebraska, and Oklahoma) have established ceilings to limit the amount of discount and/or compensation retained by businesses.

Sales and use tax revenues are used to fund significant portions of state and local government budgets. For example, in fiscal year 2011, sales and use taxes comprise approximately 25 percent of the state's general revenue. The General Assembly needs timely and accurate information regarding reductions to sales and use tax revenues resulting from timely discounts to make informed financial decisions.

[3] *Skimming the Sales Tax,* Good Jobs First, November 2008.

The DOR previously indicated they provided the timely discount information when requested, and is willing and able to do so.

## 2.3 Refunds

State law does not require vendors to return sales and use tax refunds and related interest to the original purchaser when applicable, resulting in a windfall for the vendor. In addition, in many instances, the vendor may not even be able to identify the original purchasers to whom the refunds are due, further increasing the likelihood of a windfall. The DOR distributed sales and use tax refunds, including interest, of approximately $50 million, $60 million, and $71 million during fiscal years 2011, 2010, and 2009, respectively.

Vendors collect sales and use taxes from their customers and remit the taxes to the DOR. Section 144.190, RSMo, authorizes the DOR to issue sales and use tax refunds due to an overpayment of sales or use taxes. For some refunds the vendor is the original purchaser and some refunds are the result of taxpayer errors, incorrect quarter-monthly filer estimates, or other circumstances in which sales and use taxes were not collected from a purchaser, and as a result, should be retained by the vendor. However, in many cases, the refund is the result of an over collection of sales tax by the vendor and the refund is due back to the original purchaser.

Section 144.190.6, RSMo, provides, ". . . if a person legally obligated to remit the tax levied pursuant to sections 144.010 to 144.525 has received a refund of such taxes for a specific issue and submits a subsequent claim for refund of such taxes on the same issue for a tax period beginning on or after the date the original refund check issued to such person, no refund shall be allowed . . . . " This section further provides situations in which this section shall not apply and a refund shall be allowed. These include the receipt of additional information or an exemption certificate from the purchaser of the item at issue, a decision of a court of competent jurisdiction or the Administrative Hearing Commission, or changes in regulations or policy by the DOR. However, Section 144.190.6, RSMo, does not provide that refunds must be returned to the original purchaser. In addition, it appears that a vendor may not be able to identify the original purchaser in some cases, such as cash transactions or other point of sale settings where purchaser name or contact information is not captured. In these situations, the vendor would be unable to forward the refund to the original purchaser and would receive the windfall refund.

The DOR has previously agreed to support legislation that would require sales and use tax refunds and related interest to be returned to the original purchaser. However, to date, such legislation has not been successful. The legislation should also address how the refund should be handled when the original purchasers cannot be identified.

## 2.4 Interest paid on refunds local funds

The General Revenue Fund (GRF) does not receive reimbursement from local funds for their proportionate share of interest paid on refunds of sales and use taxes.

Based on the percentage of distributions to local funds to total distributions to state and local funds (exclusive of the GRF), interest payments of approximately $383,000, $1,723,000, $2,133,000 should have been allocated to local funds during fiscal years 2011, 2010, 2009, respectively, and is due to the GRF from local funds.

Sales and use tax refunds are issued from the GRF. To reimburse the GRF, adjustments are automatically made in the DOR tax system for the principal and interest amount of the refunds due from other state funds and the principal amount of the refunds due from local funds. However, adjustments are not automatically made to local funds for the interest paid on sales tax refunds.

Although the DOR has previously agreed that local funds should pay their proportionate share of interest paid on refunds, the DOR has been unable to develop any alternatives for recovering interest from local governments without the acquisition of a new tax system. As noted above, a new MIRS is currently being developed, and according to DOR personnel, the limitations of the current tax system should not be an issue with the new system.

## Recommendations

The DOR:

2.1&2 Ensure the tracking and reporting of exemptions and the timely discount is a component of the new MIRS, so that the reductions of state revenue related to each exemption and the timely discount can be determined and reported to the General Assembly.

2.3 Continue to support legislation that would require sales and use tax refunds and related interest to be returned to the original purchaser. Such legislation should also address whether a refund should be made when the original purchaser is not known.

2.4 Ensure the new MIRS has the capability to calculate the reimbursement to the GRF for local funds' proportionate share of interest paid on sales and use tax refunds.

## Auditee's Response

*2.1&2 Tracking and reporting exemptions is an appropriate goal. Reporting exemptions would substantially increase the burden on businesses. Also, based on prior attempts to track limited exemptions, the data collected is likely to be highly inaccurate due to businesses errors in reporting. In addition, to track and report exemptions, the Department would require a substantial increase in*

*FTE, which the current budget does not support. The Department is in the process of implementing an integrated revenue system that may be able to track at least some exemptions, but tracking and reporting the data will still be a significant burden on businesses and the data collected will still be likely to be inaccurate.*

*The Department has provided information regarding the timely filing discount when requested by elected officials from time-to-time, but has not been requested to report this information on a regular basis. The Department is willing and able to do so.*

2.3 *The Department reviews and makes recommendations with respect to existing laws and proposed legislation every year. The Department will review this issue and support appropriate legislation.*

2.4 *This is a requirement in the request for proposal and is scheduled to be implemented when the sales and use tax portion of the system is implemented in 2016.*

## 3. Automated Sales Suppression Device

Missouri law does not prohibit the creation, sale, purchase, installation, transfer, or possession of an automated sales suppression device. This device gives retailers the ability to hide the amount of cash transactions, and thus, evade paying sales taxes on cash transactions.

An automated sales tax device, commonly known as a zapper, is a software program that falsifies the electronic records of point of sale (POS) systems for the purpose of tax evasion. Most often, transactions in stores and restaurants are recorded by a POS system, rather than a mechanical cash register. The POS system records are generally not alterable by the operator and are used as the basis of tax assessments and audits by tax authorities. To hide the removal of cash, a zapper often runs untraceably from a USB flash drive and alters the electronic sales records in a cash register. This makes it appear that fewer transactions occurred than was actually the case. The use of zapper software reduces the tax liability of the business.

Due to concerns about the potential of sales tax zappers to reduce state and local government revenues, some states are enacting legislation to address this type of fraud. According to a recent study[4], Georgia, Maine, Utah, and West Virginia, have passed legislation to subject the technology (automated sales suppression device) that facilitates the fraud to enforcement measures.

[4] Robert T. Ainsworth, "An American Look at Zappers", Boston University School of Law Working Paper No. 12-14, <http:www.bu.edu/law/facuity/scholarship/workpapers/2012.html#>, accessed on October 17, 2012.

Other states, such as Florida, Indiana, Michigan, New York, Oklahoma, and Tennessee have similar legislation pending.

According to DOR management, the DOR is familiar with zapper technology and has taken steps to monitor for the use of zappers. However, the DOR has not identified any business using zappers, and is not aware of pending legislation to address zapper technology.

## Recommendation

The DOR work with the General Assembly on legislation to address the possession and use of automated sales suppression devices by businesses.

## Auditee's Response

*The Department reviews and makes recommendations with respect to existing laws and proposed legislation every year. The Department will review this issue and support appropriate legislation.*

# Department of Revenue
# Sales and Use Tax
# Organization and Statistical Information

The Department of Revenue (DOR) was created by Article IV, Section 12, Missouri Constitution as the central collection agency for state revenues. The Director of Revenue is appointed by the Governor, with the advice and consent of the Senate, and is responsible for all operations and policies. DOR responsibilities include:

1) Administering and collecting state taxes and fees, including sales and use tax, motor vehicle sales tax, and highway use tax.
2) Collecting certain taxes and fees for local governments, including local sales and use tax.
3) Titling and licensing motor vehicles, trailers, and boats.
4) Licensing motor vehicle operators.

The DOR consists of four divisions and the Director's office.

Motor Vehicle and Driver Licensing Division: This division consists of three bureaus. 1) The Motor Vehicle Bureau issues titles and registers motor vehicles, trailers, all-terrain vehicles, manufactured homes, and marine craft. In addition, the bureau issues registration certificates to motor vehicle and salvage dealers and leasing companies. 2) The Driver Licensing Bureau issues, renews, suspends, revokes, and reinstates driver and nondriver licenses and driving permits. The bureau also processes and maintains records regarding license issuance, traffic violation point assessments, and failure to appear in court for traffic violations, and administers the alcohol and abuse laws for alcohol/drug offenders. 3) The License Offices Bureau manages the operations of the contract license offices throughout the state. These local offices provide driver licensing and motor vehicle services. This division collects motor vehicles sales and use taxes.

Taxation Division: This division consists of four bureaus which collect taxes and administer state tax law. 1) The Business Tax Bureau administers sales and use, financial institutions, insurance premiums, franchise, cigarette and other tobacco products, motor fuel, corporate income, withholding, and county taxes and fees. 2) The Personal Tax Bureau administers individual income, partnership, fiduciary, and estate taxes, plus the property tax credit and homestead preservation tax credit. 3) The Collections and Tax Assistance Bureau provides tax assistance to individuals and businesses and handles unpaid tax liabilities. 4) The Field Compliance Bureau audits businesses both in-state and out-of-state to ensure compliance with the state's tax laws.

Administration Division: This division consists of two bureaus. 1) Personnel Services Bureau is responsible for the DOR personnel matters, policies and procedures, training, and written communications. 2) The Financial and General Services Bureau is responsible for accounting, procurement,

banking, and general services such as telecommunications, safety issues, and maintenance.

Legal Services Division: This division ensures DOR compliance with law and internal policies. The General Counsel's Office advises the director and divisions on legal matters and represents the DOR in court. The Criminal Tax Investigation Bureau investigates and develops information for local prosecution of individuals and businesses suspected of violating laws the DOR administers. The Compliance and Investigation Bureau investigates illegal motor vehicle titling and registration, odometer fraud, and tax fraud involving motor fuel sales tax. The bureau also reviews and evaluates the DOR administrative, operations, and internal accounting controls and contract license offices.

Director's Office: This office includes the Director, Deputy Director and key administrative staff. The Director of Communications works with the news media and acts as the DOR spokesperson. The legislative liaison manages the DOR relationship with the General Assembly and other governmental branches. This office also develops fiscal and revenue estimates on proposed legislation.

The Directors of Revenue from July 2008 to November 2012 include:

Omar D. Davis, December 2007 to January 2009
Karen King Mitchell, January 2009 to July 2009
Alana M. Barragan-Scott, (Acting) July 2009 to November 2012 (officially appointed Director in October 2009)

In December 2012, Brian K. Long was appointed Director.

## American Recovery and Reinvestment Act 2009 (Federal Stimulus)

The DOR did not receive any federal stimulus monies for sales and use tax operations during the 3 years ended June 30, 2011.

FIRST REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 190

**98TH GENERAL ASSEMBLY**

2015

0805S.02T

## AN ACT

To repeal section 92.402, RSMo, and to enact in lieu thereof one new section relating to public mass transportation sales taxes.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 92.402, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 92.402, to read as follows:

92.402. 1. Any city may, by a majority vote of its council or governing body, impose a sales tax for the benefit of the public mass transportation system operating within such city as provided in sections 92.400 to 92.421.

2. The sales tax may be imposed at a rate not to exceed one-half of one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within any city adopting such tax, if such property and services are subject to taxation by the state of Missouri pursuant to the provisions of sections 144.010 to 144.525. Seven and one-half percent of the sales tax shall be distributed to the interstate transportation authority pursuant to the provisions of section 92.421. The **[**remainder of the tax in excess of such seven and one-half percent shall expire on December 31, 2015, on which date the**]** authority shall be in full compliance with handicapped accessibility pursuant to the terms of the Americans with Disabilities Act.

3. Within ten days after the adoption of any ordinance imposing such a sales tax, the city clerk shall forward to the director of revenue by United States registered mail or certified mail a certified copy of the ordinance of the council or governing body. The ordinance shall reflect the effective date thereof and shall be accompanied by a map of the city clearly showing the boundaries thereof.

**EXPLANATION–Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

4. If the boundaries of a city in which such sales tax has been imposed shall thereafter be changed or altered, the city clerk shall forward to the director of revenue by United States registered mail or certified mail a certified copy of the ordinance adding or detaching territory from the city. The ordinance shall reflect the effective date thereof, and shall be accompanied by a map of the city clearly showing the territory added thereto or detached therefrom. Upon receipt of the ordinance and map, the tax imposed by sections 92.400 to 92.421 shall be effective in the added territory or abolished in the detached territory on the effective date of the change of the city boundary.

✓

**EXPLANATION–Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0805-04
Bill No.: HCS for SCS for SB 190
Subject: Kansas City; Taxation and Revenue - Sales and Use; Transportation
Type: Original
Date: May 1, 2015

---

Bill Summary: This proposal would remove the current expiration date for the Kansas City transportation sales tax and would add statutory audit requirements for transportation development districts.

**FISCAL SUMMARY**

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2016 | FY 2017 | FY 2018 |
| | | | |
| **Total Estimated Net Effect on General Revenue** | **$0** | **$0** | **$0** |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2016 | FY 2017 | FY 2018 |
| | | | |
| | | | |
| **Total Estimated Net Effect on Other State Funds** | **$0** | **$0** | **$0** |

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 7 pages.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2016 | FY 2017 | FY 2018 |
| | | | |
| | | | |
| **Total Estimated Net Effect on All Federal Funds** | **$0** | **$0** | **$0** |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2016 | FY 2017 | FY 2018 |
| | | | |
| | | | |
| **Total Estimated Net Effect on FTE** | **0** | **0** | **0** |

☐ Estimated Net Effect (expenditures or reduced revenues) expected to exceed $100,000 in any of the three fiscal years after implementation of the act.

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2016 | FY 2017 | FY 2018 |
| **Local Government *** | **$0** | **$0** | **$0** |

* Net of additional revenues and expenditures.

## FISCAL ANALYSIS

ASSUMPTION

Section 92.402, RSMo. - Kansas City Area Transportation Sales Tax:

This proposal would eliminate the expiration of a portion of the Kansas City Area Transportation Sales Tax. (Under current law that portion of the tax is scheduled to expire December 31, 2015.)

Officials from the **City of Kansas City** stated this proposal would maintain transportation sales tax revenues of $12,166,167 for January 1, 2016 to April 30, 2016, and $36,500,000 per year for FY 2017 and FY 2018.

**Oversight** has no independent information regarding transportation sales tax revenues and will assume for fiscal note purposes the City of Kansas City response is the best available estimate of the impact of this proposal.

**Oversight** notes that current provisions would let a portion of the sales tax expire on December 31, 2015 (FY 2016) and the proposal would extend the sales tax indefinitely. If the sales tax expired, the revenue reduction for the City of Kansas City from January 1, 2016 to June 30, 2016 (FY 2016) would be ($36,500,000 x 6/12) = $18,250,000 (disregarding reporting and distribution delays), and the fiscal impact of this proposal for FY 2017 and FY 2018 would be $36,500,000 per year. Oversight will include these amounts in this fiscal note.

For simplicity, **Oversight** will not include any impact for the Department of Revenue's collection costs. Oversight will also assume that all or substantially all of the sales tax revenues would be expended on transportation costs and will so indicate in this fiscal note.

Officials from the **Kansas City Election Board** assumed a previous version of this proposal could result in jurisdiction-wide election at a cost of $400,000.

**Oversight** notes that current provisions regarding the KCATA Sales Tax do not appear to provide for an election.

Officials from the **Office of the Secretary of State**, the **Joint Committee on Administrative Rules**, the **Department of Revenue**, the **Jackson County Election Board**, and the **Platte County Board of Elections** assumed a previous version of this proposal would have no fiscal impact on their organizations.

SS:LR:OD

ASSUMPTION (continued)

Officials from the **Office of Administration - Division of Budget and Planning** assumed a previous version of this proposal would have no fiscal impact on their organization.

Not responding:

Officials from Jackson County, Belton, Excelsior Springs, Gladstone, Grandview, Harrisonville, Independence, the Kansas City Area Transit Authority, Kearney, Lees Summit, Liberty, Peculiar, Raytown, Sugar Creek, Cass County Elections, Clay County, the Clay County Board of Election Commissioners, the Jackson County Executive, and Platte County did not respond to our request for fiscal information.

Sections 105.145, 238.222, and 238.272, RSMo. - Transportation Development Districts:

Changes to these provisions would provide specific statutory audit requirements for transportation development districts.

Officials from the **Office of the State Auditor** assumed similar language in HCS for HB 477 LR 1681-03 would have no fiscal impact on their organization.

In response to similar language in HCS for HB 477 LR 1681-03, officials from the **Department of Revenue** assumed this legislation would require the department to create a form. DOR officials assumed the form could be set up in the department's existing county fees system without any additional resources.

**Oversight** notes the Office of the State Auditor (SAO) issued report No. 2013-065 in 2013 entitled Transportation Development Districts regarding their financial statement reporting requirements. The report stated as of December 31, 2011, 49 districts (of the 176 at the time) filed financial statements/audit reports late or did not file financial statements with the Office of the State Auditor at all. While a fine for late filing of financial statements is provided, Section 105.145.8 currently does not establish the agency responsible for the assessment or a collection mechanism for these fines; therefore, no fine revenue has been collected to date. The report also stated, as of February 1, 2013, the potential accumulated fine amounts were $16,859,000.

ASSUMPTION (continued)

IT impact

DOR officials provided an estimate of the IT cost to implement this proposal of $10,449 based on 139 hours of programming at the current state contract rate for IT services.

**Oversight** assumes DOR could absorb the IT cost to implement this proposal with existing resources.

**Oversight** also notes this proposal would require future fine revenue to be distributed to local school districts (after the Department of Revenue retains a collection fee of not more than two percent) in the same manner that proceeds for all penalties, forfeitures, and fines collected for any breach of the penal law of the state are distributed.

**Oversight** assumes the $500 fine is already established in statutes and that Transportation Development Districts (currently 195 districts) would timely submit their financial statements. Therefore, Oversight will assume no additional fiscal impact from this proposal.

In response to a similar proposal (HB 136 LR 0499-01) from this year, officials from **Department of Transportation** assumed the proposal would have no fiscal impact on their organization.

In response to a similar proposal (HB 136 LR 0499-01) from this year, officials from the **City of Kansas City Public School District** assumed the proposal would have no fiscal impact on their organization.

Bill as a whole response

Officials from the **Platte County Board of Elections** assume this proposal would have no fiscal impact on their organization.

| FISCAL IMPACT - State Government | FY 2016 (10 Mo.) | FY 2017 | FY 2018 |
|---|---|---|---|
| | **$0** | **$0** | **$0** |

| FISCAL IMPACT - Local Government | FY 2016 (10 Mo.) | FY 2017 | FY 2018 |
|---|---|---|---|
| **LOCAL GOVERNMENTS** | | | |
| Additional revenue - City of Kansas City Sales tax | $18,250,000 | $36,500,000 | $36,500,000 |
| Additional expenditures - City of Kansas City Transportation | ($18,250,000) | ($36,500,000) | ($36,500,000) |
| **ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS** | **$0** | **$0** | **$0** |

SS:LR:OD

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

The proposed legislation would remove the current expiration date for the Kansas City transportation sales tax and would provide specific statutory requirements for audits of transportation development districts.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Secretary of State
Joint Committee on Administrative Rules
Office of Administration
Division of Budget and Planning
Department of Revenue
City of Kansas City
Platte County Board of Elections

Mickey Wilson, CPA
Director
May 1, 2015

Ross Strope
Assistant Director
May 1, 2015

SS:LR:OD

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, St. Louis Community College,** and the **State Tax Commission.**

**Fiscal Note Summary**

Potential costs to state and local governmental entities are unknown, but could be significant. The proposal's passage would impact governmental entity's ability to revise their tax structures. State and local governments expect no savings from this proposal.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

RECEIVED
MAY 13 2015
STATE AUDITORS OFFICE

ELECTIONS DIVISION
(573) 751-2301

16-059

May 13, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Chuck Hatfield regarding a proposed constitutional amendment to Article X, version D (2016-059)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Chuck Hatfield on May 13, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-059

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and name of the city, town or village in which I live are correctly written after my name.

(Official Ballot title)

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI,

COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)
(Petition Circulator's Printed Name)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | Zip Code | Congr. Dist. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer _____.

_____ Signature of Affiant (Person obtaining signatures)

_____ Street address of Affiant

_____ Printed Name of Affiant

_____ City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____ Signature of Notary

Notary Public (Seal)

_____ Address of Notary

My commission expires:

16-059

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Article X is amended by adding one new section to be known as Section 26, to read as follows:

Section 26. The state, counties, and other political subdivisions are hereby prohibited from imposing any new tax on services or activities that were not subject to tax on January 1, 2015.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-059)**

## Subject

Initiative petition from Chuck Hatfield regarding a proposed constitutional amendment to Article X. (Received May 13, 2015)

## Date

June 2, 2015

## Description

This proposal would amend Article X of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **State Tax Commission.**

**Marc Ellinger** provided information for this proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated no cost to their department.

Officials from the **Department of Higher Education** indicated they have reviewed the provisions of this initiative petition. Although the proposal would limit the ability of the state to revise its tax structure, it is impossible for their department to determine what tax revenues the state might forgo as a result or the impact the limit would have on appropriations to higher education. Consequently, while they do not believe the proposal would have a direct fiscal impact on their department, the actual potential impact is unknown.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated the fiscal impact from this proposal is unknown. While there would appear to be no current and direct fiscal impact from these provisions on their department, they would certainly and perhaps severely limit what state and local governments can do in the future in terms of changing the way taxes are handled.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this petition will have no fiscal impact on their department.

Department officials provided the following additional information:

They reviewed the comments submitted and disagree with the assumptions. Please see below:

**The Initiative Petition will require a substantial increase in Department of Revenue lawyer FTEs**
The Department feels there is already a sufficient legal staff available to handle any possible new litigation.

**The Initiative Petition will require a substantial increase in Department of Revenue non-lawyer FTEs**
The Department currently maintains records of all exemptions under Missouri law and how they apply. These provisions will not change anything.

**The Initiative Petition will eliminate the revenue from the Parks and Soils tax**
Both are constitutional provisions. This provision does not trump the tax or the need for election in another provision. Also, the tax is imposed as of January 1, 2015. Therefore, it may still be approved to continue after that date.

**The Initiative Petition will eliminate the revenue from the Kansas City transportation sales tax**
The tax is imposed as of January 1, 2015. Therefore, it may still be approved to continue after that date. Where there is some litigation risk, the law already says that there must be a vote to extend. This provision should not impact that fact.

Officials from the **Department of Public Safety** indicated this petition could restrict their ability to establish a way to fund public safety programs going forward, but the fiscal impact would not measurable at this point.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated they assume there will be no fiscal impact.

Officials from the **Office of Administration** indicated:

The proposal enacts a new section (Section 26) in Article X of the Missouri Constitution. This section would prohibit the state from imposing any new tax on services or activities not subject to tax on January 1, 2015.

The state sales tax base continues to shrink as the amount of Internet sales increases. This proposal would prevent the state from modernizing its taxing structure in the future to include Internet sales, which would negatively impact the state's ability to raise sufficient revenue to support vital state services. This proposal would also negatively impact the state's ability to restructure tax policy in the future. Counties and political subdivisions would likely experience the same revenue issues if this proposal were to be enacted.

This proposal will not impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from the **City of Columbia** indicated this amendment could severely hamper local taxpayers ability to fund and support local needs. Without the ability to seek approval even for currently authorized taxes, their city could find that it is unable to meet expectations for public safety, economic development, capital improvements and other services. It is not possible to quantify the fiscal impact.

Officials from the **City of Kansas City** indicated they estimate an annual revenue loss of at least $203,000,000 if either Initiative Petition 16-058, 16-059, or 16-060 is adopted. These losses result from the prohibition on new local sales and use taxes, which would include a ban on new sales taxes on Internet purchases of goods and services by city residents from out-of-state merchants. Their city would also lose substantial sales tax revenues because these initiatives would cancel any revenues otherwise gained from the elimination of exemptions under the Streamlined Sales Tax Act.

The projected loss of $203 million is based on the following data and assumptions:

According to a study reported on the web site of the National Conference of State Legislatures, approximately 49 percent of Missouri sales commerce in 2009 was electronic (online) commerce. The study was performed by the Center for Business and Economic Research of the University of Tennessee.

Only a negligible amount of online commerce actually results in the payment of use taxes to the jurisdiction where the purchaser resides. Few purchasers voluntarily report and pay use taxes on online purchases.

This unreported and unpaid use tax on online commerce could be captured if (1) Congress passed the Marketplace Fairness Act, and (2) Missouri enacted the Streamlined Sales Tax. Arguably, Initiative Petitions 16-058, 16-059, and 16-060 would prevent Missouri from adopting the Streamlined Sales Tax.

Assuming that their city has the same level of electronic commerce as the entire state of Missouri according to the study (49%), the city is losing 49 percent of its potential sales & use taxes as the result on unreported and unpaid use taxes on online transactions.

Their city's estimated sales tax revenue for fiscal year 2015-16 is $212 million according to its budget.

Their city's loss from uncaptured use taxes on 49 percent of total sales tax revenue is estimated as follows:

If x = total potential sales and use tax revenue (both paid and unpaid)

212,000,000 = .51x

X = 212,000,000 / .51
X = 415,686,275
Unreported/unpaid use tax = 415,686,275 – 212,000,000 = 203,686,275

Officials from **Metropolitan Community College** indicated unknown impact for their college.

Officials from **University of Missouri** indicated this initiative petition would not have a significant fiscal impact on their university.

**Marc Ellinger** provided the following information for this initiative petition.

I submit the following proposed statement of fiscal impact for the Initiative Petition that was filed by Chuck Hatfield on May 13, 2015. The initiative petition has been labeled by the Secretary of State as 2016-059.

The initiative petition would prohibit the state from imposing a tax on any service or activity that was not subject tax on January 1, 2015.

**(1) Initiative Petition 2016-059 will require a substantial increase in Department of Revenue lawyer FTEs**

The Initiative Petition will increase costs to the state due to increased litigation as a result of the proposed measure. The largest component of "litigation costs" is the personnel costs. The Department of Revenue currently employs a small army of lawyers. In 2014, the State spent more than 1.6 million dollars of taxpayer money to fund the salaries of the Department's lawyers. (See Appendix A). Since 2010, the Director of Revenue has been a party to more than fifty Missouri Supreme Court cases.[1]

Whether or not a service or activity is currently subject to tax has been the focus of considerable litigation, especially in recent years. Already this year, the Missouri Supreme Court has decided *Alberici Constructors, Inc. v. Director of Revenue*, 452 S.W.3d 632 (Mo. banc 2015) (a use tax case), *Southwestern Bell Telephone Company v. Director of Revenue*, 454 S.W.3d 871 (Mo. banc 2015) (a franchise tax case), *Fred Weber Inc. v. Director of Revenue*, 452 S.W.3d 628 (Mo. banc 2015) (a sales tax case), *Ben Hur Steel Worx v. Director of Revenue*, 452 S.W.3d 624 (Mo. banc 2015) (a sales

[1] See, generally, www.courts.mo.gov/casenet.

and use tax case), *Five Delta Alpha, LLC v. Director of Revenue*, --- S.W.3d ---, 2015 WL 777898 (Mo. banc 2015) (a use tax case), and *Tatson, LLC v. Director of Revenue*, 456 S.W.3d 43 (Mo. banc 2015) (a sales tax case). These cases account for 17% of the total cases handed down so far this year by the Missouri Supreme Court.

Furthermore, an amendment of this type would incentivize parties, who previously would have reached a settlement with the Department, to seek a legal determination that their services and/or activities were not subject to a tax on January 1, 2015. Such determination would essentially provide them with a perpetual exemption from tax.

The increase in litigation will necessitate additional lawyer FTEs for the Department of Revenue. These costs should be included in the Fiscal Note Summary. At the very least, the Fiscal Note Summary should state "the proposal's passage will likely lead to increased litigation-related costs." [2]

**(2) Initiative Petition 2016-059 will require a substantial increase in Department of Revenue non-lawyer FTEs**

The initiative would also prohibit the state from repealing any of the current exemptions in Missouri's tax law. Thus, the initiative would require the Department to track current exemptions. In a 2013 audit, the Department of Revenue admitted it does

[2] This language was previously adopted by the Auditor for Initiative Petitions 2016-021 and 2016-022 (attached hereto as Appendix B).

not currently track or report exemptions and stated "to track and report exemptions, the Department would require a substantial increase in FTE[.]" [3]

**(3) Initiative Petition 2016-059 will eliminate the revenue from the Parks and Soils tax**

The proposed measure essentially prohibits any new taxes. The existing Parks and Soils tax in Article IV, Section 47(a) of the Missouri Constitution, which imposes a sales tax of one-tenth of one percent, expires in 2016. Mo. Const. art. IV, Section 47(c). Without additional voter approval, Sections 47(a), (b), and (c) terminate. As of January 1, 2015 there is not a tax under Section 47 of the Missouri Constitution on or after 2016. The initiative effectively eliminates the Parks and Soils tax after 2016. The amount collected in FY2014 from the state sales and use tax for Parks and Soils was $76,121,334.[4] That is an increase over the $67.9 million that was collected in FY2010. The loss to the state in 2017 as a result of the elimination of the Parks and Soils tax in Article IV, Section 47 will be at least $76 million dollars.

**(4) Initiative Petition 2016-059 will eliminate the revenue from the Kansas City transportation sales tax**

In 2015, the legislature passed Senate Bill 190 (attached as Appendix D) which would extend the Kansas City transportation sales tax indefinitely. However, the proposed measure prohibits any new taxes that were not in effect as of January 1, 2015.

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[3] http://auditor.mo.gov/Repository/Press/2013-015.pdf (attached hereto, without Appendixes, as Appendix C).

[4] http://dor.mo.gov/pdf/financialstatreport14.pdf.

As of January 1, 2015, there was no Kansas City transportation sales tax on or after December 31, 2015. As such, the state would be prohibited from imposing or extending such tax as a result of Initiative Petition 2016-059. If the sales tax expires, the result is a loss to the City of Kansas City in the amount of $36.5 million dollars annually (Fiscal Note for SB 190 attached as Appendix E).

**(5) Initiative Petition 2016-058 will repeal any local taxes voted on and approved by the people after January 1, 2015.**

Since January 1, 2015, a number of local governments put tax measures before their voters for approval. Many passed by overwhelming margins. Still, these taxes would be repealed by the Initiative Petition because it prohibits a local government or political subdivision from imposing any tax that was not already imposed on January 1, 2015. The taxes listed below are a sampling of the taxes that were passed in April 2015 that would be repealed by the Initiative Petition:

- Ash Grove Fire Prot. Dist - Tax Levy
- Bridgeton Prop A - Hotel/Motel Tax
- Calverton Park Prop 2 - Service License Tax
- Cedar Hill Fire Prop Safety - Tax Levy
- Country Club Hills Prop S - Sales Tax
- Crawford County Prop 1 - Sales Tax
- Crystal City Prop E - Sales Tax
- Festus Schools Prop S - Tax Levy

- Fort Zumwalt Schools Prop B - Tax Levy
- Goldman Fire Prop - Tax Levy
- Hazelwood Prop P - Sales Tax
- Hillsboro, MO Fire Prop F - Sales Tax
- Independence School Dist - Tax Levy
- Jamestown C-1 School tax levy increase
- Kirkwood Prop 1 - Sales Tax
- Lake Waukomis - Tax Levy
- Mapaville Fire Prop Firefighter - Tax Levy
- Meramec Ambulance Dist. Prop E - Tax Levy
- Northwest Schools Prop PRIDE - Tax Levy
- Pasadena Park Prop A - Telecom Tax
- Pleasant Valley Sales Tax
- Rolla Prop P - Sales Tax
- Rolla Schools Prop R31-2 - Tax Levy
- Sni-Valley Fire Prot. Distr. Property Tax
- Sni-Valley Fire Prot. Distr. Sales Tax
- St. John Prop S - Sales Tax
- St. Louis City DeBaliviere Place Prop. Tax
- Ste. Genevieve Co. Prop A - Sales Tax

- Valle Ambulance Dist. Prop Valle - Sales Tax
- Washington County Road & Bridge Sales Tax
- Webster Groves Schools Prop S - Tax Levy
- Wentzville Schools Prop E - Tax Levy
- West County EMS & Fire Prop F - Tax Levy
- West Peculiar Fire Tax

The loss to local governments as a result of the repeal of these taxes would be significant and such costs should be included in the Fiscal Note Summary.

**Conclusion**

No savings or reduction in costs to state government can be gleaned in any manner from the proposed Initiative Petition. Additionally, this measure expressly restricts the ability of counties, cities, and other political subdivisions from imposing certain taxes. Local governments will see reduced revenues in the future as a result of the proposed measure.

The proposed measure would have a significant negative economic impact on the state. The proposed measure will increase litigation related costs, eliminate the state Parks and Soils tax and eliminate the Kansas City transportation sales tax. Any estimate of fiscal impact of the proposed measure must include these significant losses in order to adequately inform potential signors and voters. The use of the phrase "unknown" suggests an ambiguity regarding costs or savings – that such costs or savings could be positive or negative. Since there is no evidence to support (1) any reduction in costs (2)

any savings, or (3) any increased revenues, such ambiguity cannot be included in the fiscal note summary. Therefore use of the word "unknown," unless it includes the phrase "negative impact," is improper.

| | | | |
|---|---|---|---|
| 2014 REVENUE | ASSOCIATE COUNSEL | ALLEN, CHANDREKA N. | 26,374.38 |
| 2014 REVENUE | ASSOCIATE COUNSEL | AUSMUS, MARK DAVID | 5,859.96 |
| 2014 REVENUE | ASSOCIATE COUNSEL | BRIGHT, DEANNA MARIE | 33,185.44 |
| 2014 REVENUE | ASSOCIATE COUNSEL | FEHR, CHRISTOPHER R. | 46,858.68 |
| 2014 REVENUE | ASSOCIATE COUNSEL | HOUDEK, THOMAS A | 9,766.60 |
| 2014 REVENUE | ASSOCIATE COUNSEL | MARTIN, SPENCER ADAM | 9,766.60 |
| 2014 REVENUE | ASSOCIATE COUNSEL | SANDERS, MARIA A | 30,983.49 |
| 2014 REVENUE | CHIEF COUNSEL | MONAGHAN, MAUREEN M | 65,583.00 |
| 2014 REVENUE | GENERAL COUNSEL - DIVISION | HALE, JONATHAN HOWARD | 41,588.75 |
| 2014 REVENUE | GENERAL COUNSEL - DIVISION | KISLING, MICHAEL SHAYNE | 70,483.08 |
| 2014 REVENUE | GENERAL COUNSEL - DIVISION | PLAGGENBERG, JOSEPH G | 1,875.00 |
| 2014 REVENUE | LEGAL COUNSEL | AUSMUS, MARK DAVID | 37,642.50 |
| 2014 REVENUE | LEGAL COUNSEL | BERNSEN, TORY DOWD | 43,023.00 |
| 2014 REVENUE | LEGAL COUNSEL | CONWAY, STEPHEN | 43,023.00 |
| 2014 REVENUE | LEGAL COUNSEL | COOPER, CAMERON H | 43,023.00 |
| 2014 REVENUE | LEGAL COUNSEL | HOUDEK, THOMAS A | 34,055.50 |
| 2014 REVENUE | LEGAL COUNSEL | KENNEDY, DANIEL J | 43,023.00 |
| 2014 REVENUE | LEGAL COUNSEL | MARTIN, SPENCER ADAM | 34,055.50 |
| 2014 REVENUE | LEGAL COUNSEL | SLAWSON, BENJAMIN C | 43,023.00 |
| 2014 REVENUE | LEGAL COUNSEL | VEIT, DAWN RENEE | 12,228.41 |
| 2014 REVENUE | LEGAL COUNSEL | VITALE, DESIREE JUDE | 48,483.00 |
| 2014 REVENUE | MANAGING COUNSEL | BERTELS, RYAN EUGENE | 4,361.59 |
| 2014 REVENUE | MANAGING COUNSEL | FREUDENBERG, ROGER L. | 67,602.12 |
| 2014 REVENUE | MANAGING COUNSEL | GINTHER, STEVEN ALLAN | 67,602.12 |
| 2014 REVENUE | MANAGING COUNSEL | GOOCH, CHARLES L | 67,602.12 |
| 2014 REVENUE | MANAGING COUNSEL | LAKS, YAMINI A. | 51,729.10 |
| 2014 REVENUE | MANAGING COUNSEL | MILLER, DALE WOOD | 39,660.62 |
| 2014 REVENUE | SENIOR COUNSEL | ALLEN, CHANDREKA N. | 15,642.69 |
| 2014 REVENUE | SENIOR COUNSEL | BRIGHT, DEANNA MARIE | 15,642.69 |
| 2014 REVENUE | SENIOR COUNSEL | CHENAULT, JAMES A. | 60,363.48 |
| 2014 REVENUE | SENIOR COUNSEL | COX, JOSEPH M | 53,611.08 |
| 2014 REVENUE | SENIOR COUNSEL | LAFAVER, BEVERLY L | 54,718.44 |
| 2014 REVENUE | SENIOR COUNSEL | LAKS, YAMINI A. | 2,708.33 |
| 2014 REVENUE | SENIOR COUNSEL | LAUGHLIN, JANE A | 59,983.08 |
| 2014 REVENUE | SENIOR COUNSEL | LISSANT, SUSAN LEAH | 53,611.08 |
| 2014 REVENUE | SENIOR COUNSEL | MOREAU, SHERYL L | 28,738.76 |
| 2014 REVENUE | SENIOR COUNSEL | MURRAY, MICHAEL LEE | 56,987.16 |
| 2014 REVENUE | SENIOR COUNSEL | PRITCHARD, JAN | 53,611.08 |
| 2014 REVENUE | SENIOR COUNSEL | ROSE, GLORIA JEAN | 59,445.71 |
| 2014 REVENUE | SENIOR COUNSEL | SANDERS, MARIA A | 20,112.03 |
| 2014 REVENUE | SENIOR COUNSEL | SPRADLIN, JAMES L | 53,611.08 |
| 2014 REVENUE | SENIOR COUNSEL | SULLIVAN, STEPHEN PATRICK | 56,987.16 |
| | | Total | 1,668,236.41 |

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY
65102

CHRIS KOSTER
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

March 12, 2015

OPINION LETTER NO. 26-2015

The Honorable John Watson
Missouri State Auditor
State Capitol, Room 121
Jefferson City, MO 65101

Dear Auditor Watson:

This office received your letter of March 2, 2015, submitting a fiscal note and fiscal note summary prepared under § 116.175, RSMo, for an initiative petition submitted by Jill Carter, version 1 (16-021). The fiscal note summary that you submitted is as follows:

> Any potential costs or savings from this proposal to state and local governmental entities is unknown. However, the proposal's passage will likely lead to increased litigation-related costs and impact the ability of state and local governments to provide certain health and welfare services.

Under § 116.175.4, RSMo, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the initiative petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

**CHRIS KOSTER**
Attorney General

OP-2015-0031

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

CHRIS KOSTER
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

March 12, 2015

OPINION LETTER NO. 27-2015

The Honorable John Watson
Missouri State Auditor
State Capitol, Room 121
Jefferson City, MO 65101

Dear Auditor Watson:

This office received your letter of March 2, 2015, submitting a fiscal note and fiscal note summary prepared under § 116.175, RSMo, for an initiative petition submitted by Jill Carter, version 2 (16-022). The fiscal note summary that you submitted is as follows:

> Any potential costs or savings from this proposal to state and local governmental entities is unknown. However, the proposal's passage will likely lead to increased litigation-related costs and impact the ability of state and local governments to provide certain health and welfare services.

Under § 116.175.4, RSMo, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the initiative petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

**CHRIS KOSTER**
Attorney General

OP-2015-0032

# Thomas A. Schweich

**Missouri State Auditor**

# REVENUE

# Sales and Use Tax

**February 2013**

**Report No. 2013-15**

**http://auditor.mo.gov**

APPENDIX C

**Thomas A. Schweich**
**Missouri State Auditor**

# CITIZENS SUMMARY

## Findings in the audit of the Department of Revenue, Sales and Use Tax

### Individual Consumer Use Tax and Internet Sales

Missouri's individual consumer use tax requirements are not well known by the general public and are difficult to enforce and administer. The audit report expresses no opinion on the economic effect of collecting the tax but notes the unworkable structure in place now. Missouri law imposes an individual consumer use tax on the storage, use, or consumption of tangible personal property which is required to be paid unless sales or use tax is paid to the seller or the property is tax exempt. Also, use tax is due on purchases from a seller which is not engaged in business. A purchaser is required to file a use tax return if the cumulative purchases subject to use tax exceed $2,000 in a calendar year. The United States Supreme Court has held that states cannot require companies that do not have a physical presence in the state to collect state and local sales taxes. University studies have estimated that Missouri state and local governments have lost and will continue to lose sales/use tax revenue of between $358 million and $474 million annually by not collecting taxes on these sales. The Streamlined Sales and Use Tax Agreement (Agreement) is a cooperative effort among states, local governments, and businesses to simplify sales and use tax collection and administration by retailers and states, intended to minimize costs and administrative burdens on retailers that collect sales tax while encouraging out-of-state sellers to collect tax on sales to customers in the Streamlined states. Forty-four states, including Missouri, signed the Agreement, but Missouri has not passed implementing legislation.

The Department of Revenue (DOR) does not include a specific line that requires state individual income taxpayers to state whether they made purchases exceeding $2,000 for which sales or use tax was not paid, and, as a result, most taxpayers are not likely aware of the consumer use tax requirement. If the state continues to impose the individual consumer use tax, there are additional enforcement procedures the DOR should consider.

### Ongoing Concerns

The DOR does not track and report information regarding some sales and use tax exemptions, and so the cost in terms of reduced state revenue for each exemption cannot be determined. DOR records indicate adjustments to gross sales receipts totaled over $154 billion, $144 billion, and $147 billion in fiscal years 2011, 2010, and 2009, respectively. The DOR has agreed that tracking exemptions is a good idea, but it believes the recommendation increases the reporting burden on vendors and has indicated the current sales tax system might not have the capacity to handle the additional information. However, the DOR and the Office of Administration awarded a contract in February 2012 for a new Missouri Integrated Revenue System (MIRS) which should not have similar limitations.

The state is foregoing a significant amount of sales tax revenue because there is no cap on the amount of timely discounts large vendors can take. Business were allowed to keep approximately $102 million, $94 million, and $95 million in state and local sales tax revenues collected from purchases in fiscal years 2011, 2010, and 2009, respectively, as an incentive for timely submitting state sales tax payments. Moreover, the DOR does not routinely report the amount of timely discounts to the General Assembly.

When consumers overpay sales or use taxes, the DOR refunds the vendor the overpayment plus interest, but vendors are not required to return these funds to the original purchaser, resulting in a windfall for the vendor. The DOR has previously agreed to support legislation that would require sales and use tax refunds and related interest to be returned to the original purchaser, but, to date, such legislation has not been successful.

The General Revenue Fund (GRF) does not receive reimbursement from local funds for their proportionate share of interest paid on refunds of sales and use taxes. Sales and use tax refunds, including interest, are made from the GRF, and adjustments are automatically made to reimburse the GRF for the principal amount due from local funds. However, adjustments are not automatically made to reimburse the GRF for the amount of interest due from local funds. Although the DOR has previously agreed that local funds should pay their proportionate share of this interest, the DOR has not been able to develop a method for recovering this interest with the current tax system, but according to DOR personnel the new MIRS should not have this limitation.

## Automated Sales Suppression Device

Missouri law does not prohibit the creation, sale, purchase, installation, transfer, or possession of an automated sales suppression device (a software program commonly known as a zapper). Zapper software enables businesses to evade tax liability by altering the electronic sales records in a cash register to make it appear that fewer transactions have occurred. At least 10 other states have passed or are considering similar legislation.

In the areas audited, the overall performance of this entity was **Good**.*

## American Recovery and Reinvestment Act (Federal Stimulus)

The Department of Revenue did not receive any federal stimulus monies for sales and use tax operations during the audited time period.

*The rating(s) cover only audited areas and do not reflect an opinion on the overall operation of the entity. Within that context, the rating scale indicates the following:

**Excellent:** The audit results indicate this entity is very well managed. The report contains no findings. In addition, if applicable, prior recommendations have been implemented.

**Good:** The audit results indicate this entity is well managed. The report contains few findings, and the entity has indicated most or all recommendations have already been, or will be, implemented. In addition, if applicable, many of the prior recommendations have been implemented.

**Fair:** The audit results indicate this entity needs to improve operations in several areas. The report contains several findings, or one or more findings that require management's immediate attention, and/or the entity has indicated several recommendations will not be implemented. In addition, if applicable, several prior recommendations have not been implemented.

**Poor:** The audit results indicate this entity needs to significantly improve operations. The report contains numerous findings that require management's immediate attention, and/or the entity has indicated most recommendations will not be implemented. In addition, if applicable, most prior recommendations have not been implemented.

# Department of Revenue
# Sales and Use Tax
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# THOMAS A. SCHWEICH
## Missouri State Auditor

Honorable Jeremiah W. (Jay) Nixon, Governor
and
Brian K. Long, Director
Department of Revenue
Jefferson City, Missouri

We have audited certain operations of the Department of Revenue, sales and use tax collections, as required by Sections 32.087 and 67.525, RSMo. The scope of our audit included, but was not necessarily limited to, the years ended June 30, 2011, 2010, and 2009. The objectives of our audit were to:

1. Evaluate the department's internal controls over significant management and financial functions.

2. Evaluate the department's compliance with certain legal provisions.

3. Evaluate the economy and efficiency of certain management practices and operations, including certain financial transactions.

Our methodology included reviewing written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the department; analysis of comparative data obtained from internal sources; and testing selected transactions. We obtained an understanding of internal controls that are significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We tested certain of those controls to obtain evidence regarding the effectiveness of their design and operation. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contract or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

The accompanying Organization and Statistical Information is presented for informational purposes. This information was obtained from the department's management and was not subjected to the procedures applied in our audit of the department.

For the areas audited, we identified (1) a deficiency in internal controls, (2) no significant noncompliance with legal provision, and (3) the need for improvement in management practices and procedures. The accompanying Management Advisory Report presents our findings arising from our audit of the Department of Revenue, sales and use tax collections.

Thomas A. Schweich
State Auditor

The following auditors participated in the preparation of this report:

| | |
|---|---|
| Deputy State Auditor: | Harry J. Otto, CPA |
| Director of Audits: | John Luetkemeyer, CPA |
| Audit Manager: | Toni Crabtree, CPA |
| In-Charge Auditor: | Robyn Vogt, M.Acct., CPA |
| Audit Staff: | Corey McComas, M.Acct., CPA |
| | Aaron D. Allen |

# Department of Revenue
# Sales and Use Tax
# Management Advisory Report - State Auditor's Findings

## 1. Individual Consumer Use Tax and Internet Sales

Missouri's individual consumer use tax requirements are not well known by the general public, require extensive taxpayer record keeping, are generally not complied with, and are difficult to enforce and administer. This report expresses no opinion on the economic effect of collecting the tax on the economy of Missouri; the report simply notes the unworkable structure in place now.

### Background information

State law imposes an individual consumer use tax on the storage, use, or consumption of tangible personal property in Missouri. The consumer use tax is required to be paid unless sales or use tax is paid to the seller or the property is tax exempt. Also, use tax should be paid on purchases from a seller which is not engaged in business. A purchaser is required to file an annual use tax return with the Department of Revenue (DOR) if the cumulative purchases subject to use tax exceed $2,000 in a calendar year. The use tax is computed on the purchase price of all goods once purchases exceed $2,000. Consumer use tax information and requirements are posted on the DOR website.

The type of purchases subject to use tax include, but are not limited to, 1) catalog purchases, 2) magazine subscriptions, 3) cross-border purchases of goods, 4) TV marketing purchases, 5) computer software and hardware, 6) mail-order supply purchases, 7) furniture and equipment purchases from out-of-state sellers, 8) purchases of goods over the Internet (e-commerce) and by phone, and 9) purchases of goods from outside the United States. Currently, state law requires local businesses to collect sales tax, even if they have an online business, because these businesses have a physical presence (nexus) in the state. However, under a 1992 U.S. Supreme Court ruling[1], states cannot require companies that do not have nexus to collect state and local sales taxes. As a result, Missouri cannot require businesses without nexus to collect sales tax on goods sold to Missouri residents. Federal legislation has been proposed that would enable states to require online retailers to collect and remit sales taxes, while also providing businesses with an effective means to comply. Such legislation includes the Marketplace Fairness Act, the Main Street Fairness Act, and the Marketplace Equity Act.

With the increasing popularity and usage of the Internet, e-commerce sales have grown significantly over recent years. University studies[2] have

[1] Quill orp v, North Dakota, 504 U.S.298 (1992)

[2] Bruce, Donald, William F. Fox, LeAnn Luna, "State and Local Government Sales Tax Revenue Losses from Electronic Commerce," University of Tennessee, Center for Business and Economic Research, <http://cber.bus.utk.edu/ecomm.htm>, accessed on April 27,2012; and Huanfm Ting, John Kosash and Andrew Wesemann (2012). "Internet Sales and Use Tax Issues in Missouri" Report 01-2012, University of Missouri Columbia, Institute of Public Policy, <http://ipp.missouri.edu/Publications/306>, accessed on June 5, 2012.

estimated that Missouri state and local governments have lost and will continue to lose sales/use tax revenue of between $358 million and $474 million annually by not collecting taxes on these sales. Both studies also noted that local vendors face a competitive disadvantage because consumers that make purchases online avoid paying sales/use taxes. However, it is possible that if taxes were collected on e-commerce sales, consumer purchasing habits could change resulting in less revenue for the state than forecasted. The issues of revenue, consumer spending habits, and the economic effect of increased taxation are beyond the scope of this report.

Streamlined Sales and Use Tax Agreement

The Streamlined Sales and Use Tax Agreement (Agreement) is a cooperative effort among states, local governments, and businesses to simplify sales and use tax collection and administration by retailers and states. The Agreement aims to minimize costs and administrative burdens on retailers that collect sales tax, while also encouraging out-of-state sellers to collect tax on sales to customers in the Streamlined states. Forty-four states, including Missouri, signed the Agreement, originally adopted in November 2002, and 24 of these states have passed legislation to conform to the Agreement. Legislation was introduced in Missouri during the 2012 legislative session and in prior years to implement the provisions of the Agreement; however, such legislation has not passed. Participation in the Agreement is voluntary for businesses and consumers; therefore, Missouri cannot require out-of-state sellers without nexus to collect sales taxes on purchases made by Missouri residents. However, according to the University of Missouri report, each state that has entered into the Agreement collected, on average, an additional $30.7 million, in total, in e-commerce tax revenue between 2005 to 2010.

Some states (such as Washington, North Dakota, New York, Kansas, and Kentucky) have entered into agreements with large Internet sellers, to collect and remit state and local sales taxes. Large Internet sellers have also negotiated deals with other states to collect sales tax in the future. In other instances, Internet sellers have agreed to disclose sales and use tax requirements on their Internet sites for certain states. Such disclosures inform customers that many states require purchasers to file a sales or use tax return reporting all taxable purchases that were not taxed and to pay tax on those purchases, and may include a link to that state's website.

Individual income tax forms

The DOR does not include a specific line that requires state individual income taxpayers to state whether they made purchases exceeding $2,000 for which sales or use tax was not paid. As a result, most taxpayers are not likely aware of the consumer use tax requirements as evidenced by the small amount of consumer use tax collections.

According to DOR records, the following consumer use tax was paid:

| Tax Year | 2011 (1) | 2010 | 2009 | 2008 |
|---|---|---|---|---|
| Number of individual tax returns | 2,917,023 | 2,876,787 | 3,019,358 | 3,080,945 |
| Number of use tax returns | 168 | 190 | 125 | 96 |
| Use tax paid | $205,087 | 301,474 | 110,784 | 40,714 |

(1) Tax year 2011 information through August, 2012.

If the state continues to impose the individual consumer use tax, there are additional enforcement procedures the DOR should consider. Our review of other states' procedures noted some states include a specific line on its individual income tax return to report purchases made for which sales or use tax was not paid. In addition, to reduce taxpayer recordkeeping burden, some states provide an optional use tax reporting table which bases the consumer's use tax liability on a percentage of adjusted gross income rather than actual purchases.

To increase taxpayer compliance with existing individual consumer use tax laws, the DOR should consider revising individual income tax forms to include a specific line regarding purchases made for which sales or use tax was not paid, and an optional use tax reporting table which bases consumer use tax liability on a percentage of adjusted gross income rather than actual purchases.

## Recommendation

The DOR revise the individual income tax forms to increase taxpayer compliance with existing individual consumer use tax laws.

## Auditee's Response

*The Department supports the collection of all taxes due the state of Missouri, including use taxes. However, adding a line on the return may not have much impact on use tax collections, but it would delay the availability of general revenue funds. This delay could be substantial in the April-May time frame when the majority of individual income tax revenues are received.*

*Individual income tax revenues are all general revenue funds and currently are deposited very quickly, usually the same or next day even during the April-May time frame. If those funds were combined with use tax funds, all money would need to be deposited in a suspense account until the return is processed and the appropriate local and state fund distribution can be determined. This could delay availability of the funds by as much as six weeks. The Department will continue to explore other ways to encourage compliance with use tax laws that do not negatively affect the timely transfer of funds to the general revenue fund.*

## Auditor's Comment

We do not agree with the Department's contention that enforcing existing consumer use tax law would need to unnecessarily delay the availability of general revenue funds. The DOR could place only the consumer use tax portion in the suspense account thereby eliminating any need to delay the availability of general revenue funds.

# 2. Ongoing Concerns

The DOR does not track and report information regarding some sales and use tax exemptions or routinely report to the General Assembly for its consideration the amount of timely discounts taken by businesses. Under Missouri law, vendors are not required to return sales and use tax refunds to the original purchaser when applicable, and local funds are not paying their proportionate share of interest paid on refunds of sales and use taxes.

These issues are ongoing concerns and have been reported in prior audit reports.

## 2.1 Sales and use tax exemptions

The DOR does not track and report information regarding some sales and use tax exemptions. As a result, the cost in terms of reduced state revenue for each exemption cannot be determined.

According to DOR records, there are currently 150 sales and use tax exemptions provided by state law. The DOR only tracks exemptions related to the 3 percent reduction on food sales, textbook sales, and manufacturing sales.

Vendors remit monthly, quarterly, or annual sales and use tax returns to the DOR. The returns include gross sales receipts, adjustments to gross sales receipts, and taxable sales. The adjustment amounts include, but are not limited to, exempt sales for the period of the sales tax return (file period), and corrections of errors from previous file periods.

DOR records indicate adjustments to gross sales receipts totaled over $154 billion, $144 billion, and $147 billion in fiscal years 2011, 2010, and 2009, respectively. Detailed information of what is included in the adjustments total is not required to be provided on returns, and according to DOR personnel, only taxable sales are reported on some returns, with the gross sales receipts or adjustment amounts not included.

Although the DOR has previously agreed that tracking exemptions is a laudable goal, the DOR believes the recommendation increases the burden of reporting on taxpayers (vendor) and is contrary to the provision which requires simplified returns in the Streamlined Sales and Use Tax Agreement, (see MAR finding number 1). The DOR has indicated that when Missouri comes into substantial conformity with the Agreement, the DOR will require filers to submit a report of consolidated exempt sales by exemption type in accordance with the Agreement. However, as previously

noted, legislation is required to put the state into conformity with the Agreement and Missouri has yet to pass such legislation.

The DOR has also indicated the current sales tax system would require significant reprogramming, and might not have the capacity to handle the additional information from tracking and reporting exemptions. In February 2012, the DOR and the Office of Administration awarded a contract for a new Missouri Integrated Revenue System (MIRS). According to DOR personnel, although the new system is currently in the developmental stages, it should not have similar limitations.

## 2.2 Timely discounts

The DOR does not routinely report to the General Assembly for its consideration the amount of timely discounts taken by businesses. This discount was established for businesses to recover a portion of their costs for compliance with state sales tax laws. However, the state is foregoing a significant amount of sales taxes revenue because there is not a cap on the amount of timely discounts taken by large vendors.

Approximately $102 million, $94 million, and $95 million in state and local sales tax revenues were collected from purchasers but retained as timely discounts by businesses remitting sales and use taxes in fiscal years 2011, 2010, and 2009, respectively.

Section 144.710, RSMo, allows businesses remitting sales and use taxes to retain 2 percent of taxes payable to the DOR if the business remits payments in a timely manner. These discounts reduce the amount of sales and use taxes received by the state and local governments. According to a November 2008 report[3], 46 states (including the District of Columbia) impose state sales taxes, 26 states allow businesses a discount and/or compensation for recording and remitting sales tax collections, and 13 states, including Missouri, have not established a ceiling to limit amount of taxes businesses can retain. Of the eight states contiguous to Missouri, three (Iowa, Kansas and Tennessee) do not allow businesses to retain any compensation, and four (Arkansas, Kentucky, Nebraska, and Oklahoma) have established ceilings to limit the amount of discount and/or compensation retained by businesses.

Sales and use tax revenues are used to fund significant portions of state and local government budgets. For example, in fiscal year 2011, sales and use taxes comprise approximately 25 percent of the state's general revenue. The General Assembly needs timely and accurate information regarding reductions to sales and use tax revenues resulting from timely discounts to make informed financial decisions.

[3] *Skimming the Sales Tax,* Good Jobs First, November 2008.

The DOR previously indicated they provided the timely discount information when requested, and is willing and able to do so.

## 2.3 Refunds

State law does not require vendors to return sales and use tax refunds and related interest to the original purchaser when applicable, resulting in a windfall for the vendor. In addition, in many instances, the vendor may not even be able to identify the original purchasers to whom the refunds are due, further increasing the likelihood of a windfall. The DOR distributed sales and use tax refunds, including interest, of approximately $50 million, $60 million, and $71 million during fiscal years 2011, 2010, and 2009, respectively.

Vendors collect sales and use taxes from their customers and remit the taxes to the DOR. Section 144.190, RSMo, authorizes the DOR to issue sales and use tax refunds due to an overpayment of sales or use taxes. For some refunds the vendor is the original purchaser and some refunds are the result of taxpayer errors, incorrect quarter-monthly filer estimates, or other circumstances in which sales and use taxes were not collected from a purchaser, and as a result, should be retained by the vendor. However, in many cases, the refund is the result of an over collection of sales tax by the vendor and the refund is due back to the original purchaser.

Section 144.190.6, RSMo, provides, ". . . if a person legally obligated to remit the tax levied pursuant to sections 144.010 to 144.525 has received a refund of such taxes for a specific issue and submits a subsequent claim for refund of such taxes on the same issue for a tax period beginning on or after the date the original refund check issued to such person, no refund shall be allowed . . . . " This section further provides situations in which this section shall not apply and a refund shall be allowed. These include the receipt of additional information or an exemption certificate from the purchaser of the item at issue, a decision of a court of competent jurisdiction or the Administrative Hearing Commission, or changes in regulations or policy by the DOR. However, Section 144.190.6, RSMo, does not provide that refunds must be returned to the original purchaser. In addition, it appears that a vendor may not be able to identify the original purchaser in some cases, such as cash transactions or other point of sale settings where purchaser name or contact information is not captured. In these situations, the vendor would be unable to forward the refund to the original purchaser and would receive the windfall refund.

The DOR has previously agreed to support legislation that would require sales and use tax refunds and related interest to be returned to the original purchaser. However, to date, such legislation has not been successful. The legislation should also address how the refund should be handled when the original purchasers cannot be identified.

## 2.4 Interest paid on refunds local funds

The General Revenue Fund (GRF) does not receive reimbursement from local funds for their proportionate share of interest paid on refunds of sales and use taxes.

Based on the percentage of distributions to local funds to total distributions to state and local funds (exclusive of the GRF), interest payments of approximately $383,000, $1,723,000, $2,133,000 should have been allocated to local funds during fiscal years 2011, 2010, 2009, respectively, and is due to the GRF from local funds.

Sales and use tax refunds are issued from the GRF. To reimburse the GRF, adjustments are automatically made in the DOR tax system for the principal and interest amount of the refunds due from other state funds and the principal amount of the refunds due from local funds. However, adjustments are not automatically made to local funds for the interest paid on sales tax refunds.

Although the DOR has previously agreed that local funds should pay their proportionate share of interest paid on refunds, the DOR has been unable to develop any alternatives for recovering interest from local governments without the acquisition of a new tax system. As noted above, a new MIRS is currently being developed, and according to DOR personnel, the limitations of the current tax system should not be an issue with the new system.

## Recommendations

The DOR:

2.1&2 Ensure the tracking and reporting of exemptions and the timely discount is a component of the new MIRS, so that the reductions of state revenue related to each exemption and the timely discount can be determined and reported to the General Assembly.

2.3 Continue to support legislation that would require sales and use tax refunds and related interest to be returned to the original purchaser. Such legislation should also address whether a refund should be made when the original purchaser is not known.

2.4 Ensure the new MIRS has the capability to calculate the reimbursement to the GRF for local funds' proportionate share of interest paid on sales and use tax refunds.

## Auditee's Response

*2.1&2 Tracking and reporting exemptions is an appropriate goal. Reporting exemptions would substantially increase the burden on businesses. Also, based on prior attempts to track limited exemptions, the data collected is likely to be highly inaccurate due to businesses errors in reporting. In addition, to track and report exemptions, the Department would require a substantial increase in*

*FTE, which the current budget does not support. The Department is in the process of implementing an integrated revenue system that may be able to track at least some exemptions, but tracking and reporting the data will still be a significant burden on businesses and the data collected will still be likely to be inaccurate.*

*The Department has provided information regarding the timely filing discount when requested by elected officials from time-to-time, but has not been requested to report this information on a regular basis. The Department is willing and able to do so.*

2.3 *The Department reviews and makes recommendations with respect to existing laws and proposed legislation every year. The Department will review this issue and support appropriate legislation.*

2.4 *This is a requirement in the request for proposal and is scheduled to be implemented when the sales and use tax portion of the system is implemented in 2016.*

## 3. Automated Sales Suppression Device

Missouri law does not prohibit the creation, sale, purchase, installation, transfer, or possession of an automated sales suppression device. This device gives retailers the ability to hide the amount of cash transactions, and thus, evade paying sales taxes on cash transactions.

An automated sales tax device, commonly known as a zapper, is a software program that falsifies the electronic records of point of sale (POS) systems for the purpose of tax evasion. Most often, transactions in stores and restaurants are recorded by a POS system, rather than a mechanical cash register. The POS system records are generally not alterable by the operator and are used as the basis of tax assessments and audits by tax authorities. To hide the removal of cash, a zapper often runs untraceably from a USB flash drive and alters the electronic sales records in a cash register. This makes it appear that fewer transactions occurred than was actually the case. The use of zapper software reduces the tax liability of the business.

Due to concerns about the potential of sales tax zappers to reduce state and local government revenues, some states are enacting legislation to address this type of fraud. According to a recent study[4], Georgia, Maine, Utah, and West Virginia, have passed legislation to subject the technology (automated sales suppression device) that facilitates the fraud to enforcement measures.

[4] Robert T. Ainsworth, "An American Look at Zappers", Boston University School of Law Working Paper No. 12-14, <http:www.bu.edu/law/facuity/scholarship/workpapers/2012.html#>, accessed on October 17, 2012.

Other states, such as Florida, Indiana, Michigan, New York, Oklahoma, and Tennessee have similar legislation pending.

According to DOR management, the DOR is familiar with zapper technology and has taken steps to monitor for the use of zappers. However, the DOR has not identified any business using zappers, and is not aware of pending legislation to address zapper technology.

## Recommendation

The DOR work with the General Assembly on legislation to address the possession and use of automated sales suppression devices by businesses.

## Auditee's Response

*The Department reviews and makes recommendations with respect to existing laws and proposed legislation every year. The Department will review this issue and support appropriate legislation.*

# Department of Revenue
# Sales and Use Tax
# Organization and Statistical Information

The Department of Revenue (DOR) was created by Article IV, Section 12, Missouri Constitution as the central collection agency for state revenues. The Director of Revenue is appointed by the Governor, with the advice and consent of the Senate, and is responsible for all operations and policies. DOR responsibilities include:

1) Administering and collecting state taxes and fees, including sales and use tax, motor vehicle sales tax, and highway use tax.
2) Collecting certain taxes and fees for local governments, including local sales and use tax.
3) Titling and licensing motor vehicles, trailers, and boats.
4) Licensing motor vehicle operators.

The DOR consists of four divisions and the Director's office.

Motor Vehicle and Driver Licensing Division: This division consists of three bureaus. 1) The Motor Vehicle Bureau issues titles and registers motor vehicles, trailers, all-terrain vehicles, manufactured homes, and marine craft. In addition, the bureau issues registration certificates to motor vehicle and salvage dealers and leasing companies. 2) The Driver Licensing Bureau issues, renews, suspends, revokes, and reinstates driver and nondriver licenses and driving permits. The bureau also processes and maintains records regarding license issuance, traffic violation point assessments, and failure to appear in court for traffic violations, and administers the alcohol and abuse laws for alcohol/drug offenders. 3) The License Offices Bureau manages the operations of the contract license offices throughout the state. These local offices provide driver licensing and motor vehicle services. This division collects motor vehicles sales and use taxes.

Taxation Division: This division consists of four bureaus which collect taxes and administer state tax law. 1) The Business Tax Bureau administers sales and use, financial institutions, insurance premiums, franchise, cigarette and other tobacco products, motor fuel, corporate income, withholding, and county taxes and fees. 2) The Personal Tax Bureau administers individual income, partnership, fiduciary, and estate taxes, plus the property tax credit and homestead preservation tax credit. 3) The Collections and Tax Assistance Bureau provides tax assistance to individuals and businesses and handles unpaid tax liabilities. 4) The Field Compliance Bureau audits businesses both in-state and out-of-state to ensure compliance with the state's tax laws.

Administration Division: This division consists of two bureaus. 1) Personnel Services Bureau is responsible for the DOR personnel matters, policies and procedures, training, and written communications. 2) The Financial and General Services Bureau is responsible for accounting, procurement,

banking, and general services such as telecommunications, safety issues, and maintenance.

Legal Services Division: This division ensures DOR compliance with law and internal policies. The General Counsel's Office advises the director and divisions on legal matters and represents the DOR in court. The Criminal Tax Investigation Bureau investigates and develops information for local prosecution of individuals and businesses suspected of violating laws the DOR administers. The Compliance and Investigation Bureau investigates illegal motor vehicle titling and registration, odometer fraud, and tax fraud involving motor fuel sales tax. The bureau also reviews and evaluates the DOR administrative, operations, and internal accounting controls and contract license offices.

Director's Office: This office includes the Director, Deputy Director and key administrative staff. The Director of Communications works with the news media and acts as the DOR spokesperson. The legislative liaison manages the DOR relationship with the General Assembly and other governmental branches. This office also develops fiscal and revenue estimates on proposed legislation.

The Directors of Revenue from July 2008 to November 2012 include:

Omar D. Davis, December 2007 to January 2009
Karen King Mitchell, January 2009 to July 2009
Alana M. Barragan-Scott, (Acting) July 2009 to November 2012 (officially appointed Director in October 2009)

In December 2012, Brian K. Long was appointed Director.

## American Recovery and Reinvestment Act 2009 (Federal Stimulus)

The DOR did not receive any federal stimulus monies for sales and use tax operations during the 3 years ended June 30, 2011.

FIRST REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 190

**98TH GENERAL ASSEMBLY**

2015

0805S.02T

## AN ACT

To repeal section 92.402, RSMo, and to enact in lieu thereof one new section relating to public mass transportation sales taxes.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 92.402, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 92.402, to read as follows:

92.402. 1. Any city may, by a majority vote of its council or governing body, impose a sales tax for the benefit of the public mass transportation system operating within such city as provided in sections 92.400 to 92.421.

2. The sales tax may be imposed at a rate not to exceed one-half of one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within any city adopting such tax, if such property and services are subject to taxation by the state of Missouri pursuant to the provisions of sections 144.010 to 144.525. Seven and one-half percent of the sales tax shall be distributed to the interstate transportation authority pursuant to the provisions of section 92.421. The **[**remainder of the tax in excess of such seven and one-half percent shall expire on December 31, 2015, on which date the**]** authority shall be in full compliance with handicapped accessibility pursuant to the terms of the Americans with Disabilities Act.

3. Within ten days after the adoption of any ordinance imposing such a sales tax, the city clerk shall forward to the director of revenue by United States registered mail or certified mail a certified copy of the ordinance of the council or governing body. The ordinance shall reflect the effective date thereof and shall be accompanied by a map of the city clearly showing the boundaries thereof.

**EXPLANATION–Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

4. If the boundaries of a city in which such sales tax has been imposed shall thereafter be changed or altered, the city clerk shall forward to the director of revenue by United States registered mail or certified mail a certified copy of the ordinance adding or detaching territory from the city. The ordinance shall reflect the effective date thereof, and shall be accompanied by a map of the city clearly showing the territory added thereto or detached therefrom. Upon receipt of the ordinance and map, the tax imposed by sections 92.400 to 92.421 shall be effective in the added territory or abolished in the detached territory on the effective date of the change of the city boundary.

✓

**EXPLANATION–Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0805-04
Bill No.: HCS for SCS for SB 190
Subject: Kansas City; Taxation and Revenue - Sales and Use; Transportation
Type: Original
Date: May 1, 2015

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Bill Summary: This proposal would remove the current expiration date for the Kansas City transportation sales tax and would add statutory audit requirements for transportation development districts.

## FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2016 | FY 2017 | FY 2018 |
| | | | |
| **Total Estimated Net Effect on General Revenue** | **$0** | **$0** | **$0** |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2016 | FY 2017 | FY 2018 |
| | | | |
| | | | |
| **Total Estimated Net Effect on Other State Funds** | **$0** | **$0** | **$0** |

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 7 pages.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2016 | FY 2017 | FY 2018 |
| | | | |
| | | | |
| **Total Estimated Net Effect on <u>All</u> Federal Funds** | **$0** | **$0** | **$0** |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2016 | FY 2017 | FY 2018 |
| | | | |
| | | | |
| **Total Estimated Net Effect on FTE** | **0** | **0** | **0** |

☐ Estimated Net Effect (expenditures or reduced revenues) expected to exceed $100,000 in any of the three fiscal years after implementation of the act.

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2016 | FY 2017 | FY 2018 |
| **Local Government *** | **$0** | **$0** | **$0** |

* Net of additional revenues and expenditures.

## FISCAL ANALYSIS

ASSUMPTION

Section 92.402, RSMo. - Kansas City Area Transportation Sales Tax:

This proposal would eliminate the expiration of a portion of the Kansas City Area Transportation Sales Tax. (Under current law that portion of the tax is scheduled to expire December 31, 2015.)

Officials from the **City of Kansas City** stated this proposal would maintain transportation sales tax revenues of $12,166,167 for January 1, 2016 to April 30, 2016, and $36,500,000 per year for FY 2017 and FY 2018.

**Oversight** has no independent information regarding transportation sales tax revenues and will assume for fiscal note purposes the City of Kansas City response is the best available estimate of the impact of this proposal.

**Oversight** notes that current provisions would let a portion of the sales tax expire on December 31, 2015 (FY 2016) and the proposal would extend the sales tax indefinitely. If the sales tax expired, the revenue reduction for the City of Kansas City from January 1, 2016 to June 30, 2016 (FY 2016) would be ($36,500,000 x 6/12) = $18,250,000 (disregarding reporting and distribution delays), and the fiscal impact of this proposal for FY 2017 and FY 2018 would be $36,500,000 per year. Oversight will include these amounts in this fiscal note.

For simplicity, **Oversight** will not include any impact for the Department of Revenue's collection costs. Oversight will also assume that all or substantially all of the sales tax revenues would be expended on transportation costs and will so indicate in this fiscal note.

Officials from the **Kansas City Election Board** assumed a previous version of this proposal could result in jurisdiction-wide election at a cost of $400,000.

**Oversight** notes that current provisions regarding the KCATA Sales Tax do not appear to provide for an election.

Officials from the **Office of the Secretary of State**, the **Joint Committee on Administrative Rules**, the **Department of Revenue**, the **Jackson County Election Board**, and the **Platte County Board of Elections** assumed a previous version of this proposal would have no fiscal impact on their organizations.

ASSUMPTION (continued)

Officials from the **Office of Administration - Division of Budget and Planning** assumed a previous version of this proposal would have no fiscal impact on their organization.

Not responding:

Officials from Jackson County, Belton, Excelsior Springs, Gladstone, Grandview, Harrisonville, Independence, the Kansas City Area Transit Authority, Kearney, Lees Summit, Liberty, Peculiar, Raytown, Sugar Creek, Cass County Elections, Clay County, the Clay County Board of Election Commissioners, the Jackson County Executive, and Platte County did not respond to our request for fiscal information.

Sections 105.145, 238.222, and 238.272, RSMo. - Transportation Development Districts:

Changes to these provisions would provide specific statutory audit requirements for transportation development districts.

Officials from the **Office of the State Auditor** assumed similar language in HCS for HB 477 LR 1681-03 would have no fiscal impact on their organization.

In response to similar language in HCS for HB 477 LR 1681-03, officials from the **Department of Revenue** assumed this legislation would require the department to create a form. DOR officials assumed the form could be set up in the department's existing county fees system without any additional resources.

**Oversight** notes the Office of the State Auditor (SAO) issued report No. 2013-065 in 2013 entitled Transportation Development Districts regarding their financial statement reporting requirements. The report stated as of December 31, 2011, 49 districts (of the 176 at the time) filed financial statements/audit reports late or did not file financial statements with the Office of the State Auditor at all. While a fine for late filing of financial statements is provided, Section 105.145.8 currently does not establish the agency responsible for the assessment or a collection mechanism for these fines; therefore, no fine revenue has been collected to date. The report also stated, as of February 1, 2013, the potential accumulated fine amounts were $16,859,000.

ASSUMPTION (continued)

IT impact

DOR officials provided an estimate of the IT cost to implement this proposal of $10,449 based on 139 hours of programming at the current state contract rate for IT services.

**Oversight** assumes DOR could absorb the IT cost to implement this proposal with existing resources.

**Oversight** also notes this proposal would require future fine revenue to be distributed to local school districts (after the Department of Revenue retains a collection fee of not more than two percent) in the same manner that proceeds for all penalties, forfeitures, and fines collected for any breach of the penal law of the state are distributed.

**Oversight** assumes the $500 fine is already established in statutes and that Transportation Development Districts (currently 195 districts) would timely submit their financial statements. Therefore, Oversight will assume no additional fiscal impact from this proposal.

In response to a similar proposal (HB 136 LR 0499-01) from this year, officials from **Department of Transportation** assumed the proposal would have no fiscal impact on their organization.

In response to a similar proposal (HB 136 LR 0499-01) from this year, officials from the **City of Kansas City Public School District** assumed the proposal would have no fiscal impact on their organization.

Bill as a whole response

Officials from the **Platte County Board of Elections** assume this proposal would have no fiscal impact on their organization.

| FISCAL IMPACT - State Government | FY 2016 (10 Mo.) | FY 2017 | FY 2018 |
|---|---|---|---|
| | **$0** | **$0** | **$0** |

| FISCAL IMPACT - Local Government | FY 2016 (10 Mo.) | FY 2017 | FY 2018 |
|---|---|---|---|
| **LOCAL GOVERNMENTS** | | | |
| Additional revenue - City of Kansas City Sales tax | $18,250,000 | $36,500,000 | $36,500,000 |
| Additional expenditures - City of Kansas City Transportation | ($18,250,000) | ($36,500,000) | ($36,500,000) |
| **ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS** | **$0** | **$0** | **$0** |

SS:LR:OD

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

The proposed legislation would remove the current expiration date for the Kansas City transportation sales tax and would provide specific statutory requirements for audits of transportation development districts.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Secretary of State
Joint Committee on Administrative Rules
Office of Administration
Division of Budget and Planning
Department of Revenue
City of Kansas City
Platte County Board of Elections

Mickey Wilson, CPA
Director
May 1, 2015

Ross Strope
Assistant Director
May 1, 2015

SS:LR:OD

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, St. Louis Community College,** and the **State Tax Commission.**

**Fiscal Note Summary**

Potential costs to state and local governmental entities are unknown, but could be significant. The proposal's passage would impact governmental entity's ability to revise their tax structures. State and local governments expect no savings from this proposal.

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

RECEIVED
MAY 13 2015
STATE AUDITORS OFFICE

ELECTIONS DIVISION
(573) 751-2301

16-058

May 13, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Chuck Hatfield regarding a proposed constitutional amendment to Article X, version C (2016-058)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Chuck Hatfield on May 13, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-058

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and name of the city, town or village in which I live are correctly written after my name.

(Official Ballot title)

RECEIVED
2015 MAY 13 AM 11:33
SEC OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI,

COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)
(Petition Circulator's Printed Name)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | Zip Code | Congr. Dist. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
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| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer _____.

_____
Signature of Affiant (Person obtaining signatures)

_____
Street address of Affiant

_____
Printed Name of Affiant

_____
City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My commission expires:

16-058

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Article X is amended by adding one new section to be known as Section 26, to read as follows:

Section 26. The state, counties, and other political subdivisions are hereby prohibited from imposing a sales or use tax on any service or activity that was not subject to a sales or use tax on January 1, 2015.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-058)**

## Subject

Initiative petition from Chuck Hatfield regarding a proposed constitutional amendment to Article X. (Received May 13, 2015)

## Date

June 2, 2015

## Description

This proposal would amend Article X of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **State Tax Commission.**

**Marc Ellinger** provided information for this proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated no cost to their department.

Officials from the **Department of Higher Education** indicated they have reviewed the provisions of this initiative petition. Although the proposal would limit the ability of the state to revise its tax structure, it is impossible for their department to determine what tax revenues the state might forgo as a result or the impact the limit would have on appropriations to higher education. Consequently, while they do not believe the proposal would have a direct fiscal impact on their department, the actual potential impact is unknown.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated the fiscal impact from this proposal is unknown. While there would appear to be no current and direct fiscal impact from these provisions on their department, they would certainly and perhaps severely limit what state and local governments can do in the future in terms of changing the way taxes are handled.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this petition will have no fiscal impact on their department.

Department officials provided the following additional information:

They reviewed the comments submitted and disagree with the assumptions. Please see below:

**The Initiative Petition will require a substantial increase in Department of Revenue lawyer FTEs**
The Department feels there is already a sufficient legal staff available to handle any possible new litigation.

**The Initiative Petition will require a substantial increase in Department of Revenue non-lawyer FTEs**
The Department currently maintains records of all exemptions under Missouri law and how they apply. These provisions will not change anything.

**The Initiative Petition will eliminate the revenue from the Parks and Soils tax**
Both are constitutional provisions. This provision does not trump the tax or the need for election in another provision. Also, the tax is imposed as of January 1, 2015. Therefore, it may still be approved to continue after that date.

**The Initiative Petition will eliminate the revenue from the Kansas City transportation sales tax**
The tax is imposed as of January 1, 2015. Therefore, it may still be approved to continue after that date. Where there is some litigation risk, the law already says that there must be a vote to extend. This provision should not impact that fact.

Officials from the **Department of Public Safety** indicated this petition could restrict their ability to establish a way to fund public safety programs going forward, but the fiscal impact would not measurable at this point.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated they assume there will be no fiscal impact.

Officials from the **Office of Administration** indicated:

The proposal enacts a new section (Section 26) in Article X of the Missouri Constitution. This section would prohibit the state, counties, any other political subdivisions from imposing any new sales or use tax on services or activities not subject to tax on January 1, 2015.

The state sales tax base continues to shrink as the amount of Internet sales increases. This proposal would prevent the state from modernizing its taxing structure in the future to include Internet sales, which would negatively impact the state's ability to raise sufficient revenue to support vital state services. This proposal would also negatively impact the state's ability to restructure tax policy in the future. Counties and political subdivisions would likely experience the same revenue issues if this proposal were to be enacted.

This proposal will not impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from the **City of Columbia** indicated this amendment could severely hamper local taxpayers ability to fund and support local needs. Without the ability to seek approval even for currently authorized taxes, their city could find that it is unable to meet expectations for public safety, economic development, capital improvements and other services. It is not possible to quantify the fiscal impact.

Officials from the **City of Kansas City** indicated they estimate an annual revenue loss of at least $203,000,000 if either Initiative Petition 16-058, 16-059, or 16-060 is adopted. These losses result from the prohibition on new local sales and use taxes, which would include a ban on new sales taxes on Internet purchases of goods and services by city residents from out-of-state merchants. Their city would also lose substantial sales tax revenues because these initiatives would cancel any revenues otherwise gained from the elimination of exemptions under the Streamlined Sales Tax Act.

The projected loss of $203 million is based on the following data and assumptions:

According to a study reported on the web site of the National Conference of State Legislatures, approximately 49 percent of Missouri sales commerce in 2009 was electronic (online) commerce. The study was performed by the Center for Business and Economic Research of the University of Tennessee.

Only a negligible amount of online commerce actually results in the payment of use taxes to the jurisdiction where the purchaser resides. Few purchasers voluntarily report and pay use taxes on online purchases.

This unreported and unpaid use tax on online commerce could be captured if (1) Congress passed the Marketplace Fairness Act, and (2) Missouri enacted the Streamlined Sales Tax. Arguably, Initiative Petitions 16-058, 16-059, and 16-060 would prevent Missouri from adopting the Streamlined Sales Tax.

Assuming that their city has the same level of electronic commerce as the entire state of Missouri according to the study (49%), the city is losing 49 percent of its potential sales & use taxes as the result on unreported and unpaid use taxes on online transactions.

Their city's estimated sales tax revenue for fiscal year 2015-16 is $212 million according to its budget.

Their city's loss from uncaptured use taxes on 49 percent of total sales tax revenue is estimated as follows:

If x = total potential sales and use tax revenue (both paid and unpaid)

212,000,000 = .51x

X = 212,000,000 / .51
X = 415,686,275
Unreported/unpaid use tax = 415,686,275 – 212,000,000 = 203,686,275

Officials from **Metropolitan Community College** indicated unknown impact for their college.

Officials from **University of Missouri** indicated this initiative petition would not have a significant fiscal impact on their university.

**Marc Ellinger** provided the following information for this initiative petition.

I submit the following proposed statement of fiscal impact for the Initiative Petition that was filed by Chuck Hatfield on May 13, 2015. The initiative petition has been labeled by the Secretary of State as 2016-058.

The initiative petition would prohibit the state, counties and other political subdivisions from imposing a sales or use tax on any service or activity that was not subject to a sales or use tax on January 1, 2015.

**(1) Initiative Petition 2016-058 will require a substantial increase in Department of Revenue lawyer FTEs**

The Initiative Petition will increase costs to the state due to increased litigation as a result of the proposed measure. The largest component of "litigation costs" is the personnel costs. The Department of Revenue currently employs a small army of lawyers. In 2014, the State spent more than 1.6 million dollars of taxpayer money to fund the salaries of the Department's lawyers. (See Appendix A). Since 2010, the Director of Revenue has been a party to more than fifty Missouri Supreme Court cases.[1]

Whether or not a service or activity is currently subject to sales or use tax has been subject the focus of considerable litigation, especially in recent years. Already this year, the Missouri Supreme Court has decided *Alberici Constructors, Inc. v. Director of Revenue*, 452 S.W.3d 632 (Mo. banc 2015) (a use tax case), *Fred Weber Inc. v. Director of Revenue*, 452 S.W.3d 628 (Mo. banc 2015) (a sales tax case), *Ben Hur Steel Worx v. Director of Revenue*, 452 S.W.3d 624 (Mo. banc 2015) (a sales and use tax case), *Five*

[1] See, generally, www.courts.mo.gov/casenet.

*Delta Alpha, LLC v. Director of Revenue*, --- S.W.3d ---, 2015 WL 777898 (Mo. banc 2015) (a use tax case), and *Tatson, LLC v. Director of Revenue*, 456 S.W.3d 43 (Mo. banc 2015) (a sales tax case). These cases account for 14% of the total cases handed down so far this year by the Missouri Supreme Court.

Furthermore, an amendment of this type would incentivize parties, who previously would have reached a settlement with the Department, to seek a legal determination that their services and/or activities were not subject to a sales or use tax on January 1, 2015. Such determination would essentially provide them with a perpetual exemption from tax.

The increase in litigation will necessitate additional lawyer FTEs for the Department of Revenue. These costs should be included in the Fiscal Note Summary. At the very least, the Fiscal Note Summary should state "the proposal's passage will likely lead to increased litigation-related costs." [2]

**(2) Initiative Petition 2016-058 will require a substantial increase in Department of Revenue non-lawyer FTEs**

The initiative would also prohibit the state from repealing any of the current exemptions in Missouri's sales and use tax law. Thus, the initiative would require the Department to track current exemptions. In a 2013 audit, the Department of Revenue

[2] This language was previously adopted by the Auditor for Initiative Petitions 2016-021 and 2016-022 (attached hereto as Appendix B).

admitted it does not currently track or report exemptions and stated "to track and report exemptions, the Department would require a substantial increase in FTE[.]" [3]

**(3) Initiative Petition 2016-058 will eliminate the revenue from the Parks and Soils tax**

The proposed measure essentially prohibits any new sales or use taxes. The existing Parks and Soils tax in Article IV, Section 47(a) of the Missouri Constitution, which imposes a sales tax of one-tenth of one percent, expires in 2016. Mo. Const. art. IV, Section 47(c). Without additional voter approval, Sections 47(a), (b), and (c) terminate. As of January 1, 2015 there is not a sales or use tax under Section 47 of the Missouri Constitution on or after 2016. The initiative effectively eliminates the Parks and Soils tax after 2016. The amount collected in FY2014 from the state sales and use tax for Parks and Soils was $76,121,334.[4] That is an increase over the $67.9 million that was collected in FY2010. The loss to the state in 2017 as a result of the elimination of the Parks and Soils tax in Article IV, Section 47 will be at least $76 million dollars.

**(4) Initiative Petition 2016-058 will eliminate the revenue from the Kansas City transportation sales tax**

In 2015, the legislature passed Senate Bill 190 (attached as Appendix D) which would extend the Kansas City transportation sales tax indefinitely. However, the

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[3] http://auditor.mo.gov/Repository/Press/2013-015.pdf (attached hereto, without Appendixes, as Appendix C).
[4] http://dor.mo.gov/pdf/financialstatreport14.pdf.

proposed measure prohibits any new sales or use taxes that were not in effect as of January 1, 2015. As of January 1, 2015, there was no Kansas City transportation sales tax on or after December 31, 2015. As such, the state would be prohibited from imposing or extending such tax as a result of Initiative Petition 2016-058. If the sales tax expires, the result is a loss to the City of Kansas City in the amount of $36.5 million dollars annually (Fiscal Note for SB 190 attached as Appendix E).

**(5) Initiative Petition 2016-058 will repeal any local taxes voted on and approved by the people after January 1, 2015.**

Since January 1, 2015, a number of local governments put tax measures before their voters for approval. Many passed by overwhelming margins. Still, these taxes would be repealed by the Initiative Petition because it prohibits a local government or political subdivision from imposing any sales or use tax that was not already imposed on January 1, 2015. The taxes listed below are a sampling of the taxes that were passed in April 2015 that would be repealed by the Initiative Petition:

- Country Club Hills Prop S - Sales Tax
- Crawford County Prop 1 - Sales Tax
- Crystal City Prop E - Sales Tax
- Hazelwood Prop P - Sales Tax
- Hillsboro, MO Fire Prop F - Sales Tax
- Kirkwood Prop 1 - Sales Tax
- Pleasant Valley Sales Tax

- Rolla Prop P - Sales Tax
- Sni-Valley Fire Prot. Distr. Sales Tax
- St. John Prop S - Sales Tax
- Ste. Genevieve Co. Prop A - Sales Tax
- Valle Ambulance Dist. Prop Valle - Sales Tax
- Washington County Road & Bridge Sales Tax

The loss to local governments as a result of the repeal of these taxes would be significant and such costs should be included in the Fiscal Note Summary.

**Conclusion**

No savings or reduction in costs to state government can be gleaned in any manner from the proposed Initiative Petition. Additionally, this measure expressly restricts the ability of counties, cities, and other political subdivisions from imposing certain taxes. Local governments will see reduced revenues in the future as a result of the proposed measure.

The proposed measure would have a significant negative economic impact on the state. The proposed measure will increase litigation related costs, eliminate the state Parks and Soils tax, and eliminate the Kansas City transportation sales tax. Any estimate of fiscal impact of the proposed measure must include these significant losses in order to adequately inform potential signors and voters. The use of the phrase "unknown" suggests an ambiguity regarding costs or savings – that such costs or savings could be positive or negative. Since there is no evidence to support (1) any reduction in costs (2)

any savings, or (3) any increased revenues, such ambiguity cannot be included in the fiscal note summary. Therefore use of the word "unknown," unless it includes the phrase "negative impact," is improper.

| | | | |
|---|---|---|---|
| 2014 REVENUE | ASSOCIATE COUNSEL | ALLEN, CHANDREKA N. | 26,374.38 |
| 2014 REVENUE | ASSOCIATE COUNSEL | AUSMUS, MARK DAVID | 5,859.96 |
| 2014 REVENUE | ASSOCIATE COUNSEL | BRIGHT, DEANNA MARIE | 33,185.44 |
| 2014 REVENUE | ASSOCIATE COUNSEL | FEHR, CHRISTOPHER R. | 46,858.68 |
| 2014 REVENUE | ASSOCIATE COUNSEL | HOUDEK, THOMAS A | 9,766.60 |
| 2014 REVENUE | ASSOCIATE COUNSEL | MARTIN, SPENCER ADAM | 9,766.60 |
| 2014 REVENUE | ASSOCIATE COUNSEL | SANDERS, MARIA A | 30,983.49 |
| 2014 REVENUE | CHIEF COUNSEL | MONAGHAN, MAUREEN M | 65,583.00 |
| 2014 REVENUE | GENERAL COUNSEL - DIVISION | HALE, JONATHAN HOWARD | 41,588.75 |
| 2014 REVENUE | GENERAL COUNSEL - DIVISION | KISLING, MICHAEL SHAYNE | 70,483.08 |
| 2014 REVENUE | GENERAL COUNSEL - DIVISION | PLAGGENBERG, JOSEPH G | 1,875.00 |
| 2014 REVENUE | LEGAL COUNSEL | AUSMUS, MARK DAVID | 37,642.50 |
| 2014 REVENUE | LEGAL COUNSEL | BERNSEN, TORY DOWD | 43,023.00 |
| 2014 REVENUE | LEGAL COUNSEL | CONWAY, STEPHEN | 43,023.00 |
| 2014 REVENUE | LEGAL COUNSEL | COOPER, CAMERON H | 43,023.00 |
| 2014 REVENUE | LEGAL COUNSEL | HOUDEK, THOMAS A | 34,055.50 |
| 2014 REVENUE | LEGAL COUNSEL | KENNEDY, DANIEL J | 43,023.00 |
| 2014 REVENUE | LEGAL COUNSEL | MARTIN, SPENCER ADAM | 34,055.50 |
| 2014 REVENUE | LEGAL COUNSEL | SLAWSON, BENJAMIN C | 43,023.00 |
| 2014 REVENUE | LEGAL COUNSEL | VEIT, DAWN RENEE | 12,228.41 |
| 2014 REVENUE | LEGAL COUNSEL | VITALE, DESIREE JUDE | 48,483.00 |
| 2014 REVENUE | MANAGING COUNSEL | BERTELS, RYAN EUGENE | 4,361.59 |
| 2014 REVENUE | MANAGING COUNSEL | FREUDENBERG, ROGER L. | 67,602.12 |
| 2014 REVENUE | MANAGING COUNSEL | GINTHER, STEVEN ALLAN | 67,602.12 |
| 2014 REVENUE | MANAGING COUNSEL | GOOCH, CHARLES L | 67,602.12 |
| 2014 REVENUE | MANAGING COUNSEL | LAKS, YAMINI A. | 51,729.10 |
| 2014 REVENUE | MANAGING COUNSEL | MILLER, DALE WOOD | 39,660.62 |
| 2014 REVENUE | SENIOR COUNSEL | ALLEN, CHANDREKA N. | 15,642.69 |
| 2014 REVENUE | SENIOR COUNSEL | BRIGHT, DEANNA MARIE | 15,642.69 |
| 2014 REVENUE | SENIOR COUNSEL | CHENAULT, JAMES A. | 60,363.48 |
| 2014 REVENUE | SENIOR COUNSEL | COX, JOSEPH M | 53,611.08 |
| 2014 REVENUE | SENIOR COUNSEL | LAFAVER, BEVERLY L | 54,718.44 |
| 2014 REVENUE | SENIOR COUNSEL | LAKS, YAMINI A. | 2,708.33 |
| 2014 REVENUE | SENIOR COUNSEL | LAUGHLIN, JANE A | 59,983.08 |
| 2014 REVENUE | SENIOR COUNSEL | LISSANT, SUSAN LEAH | 53,611.08 |
| 2014 REVENUE | SENIOR COUNSEL | MOREAU, SHERYL L | 28,738.76 |
| 2014 REVENUE | SENIOR COUNSEL | MURRAY, MICHAEL LEE | 56,987.16 |
| 2014 REVENUE | SENIOR COUNSEL | PRITCHARD, JAN | 53,611.08 |
| 2014 REVENUE | SENIOR COUNSEL | ROSE, GLORIA JEAN | 59,445.71 |
| 2014 REVENUE | SENIOR COUNSEL | SANDERS, MARIA A | 20,112.03 |
| 2014 REVENUE | SENIOR COUNSEL | SPRADLIN, JAMES L | 53,611.08 |
| 2014 REVENUE | SENIOR COUNSEL | SULLIVAN, STEPHEN PATRICK | 56,987.16 |
| | | Total | 1,668,236.41 |

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY
65102

CHRIS KOSTER
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

March 12, 2015

OPINION LETTER NO. 26-2015

The Honorable John Watson
Missouri State Auditor
State Capitol, Room 121
Jefferson City, MO 65101

Dear Auditor Watson:

This office received your letter of March 2, 2015, submitting a fiscal note and fiscal note summary prepared under § 116.175, RSMo, for an initiative petition submitted by Jill Carter, version 1 (16-021). The fiscal note summary that you submitted is as follows:

> Any potential costs or savings from this proposal to state and local governmental entities is unknown. However, the proposal's passage will likely lead to increased litigation-related costs and impact the ability of state and local governments to provide certain health and welfare services.

Under § 116.175.4, RSMo, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the initiative petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

**CHRIS KOSTER**
Attorney General

OP-2015-0031

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

CHRIS KOSTER
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

March 12, 2015

OPINION LETTER NO. 27-2015

The Honorable John Watson
Missouri State Auditor
State Capitol, Room 121
Jefferson City, MO 65101

Dear Auditor Watson:

This office received your letter of March 2, 2015, submitting a fiscal note and fiscal note summary prepared under § 116.175, RSMo, for an initiative petition submitted by Jill Carter, version 2 (16-022). The fiscal note summary that you submitted is as follows:

> Any potential costs or savings from this proposal to state and local governmental entities is unknown. However, the proposal's passage will likely lead to increased litigation-related costs and impact the ability of state and local governments to provide certain health and welfare services.

Under § 116.175.4, RSMo, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the initiative petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

**CHRIS KOSTER**
Attorney General

OP-2015-0032

# Thomas A. Schweich

**Missouri State Auditor**

# REVENUE

# Sales and Use Tax

**February 2013**

**Report No. 2013-15**

**http://auditor.mo.gov**

APPENDIX C

**Thomas A. Schweich**
**Missouri State Auditor**

# CITIZENS SUMMARY

## Findings in the audit of the Department of Revenue, Sales and Use Tax

### Individual Consumer Use Tax and Internet Sales

Missouri's individual consumer use tax requirements are not well known by the general public and are difficult to enforce and administer. The audit report expresses no opinion on the economic effect of collecting the tax but notes the unworkable structure in place now. Missouri law imposes an individual consumer use tax on the storage, use, or consumption of tangible personal property which is required to be paid unless sales or use tax is paid to the seller or the property is tax exempt. Also, use tax is due on purchases from a seller which is not engaged in business. A purchaser is required to file a use tax return if the cumulative purchases subject to use tax exceed $2,000 in a calendar year. The United States Supreme Court has held that states cannot require companies that do not have a physical presence in the state to collect state and local sales taxes. University studies have estimated that Missouri state and local governments have lost and will continue to lose sales/use tax revenue of between $358 million and $474 million annually by not collecting taxes on these sales. The Streamlined Sales and Use Tax Agreement (Agreement) is a cooperative effort among states, local governments, and businesses to simplify sales and use tax collection and administration by retailers and states, intended to minimize costs and administrative burdens on retailers that collect sales tax while encouraging out-of-state sellers to collect tax on sales to customers in the Streamlined states. Forty-four states, including Missouri, signed the Agreement, but Missouri has not passed implementing legislation.

The Department of Revenue (DOR) does not include a specific line that requires state individual income taxpayers to state whether they made purchases exceeding $2,000 for which sales or use tax was not paid, and, as a result, most taxpayers are not likely aware of the consumer use tax requirement. If the state continues to impose the individual consumer use tax, there are additional enforcement procedures the DOR should consider.

### Ongoing Concerns

The DOR does not track and report information regarding some sales and use tax exemptions, and so the cost in terms of reduced state revenue for each exemption cannot be determined. DOR records indicate adjustments to gross sales receipts totaled over $154 billion, $144 billion, and $147 billion in fiscal years 2011, 2010, and 2009, respectively. The DOR has agreed that tracking exemptions is a good idea, but it believes the recommendation increases the reporting burden on vendors and has indicated the current sales tax system might not have the capacity to handle the additional information. However, the DOR and the Office of Administration awarded a contract in February 2012 for a new Missouri Integrated Revenue System (MIRS) which should not have similar limitations.

The state is foregoing a significant amount of sales tax revenue because there is no cap on the amount of timely discounts large vendors can take. Business were allowed to keep approximately $102 million, $94 million, and $95 million in state and local sales tax revenues collected from purchases in fiscal years 2011, 2010, and 2009, respectively, as an incentive for timely submitting state sales tax payments. Moreover, the DOR does not routinely report the amount of timely discounts to the General Assembly.

When consumers overpay sales or use taxes, the DOR refunds the vendor the overpayment plus interest, but vendors are not required to return these funds to the original purchaser, resulting in a windfall for the vendor. The DOR has previously agreed to support legislation that would require sales and use tax refunds and related interest to be returned to the original purchaser, but, to date, such legislation has not been successful.

The General Revenue Fund (GRF) does not receive reimbursement from local funds for their proportionate share of interest paid on refunds of sales and use taxes. Sales and use tax refunds, including interest, are made from the GRF, and adjustments are automatically made to reimburse the GRF for the principal amount due from local funds. However, adjustments are not automatically made to reimburse the GRF for the amount of interest due from local funds. Although the DOR has previously agreed that local funds should pay their proportionate share of this interest, the DOR has not been able to develop a method for recovering this interest with the current tax system, but according to DOR personnel the new MIRS should not have this limitation.

## Automated Sales Suppression Device

Missouri law does not prohibit the creation, sale, purchase, installation, transfer, or possession of an automated sales suppression device (a software program commonly known as a zapper). Zapper software enables businesses to evade tax liability by altering the electronic sales records in a cash register to make it appear that fewer transactions have occurred. At least 10 other states have passed or are considering similar legislation.

In the areas audited, the overall performance of this entity was **Good**.*

## American Recovery and Reinvestment Act (Federal Stimulus)

The Department of Revenue did not receive any federal stimulus monies for sales and use tax operations during the audited time period.

*The rating(s) cover only audited areas and do not reflect an opinion on the overall operation of the entity. Within that context, the rating scale indicates the following:

**Excellent:** The audit results indicate this entity is very well managed. The report contains no findings. In addition, if applicable, prior recommendations have been implemented.

**Good:** The audit results indicate this entity is well managed. The report contains few findings, and the entity has indicated most or all recommendations have already been, or will be, implemented. In addition, if applicable, many of the prior recommendations have been implemented.

**Fair:** The audit results indicate this entity needs to improve operations in several areas. The report contains several findings, or one or more findings that require management's immediate attention, and/or the entity has indicated several recommendations will not be implemented. In addition, if applicable, several prior recommendations have not been implemented.

**Poor:** The audit results indicate this entity needs to significantly improve operations. The report contains numerous findings that require management's immediate attention, and/or the entity has indicated most recommendations will not be implemented. In addition, if applicable, most prior recommendations have not been implemented.

# Department of Revenue
# Sales and Use Tax
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# THOMAS A. SCHWEICH
## Missouri State Auditor

Honorable Jeremiah W. (Jay) Nixon, Governor
and
Brian K. Long, Director
Department of Revenue
Jefferson City, Missouri

We have audited certain operations of the Department of Revenue, sales and use tax collections, as required by Sections 32.087 and 67.525, RSMo. The scope of our audit included, but was not necessarily limited to, the years ended June 30, 2011, 2010, and 2009. The objectives of our audit were to:

1. Evaluate the department's internal controls over significant management and financial functions.

2. Evaluate the department's compliance with certain legal provisions.

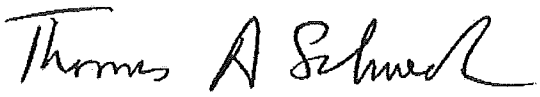
3. Evaluate the economy and efficiency of certain management practices and operations, including certain financial transactions.

Our methodology included reviewing written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the department; analysis of comparative data obtained from internal sources; and testing selected transactions. We obtained an understanding of internal controls that are significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We tested certain of those controls to obtain evidence regarding the effectiveness of their design and operation. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contract or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

The accompanying Organization and Statistical Information is presented for informational purposes. This information was obtained from the department's management and was not subjected to the procedures applied in our audit of the department.

For the areas audited, we identified (1) a deficiency in internal controls, (2) no significant noncompliance with legal provision, and (3) the need for improvement in management practices and procedures. The accompanying Management Advisory Report presents our findings arising from our audit of the Department of Revenue, sales and use tax collections.



Thomas A. Schweich
State Auditor

The following auditors participated in the preparation of this report:

| | |
|---|---|
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# Department of Revenue
# Sales and Use Tax
# Management Advisory Report - State Auditor's Findings

## 1. Individual Consumer Use Tax and Internet Sales

Missouri's individual consumer use tax requirements are not well known by the general public, require extensive taxpayer record keeping, are generally not complied with, and are difficult to enforce and administer. This report expresses no opinion on the economic effect of collecting the tax on the economy of Missouri; the report simply notes the unworkable structure in place now.

### Background information

State law imposes an individual consumer use tax on the storage, use, or consumption of tangible personal property in Missouri. The consumer use tax is required to be paid unless sales or use tax is paid to the seller or the property is tax exempt. Also, use tax should be paid on purchases from a seller which is not engaged in business. A purchaser is required to file an annual use tax return with the Department of Revenue (DOR) if the cumulative purchases subject to use tax exceed $2,000 in a calendar year. The use tax is computed on the purchase price of all goods once purchases exceed $2,000. Consumer use tax information and requirements are posted on the DOR website.

The type of purchases subject to use tax include, but are not limited to, 1) catalog purchases, 2) magazine subscriptions, 3) cross-border purchases of goods, 4) TV marketing purchases, 5) computer software and hardware, 6) mail-order supply purchases, 7) furniture and equipment purchases from out-of-state sellers, 8) purchases of goods over the Internet (e-commerce) and by phone, and 9) purchases of goods from outside the United States. Currently, state law requires local businesses to collect sales tax, even if they have an online business, because these businesses have a physical presence (nexus) in the state. However, under a 1992 U.S. Supreme Court ruling[1], states cannot require companies that do not have nexus to collect state and local sales taxes. As a result, Missouri cannot require businesses without nexus to collect sales tax on goods sold to Missouri residents. Federal legislation has been proposed that would enable states to require online retailers to collect and remit sales taxes, while also providing businesses with an effective means to comply. Such legislation includes the Marketplace Fairness Act, the Main Street Fairness Act, and the Marketplace Equity Act.

With the increasing popularity and usage of the Internet, e-commerce sales have grown significantly over recent years. University studies[2] have

[1] Quill orp v, North Dakota, 504 U.S.298 (1992)

[2] Bruce, Donald, William F. Fox, LeAnn Luna, "State and Local Government Sales Tax Revenue Losses from Electronic Commerce," University of Tennessee, Center for Business and Economic Research, <http://cber.bus.utk.edu/ecomm.htm>, accessed on April 27,2012; and Huanfm Ting, John Kosash and Andrew Wesemann (2012). "Internet Sales and Use Tax Issues in Missouri" Report 01-2012, University of Missouri Columbia, Institute of Public Policy, <http://ipp.missouri.edu/Publications/306>, accessed on June 5, 2012.

estimated that Missouri state and local governments have lost and will continue to lose sales/use tax revenue of between $358 million and $474 million annually by not collecting taxes on these sales. Both studies also noted that local vendors face a competitive disadvantage because consumers that make purchases online avoid paying sales/use taxes. However, it is possible that if taxes were collected on e-commerce sales, consumer purchasing habits could change resulting in less revenue for the state than forecasted. The issues of revenue, consumer spending habits, and the economic effect of increased taxation are beyond the scope of this report.

## Streamlined Sales and Use Tax Agreement

The Streamlined Sales and Use Tax Agreement (Agreement) is a cooperative effort among states, local governments, and businesses to simplify sales and use tax collection and administration by retailers and states. The Agreement aims to minimize costs and administrative burdens on retailers that collect sales tax, while also encouraging out-of-state sellers to collect tax on sales to customers in the Streamlined states. Forty-four states, including Missouri, signed the Agreement, originally adopted in November 2002, and 24 of these states have passed legislation to conform to the Agreement. Legislation was introduced in Missouri during the 2012 legislative session and in prior years to implement the provisions of the Agreement; however, such legislation has not passed. Participation in the Agreement is voluntary for businesses and consumers; therefore, Missouri cannot require out-of-state sellers without nexus to collect sales taxes on purchases made by Missouri residents. However, according to the University of Missouri report, each state that has entered into the Agreement collected, on average, an additional $30.7 million, in total, in e-commerce tax revenue between 2005 to 2010.

Some states (such as Washington, North Dakota, New York, Kansas, and Kentucky) have entered into agreements with large Internet sellers, to collect and remit state and local sales taxes. Large Internet sellers have also negotiated deals with other states to collect sales tax in the future. In other instances, Internet sellers have agreed to disclose sales and use tax requirements on their Internet sites for certain states. Such disclosures inform customers that many states require purchasers to file a sales or use tax return reporting all taxable purchases that were not taxed and to pay tax on those purchases, and may include a link to that state's website.

## Individual income tax forms

The DOR does not include a specific line that requires state individual income taxpayers to state whether they made purchases exceeding $2,000 for which sales or use tax was not paid. As a result, most taxpayers are not likely aware of the consumer use tax requirements as evidenced by the small amount of consumer use tax collections.

According to DOR records, the following consumer use tax was paid:

| Tax Year | 2011 (1) | 2010 | 2009 | 2008 |
|---|---|---|---|---|
| Number of individual tax returns | 2,917,023 | 2,876,787 | 3,019,358 | 3,080,945 |
| Number of use tax returns | 168 | 190 | 125 | 96 |
| Use tax paid | $205,087 | 301,474 | 110,784 | 40,714 |

(1) Tax year 2011 information through August, 2012.

If the state continues to impose the individual consumer use tax, there are additional enforcement procedures the DOR should consider. Our review of other states' procedures noted some states include a specific line on its individual income tax return to report purchases made for which sales or use tax was not paid. In addition, to reduce taxpayer recordkeeping burden, some states provide an optional use tax reporting table which bases the consumer's use tax liability on a percentage of adjusted gross income rather than actual purchases.

To increase taxpayer compliance with existing individual consumer use tax laws, the DOR should consider revising individual income tax forms to include a specific line regarding purchases made for which sales or use tax was not paid, and an optional use tax reporting table which bases consumer use tax liability on a percentage of adjusted gross income rather than actual purchases.

## Recommendation

The DOR revise the individual income tax forms to increase taxpayer compliance with existing individual consumer use tax laws.

## Auditee's Response

*The Department supports the collection of all taxes due the state of Missouri, including use taxes. However, adding a line on the return may not have much impact on use tax collections, but it would delay the availability of general revenue funds. This delay could be substantial in the April-May time frame when the majority of individual income tax revenues are received.*

*Individual income tax revenues are all general revenue funds and currently are deposited very quickly, usually the same or next day even during the April-May time frame. If those funds were combined with use tax funds, all money would need to be deposited in a suspense account until the return is processed and the appropriate local and state fund distribution can be determined. This could delay availability of the funds by as much as six weeks. The Department will continue to explore other ways to encourage compliance with use tax laws that do not negatively affect the timely transfer of funds to the general revenue fund.*

## Auditor's Comment

We do not agree with the Department's contention that enforcing existing consumer use tax law would need to unnecessarily delay the availability of general revenue funds. The DOR could place only the consumer use tax portion in the suspense account thereby eliminating any need to delay the availability of general revenue funds.

# 2. Ongoing Concerns

The DOR does not track and report information regarding some sales and use tax exemptions or routinely report to the General Assembly for its consideration the amount of timely discounts taken by businesses. Under Missouri law, vendors are not required to return sales and use tax refunds to the original purchaser when applicable, and local funds are not paying their proportionate share of interest paid on refunds of sales and use taxes.

These issues are ongoing concerns and have been reported in prior audit reports.

## 2.1 Sales and use tax exemptions

The DOR does not track and report information regarding some sales and use tax exemptions. As a result, the cost in terms of reduced state revenue for each exemption cannot be determined.

According to DOR records, there are currently 150 sales and use tax exemptions provided by state law. The DOR only tracks exemptions related to the 3 percent reduction on food sales, textbook sales, and manufacturing sales.

Vendors remit monthly, quarterly, or annual sales and use tax returns to the DOR. The returns include gross sales receipts, adjustments to gross sales receipts, and taxable sales. The adjustment amounts include, but are not limited to, exempt sales for the period of the sales tax return (file period), and corrections of errors from previous file periods.

DOR records indicate adjustments to gross sales receipts totaled over $154 billion, $144 billion, and $147 billion in fiscal years 2011, 2010, and 2009, respectively. Detailed information of what is included in the adjustments total is not required to be provided on returns, and according to DOR personnel, only taxable sales are reported on some returns, with the gross sales receipts or adjustment amounts not included.

Although the DOR has previously agreed that tracking exemptions is a laudable goal, the DOR believes the recommendation increases the burden of reporting on taxpayers (vendor) and is contrary to the provision which requires simplified returns in the Streamlined Sales and Use Tax Agreement, (see MAR finding number 1). The DOR has indicated that when Missouri comes into substantial conformity with the Agreement, the DOR will require filers to submit a report of consolidated exempt sales by exemption type in accordance with the Agreement. However, as previously

noted, legislation is required to put the state into conformity with the Agreement and Missouri has yet to pass such legislation.

The DOR has also indicated the current sales tax system would require significant reprogramming, and might not have the capacity to handle the additional information from tracking and reporting exemptions. In February 2012, the DOR and the Office of Administration awarded a contract for a new Missouri Integrated Revenue System (MIRS). According to DOR personnel, although the new system is currently in the developmental stages, it should not have similar limitations.

## 2.2 Timely discounts

The DOR does not routinely report to the General Assembly for its consideration the amount of timely discounts taken by businesses. This discount was established for businesses to recover a portion of their costs for compliance with state sales tax laws. However, the state is foregoing a significant amount of sales taxes revenue because there is not a cap on the amount of timely discounts taken by large vendors.

Approximately $102 million, $94 million, and $95 million in state and local sales tax revenues were collected from purchasers but retained as timely discounts by businesses remitting sales and use taxes in fiscal years 2011, 2010, and 2009, respectively.

Section 144.710, RSMo, allows businesses remitting sales and use taxes to retain 2 percent of taxes payable to the DOR if the business remits payments in a timely manner. These discounts reduce the amount of sales and use taxes received by the state and local governments. According to a November 2008 report[3], 46 states (including the District of Columbia) impose state sales taxes, 26 states allow businesses a discount and/or compensation for recording and remitting sales tax collections, and 13 states, including Missouri, have not established a ceiling to limit amount of taxes businesses can retain. Of the eight states contiguous to Missouri, three (Iowa, Kansas and Tennessee) do not allow businesses to retain any compensation, and four (Arkansas, Kentucky, Nebraska, and Oklahoma) have established ceilings to limit the amount of discount and/or compensation retained by businesses.

Sales and use tax revenues are used to fund significant portions of state and local government budgets. For example, in fiscal year 2011, sales and use taxes comprise approximately 25 percent of the state's general revenue. The General Assembly needs timely and accurate information regarding reductions to sales and use tax revenues resulting from timely discounts to make informed financial decisions.

[3] *Skimming the Sales Tax,* Good Jobs First, November 2008.

The DOR previously indicated they provided the timely discount information when requested, and is willing and able to do so.

## 2.3 Refunds

State law does not require vendors to return sales and use tax refunds and related interest to the original purchaser when applicable, resulting in a windfall for the vendor. In addition, in many instances, the vendor may not even be able to identify the original purchasers to whom the refunds are due, further increasing the likelihood of a windfall. The DOR distributed sales and use tax refunds, including interest, of approximately $50 million, $60 million, and $71 million during fiscal years 2011, 2010, and 2009, respectively.

Vendors collect sales and use taxes from their customers and remit the taxes to the DOR. Section 144.190, RSMo, authorizes the DOR to issue sales and use tax refunds due to an overpayment of sales or use taxes. For some refunds the vendor is the original purchaser and some refunds are the result of taxpayer errors, incorrect quarter-monthly filer estimates, or other circumstances in which sales and use taxes were not collected from a purchaser, and as a result, should be retained by the vendor. However, in many cases, the refund is the result of an over collection of sales tax by the vendor and the refund is due back to the original purchaser.

Section 144.190.6, RSMo, provides, ". . . if a person legally obligated to remit the tax levied pursuant to sections 144.010 to 144.525 has received a refund of such taxes for a specific issue and submits a subsequent claim for refund of such taxes on the same issue for a tax period beginning on or after the date the original refund check issued to such person, no refund shall be allowed . . . . " This section further provides situations in which this section shall not apply and a refund shall be allowed. These include the receipt of additional information or an exemption certificate from the purchaser of the item at issue, a decision of a court of competent jurisdiction or the Administrative Hearing Commission, or changes in regulations or policy by the DOR. However, Section 144.190.6, RSMo, does not provide that refunds must be returned to the original purchaser. In addition, it appears that a vendor may not be able to identify the original purchaser in some cases, such as cash transactions or other point of sale settings where purchaser name or contact information is not captured. In these situations, the vendor would be unable to forward the refund to the original purchaser and would receive the windfall refund.

The DOR has previously agreed to support legislation that would require sales and use tax refunds and related interest to be returned to the original purchaser. However, to date, such legislation has not been successful. The legislation should also address how the refund should be handled when the original purchasers cannot be identified.

## 2.4 Interest paid on refunds local funds

The General Revenue Fund (GRF) does not receive reimbursement from local funds for their proportionate share of interest paid on refunds of sales and use taxes.

Based on the percentage of distributions to local funds to total distributions to state and local funds (exclusive of the GRF), interest payments of approximately $383,000, $1,723,000, $2,133,000 should have been allocated to local funds during fiscal years 2011, 2010, 2009, respectively, and is due to the GRF from local funds.

Sales and use tax refunds are issued from the GRF. To reimburse the GRF, adjustments are automatically made in the DOR tax system for the principal and interest amount of the refunds due from other state funds and the principal amount of the refunds due from local funds. However, adjustments are not automatically made to local funds for the interest paid on sales tax refunds.

Although the DOR has previously agreed that local funds should pay their proportionate share of interest paid on refunds, the DOR has been unable to develop any alternatives for recovering interest from local governments without the acquisition of a new tax system. As noted above, a new MIRS is currently being developed, and according to DOR personnel, the limitations of the current tax system should not be an issue with the new system.

## Recommendations

The DOR:

2.1&2 Ensure the tracking and reporting of exemptions and the timely discount is a component of the new MIRS, so that the reductions of state revenue related to each exemption and the timely discount can be determined and reported to the General Assembly.

2.3 Continue to support legislation that would require sales and use tax refunds and related interest to be returned to the original purchaser. Such legislation should also address whether a refund should be made when the original purchaser is not known.

2.4 Ensure the new MIRS has the capability to calculate the reimbursement to the GRF for local funds' proportionate share of interest paid on sales and use tax refunds.

## Auditee's Response

*2.1&2 Tracking and reporting exemptions is an appropriate goal. Reporting exemptions would substantially increase the burden on businesses. Also, based on prior attempts to track limited exemptions, the data collected is likely to be highly inaccurate due to businesses errors in reporting. In addition, to track and report exemptions, the Department would require a substantial increase in*

*FTE, which the current budget does not support. The Department is in the process of implementing an integrated revenue system that may be able to track at least some exemptions, but tracking and reporting the data will still be a significant burden on businesses and the data collected will still be likely to be inaccurate.*

*The Department has provided information regarding the timely filing discount when requested by elected officials from time-to-time, but has not been requested to report this information on a regular basis. The Department is willing and able to do so.*

2.3 *The Department reviews and makes recommendations with respect to existing laws and proposed legislation every year. The Department will review this issue and support appropriate legislation.*

2.4 *This is a requirement in the request for proposal and is scheduled to be implemented when the sales and use tax portion of the system is implemented in 2016.*

## 3. Automated Sales Suppression Device

Missouri law does not prohibit the creation, sale, purchase, installation, transfer, or possession of an automated sales suppression device. This device gives retailers the ability to hide the amount of cash transactions, and thus, evade paying sales taxes on cash transactions.

An automated sales tax device, commonly known as a zapper, is a software program that falsifies the electronic records of point of sale (POS) systems for the purpose of tax evasion. Most often, transactions in stores and restaurants are recorded by a POS system, rather than a mechanical cash register. The POS system records are generally not alterable by the operator and are used as the basis of tax assessments and audits by tax authorities. To hide the removal of cash, a zapper often runs untraceably from a USB flash drive and alters the electronic sales records in a cash register. This makes it appear that fewer transactions occurred than was actually the case. The use of zapper software reduces the tax liability of the business.

Due to concerns about the potential of sales tax zappers to reduce state and local government revenues, some states are enacting legislation to address this type of fraud. According to a recent study[4], Georgia, Maine, Utah, and West Virginia, have passed legislation to subject the technology (automated sales suppression device) that facilitates the fraud to enforcement measures.

[4] Robert T. Ainsworth, "An American Look at Zappers", Boston University School of Law Working Paper No. 12-14, <http:www.bu.edu/law/facuity/scholarship/workpapers/2012.html#>, accessed on October 17, 2012.

Other states, such as Florida, Indiana, Michigan, New York, Oklahoma, and Tennessee have similar legislation pending.

According to DOR management, the DOR is familiar with zapper technology and has taken steps to monitor for the use of zappers. However, the DOR has not identified any business using zappers, and is not aware of pending legislation to address zapper technology.

## Recommendation

The DOR work with the General Assembly on legislation to address the possession and use of automated sales suppression devices by businesses.

## Auditee's Response

*The Department reviews and makes recommendations with respect to existing laws and proposed legislation every year. The Department will review this issue and support appropriate legislation.*

# Department of Revenue
# Sales and Use Tax
# Organization and Statistical Information

The Department of Revenue (DOR) was created by Article IV, Section 12, Missouri Constitution as the central collection agency for state revenues. The Director of Revenue is appointed by the Governor, with the advice and consent of the Senate, and is responsible for all operations and policies. DOR responsibilities include:

1) Administering and collecting state taxes and fees, including sales and use tax, motor vehicle sales tax, and highway use tax.
2) Collecting certain taxes and fees for local governments, including local sales and use tax.
3) Titling and licensing motor vehicles, trailers, and boats.
4) Licensing motor vehicle operators.

The DOR consists of four divisions and the Director's office.

Motor Vehicle and Driver Licensing Division: This division consists of three bureaus. 1) The Motor Vehicle Bureau issues titles and registers motor vehicles, trailers, all-terrain vehicles, manufactured homes, and marine craft. In addition, the bureau issues registration certificates to motor vehicle and salvage dealers and leasing companies. 2) The Driver Licensing Bureau issues, renews, suspends, revokes, and reinstates driver and nondriver licenses and driving permits. The bureau also processes and maintains records regarding license issuance, traffic violation point assessments, and failure to appear in court for traffic violations, and administers the alcohol and abuse laws for alcohol/drug offenders. 3) The License Offices Bureau manages the operations of the contract license offices throughout the state. These local offices provide driver licensing and motor vehicle services. This division collects motor vehicles sales and use taxes.

Taxation Division: This division consists of four bureaus which collect taxes and administer state tax law. 1) The Business Tax Bureau administers sales and use, financial institutions, insurance premiums, franchise, cigarette and other tobacco products, motor fuel, corporate income, withholding, and county taxes and fees. 2) The Personal Tax Bureau administers individual income, partnership, fiduciary, and estate taxes, plus the property tax credit and homestead preservation tax credit. 3) The Collections and Tax Assistance Bureau provides tax assistance to individuals and businesses and handles unpaid tax liabilities. 4) The Field Compliance Bureau audits businesses both in-state and out-of-state to ensure compliance with the state's tax laws.

Administration Division: This division consists of two bureaus. 1) Personnel Services Bureau is responsible for the DOR personnel matters, policies and procedures, training, and written communications. 2) The Financial and General Services Bureau is responsible for accounting, procurement,

banking, and general services such as telecommunications, safety issues, and maintenance.

Legal Services Division: This division ensures DOR compliance with law and internal policies. The General Counsel's Office advises the director and divisions on legal matters and represents the DOR in court. The Criminal Tax Investigation Bureau investigates and develops information for local prosecution of individuals and businesses suspected of violating laws the DOR administers. The Compliance and Investigation Bureau investigates illegal motor vehicle titling and registration, odometer fraud, and tax fraud involving motor fuel sales tax. The bureau also reviews and evaluates the DOR administrative, operations, and internal accounting controls and contract license offices.

Director's Office: This office includes the Director, Deputy Director and key administrative staff. The Director of Communications works with the news media and acts as the DOR spokesperson. The legislative liaison manages the DOR relationship with the General Assembly and other governmental branches. This office also develops fiscal and revenue estimates on proposed legislation.

The Directors of Revenue from July 2008 to November 2012 include:

Omar D. Davis, December 2007 to January 2009
Karen King Mitchell, January 2009 to July 2009
Alana M. Barragan-Scott, (Acting) July 2009 to November 2012 (officially appointed Director in October 2009)

In December 2012, Brian K. Long was appointed Director.

## American Recovery and Reinvestment Act 2009 (Federal Stimulus)

The DOR did not receive any federal stimulus monies for sales and use tax operations during the 3 years ended June 30, 2011.

FIRST REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 190

**98TH GENERAL ASSEMBLY**

2015

0805S.02T

## AN ACT

To repeal section 92.402, RSMo, and to enact in lieu thereof one new section relating to public mass transportation sales taxes.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 92.402, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 92.402, to read as follows:

92.402. 1. Any city may, by a majority vote of its council or governing body, impose a sales tax for the benefit of the public mass transportation system operating within such city as provided in sections 92.400 to 92.421.

2. The sales tax may be imposed at a rate not to exceed one-half of one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within any city adopting such tax, if such property and services are subject to taxation by the state of Missouri pursuant to the provisions of sections 144.010 to 144.525. Seven and one-half percent of the sales tax shall be distributed to the interstate transportation authority pursuant to the provisions of section 92.421. The **[**remainder of the tax in excess of such seven and one-half percent shall expire on December 31, 2015, on which date the**]** authority shall be in full compliance with handicapped accessibility pursuant to the terms of the Americans with Disabilities Act.

3. Within ten days after the adoption of any ordinance imposing such a sales tax, the city clerk shall forward to the director of revenue by United States registered mail or certified mail a certified copy of the ordinance of the council or governing body. The ordinance shall reflect the effective date thereof and shall be accompanied by a map of the city clearly showing the boundaries thereof.

**EXPLANATION–Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

4. If the boundaries of a city in which such sales tax has been imposed shall thereafter be changed or altered, the city clerk shall forward to the director of revenue by United States registered mail or certified mail a certified copy of the ordinance adding or detaching territory from the city. The ordinance shall reflect the effective date thereof, and shall be accompanied by a map of the city clearly showing the territory added thereto or detached therefrom. Upon receipt of the ordinance and map, the tax imposed by sections 92.400 to 92.421 shall be effective in the added territory or abolished in the detached territory on the effective date of the change of the city boundary.

✓

**EXPLANATION–Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0805-04
Bill No.: HCS for SCS for SB 190
Subject: Kansas City; Taxation and Revenue - Sales and Use; Transportation
Type: Original
Date: May 1, 2015

---

Bill Summary: This proposal would remove the current expiration date for the Kansas City transportation sales tax and would add statutory audit requirements for transportation development districts.

## FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2016 | FY 2017 | FY 2018 |
| | | | |
| **Total Estimated Net Effect on General Revenue** | **$0** | **$0** | **$0** |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2016 | FY 2017 | FY 2018 |
| | | | |
| | | | |
| **Total Estimated Net Effect on Other State Funds** | **$0** | **$0** | **$0** |

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 7 pages.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2016 | FY 2017 | FY 2018 |
| | | | |
| | | | |
| **Total Estimated Net Effect on All Federal Funds** | **$0** | **$0** | **$0** |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2016 | FY 2017 | FY 2018 |
| | | | |
| | | | |
| **Total Estimated Net Effect on FTE** | **0** | **0** | **0** |

☐ Estimated Net Effect (expenditures or reduced revenues) expected to exceed $100,000 in any of the three fiscal years after implementation of the act.

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2016 | FY 2017 | FY 2018 |
| **Local Government *** | **$0** | **$0** | **$0** |

* Net of additional revenues and expenditures.

## FISCAL ANALYSIS

ASSUMPTION

Section 92.402, RSMo. - Kansas City Area Transportation Sales Tax:

This proposal would eliminate the expiration of a portion of the Kansas City Area Transportation Sales Tax. (Under current law that portion of the tax is scheduled to expire December 31, 2015.)

Officials from the **City of Kansas City** stated this proposal would maintain transportation sales tax revenues of $12,166,167 for January 1, 2016 to April 30, 2016, and $36,500,000 per year for FY 2017 and FY 2018.

**Oversight** has no independent information regarding transportation sales tax revenues and will assume for fiscal note purposes the City of Kansas City response is the best available estimate of the impact of this proposal.

**Oversight** notes that current provisions would let a portion of the sales tax expire on December 31, 2015 (FY 2016) and the proposal would extend the sales tax indefinitely. If the sales tax expired, the revenue reduction for the City of Kansas City from January 1, 2016 to June 30, 2016 (FY 2016) would be ($36,500,000 x 6/12) = $18,250,000 (disregarding reporting and distribution delays), and the fiscal impact of this proposal for FY 2017 and FY 2018 would be $36,500,000 per year. Oversight will include these amounts in this fiscal note.

For simplicity, **Oversight** will not include any impact for the Department of Revenue's collection costs. Oversight will also assume that all or substantially all of the sales tax revenues would be expended on transportation costs and will so indicate in this fiscal note.

Officials from the **Kansas City Election Board** assumed a previous version of this proposal could result in jurisdiction-wide election at a cost of $400,000.

**Oversight** notes that current provisions regarding the KCATA Sales Tax do not appear to provide for an election.

Officials from the **Office of the Secretary of State**, the **Joint Committee on Administrative Rules**, the **Department of Revenue**, the **Jackson County Election Board**, and the **Platte County Board of Elections** assumed a previous version of this proposal would have no fiscal impact on their organizations.

ASSUMPTION (continued)

Officials from the **Office of Administration - Division of Budget and Planning** assumed a previous version of this proposal would have no fiscal impact on their organization.

Not responding:

Officials from Jackson County, Belton, Excelsior Springs, Gladstone, Grandview, Harrisonville, Independence, the Kansas City Area Transit Authority, Kearney, Lees Summit, Liberty, Peculiar, Raytown, Sugar Creek, Cass County Elections, Clay County, the Clay County Board of Election Commissioners, the Jackson County Executive, and Platte County did not respond to our request for fiscal information.

Sections 105.145, 238.222, and 238.272, RSMo. - Transportation Development Districts:

Changes to these provisions would provide specific statutory audit requirements for transportation development districts.

Officials from the **Office of the State Auditor** assumed similar language in HCS for HB 477 LR 1681-03 would have no fiscal impact on their organization.

In response to similar language in HCS for HB 477 LR 1681-03, officials from the **Department of Revenue** assumed this legislation would require the department to create a form. DOR officials assumed the form could be set up in the department's existing county fees system without any additional resources.

**Oversight** notes the Office of the State Auditor (SAO) issued report No. 2013-065 in 2013 entitled Transportation Development Districts regarding their financial statement reporting requirements. The report stated as of December 31, 2011, 49 districts (of the 176 at the time) filed financial statements/audit reports late or did not file financial statements with the Office of the State Auditor at all. While a fine for late filing of financial statements is provided, Section 105.145.8 currently does not establish the agency responsible for the assessment or a collection mechanism for these fines; therefore, no fine revenue has been collected to date. The report also stated, as of February 1, 2013, the potential accumulated fine amounts were $16,859,000.

ASSUMPTION (continued)

IT impact

DOR officials provided an estimate of the IT cost to implement this proposal of $10,449 based on 139 hours of programming at the current state contract rate for IT services.

**Oversight** assumes DOR could absorb the IT cost to implement this proposal with existing resources.

**Oversight** also notes this proposal would require future fine revenue to be distributed to local school districts (after the Department of Revenue retains a collection fee of not more than two percent) in the same manner that proceeds for all penalties, forfeitures, and fines collected for any breach of the penal law of the state are distributed.

**Oversight** assumes the $500 fine is already established in statutes and that Transportation Development Districts (currently 195 districts) would timely submit their financial statements. Therefore, Oversight will assume no additional fiscal impact from this proposal.

In response to a similar proposal (HB 136 LR 0499-01) from this year, officials from **Department of Transportation** assumed the proposal would have no fiscal impact on their organization.

In response to a similar proposal (HB 136 LR 0499-01) from this year, officials from the **City of Kansas City Public School District** assumed the proposal would have no fiscal impact on their organization.

Bill as a whole response

Officials from the **Platte County Board of Elections** assume this proposal would have no fiscal impact on their organization.

| FISCAL IMPACT - State Government | FY 2016 (10 Mo.) | FY 2017 | FY 2018 |
|---|---|---|---|
| | **$0** | **$0** | **$0** |

| FISCAL IMPACT - Local Government | FY 2016 (10 Mo.) | FY 2017 | FY 2018 |
|---|---|---|---|
| **LOCAL GOVERNMENTS** | | | |
| Additional revenue - City of Kansas City Sales tax | $18,250,000 | $36,500,000 | $36,500,000 |
| Additional expenditures - City of Kansas City Transportation | ($18,250,000) | ($36,500,000) | ($36,500,000) |
| **ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS** | **$0** | **$0** | **$0** |

SS:LR:OD

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

The proposed legislation would remove the current expiration date for the Kansas City transportation sales tax and would provide specific statutory requirements for audits of transportation development districts.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Secretary of State
Joint Committee on Administrative Rules
Office of Administration
Division of Budget and Planning
Department of Revenue
City of Kansas City
Platte County Board of Elections

Mickey Wilson, CPA
Director
May 1, 2015

Ross Strope
Assistant Director
May 1, 2015

SS:LR:OD

The State Auditor's office did not receive a response from the **Missouri Senate, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, St. Louis Community College,** and the **State Tax Commission.**

**Fiscal Note Summary**

Potential costs to state and local governmental entities are unknown, but could be significant. The proposal's passage would impact governmental entity's ability to revise their tax structures. State and local governments expect no savings from this proposal.

16-057

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

May 12, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Justin Wilson regarding a proposed constitutional amendment to Article III (2016-057)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Justin Wilson on May 11, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

RECEIVED
MAY 12 2015
STATE AUDITOR'S OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-057

County_____
Page No._____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 MAY 11 PM 3:25
SEC. OF STATE

(OFFICIAL BALLOT TITLE)

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONG. DISTR. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLEAD GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not_____(check one) expect to be paid for circulating this petition. If paid, list the payer _____.

_____
Signature of Affiant (Person obtaining signatures)

_____
(Printed Name of Affiant)

_____
Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A.D. _____.

_____
Signature of Notary

Address of Notary:_____

_____

Notary Public (Seal)

My commission expires _____

16-057

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article III Section 4 and Article III Section 6 to be amended to read as follows:

Section 4. Each representative shall be [twenty-four] twenty-one years of age, and next before the day of his election shall have been a qualified voter for two years and a resident of the county or district which he is chosen to represent for one year, if such county or district shall have been so long established, and if not, then of the county or district from which the same shall have been taken.

Section 6. Each senator shall be [thirty] twenty-seven years of age, and next before the day of his election shall have been a qualified voter of the state for three years and a resident of the district which he is chosen to represent for one year, if such district shall have been so long established, and if not, then of the district or districts from which the same shall have been taken.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-057)**

## Subject

Initiative petition from Justin Wilson regarding a proposed constitutional amendment to Article III. (Received May 12, 2015)

## Date

June 1, 2015

## Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

## Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated no cost to their department.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a direct fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated they assume there will be no fiscal impact.

Officials from the **Office of Administration** indicated:

The proposal amends Article III, Section 4 and Section 6 of the Missouri Constitution to change the minimum age for a Representative from twenty-four years of age to twenty-one years of age; and to change the minimum age for a Senator from thirty years of age to twenty-seven years of age.

This proposal will not impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Columbia** indicated this does not have a fiscal impact on their city.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from **Metropolitan Community College** indicated no anticipated impact for their college.

Officials from the **University of Missouri** indicated this initiative petition would not have a significant fiscal impact on their university.

The State Auditor's office did not receive a response from the **Department of Agriculture, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri,** and **St. Louis Community College**.

**Fiscal Note Summary**

State and local governmental entities expect no costs or savings from this proposal.

16-056

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

May 12, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Jeffrey Mazur regarding a proposed statutory amendment to Chapter 208, version 1 (2016-056)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Jeffrey Mazur on May 11, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

RECEIVED
MAY 12 2015
STATE AUDITOR'S OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-056

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

RECEIVED
2015 MAY 11 PM 1:10
SEC. OF STATE

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____

(Name of payer) Signature of Affiant (Person obtaining signatures)

_____

Printed Name of Affiant

_____

Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____

Signature of Notary

_____

Address of Notary (Street, City, State & Zip Code)

My commission expires _____.

16-056

**Statutory Amendment to Chapter 208, R.S.Mo., Version 1**

*Be it enacted by the people of the State of Missouri:*

A new section to be known as section 208.162, R.S.Mo. is enacted to read as follows:

§ 208.162, R.S.Mo. Minimum wages and benefits to in-home service employees and personal care attendants

1. Effective January 1, 2017, in-home service providers which receive payment made on behalf of an eligible needy person pursuant to section 208.152, or other state statute providing for payments on behalf of such persons as an act of reimbursement, are required to expend no less than 85% of the revenue generated by any payment for in-home services performed by an employee on that employee's wages and benefits.

2. Effective January 1, 2017, vendors which receive payment made on behalf of a consumer pursuant to the consumer-directed services program, as set forth in section 208.900 through 208.930, are required to ensure that no less than 85% of the revenue generated by any payment for consumer-directed personal care services performed by a personal care attendant is used to pay that attendant's wages and benefits. Vendors shall transmit individual payments, in compliance with this percentage, to the attendant on behalf of the consumer. This subsection does not apply to personal care services through the Independent Living Waiver.

3. For purposes of this section, "wages and benefits" means wages, salaries and time paid on behalf of the worker (i.e., vacation, sick leave, holiday, and personal leave), the employer's share of FICA taxes, Medicare taxes, state and federal unemployment taxes, workers' compensation, mileage reimbursement, health and dental insurance, life insurance, disability insurance, long-term care insurance, uniform allowance, and contributions to employee retirement accounts. Wages may be paid in lieu of benefits.

4. Nothing in this section shall be deemed to interfere with, impede, or in any way diminish the right of employees or personal care attendants to bargain collectively through a representative of their own choosing in order to establish wages and benefits and other conditions in excess of, but not less than, the applicable percentages established by this section. In addition, nothing in this section permits an employee or attendant to be paid less than required by any applicable federal, state, or local minimum wage.

5. In-home service providers and vendors shall document that they are complying with the percentage required by this section by sending an annual statement to the Department of Social Services, Missouri Medicaid Audit and Compliance Unit by April 15 of each year, beginning April 15, 2018 and continuing each April 15 thereafter, setting forth: (a) the amount of revenue generated by payments for the services performed by each employee or attendant in the previous calendar year, and (b) the

16-056

amount in wages and benefits provided to or for each employee or attendant in the previous calendar year. The accuracy of the report must be attested to by an authorized representative of the provider or vendor. For purposes of this documentation, the provider and vendor shall identify each employee and attendant by a unique identification number. The provider and vendor shall keep records on the name of each employee and attendant.

6. In-home service providers and vendors shall cooperate in any request for information or audit by the State and its departments and divisions relating to this section. If a provider or vendor fails to comply with the percentage required by this section, to cooperate with the State and its departments and divisions, or to furnish the documentation required by this section, the State, including the Department of Health and Senior Services, the Department of Social Services, MO HealthNet Division, and the Department of Social Services, Missouri Medicaid Audit and Compliance Unit, may take appropriate action, including but not limited to imposition of a corrective action plan, suspension or termination of contracts, removal of the provider or vendor from any list of providers or vendors, and disqualification of the provider or vendor from entering into any new contract for any length of time. Persons who are receiving in-home services or consumer-directed services through the provider or vendor will be allowed to choose a different provider or vendor from the list maintained by the State which will then be immediately authorized to provide services to them.

7. The Department of Health and Senior Services, the Department of Social Services, MO HealthNet Division, and the Department of Social Services, Missouri Medicaid Audit and Compliance Unit may issue rules under the Missouri Administrative Procedures Act as necessary for the purposes and policies of this section, including but not limited to any form for providers or vendors to use in documenting compliance with this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this subdivision shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2016, shall be invalid and void.

8. All the provisions of this section are severable. If any provision, including any subsection, subdivision, paragraph, sentence, or clause, or the application thereof to any person or circumstance, is found by a court of competent jurisdiction to be invalid, unconstitutional, or unconstitutionally enacted, such decision shall not affect other provisions or applications of the section that can be given effect without the invalid, unconstitutional, or unconstitutionally enacted provision or application.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-056)**

## Subject

Initiative petition from Jeffrey Mazur regarding a proposed amendment to Chapter 208 of the Revised Statutes of Missouri. (Received May 12, 2015)

## Date

June 1, 2015

## Description

This proposal would amend Chapter 208 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**The Missouri Home Care Union** provided information for this proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated no cost to their department.

Officials from the **Department of Higher Education** indicated they have reviewed the provisions of this initiative petition and determined it would have no direct fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated their department would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Social Services** indicated total costs for salaries, fringe benefits, equipment and expenses will be $115,438 ($57,719 from the General Revenue Fund) for fiscal year 2016, $118,188 ($59,094 from the General Revenue Fund) for fiscal year 2017, and $119,538 ($59,769 from the General Revenue Fund) for fiscal year 2018.

16-056 proposes to enact Section 208.162, RSMo. The proposal would require in-home service providers and vendors of Consumer Directed Services (CDS) to expend no less

than 85% of the revenue generated by any payment for reimbursement by the MO HealthNet Program.

The proposal requires that providers and vendors must cooperate in any request for information or audit by the State. It also provides that if a provider or vendor fails to comply with the percentage requirement, then Missouri Medicaid Audit and Compliance Unit (MMAC) may impose sanctions, including but not limited to imposition of a corrective action plan, suspension or termination of contracts, etc.

The Department of Health and Senior Services and the Department of Social Services, including MMAC has the authority to promulgate rules to implement the provisions of this section.

MMAC:

If the intention of the proposed legislation is that MMAC review each provider report to verify the accuracy, additional FTE would be required.

Assumptions:
Currently there are approximately 1,250 active personal care providers. Validation of the information on a provider report to include verification of the salary of each personal care attendant, through individual queries of external databases, is estimated to require approximately 4 hours per provider report.

Calculation
1,250 providers X 4 hours review time = 5,000 hours annually
1 FTE = 2080 hours
Total FTE required = 5,000 / 2080 = 2.40 FTE Rounded up to 2.5 FTE.

Total Impact:
FY16 (10 months) $115,438 ($57,719 GR)
FY17 $118,188 ($59,094 GR)
FY18 $119,538 (59,769 GR)

MHD and DLS assume no fiscal impact.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated they assume there will be no fiscal impact.

Officials from the **Office of Administration (OA)** indicated:

The proposal enacts Section 208.162 RSMo. related to wages and benefits for in-home service employees and personal care attendants. Effective 1/1/17, In-home service providers who receive payments through the MO HealthNet program and vendors who receive payments on behalf of consumers for person care services, would be required to spend at least 85% of the revenue generated by any payment for in-home services performed by an employee on that employee's wages and benefits. The providers and vendors are required to report compliance with these provisions to the MO Department of Social Services and the Department of Health and Senior Services.

This proposal will not impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Columbia** indicated this proposal does not appear to have a direct fiscal impact on their city.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from **Metropolitan Community College** indicated no anticipated impact for their college.

Officials from **University of Missouri** indicated the University of Missouri Health Care has reviewed this proposed petition and has determined that as written it could create additional expenses in excess of $100,000. These expenses would be incurred as the payment systems change for health care services from “fee for service” methodology to a more bundled or capitated payment system. The amounts are not able to be estimated at this time due to the language of the petition itself and the future timeline of the payment systems.

**The Missouri Home Care Union** provided the following information for this initiative petition.

**Proposed statement of fiscal impact**
**for proposed statutory amendment to Chapter 208, version 1 (2016-056)**

Cost of the proposed legislation to the state for next two fiscal years

To quantify the incremental cost to both the State and the in-home service providers (for in-home service employees) and the consumer-directed services vendors (for personal care attendants) associated with enactment of the proposed legislation, we need to do the following:

- model baseline utilization, revenue, and expenditure for two years beginning January 1, 2017
- evaluate baseline to ensure compliance with proposed legislation
- estimate costs associated with increases in reimbursement rates and/or wages & benefits
- estimate costs associated with administrative compliance

Baseline

To model the baseline scenario, we need to understand the expected utilization of home care services provided by both in-home service employees and personal care attendants, the expected reimbursement rates for each type of home care services, and the expected labor costs associated with the provision of each type of home care services in the two years beginning January 1, 2017.[1]

| Metric | Source |
|---|---|
| total hours of home care services<br>• in-home service employees<br>• personal care attendants | state Medicaid report / plan waiver application |
| reimbursement rate per hour | state Medicaid report / plan |
| wage & benefit cost per hour | in-home service provider reports[2]<br>consumer-directed service vendor reports[3] |

Using the above metrics, we can generate annual cost estimates for both the State and the in-home service providers and the consumer-directed services vendors.

- Cost to State: # of hours of service x reimbursement rate per hour for in-home service

[1] In the event we are unable to get forecasted metrics for this time period, we can use data from the most recent year.
[2] Need to determine what reports are available
[3] Consumer Directed Service vendors are required to submit quarterly financial reports (insert statutory cite). Data requested in such reports should provide information need to calculate each vendor's wage and benefit cost per hour. However, a Missouri Home Care Union review of all such reports filed by vendors for one quarter of 2014 found a number of apparent errors and inconsistencies that, in addition to the fact that a significant percentage of vendors had apparently failed to file the required report, would make reliable calculations difficult at best.

- Cost to State: # of hours of service x reimbursement rate per hour for consumer-directed service
- Cost to in-home service providers: # of hours of service x wage & benefit cost per hour
- Cost to consumer-directed service vendors: # of hours of service x wage & benefit cost per hour

Baseline Evaluation

To determine if the baseline scenario is in compliance with the proposed legislation, first we need to evaluate the expected reimbursement rate for home care services in relation to federal, state, and local minimum wage provisions. Second, we need to evaluate expected labor costs as a share of the expected reimbursement rate.

| Metric | Calculation | Compliance |
|---|---|---|
| reimbursement rate per hour | 0.85 x rate | compliant if above statutory binding minimum wage |
| wage & benefit cost per hour | wage & benefit cost / reimbursement rate per hour | compliant if share is at or above 85% |

Direct Cost

To determine the direct cost associated with compliance with the proposed legislation, first we need to consider any cost accruing to the State and second we need to determine any cost accruing to the in-home service providers and the consumer-directed services vendors.

**Cost to State**

In accordance with the proposed measure, wages paid to a direct care worker should be at or above the binding minimum wage law. The Missouri minimum wage at $7.65 is presently above the federal minimum wage of $7.25. If 85% of the reimbursement rate were below the state minimum wage, the cost to the state would be the amount needed to raise the reimbursement rate to that threshold multiplied by the expected utilization of home care services in the two years beginning January 1, 2017.[4] However, at this point, that is not the case, and it is unlikely to be the case on January 1, 2017. Thus, there will be no direct cost to the state.

**Cost to in-home service providers and consumer-directed services vendors**

In accordance with the proposed measure, in-home service providers and consumer-directed services vendors are to ensure that at least 85% of the revenue associated with the provision of home care services is transmitted to the direct care worker in the form of wage and benefits. If the share of revenue is less than 85%, the cost to the in-home service providers or the consumer-directed services vendors would be the amount needed to raise the worker's wages & benefits to

[4] With adjustments for any projected increase in the Missouri or federal minimum wage.

the threshold multiplied by the expected utilization of home care services in the two years beginning January 1, 2017, less any overall increase in reimbursement rates.

More specifically, the cost to the State and the in-home service providers and consumer-directed services vendors would be as follows:

- Cost to State: # of hours of service x (binding minimum wage - 0.85 x reimbursement rate)
- Cost to in-home service providers and consumer-directed services vendors: # of hours of service x (0.85 x reimbursement rate - baseline wages & benefits) - increase in reimbursement rate

Administrative Costs

In addition to direct costs associated with increases in reimbursement rates and/or increases in labor costs, the State and the in-home services providers and the consumer-directed services vendors will likely experience indirect costs related to program administration. Namely, the State will likely witness incremental costs associated with monitoring and enforcement, and in-home services providers and the consumer-directed services vendors will likely witness incremental costs associated with reporting and auditing.

Notes on current reimbursement rates

- In-Home
    - Basic Personal Care - Agency Model service reimbursement rate = $4.47/15 min. unit[5] = $17.88/hour
    - 85% of $17.88 = $15.20
    - An hourly rate of $13.12 results in a total loaded wage of $15.20/hour (Social Security, Medicare, SUTA, FUTA, and Worker's Compensation).

- Consumer-directed services
    - Personal Care Assistance - Consumer Directed Model service reimbursement rate = $3.89/15 min. unit = $15.56/hour
    - 85% of $15.56/hour = $13.23.
    - An hourly rate of $11.42 for an attendant who is covered by Worker's Compensation results in a total hourly loaded wage of $13.23.
    - However, most CDS attendants are not covered by Worker's Compensation.
    - An hourly rate of $11.71 for an attendant who is not covered by Worker's Compensation results in a total hourly loaded wage of $13.23.

Other states with similar requirements for minimum ratios

[5] "Service Reimbursement Rates (Correction)", Memorandum for All Home and Community Based Care Providers, Celesta Hartgraves, Division of Senior and Disability Services, June 26, 2014 (PM-14-17, VM-14-18). http://health.mo.gov/seniors/hcbs/pmvmdocs/PM-14-17VM14-18.doc - accessed May 21, 2015.

- Illinois – 77%
    - In-home services agencies must expend a minimum of 77% of the total revenues on the direct service worker.[6]
    - Effective July 1, 2008, the rate was enhanced to cover health insurance costs under PA 95-713.[7]
- Minnesota – 72.5%
    - Provider agencies must use a minimum of 72.5% of the revenue generated by the medical assistance rate for personal care assistance services for employee personal care assistant wages and benefits.[8]
    - The Minnesota legislature also required providers to dedicate 80% of a 2014 rate increase to "compensation-related costs for employees directly employed by the program."[9]
- New York – 85%
    - No less than 85% of the State financial assistance or State-authorized payments to a provider for operating expenses shall be directed to provide direct care or services rather than to support administrative costs. There are also limits on executive compensation.[10]

Medical Loss Ratio Requirements

- The Medical Loss Ratio (MLR) mechanism under the Affordable Care Act is broadly comparable to what is contemplated under the proposed legislation. It requires insurance companies to spend at least 80% or 85% of premium dollars on medical care. It they fail to meet these standards, the insurance companies are required to provide a rebate to their customers.[11]

- The Affordable Care Act MLR requirement does not apply to Medicaid. However, as of 2010, eleven states had established minimum MLR requirements for their Medicaid

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[6] Illinois Administrative Code, Title 89-Chapter II-Part 240-Sections 2020 through 2050 – http://www.ilga.gov/commission/jcar/admincode/089/08900240sections.html (accessed May 20, 2015).

[7] http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=095-0713&GA=95

[8] 2014 Minnesota Statutes, 256b.0659 Personal Care Assistance Program, Subd. 21. Requirements for provider enrollment of personal care assistance provider agencies. https://www.revisor.mn.gov/statutes/?id=256b.0659#stat.256B.0659.21

[9] See Department of Human Services "2014 Rate Changes Frequently Asked Questions" at http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&dDocName=dhs16_177815&RevisionSelectionMethod=LatestReleased (accessed May 20, 2015)

[10] Executive Order No. 38: Limits on State-Funded Administrative Costs & Executive Compensation, January 18, 2012 – http://nygovernorstg.prod.acquia-sites.com/sites/governor.ny.gov/files/atoms/files/EO38_0.pdf (accessed May 21, 2015). Also see http://executiveorder38.ny.gov/ (accessed May 21, 2015).

[11] "Medical Loss Ratio," The Center for Consumer Information & Insurance Oversight/Centers for Medicare & Medicaid Services, http://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Market-Reforms/Medical-Loss-Ratio.html (accessed May 21, 2015)

Managed Care Organizations. The minimum MLR percentages ranged from 80% to 93%.[12]

Economic impact on small businesses

There are approximately X total in-home service providers. Approximately X of the providers meet the definition of a small business (a corporation, partnership, sole proprietorship or other business entity, including its affiliates, that: (a) is independently owned and operated; and, (b) employs fifty or fewer fulltime employees.

There are approximately 350 consumer-directed services vendors. The majority of the consumer-directed services vendors meet the definition of a small business.

There are approximately 10,000 personal care attendants that provide consumer-directed services. All of the personal care attendants can be considered "individual provider" small businesses that hire themselves out to the consumers.

It appears that many of the small businesses are well positioned in the event of enactment of the proposed legislation. Profit margins for some home care agencies are relatively high, with gross margins reported in the range of 30% to 40%.[13] Such agencies may see a reduction in their profit margins.

On the other hand, the personal care attendants – the "individual provider" small businesses – will generally see an improvement in their financial situation. These individuals often live in poverty – "With median annual earnings of $13,000, one in four home care workers live in households with incomes below the federal poverty level (FPL) and more than half live in households with incomes below 200 percent of FPL."[14]

Positive impact on public assistance costs

Nationally, a "significant number of home care workers rely on public assistance because their earnings are not enough to make ends meet. Among home care workers, nearly 50 percent live in households that receive public assistance benefits such as Medicaid, food stamps, and housing

[12] "Quick Take: Medicaid MCOs and Medical Loss Ratio (MLR) Requirements," Kaiser Family Foundation, April 13, 2012, http://kff.org/medicaid/fact-sheet/medicaid-mcos-and-medical-loss-ratio-mlr/ (accessed May 21, 2015).

[13] "It is not uncommon among the top senior care franchises to build gross revenues to a million dollars or more, with gross margins of 30%–40%." (Source: Franchise Business Review, "Special Report: Senior Care Franchises," Spring 2014, page 5 (http://franchisebusinessreview.com/content/files/FBR_2014-TopSeniorCareFranchises-web.pdf - accessed May 20, 2015).

[14] "It is simply not possible for a worker to support herself, much less a family, on the average income of a home care aide. In all 50 states, the living wage (accounting for regional differences) for a two-person household is nearly double the median wage of a home care worker." Source: "Paying the Price: How Poverty Wages Undermine Home Care in America," Paraprofessional Healthcare Institute, February 2015, page 5, http://phinational.org/sites/phinational.org/files/research-report/paying-the-price.pdf - accessed May 20, 2015.

and heating assistance."[15] It appears that Missouri is no different from the rest of the nation in this regard. Thus, the full fiscal impact will also include reduced public assistance costs resulting from higher wages paid to home care workers.

Positive impact on Missouri's economy

Raising home care workers' wages will benefit both the workers and the Missouri economy. A recent study concerning the impact of increased wages for home care workers nationally noted that "Low-wage workers, such as home care aides and personal care aides, are more likely to spend these extra earnings immediately for basic necessities," and that such increased consumer spending would generate new economic activity, which in turn would lead to the creation additional jobs.[16]

[15] "Giving Caregivers a Raise: The Impact of a $15 Wage Floor in the Home Care Industry," National Employment Law Project, February 2015, page 2. This report provides estimates of the enrollment and costs of public support programs for home care workers. Also see Technical Appendix. https://www.nelp.org/content/uploads/2015/03/Giving-Caregivers-A-Raise.pdf (accessed May 20, 2015).

[16] "Giving Caregivers a Raise: The Impact of a $15 Wage Floor in the Home Care Industry," National Employment Law Project, February 2015, page 2 – also see Technical Appendix, https://www.nelp.org/content/uploads/2015/03/Giving-Caregivers-A-Raise.pdf - accessed May 20, 2015.

The State Auditor's office did not receive a response from the **Department of Agriculture, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri,** and **St. Louis Community College**.

**Fiscal Note Summary**

State universities and governmental entities estimate one-time costs exceeding $100,000 with the total costs being unknown and increased annual costs of at least $115,000. Local governmental entities estimate no costs or savings from this proposal.

16-055

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

May 11, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Chuck Hatfield regarding a proposed constitutional amendment to Article X (2016-055)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Chuck Hatfield on May 7, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

RECEIVED
MAY 11 2015
STATE AUDITOR

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-055

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and name of the city, town or village in which I live are correctly written after my name.

(Official Ballot title)

RECEIVED
2015 MAY -7 PM 4:05
SEC. OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI,

COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)
(Petition Circulator's Printed Name)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | Zip Code | Congr. Dist. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
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| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer _____.

_____
Signature of Affiant (Person obtaining signatures)

_____
Street address of Affiant

_____
Printed Name of Affiant

_____
City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My commission expires:

16-055

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Article X is amended by adding one new section to be known as Section 26, to read as follows:

Section 26. The state is hereby prohibited from imposing any new tax on services or activities that were not subject to tax on January 1, 2015.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-055)**

## Subject

Initiative petition from Chuck Hatfield regarding a proposed constitutional amendment to Article X. (Received May 11, 2015)

## Date

June 1, 2015

## Description

This proposal would amend Article X of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **State Tax Commission.**

**Marc Ellinger** provided information on this proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated no cost to their department.

Officials from the **Department of Higher Education** indicated they have reviewed the provisions of this initiative petition. Although the proposal would limit the ability of the state to revise its tax structure, it is impossible for their department to determine what tax revenues the state might forgo as a result or the impact the limit would have on appropriations to higher education. Consequently, while they do not believe the proposal would have a direct fiscal impact on their department, the actual potential impact is unknown.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated the fiscal impact from this proposal is unknown. While there would appear to be no current and direct fiscal impact from these provisions on their department, they would certainly and perhaps severely limit what state and local governments can do in the future in terms of changing the way taxes are handled.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this petition will have no fiscal impact on their department.

Department officials provided the following additional information:

They reviewed the comments submitted and disagree with the assumptions. Please see below:

**The Initiative Petition will require a substantial increase in Department of Revenue lawyer FTEs**
The Department feels there is already a sufficient legal staff available to handle any possible new litigation.

**The Initiative Petition will require a substantial increase in Department of Revenue non-lawyer FTEs**
The Department currently maintains records of all exemptions under Missouri law and how they apply. These provisions will not change anything.

**The Initiative Petition will eliminate the revenue from the Parks and Soils tax**
Both are constitutional provisions. This provision does not trump the tax or the need for election in another provision. Also, the tax is imposed as of January 1, 2015. Therefore, it may still be approved to continue after that date.

**The Initiative Petition will eliminate the revenue from the Kansas City transportation sales tax**
The tax is imposed as of January 1, 2015. Therefore, it may still be approved to continue after that date. Where there is some litigation risk, the law already says that there must be a vote to extend. This provision should not impact that fact.

Officials from the **Department of Public Safety** indicated this petition could restrict their ability to establish a way to fund public safety programs going forward, but the fiscal impact would not measurable at this point.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated they assume there will be no fiscal impact.

Officials from the **Office of Administration** indicated:

The proposal enacts a new section (Section 26) in Article X of the Missouri Constitution. This section would prohibit the state from imposing any new tax on services or activities not subject to tax on January 1, 2015.

The state sales tax base continues to shrink as the amount of Internet sales increases. This proposal would prevent the state from modernizing its taxing structure in the future to include Internet sales, which would negatively impact the state's ability to raise sufficient revenue to support vital state services. This proposal would also negatively impact the state's ability to restructure tax policy in the future.

This proposal will not impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **St. Louis County** indicated although there would be no impact on existing revenue streams, passage of this initiative petition eliminating any new future tax levy beyond January 1, 2015, would preclude the State of Missouri from enabling their county's proposed law enforcement sales tax for unincorporated areas. This would eliminate potential future revenues of $16 million to their county. Similar to Initiative Petition 16-054, this petition would also tie the hands of future legislators in terms of authorizing any need-specific taxes in coming years.

Officials from the **City of Columbia** indicated if this amendment prohibited additional fuel taxes and new revenue for highways and transportation, this could affect their city's ability to adequately maintain its infrastructure. There is no guarantee that local voters would approve replacement revenue sources.

Officials from the **City of Kansas City** indicated:

Initiative Petition 16-054 would prohibit the state from imposing a sales or use tax on any service or activity that was not subject to a sales or use tax on January 1, 2015. Initiative Petition 16-055 would prohibit the state from imposing any new tax on services or activities that were not subject to tax on January 1, 2015. In the 2015 session, the Missouri legislature passed Senate Bill 190 to eliminate the December 31, 2015 expiration date of the Kansas City transportation sales tax. If Initiative Petitions 16-054 and 16-055 are adopted and interpreted so as to nullify Senate Bill 190 and cause the Kansas City transportation sales tax to expire on December 31, 2015, Kansas City would sustain the following revenue losses:

Revenue Loss from Kansas City transportation sales tax
Fiscal Year 2016: $12,166,667 loss (period of 1/1/16 to 4/30/16)
Fiscal Year 2017: $36,500,000 loss
Fiscal Year 2018: $36,500,000 loss
All future fiscal years after 2018: $36,500,000 loss

These two initiatives could also be interpreted to prevent the Missouri legislature from fully adopting the Streamlined Sales Tax and taxing remote on-line sales if Congress were to enact the Marketplace Fairness Act. The Marketplace Fairness Act would enable states and local governments to levy sales and use tax on Internet purchases by their residents from out-of-state merchants. The future revenue loss to Kansas City from the inability to levy sales and use tax on Internet purchases from out-of-state merchants is estimated at $203 million per year.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from **Metropolitan Community College** indicated unknown impact for their college.

Officials from **University of Missouri** indicated this initiative petition would not have a significant fiscal impact on their university.

**Marc Ellinger** provided the following information for this initiative petition.

I submit the following proposed statement of fiscal impact for the Initiative Petition that was filed by Chuck Hatfield on May 7, 2015. The initiative petition has been labeled by the Secretary of State as 2016-055.

The initiative petition would prohibit the state from imposing a tax on any service or activity that was not subject to a sales or use tax on January 1, 2015.

**(1) Initiative Petition 2016-055 will require a substantial increase in Department of Revenue lawyer FTEs**

The Initiative Petition will increase costs to the state due to increased litigation as a result of the proposed measure. The largest component of "litigation costs" is the personnel costs. The Department of Revenue currently employs a small army of lawyers. In 2014, the State spent more than 1.6 million dollars of taxpayer money to fund the salaries of the Department's lawyers. (See Appendix A). Since 2010, the Director of Revenue has been a party to more than fifty Missouri Supreme Court cases.[1]

Whether or not a service or activity is currently subject to tax has been the focus of considerable litigation, especially in recent years. Already this year, the Missouri Supreme Court has decided *Alberici Constructors, Inc. v. Director of Revenue*, 452 S.W.3d 632 (Mo. banc 2015) (a use tax case), *Southwestern Bell Telephone Company v. Director of Revenue*, 454 S.W.3d 871 (Mo. banc 2015) (a franchise tax case), *Fred Weber Inc. v. Director of Revenue*, 452 S.W.3d 628 (Mo. banc 2015) (a sales tax case), *Ben Hur Steel Worx v. Director of Revenue*, 452 S.W.3d 624 (Mo. banc 2015) (a sales

[1] See, generally, www.courts.mo.gov/casenet.

and use tax case), *Five Delta Alpha, LLC v. Director of Revenue*, --- S.W.3d ---, 2015 WL 777898 (Mo. banc 2015) (a use tax case), and *Tatson, LLC v. Director of Revenue*, 456 S.W.3d 43 (Mo. banc 2015) (a sales tax case). These cases account for 17% of the total cases handed down so far this year by the Missouri Supreme Court.

Furthermore, an amendment of this type would incentivize parties, who previously would have reached a settlement with the Department, to seek a legal determination that their services and/or activities were not subject to a tax on January 1, 2015. Such determination would essentially provide them with a perpetual exemption from tax.

The increase in litigation will necessitate additional lawyer FTEs for the Department of Revenue. These costs should be included in the Fiscal Note Summary. At the very least, the Fiscal Note Summary should state "the proposal's passage will likely lead to increased litigation-related costs." [2]

**(2) Initiative Petition 2016-055 will require a substantial increase in Department of Revenue non-lawyer FTEs**

The initiative would also prohibit the state from repealing any of the current exemptions in Missouri's tax law. Thus, the initiative would require the Department to track current exemptions. In a 2013 audit, the Department of Revenue admitted it does

[2] This language was previously adopted by the Auditor for Initiative Petitions 2016-021 and 2016-022 (attached hereto as Appendix B).

not currently track or report exemptions and stated "to track and report exemptions, the Department would require a substantial increase in FTE[.]" [3]

**(3) Initiative Petition 2016-055 will eliminate the revenue from the Parks and Soils tax**

The proposed measure essentially prohibits any new taxes. The existing Parks and Soils tax in Article IV, Section 47(a) of the Missouri Constitution, which imposes a sales tax of one-tenth of one percent, expires in 2016. Mo. Const. art. IV, Section 47(c). Without additional voter approval, Sections 47(a), (b), and (c) terminate. As of January 1, 2015 there is not a tax under Section 47 of the Missouri Constitution on or after 2016. The initiative effectively eliminates the Parks and Soils tax after 2016. The amount collected in FY2014 from the state sales and use tax for Parks and Soils was $76,121,334.[4] That is an increase over the $67.9 million that was collected in FY2010. The loss to the state in 2017 as a result of the elimination of the Parks and Soils tax in Article IV, Section 47 will be at least $76 million dollars.

**(4) Initiative Petition 2016-055 will eliminate the revenue from the Kansas City transportation sales tax**

In 2015, the legislature passed Senate Bill 190 (attached as Appendix D) which would extend the Kansas City transportation sales tax indefinitely. However, the proposed measure prohibits any new taxes that were not in effect as of January 1, 2015.

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[3] http://auditor.mo.gov/Repository/Press/2013-015.pdf (attached hereto, without Appendixes, as Appendix C).

[4] http://dor.mo.gov/pdf/financialstatreport14.pdf.

As of January 1, 2015, there was no Kansas City transportation sales tax on or after December 31, 2015. As such, the state would be prohibited from imposing or extending such tax as a result of Initiative Petition 2016-055. If the sales tax expires, the result is a loss to the City of Kansas City in the amount of $36.5 million dollars annually (Fiscal Note for SB 190 attached as Appendix E).

**Conclusion**

No savings or reduction in costs to state government can be gleaned in any manner from the proposed Initiative Petition. Additionally, since the local sales taxes are based upon the State Sales Tax Act, the limitations noted above would therefore affect local sales and use taxes. Thus local governments could also see reduced revenues in the future as a result of the proposed measure.

The proposed measure would have a significant negative economic impact on the state. The proposed measure will increase litigation related costs, eliminate the state Parks and Soils tax and eliminate the Kansas City transportation sales tax. Any estimate of fiscal impact of the proposed measure must include these significant losses in order to adequately inform potential signors and voters. The use of the phrase "unknown" suggests an ambiguity regarding costs or savings – that such costs or savings could be positive or negative. Since there is no evidence to support (1) any reduction in costs (2) any savings, or (3) any increased revenues, such ambiguity cannot be included in the fiscal note summary. Therefore use of the word "unknown," unless it includes the phrase "negative impact," is improper.

| | | | |
|---|---|---|---|
| 2014 REVENUE | ASSOCIATE COUNSEL | ALLEN, CHANDREKA N. | 26,374.38 |
| 2014 REVENUE | ASSOCIATE COUNSEL | AUSMUS, MARK DAVID | 5,859.96 |
| 2014 REVENUE | ASSOCIATE COUNSEL | BRIGHT, DEANNA MARIE | 33,185.44 |
| 2014 REVENUE | ASSOCIATE COUNSEL | FEHR, CHRISTOPHER R. | 46,858.68 |
| 2014 REVENUE | ASSOCIATE COUNSEL | HOUDEK, THOMAS A | 9,766.60 |
| 2014 REVENUE | ASSOCIATE COUNSEL | MARTIN, SPENCER ADAM | 9,766.60 |
| 2014 REVENUE | ASSOCIATE COUNSEL | SANDERS, MARIA A | 30,983.49 |
| 2014 REVENUE | CHIEF COUNSEL | MONAGHAN, MAUREEN M | 65,583.00 |
| 2014 REVENUE | GENERAL COUNSEL - DIVISION | HALE, JONATHAN HOWARD | 41,588.75 |
| 2014 REVENUE | GENERAL COUNSEL - DIVISION | KISLING, MICHAEL SHAYNE | 70,483.08 |
| 2014 REVENUE | GENERAL COUNSEL - DIVISION | PLAGGENBERG, JOSEPH G | 1,875.00 |
| 2014 REVENUE | LEGAL COUNSEL | AUSMUS, MARK DAVID | 37,642.50 |
| 2014 REVENUE | LEGAL COUNSEL | BERNSEN, TORY DOWD | 43,023.00 |
| 2014 REVENUE | LEGAL COUNSEL | CONWAY, STEPHEN | 43,023.00 |
| 2014 REVENUE | LEGAL COUNSEL | COOPER, CAMERON H | 43,023.00 |
| 2014 REVENUE | LEGAL COUNSEL | HOUDEK, THOMAS A | 34,055.50 |
| 2014 REVENUE | LEGAL COUNSEL | KENNEDY, DANIEL J | 43,023.00 |
| 2014 REVENUE | LEGAL COUNSEL | MARTIN, SPENCER ADAM | 34,055.50 |
| 2014 REVENUE | LEGAL COUNSEL | SLAWSON, BENJAMIN C | 43,023.00 |
| 2014 REVENUE | LEGAL COUNSEL | VEIT, DAWN RENEE | 12,228.41 |
| 2014 REVENUE | LEGAL COUNSEL | VITALE, DESIREE JUDE | 48,483.00 |
| 2014 REVENUE | MANAGING COUNSEL | BERTELS, RYAN EUGENE | 4,361.59 |
| 2014 REVENUE | MANAGING COUNSEL | FREUDENBERG, ROGER L. | 67,602.12 |
| 2014 REVENUE | MANAGING COUNSEL | GINTHER, STEVEN ALLAN | 67,602.12 |
| 2014 REVENUE | MANAGING COUNSEL | GOOCH, CHARLES L | 67,602.12 |
| 2014 REVENUE | MANAGING COUNSEL | LAKS, YAMINI A. | 51,729.10 |
| 2014 REVENUE | MANAGING COUNSEL | MILLER, DALE WOOD | 39,660.62 |
| 2014 REVENUE | SENIOR COUNSEL | ALLEN, CHANDREKA N. | 15,642.69 |
| 2014 REVENUE | SENIOR COUNSEL | BRIGHT, DEANNA MARIE | 15,642.69 |
| 2014 REVENUE | SENIOR COUNSEL | CHENAULT, JAMES A. | 60,363.48 |
| 2014 REVENUE | SENIOR COUNSEL | COX, JOSEPH M | 53,611.08 |
| 2014 REVENUE | SENIOR COUNSEL | LAFAVER, BEVERLY L | 54,718.44 |
| 2014 REVENUE | SENIOR COUNSEL | LAKS, YAMINI A. | 2,708.33 |
| 2014 REVENUE | SENIOR COUNSEL | LAUGHLIN, JANE A | 59,983.08 |
| 2014 REVENUE | SENIOR COUNSEL | LISSANT, SUSAN LEAH | 53,611.08 |
| 2014 REVENUE | SENIOR COUNSEL | MOREAU, SHERYL L | 28,738.76 |
| 2014 REVENUE | SENIOR COUNSEL | MURRAY, MICHAEL LEE | 56,987.16 |
| 2014 REVENUE | SENIOR COUNSEL | PRITCHARD, JAN | 53,611.08 |
| 2014 REVENUE | SENIOR COUNSEL | ROSE, GLORIA JEAN | 59,445.71 |
| 2014 REVENUE | SENIOR COUNSEL | SANDERS, MARIA A | 20,112.03 |
| 2014 REVENUE | SENIOR COUNSEL | SPRADLIN, JAMES L | 53,611.08 |
| 2014 REVENUE | SENIOR COUNSEL | SULLIVAN, STEPHEN PATRICK | 56,987.16 |
| | | Total | 1,668,236.41 |

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY
65102

CHRIS KOSTER
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

March 12, 2015

OPINION LETTER NO. 26-2015

The Honorable John Watson
Missouri State Auditor
State Capitol, Room 121
Jefferson City, MO 65101

Dear Auditor Watson:

This office received your letter of March 2, 2015, submitting a fiscal note and fiscal note summary prepared under § 116.175, RSMo, for an initiative petition submitted by Jill Carter, version 1 (16-021). The fiscal note summary that you submitted is as follows:

> Any potential costs or savings from this proposal to state and local governmental entities is unknown. However, the proposal's passage will likely lead to increased litigation-related costs and impact the ability of state and local governments to provide certain health and welfare services.

Under § 116.175.4, RSMo, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the initiative petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

**CHRIS KOSTER**
Attorney General

OP-2015-0031

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY
65102

CHRIS KOSTER
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

March 12, 2015

OPINION LETTER NO. 27-2015

The Honorable John Watson
Missouri State Auditor
State Capitol, Room 121
Jefferson City, MO 65101

Dear Auditor Watson:

This office received your letter of March 2, 2015, submitting a fiscal note and fiscal note summary prepared under § 116.175, RSMo, for an initiative petition submitted by Jill Carter, version 2 (16-022). The fiscal note summary that you submitted is as follows:

> Any potential costs or savings from this proposal to state and local governmental entities is unknown. However, the proposal's passage will likely lead to increased litigation-related costs and impact the ability of state and local governments to provide certain health and welfare services.

Under § 116.175.4, RSMo, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the initiative petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

**CHRIS KOSTER**
Attorney General

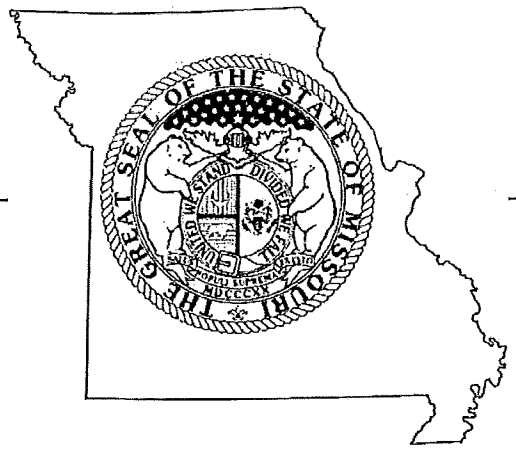
OP-2015-0032

# Thomas A. Schweich

**Missouri State Auditor**

# REVENUE

# Sales and Use Tax



**February 2013**

**Report No. 2013-15**

**http://auditor.mo.gov**

APPENDIX C

**Thomas A. Schweich**
**Missouri State Auditor**

# CITIZENS SUMMARY

## Findings in the audit of the Department of Revenue, Sales and Use Tax

### Individual Consumer Use Tax and Internet Sales

Missouri's individual consumer use tax requirements are not well known by the general public and are difficult to enforce and administer. The audit report expresses no opinion on the economic effect of collecting the tax but notes the unworkable structure in place now. Missouri law imposes an individual consumer use tax on the storage, use, or consumption of tangible personal property which is required to be paid unless sales or use tax is paid to the seller or the property is tax exempt. Also, use tax is due on purchases from a seller which is not engaged in business. A purchaser is required to file a use tax return if the cumulative purchases subject to use tax exceed $2,000 in a calendar year. The United States Supreme Court has held that states cannot require companies that do not have a physical presence in the state to collect state and local sales taxes. University studies have estimated that Missouri state and local governments have lost and will continue to lose sales/use tax revenue of between $358 million and $474 million annually by not collecting taxes on these sales. The Streamlined Sales and Use Tax Agreement (Agreement) is a cooperative effort among states, local governments, and businesses to simplify sales and use tax collection and administration by retailers and states, intended to minimize costs and administrative burdens on retailers that collect sales tax while encouraging out-of-state sellers to collect tax on sales to customers in the Streamlined states. Forty-four states, including Missouri, signed the Agreement, but Missouri has not passed implementing legislation.

The Department of Revenue (DOR) does not include a specific line that requires state individual income taxpayers to state whether they made purchases exceeding $2,000 for which sales or use tax was not paid, and, as a result, most taxpayers are not likely aware of the consumer use tax requirement. If the state continues to impose the individual consumer use tax, there are additional enforcement procedures the DOR should consider.

### Ongoing Concerns

The DOR does not track and report information regarding some sales and use tax exemptions, and so the cost in terms of reduced state revenue for each exemption cannot be determined. DOR records indicate adjustments to gross sales receipts totaled over $154 billion, $144 billion, and $147 billion in fiscal years 2011, 2010, and 2009, respectively. The DOR has agreed that tracking exemptions is a good idea, but it believes the recommendation increases the reporting burden on vendors and has indicated the current sales tax system might not have the capacity to handle the additional information. However, the DOR and the Office of Administration awarded a contract in February 2012 for a new Missouri Integrated Revenue System (MIRS) which should not have similar limitations.

The state is foregoing a significant amount of sales tax revenue because there is no cap on the amount of timely discounts large vendors can take. Business were allowed to keep approximately $102 million, $94 million, and $95 million in state and local sales tax revenues collected from purchases in fiscal years 2011, 2010, and 2009, respectively, as an incentive for timely submitting state sales tax payments. Moreover, the DOR does not routinely report the amount of timely discounts to the General Assembly.

When consumers overpay sales or use taxes, the DOR refunds the vendor the overpayment plus interest, but vendors are not required to return these funds to the original purchaser, resulting in a windfall for the vendor. The DOR has previously agreed to support legislation that would require sales and use tax refunds and related interest to be returned to the original purchaser, but, to date, such legislation has not been successful.

The General Revenue Fund (GRF) does not receive reimbursement from local funds for their proportionate share of interest paid on refunds of sales and use taxes. Sales and use tax refunds, including interest, are made from the GRF, and adjustments are automatically made to reimburse the GRF for the principal amount due from local funds. However, adjustments are not automatically made to reimburse the GRF for the amount of interest due from local funds. Although the DOR has previously agreed that local funds should pay their proportionate share of this interest, the DOR has not been able to develop a method for recovering this interest with the current tax system, but according to DOR personnel the new MIRS should not have this limitation.

## Automated Sales Suppression Device

Missouri law does not prohibit the creation, sale, purchase, installation, transfer, or possession of an automated sales suppression device (a software program commonly known as a zapper). Zapper software enables businesses to evade tax liability by altering the electronic sales records in a cash register to make it appear that fewer transactions have occurred. At least 10 other states have passed or are considering similar legislation.

In the areas audited, the overall performance of this entity was **Good**.*

## American Recovery and Reinvestment Act (Federal Stimulus)

The Department of Revenue did not receive any federal stimulus monies for sales and use tax operations during the audited time period.

*The rating(s) cover only audited areas and do not reflect an opinion on the overall operation of the entity. Within that context, the rating scale indicates the following:

**Excellent:** The audit results indicate this entity is very well managed. The report contains no findings. In addition, if applicable, prior recommendations have been implemented.

**Good:** The audit results indicate this entity is well managed. The report contains few findings, and the entity has indicated most or all recommendations have already been, or will be, implemented. In addition, if applicable, many of the prior recommendations have been implemented.

**Fair:** The audit results indicate this entity needs to improve operations in several areas. The report contains several findings, or one or more findings that require management's immediate attention, and/or the entity has indicated several recommendations will not be implemented. In addition, if applicable, several prior recommendations have not been implemented.

**Poor:** The audit results indicate this entity needs to significantly improve operations. The report contains numerous findings that require management's immediate attention, and/or the entity has indicated most recommendations will not be implemented. In addition, if applicable, most prior recommendations have not been implemented.

# Department of Revenue
# Sales and Use Tax
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# THOMAS A. SCHWEICH
## Missouri State Auditor

Honorable Jeremiah W. (Jay) Nixon, Governor
and
Brian K. Long, Director
Department of Revenue
Jefferson City, Missouri

We have audited certain operations of the Department of Revenue, sales and use tax collections, as required by Sections 32.087 and 67.525, RSMo. The scope of our audit included, but was not necessarily limited to, the years ended June 30, 2011, 2010, and 2009. The objectives of our audit were to:

1. Evaluate the department's internal controls over significant management and financial functions.

2. Evaluate the department's compliance with certain legal provisions.

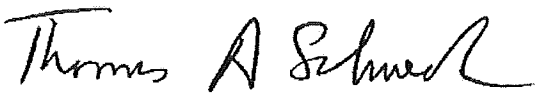
3. Evaluate the economy and efficiency of certain management practices and operations, including certain financial transactions.

Our methodology included reviewing written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the department; analysis of comparative data obtained from internal sources; and testing selected transactions. We obtained an understanding of internal controls that are significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We tested certain of those controls to obtain evidence regarding the effectiveness of their design and operation. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contract or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

The accompanying Organization and Statistical Information is presented for informational purposes. This information was obtained from the department's management and was not subjected to the procedures applied in our audit of the department.

For the areas audited, we identified (1) a deficiency in internal controls, (2) no significant noncompliance with legal provision, and (3) the need for improvement in management practices and procedures. The accompanying Management Advisory Report presents our findings arising from our audit of the Department of Revenue, sales and use tax collections.



Thomas A. Schweich
State Auditor

The following auditors participated in the preparation of this report:

| | |
|---|---|
| Deputy State Auditor: | Harry J. Otto, CPA |
| Director of Audits: | John Luetkemeyer, CPA |
| Audit Manager: | Toni Crabtree, CPA |
| In-Charge Auditor: | Robyn Vogt, M.Acct., CPA |
| Audit Staff: | Corey McComas, M.Acct., CPA |
| | Aaron D. Allen |

# Department of Revenue
# Sales and Use Tax
# Management Advisory Report - State Auditor's Findings

## 1. Individual Consumer Use Tax and Internet Sales

Missouri's individual consumer use tax requirements are not well known by the general public, require extensive taxpayer record keeping, are generally not complied with, and are difficult to enforce and administer. This report expresses no opinion on the economic effect of collecting the tax on the economy of Missouri; the report simply notes the unworkable structure in place now.

### Background information

State law imposes an individual consumer use tax on the storage, use, or consumption of tangible personal property in Missouri. The consumer use tax is required to be paid unless sales or use tax is paid to the seller or the property is tax exempt. Also, use tax should be paid on purchases from a seller which is not engaged in business. A purchaser is required to file an annual use tax return with the Department of Revenue (DOR) if the cumulative purchases subject to use tax exceed $2,000 in a calendar year. The use tax is computed on the purchase price of all goods once purchases exceed $2,000. Consumer use tax information and requirements are posted on the DOR website.

The type of purchases subject to use tax include, but are not limited to, 1) catalog purchases, 2) magazine subscriptions, 3) cross-border purchases of goods, 4) TV marketing purchases, 5) computer software and hardware, 6) mail-order supply purchases, 7) furniture and equipment purchases from out-of-state sellers, 8) purchases of goods over the Internet (e-commerce) and by phone, and 9) purchases of goods from outside the United States. Currently, state law requires local businesses to collect sales tax, even if they have an online business, because these businesses have a physical presence (nexus) in the state. However, under a 1992 U.S. Supreme Court ruling[1], states cannot require companies that do not have nexus to collect state and local sales taxes. As a result, Missouri cannot require businesses without nexus to collect sales tax on goods sold to Missouri residents. Federal legislation has been proposed that would enable states to require online retailers to collect and remit sales taxes, while also providing businesses with an effective means to comply. Such legislation includes the Marketplace Fairness Act, the Main Street Fairness Act, and the Marketplace Equity Act.

With the increasing popularity and usage of the Internet, e-commerce sales have grown significantly over recent years. University studies[2] have

[1] Quill orp v, North Dakota, 504 U.S.298 (1992)

[2] Bruce, Donald, William F. Fox, LeAnn Luna, "State and Local Government Sales Tax Revenue Losses from Electronic Commerce," University of Tennessee, Center for Business and Economic Research, <http://cber.bus.utk.edu/ecomm.htm>, accessed on April 27,2012; and Huanfin Ting, John Kosash and Andrew Wesemann (2012). "Internet Sales and Use Tax Issues in Missouri" Report 01-2012, University of Missouri Columbia, Institute of Public Policy, <http://ipp.missouri.edu/Publications/306>, accessed on June 5, 2012.

estimated that Missouri state and local governments have lost and will continue to lose sales/use tax revenue of between $358 million and $474 million annually by not collecting taxes on these sales. Both studies also noted that local vendors face a competitive disadvantage because consumers that make purchases online avoid paying sales/use taxes. However, it is possible that if taxes were collected on e-commerce sales, consumer purchasing habits could change resulting in less revenue for the state than forecasted. The issues of revenue, consumer spending habits, and the economic effect of increased taxation are beyond the scope of this report.

## Streamlined Sales and Use Tax Agreement

The Streamlined Sales and Use Tax Agreement (Agreement) is a cooperative effort among states, local governments, and businesses to simplify sales and use tax collection and administration by retailers and states. The Agreement aims to minimize costs and administrative burdens on retailers that collect sales tax, while also encouraging out-of-state sellers to collect tax on sales to customers in the Streamlined states. Forty-four states, including Missouri, signed the Agreement, originally adopted in November 2002, and 24 of these states have passed legislation to conform to the Agreement. Legislation was introduced in Missouri during the 2012 legislative session and in prior years to implement the provisions of the Agreement; however, such legislation has not passed. Participation in the Agreement is voluntary for businesses and consumers; therefore, Missouri cannot require out-of-state sellers without nexus to collect sales taxes on purchases made by Missouri residents. However, according to the University of Missouri report, each state that has entered into the Agreement collected, on average, an additional $30.7 million, in total, in e-commerce tax revenue between 2005 to 2010.

Some states (such as Washington, North Dakota, New York, Kansas, and Kentucky) have entered into agreements with large Internet sellers, to collect and remit state and local sales taxes. Large Internet sellers have also negotiated deals with other states to collect sales tax in the future. In other instances, Internet sellers have agreed to disclose sales and use tax requirements on their Internet sites for certain states. Such disclosures inform customers that many states require purchasers to file a sales or use tax return reporting all taxable purchases that were not taxed and to pay tax on those purchases, and may include a link to that state's website.

## Individual income tax forms

The DOR does not include a specific line that requires state individual income taxpayers to state whether they made purchases exceeding $2,000 for which sales or use tax was not paid. As a result, most taxpayers are not likely aware of the consumer use tax requirements as evidenced by the small amount of consumer use tax collections.

According to DOR records, the following consumer use tax was paid:

| Tax Year | 2011 (1) | 2010 | 2009 | 2008 |
|---|---|---|---|---|
| Number of individual tax returns | 2,917,023 | 2,876,787 | 3,019,358 | 3,080,945 |
| Number of use tax returns | 168 | 190 | 125 | 96 |
| Use tax paid | $205,087 | 301,474 | 110,784 | 40,714 |

(1) Tax year 2011 information through August, 2012.

If the state continues to impose the individual consumer use tax, there are additional enforcement procedures the DOR should consider. Our review of other states' procedures noted some states include a specific line on its individual income tax return to report purchases made for which sales or use tax was not paid. In addition, to reduce taxpayer recordkeeping burden, some states provide an optional use tax reporting table which bases the consumer's use tax liability on a percentage of adjusted gross income rather than actual purchases.

To increase taxpayer compliance with existing individual consumer use tax laws, the DOR should consider revising individual income tax forms to include a specific line regarding purchases made for which sales or use tax was not paid, and an optional use tax reporting table which bases consumer use tax liability on a percentage of adjusted gross income rather than actual purchases.

## Recommendation

The DOR revise the individual income tax forms to increase taxpayer compliance with existing individual consumer use tax laws.

## Auditee's Response

*The Department supports the collection of all taxes due the state of Missouri, including use taxes. However, adding a line on the return may not have much impact on use tax collections, but it would delay the availability of general revenue funds. This delay could be substantial in the April-May time frame when the majority of individual income tax revenues are received.*

*Individual income tax revenues are all general revenue funds and currently are deposited very quickly, usually the same or next day even during the April-May time frame. If those funds were combined with use tax funds, all money would need to be deposited in a suspense account until the return is processed and the appropriate local and state fund distribution can be determined. This could delay availability of the funds by as much as six weeks. The Department will continue to explore other ways to encourage compliance with use tax laws that do not negatively affect the timely transfer of funds to the general revenue fund.*

## Auditor's Comment

We do not agree with the Department's contention that enforcing existing consumer use tax law would need to unnecessarily delay the availability of general revenue funds. The DOR could place only the consumer use tax portion in the suspense account thereby eliminating any need to delay the availability of general revenue funds.

# 2. Ongoing Concerns

The DOR does not track and report information regarding some sales and use tax exemptions or routinely report to the General Assembly for its consideration the amount of timely discounts taken by businesses. Under Missouri law, vendors are not required to return sales and use tax refunds to the original purchaser when applicable, and local funds are not paying their proportionate share of interest paid on refunds of sales and use taxes.

These issues are ongoing concerns and have been reported in prior audit reports.

## 2.1 Sales and use tax exemptions

The DOR does not track and report information regarding some sales and use tax exemptions. As a result, the cost in terms of reduced state revenue for each exemption cannot be determined.

According to DOR records, there are currently 150 sales and use tax exemptions provided by state law. The DOR only tracks exemptions related to the 3 percent reduction on food sales, textbook sales, and manufacturing sales.

Vendors remit monthly, quarterly, or annual sales and use tax returns to the DOR. The returns include gross sales receipts, adjustments to gross sales receipts, and taxable sales. The adjustment amounts include, but are not limited to, exempt sales for the period of the sales tax return (file period), and corrections of errors from previous file periods.

DOR records indicate adjustments to gross sales receipts totaled over $154 billion, $144 billion, and $147 billion in fiscal years 2011, 2010, and 2009, respectively. Detailed information of what is included in the adjustments total is not required to be provided on returns, and according to DOR personnel, only taxable sales are reported on some returns, with the gross sales receipts or adjustment amounts not included.

Although the DOR has previously agreed that tracking exemptions is a laudable goal, the DOR believes the recommendation increases the burden of reporting on taxpayers (vendor) and is contrary to the provision which requires simplified returns in the Streamlined Sales and Use Tax Agreement, (see MAR finding number 1). The DOR has indicated that when Missouri comes into substantial conformity with the Agreement, the DOR will require filers to submit a report of consolidated exempt sales by exemption type in accordance with the Agreement. However, as previously

noted, legislation is required to put the state into conformity with the Agreement and Missouri has yet to pass such legislation.

The DOR has also indicated the current sales tax system would require significant reprogramming, and might not have the capacity to handle the additional information from tracking and reporting exemptions. In February 2012, the DOR and the Office of Administration awarded a contract for a new Missouri Integrated Revenue System (MIRS). According to DOR personnel, although the new system is currently in the developmental stages, it should not have similar limitations.

## 2.2 Timely discounts

The DOR does not routinely report to the General Assembly for its consideration the amount of timely discounts taken by businesses. This discount was established for businesses to recover a portion of their costs for compliance with state sales tax laws. However, the state is foregoing a significant amount of sales taxes revenue because there is not a cap on the amount of timely discounts taken by large vendors.

Approximately $102 million, $94 million, and $95 million in state and local sales tax revenues were collected from purchasers but retained as timely discounts by businesses remitting sales and use taxes in fiscal years 2011, 2010, and 2009, respectively.

Section 144.710, RSMo, allows businesses remitting sales and use taxes to retain 2 percent of taxes payable to the DOR if the business remits payments in a timely manner. These discounts reduce the amount of sales and use taxes received by the state and local governments. According to a November 2008 report[3], 46 states (including the District of Columbia) impose state sales taxes, 26 states allow businesses a discount and/or compensation for recording and remitting sales tax collections, and 13 states, including Missouri, have not established a ceiling to limit amount of taxes businesses can retain. Of the eight states contiguous to Missouri, three (Iowa, Kansas and Tennessee) do not allow businesses to retain any compensation, and four (Arkansas, Kentucky, Nebraska, and Oklahoma) have established ceilings to limit the amount of discount and/or compensation retained by businesses.

Sales and use tax revenues are used to fund significant portions of state and local government budgets. For example, in fiscal year 2011, sales and use taxes comprise approximately 25 percent of the state's general revenue. The General Assembly needs timely and accurate information regarding reductions to sales and use tax revenues resulting from timely discounts to make informed financial decisions.

[3] *Skimming the Sales Tax,* Good Jobs First, November 2008.

The DOR previously indicated they provided the timely discount information when requested, and is willing and able to do so.

## 2.3 Refunds

State law does not require vendors to return sales and use tax refunds and related interest to the original purchaser when applicable, resulting in a windfall for the vendor. In addition, in many instances, the vendor may not even be able to identify the original purchasers to whom the refunds are due, further increasing the likelihood of a windfall. The DOR distributed sales and use tax refunds, including interest, of approximately $50 million, $60 million, and $71 million during fiscal years 2011, 2010, and 2009, respectively.

Vendors collect sales and use taxes from their customers and remit the taxes to the DOR. Section 144.190, RSMo, authorizes the DOR to issue sales and use tax refunds due to an overpayment of sales or use taxes. For some refunds the vendor is the original purchaser and some refunds are the result of taxpayer errors, incorrect quarter-monthly filer estimates, or other circumstances in which sales and use taxes were not collected from a purchaser, and as a result, should be retained by the vendor. However, in many cases, the refund is the result of an over collection of sales tax by the vendor and the refund is due back to the original purchaser.

Section 144.190.6, RSMo, provides, ". . . if a person legally obligated to remit the tax levied pursuant to sections 144.010 to 144.525 has received a refund of such taxes for a specific issue and submits a subsequent claim for refund of such taxes on the same issue for a tax period beginning on or after the date the original refund check issued to such person, no refund shall be allowed . . . . " This section further provides situations in which this section shall not apply and a refund shall be allowed. These include the receipt of additional information or an exemption certificate from the purchaser of the item at issue, a decision of a court of competent jurisdiction or the Administrative Hearing Commission, or changes in regulations or policy by the DOR. However, Section 144.190.6, RSMo, does not provide that refunds must be returned to the original purchaser. In addition, it appears that a vendor may not be able to identify the original purchaser in some cases, such as cash transactions or other point of sale settings where purchaser name or contact information is not captured. In these situations, the vendor would be unable to forward the refund to the original purchaser and would receive the windfall refund.

The DOR has previously agreed to support legislation that would require sales and use tax refunds and related interest to be returned to the original purchaser. However, to date, such legislation has not been successful. The legislation should also address how the refund should be handled when the original purchasers cannot be identified.

## 2.4 Interest paid on refunds local funds

The General Revenue Fund (GRF) does not receive reimbursement from local funds for their proportionate share of interest paid on refunds of sales and use taxes.

Based on the percentage of distributions to local funds to total distributions to state and local funds (exclusive of the GRF), interest payments of approximately $383,000, $1,723,000, $2,133,000 should have been allocated to local funds during fiscal years 2011, 2010, 2009, respectively, and is due to the GRF from local funds.

Sales and use tax refunds are issued from the GRF. To reimburse the GRF, adjustments are automatically made in the DOR tax system for the principal and interest amount of the refunds due from other state funds and the principal amount of the refunds due from local funds. However, adjustments are not automatically made to local funds for the interest paid on sales tax refunds.

Although the DOR has previously agreed that local funds should pay their proportionate share of interest paid on refunds, the DOR has been unable to develop any alternatives for recovering interest from local governments without the acquisition of a new tax system. As noted above, a new MIRS is currently being developed, and according to DOR personnel, the limitations of the current tax system should not be an issue with the new system.

## Recommendations

The DOR:

2.1&2 Ensure the tracking and reporting of exemptions and the timely discount is a component of the new MIRS, so that the reductions of state revenue related to each exemption and the timely discount can be determined and reported to the General Assembly.

2.3 Continue to support legislation that would require sales and use tax refunds and related interest to be returned to the original purchaser. Such legislation should also address whether a refund should be made when the original purchaser is not known.

2.4 Ensure the new MIRS has the capability to calculate the reimbursement to the GRF for local funds' proportionate share of interest paid on sales and use tax refunds.

## Auditee's Response

*2.1&2 Tracking and reporting exemptions is an appropriate goal. Reporting exemptions would substantially increase the burden on businesses. Also, based on prior attempts to track limited exemptions, the data collected is likely to be highly inaccurate due to businesses errors in reporting. In addition, to track and report exemptions, the Department would require a substantial increase in*

*FTE, which the current budget does not support. The Department is in the process of implementing an integrated revenue system that may be able to track at least some exemptions, but tracking and reporting the data will still be a significant burden on businesses and the data collected will still be likely to be inaccurate.*

*The Department has provided information regarding the timely filing discount when requested by elected officials from time-to-time, but has not been requested to report this information on a regular basis. The Department is willing and able to do so.*

2.3 *The Department reviews and makes recommendations with respect to existing laws and proposed legislation every year. The Department will review this issue and support appropriate legislation.*

2.4 *This is a requirement in the request for proposal and is scheduled to be implemented when the sales and use tax portion of the system is implemented in 2016.*

## 3. Automated Sales Suppression Device

Missouri law does not prohibit the creation, sale, purchase, installation, transfer, or possession of an automated sales suppression device. This device gives retailers the ability to hide the amount of cash transactions, and thus, evade paying sales taxes on cash transactions.

An automated sales tax device, commonly known as a zapper, is a software program that falsifies the electronic records of point of sale (POS) systems for the purpose of tax evasion. Most often, transactions in stores and restaurants are recorded by a POS system, rather than a mechanical cash register. The POS system records are generally not alterable by the operator and are used as the basis of tax assessments and audits by tax authorities. To hide the removal of cash, a zapper often runs untraceably from a USB flash drive and alters the electronic sales records in a cash register. This makes it appear that fewer transactions occurred than was actually the case. The use of zapper software reduces the tax liability of the business.

Due to concerns about the potential of sales tax zappers to reduce state and local government revenues, some states are enacting legislation to address this type of fraud. According to a recent study[4], Georgia, Maine, Utah, and West Virginia, have passed legislation to subject the technology (automated sales suppression device) that facilitates the fraud to enforcement measures.

[4] Robert T. Ainsworth, "An American Look at Zappers", Boston University School of Law Working Paper No. 12-14, <http:www.bu.edu/law/facuity/scholarship/workpapers/2012.html#>, accessed on October 17, 2012.

Other states, such as Florida, Indiana, Michigan, New York, Oklahoma, and Tennessee have similar legislation pending.

According to DOR management, the DOR is familiar with zapper technology and has taken steps to monitor for the use of zappers. However, the DOR has not identified any business using zappers, and is not aware of pending legislation to address zapper technology.

## Recommendation

The DOR work with the General Assembly on legislation to address the possession and use of automated sales suppression devices by businesses.

## Auditee's Response

*The Department reviews and makes recommendations with respect to existing laws and proposed legislation every year. The Department will review this issue and support appropriate legislation.*

# Department of Revenue
# Sales and Use Tax
# Organization and Statistical Information

The Department of Revenue (DOR) was created by Article IV, Section 12, Missouri Constitution as the central collection agency for state revenues. The Director of Revenue is appointed by the Governor, with the advice and consent of the Senate, and is responsible for all operations and policies. DOR responsibilities include:

1) Administering and collecting state taxes and fees, including sales and use tax, motor vehicle sales tax, and highway use tax.
2) Collecting certain taxes and fees for local governments, including local sales and use tax.
3) Titling and licensing motor vehicles, trailers, and boats.
4) Licensing motor vehicle operators.

The DOR consists of four divisions and the Director's office.

Motor Vehicle and Driver Licensing Division: This division consists of three bureaus. 1) The Motor Vehicle Bureau issues titles and registers motor vehicles, trailers, all-terrain vehicles, manufactured homes, and marine craft. In addition, the bureau issues registration certificates to motor vehicle and salvage dealers and leasing companies. 2) The Driver Licensing Bureau issues, renews, suspends, revokes, and reinstates driver and nondriver licenses and driving permits. The bureau also processes and maintains records regarding license issuance, traffic violation point assessments, and failure to appear in court for traffic violations, and administers the alcohol and abuse laws for alcohol/drug offenders. 3) The License Offices Bureau manages the operations of the contract license offices throughout the state. These local offices provide driver licensing and motor vehicle services. This division collects motor vehicles sales and use taxes.

Taxation Division: This division consists of four bureaus which collect taxes and administer state tax law. 1) The Business Tax Bureau administers sales and use, financial institutions, insurance premiums, franchise, cigarette and other tobacco products, motor fuel, corporate income, withholding, and county taxes and fees. 2) The Personal Tax Bureau administers individual income, partnership, fiduciary, and estate taxes, plus the property tax credit and homestead preservation tax credit. 3) The Collections and Tax Assistance Bureau provides tax assistance to individuals and businesses and handles unpaid tax liabilities. 4) The Field Compliance Bureau audits businesses both in-state and out-of-state to ensure compliance with the state's tax laws.

Administration Division: This division consists of two bureaus. 1) Personnel Services Bureau is responsible for the DOR personnel matters, policies and procedures, training, and written communications. 2) The Financial and General Services Bureau is responsible for accounting, procurement,

banking, and general services such as telecommunications, safety issues, and maintenance.

Legal Services Division: This division ensures DOR compliance with law and internal policies. The General Counsel's Office advises the director and divisions on legal matters and represents the DOR in court. The Criminal Tax Investigation Bureau investigates and develops information for local prosecution of individuals and businesses suspected of violating laws the DOR administers. The Compliance and Investigation Bureau investigates illegal motor vehicle titling and registration, odometer fraud, and tax fraud involving motor fuel sales tax. The bureau also reviews and evaluates the DOR administrative, operations, and internal accounting controls and contract license offices.

Director's Office: This office includes the Director, Deputy Director and key administrative staff. The Director of Communications works with the news media and acts as the DOR spokesperson. The legislative liaison manages the DOR relationship with the General Assembly and other governmental branches. This office also develops fiscal and revenue estimates on proposed legislation.

The Directors of Revenue from July 2008 to November 2012 include:

Omar D. Davis, December 2007 to January 2009
Karen King Mitchell, January 2009 to July 2009
Alana M. Barragan-Scott, (Acting) July 2009 to November 2012 (officially appointed Director in October 2009)

In December 2012, Brian K. Long was appointed Director.

## American Recovery and Reinvestment Act 2009 (Federal Stimulus)

The DOR did not receive any federal stimulus monies for sales and use tax operations during the 3 years ended June 30, 2011.

Appendix A-1

Department of Revenue
Sales and Use Tax
Combined Statement of Receipts and Distributions - State Funds
Year Ended June 30, 2011

| | General Revenue Fund | Aviation Trust Fund | Conservation Commission Fund | Highway Department Fund | Parks Sales Tax Fund | School District Fund | Soil and Water Sales Tax Fund | State Road Bond Fund | State Road Fund | State Transportation Fund | Total (Memorandum Only) |
|---|---|---|---|---|---|---|---|---|---|---|---|
| RECEIPTS | | | | | | | | | | | |
| Highway use tax | $ 0 | 0 | 2,078,213 | 50,836,775 | 831,288 | 0 | 831,289 | 0 | 12,469,685 | 0 | 67,047,250 |
| Marine and ATV sales and use tax | 5,457,077 | 0 | 222,405 | 0 | 88,961 | 1,778,594 | 88,963 | 0 | 0 | 0 | 7,636,000 |
| Motor vehicle sales tax | 1,501,456 | 0 | 7,683,612 | 0 | 3,073,447 | 30,735,246 | 3,073,448 | 92,205,748 | 89,746,926 | 2,458,820 | 230,478,703 |
| Sales and use tax | 1,799,655,636 | 4,669,303 | 85,834,108 | 0 | 34,333,282 | 683,755,451 | 34,333,282 | 8,739,431 | 8,504,938 | 232,453 | 2,660,057,884 |
| Total Receipts | 1,806,614,169 | 4,669,303 | 95,818,338 | 50,836,775 | 38,326,978 | 716,269,291 | 38,326,982 | 100,945,179 | 110,721,549 | 2,691,273 | 2,965,219,837 |
| DISTRIBUTIONS | | | | | | | | | | | |
| Transmitted to State Treasurer | 1,806,614,169 | 4,669,303 | 95,818,338 | 50,836,775 | 38,326,978 | 716,269,291 | 38,326,982 | 100,945,179 | 110,721,549 | 2,691,273 | 2,965,219,837 |
| Total Distributions | 1,806,614,169 | 4,669,303 | 95,818,338 | 50,836,775 | 38,326,978 | 716,269,291 | 38,326,982 | 100,945,179 | 110,721,549 | 2,691,273 | 2,965,219,837 |
| RECEIPTS OVER (UNDER) DISTRIBUTIONS | $ 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

Appendix A-2

Department of Revenue
Sales and Use Tax
Combined Statement of Receipts and Distributions - State Funds
Year Ended June 30, 2010

| | General Revenue Fund | Aviation Trust Fund | Conservation Commission Fund | Highway Department Fund | Parks Sales Tax Fund | School District Fund | Soil and Water Sales Tax Fund | State Road Bond Fund | State Road Fund | State Transportation Fund | Total (Memorandum Only) |
|---|---|---|---|---|---|---|---|---|---|---|---|
| RECEIPTS | | | | | | | | | | | |
| Highway use tax | $ 0 | 0 | 1,893,291 | 46,278,120 | 757,319 | 0 | 757,320 | 0 | 11,360,121 | 0 | 61,046,171 |
| Marine and ATV sales and use tax | 5,431,651 | 0 | 223,480 | 0 | 89,392 | 1,787,499 | 89,393 | 0 | 0 | 0 | 7,621,415 |
| Motor vehicle sales tax | 1,482,390 | 0 | 7,075,789 | 0 | 2,830,318 | 28,304,001 | 2,830,319 | 84,912,003 | 82,647,682 | 2,264,320 | 212,346,822 |
| Sales and use tax | 1,783,069,451 | 4,018,391 | 84,661,629 | 0 | 33,864,165 | 674,348,210 | 33,864,165 | 8,831,602 | 8,594,637 | 234,905 | 2,631,487,155 |
| Total Receipts | 1,789,983,492 | 4,018,391 | 93,854,189 | 46,278,120 | 37,541,194 | 704,439,710 | 37,541,197 | 93,743,605 | 102,602,440 | 2,499,225 | 2,912,501,563 |
| DISTRIBUTIONS | | | | | | | | | | | |
| Transmitted to State Treasurer | 1,789,983,492 | 4,018,391 | 93,854,189 | 46,278,120 | 37,541,194 | 704,439,710 | 37,541,197 | 93,743,605 | 102,602,440 | 2,499,225 | 2,912,501,563 |
| Total Distributions | 1,789,983,492 | 4,018,391 | 93,854,189 | 46,278,120 | 37,541,194 | 704,439,710 | 37,541,197 | 93,743,605 | 102,602,440 | 2,499,225 | 2,912,501,563 |
| RECEIPTS OVER (UNDER) DISTRIBUTIONS | $ 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

Appendix A-3

Department of Revenue
Sales and Use Tax
Combined Statement of Receipts and Distributions - State Funds
Year Ended June 30, 2009

| | General Revenue Fund | Aviation Trust Fund | Conservation Commission Fund | Highway Department Fund | Parks Sales Tax Fund | School District Fund | Soil and Water Sales Tax Fund | State Road Bond Fund | State Road Fund | State Transportation Fund | Total (Memorandum Only) |
|---|---|---|---|---|---|---|---|---|---|---|---|
| RECEIPTS | | | | | | | | | | | |
| Highway use tax | $ 0 | 0 | 1,726,092 | 42,248,271 | 690,439 | 0 | 690,440 | 0 | 10,356,893 | 0 | 55,712,135 |
| Marine and ATV sales and use tax | 5,165,759 | 0 | 212,366 | 0 | 84,946 | 1,698,576 | 84,947 | 0 | 0 | 0 | 7,246,594 |
| Motor vehicle sales tax | 1,508,529 | 0 | 6,711,217 | 0 | 2,684,489 | 26,845,675 | 2,684,491 | 80,537,024 | 78,389,369 | 2,147,653 | 201,508,447 |
| Sales and use tax | 1,874,358,571 | 4,777,063 | 87,921,543 | 0 | 35,167,711 | 699,861,771 | 35,167,711 | 10,476,221 | 10,195,128 | 278,649 | 2,758,204,368 |
| Total Receipts | 1,881,032,859 | 4,777,063 | 96,571,218 | 42,248,271 | 38,627,585 | 728,406,022 | 38,627,589 | 91,013,245 | 98,941,390 | 2,426,302 | 3,022,671,544 |
| DISTRIBUTIONS | | | | | | | | | | | |
| Transmitted to State Treasurer | 1,881,032,859 | 4,777,063 | 96,571,218 | 42,248,271 | 38,627,585 | 728,406,022 | 38,627,589 | 91,013,245 | 98,941,390 | 2,426,302 | 3,022,671,544 |
| Total Distributions | 1,881,032,859 | 4,777,063 | 96,571,218 | 42,248,271 | 38,627,585 | 728,406,022 | 38,627,589 | 91,013,245 | 98,941,390 | 2,426,302 | 3,022,671,544 |
| RECEIPTS OVER (UNDER) DISTRIBUTIONS | $ 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

FIRST REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 190

**98TH GENERAL ASSEMBLY**

2015

0805S.02T

## AN ACT

To repeal section 92.402, RSMo, and to enact in lieu thereof one new section relating to public mass transportation sales taxes.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 92.402, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 92.402, to read as follows:

92.402. 1. Any city may, by a majority vote of its council or governing body, impose a sales tax for the benefit of the public mass transportation system operating within such city as provided in sections 92.400 to 92.421.

2. The sales tax may be imposed at a rate not to exceed one-half of one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within any city adopting such tax, if such property and services are subject to taxation by the state of Missouri pursuant to the provisions of sections 144.010 to 144.525. Seven and one-half percent of the sales tax shall be distributed to the interstate transportation authority pursuant to the provisions of section 92.421. The **[**remainder of the tax in excess of such seven and one-half percent shall expire on December 31, 2015, on which date the**]** authority shall be in full compliance with handicapped accessibility pursuant to the terms of the Americans with Disabilities Act.

3. Within ten days after the adoption of any ordinance imposing such a sales tax, the city clerk shall forward to the director of revenue by United States registered mail or certified mail a certified copy of the ordinance of the council or governing body. The ordinance shall reflect the effective date thereof and shall be accompanied by a map of the city clearly showing the boundaries thereof.

**EXPLANATION–Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

4. If the boundaries of a city in which such sales tax has been imposed shall thereafter be changed or altered, the city clerk shall forward to the director of revenue by United States registered mail or certified mail a certified copy of the ordinance adding or detaching territory from the city. The ordinance shall reflect the effective date thereof, and shall be accompanied by a map of the city clearly showing the territory added thereto or detached therefrom. Upon receipt of the ordinance and map, the tax imposed by sections 92.400 to 92.421 shall be effective in the added territory or abolished in the detached territory on the effective date of the change of the city boundary.

✓

**EXPLANATION–Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0805-04
Bill No.: HCS for SCS for SB 190
Subject: Kansas City; Taxation and Revenue - Sales and Use; Transportation
Type: Original
Date: May 1, 2015

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Bill Summary: This proposal would remove the current expiration date for the Kansas City transportation sales tax and would add statutory audit requirements for transportation development districts.

**FISCAL SUMMARY**

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2016 | FY 2017 | FY 2018 |
| | | | |
| **Total Estimated Net Effect on General Revenue** | **$0** | **$0** | **$0** |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2016 | FY 2017 | FY 2018 |
| | | | |
| | | | |
| **Total Estimated Net Effect on Other State Funds** | **$0** | **$0** | **$0** |

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 7 pages.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2016 | FY 2017 | FY 2018 |
| | | | |
| | | | |
| **Total Estimated Net Effect on All Federal Funds** | **$0** | **$0** | **$0** |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2016 | FY 2017 | FY 2018 |
| | | | |
| | | | |
| **Total Estimated Net Effect on FTE** | **0** | **0** | **0** |

☐ Estimated Net Effect (expenditures or reduced revenues) expected to exceed $100,000 in any of the three fiscal years after implementation of the act.

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2016 | FY 2017 | FY 2018 |
| **Local Government *** | **$0** | **$0** | **$0** |

* Net of additional revenues and expenditures.

## FISCAL ANALYSIS

ASSUMPTION

Section 92.402, RSMo. - Kansas City Area Transportation Sales Tax:

This proposal would eliminate the expiration of a portion of the Kansas City Area Transportation Sales Tax. (Under current law that portion of the tax is scheduled to expire December 31, 2015.)

Officials from the **City of Kansas City** stated this proposal would maintain transportation sales tax revenues of $12,166,167 for January 1, 2016 to April 30, 2016, and $36,500,000 per year for FY 2017 and FY 2018.

**Oversight** has no independent information regarding transportation sales tax revenues and will assume for fiscal note purposes the City of Kansas City response is the best available estimate of the impact of this proposal.

**Oversight** notes that current provisions would let a portion of the sales tax expire on December 31, 2015 (FY 2016) and the proposal would extend the sales tax indefinitely. If the sales tax expired, the revenue reduction for the City of Kansas City from January 1, 2016 to June 30, 2016 (FY 2016) would be ($36,500,000 x 6/12) = $18,250,000 (disregarding reporting and distribution delays), and the fiscal impact of this proposal for FY 2017 and FY 2018 would be $36,500,000 per year. Oversight will include these amounts in this fiscal note.

For simplicity, **Oversight** will not include any impact for the Department of Revenue's collection costs. Oversight will also assume that all or substantially all of the sales tax revenues would be expended on transportation costs and will so indicate in this fiscal note.

Officials from the **Kansas City Election Board** assumed a previous version of this proposal could result in jurisdiction-wide election at a cost of $400,000.

**Oversight** notes that current provisions regarding the KCATA Sales Tax do not appear to provide for an election.

Officials from the **Office of the Secretary of State**, the **Joint Committee on Administrative Rules**, the **Department of Revenue**, the **Jackson County Election Board**, and the **Platte County Board of Elections** assumed a previous version of this proposal would have no fiscal impact on their organizations.

SS:LR:OD

ASSUMPTION (continued)

Officials from the **Office of Administration - Division of Budget and Planning** assumed a previous version of this proposal would have no fiscal impact on their organization.

Not responding:

Officials from Jackson County, Belton, Excelsior Springs, Gladstone, Grandview, Harrisonville, Independence, the Kansas City Area Transit Authority, Kearney, Lees Summit, Liberty, Peculiar, Raytown, Sugar Creek, Cass County Elections, Clay County, the Clay County Board of Election Commissioners, the Jackson County Executive, and Platte County did not respond to our request for fiscal information.

Sections 105.145, 238.222, and 238.272, RSMo. - Transportation Development Districts:

Changes to these provisions would provide specific statutory audit requirements for transportation development districts.

Officials from the **Office of the State Auditor** assumed similar language in HCS for HB 477 LR 1681-03 would have no fiscal impact on their organization.

In response to similar language in HCS for HB 477 LR 1681-03, officials from the **Department of Revenue** assumed this legislation would require the department to create a form. DOR officials assumed the form could be set up in the department's existing county fees system without any additional resources.

**Oversight** notes the Office of the State Auditor (SAO) issued report No. 2013-065 in 2013 entitled Transportation Development Districts regarding their financial statement reporting requirements. The report stated as of December 31, 2011, 49 districts (of the 176 at the time) filed financial statements/audit reports late or did not file financial statements with the Office of the State Auditor at all. While a fine for late filing of financial statements is provided, Section 105.145.8 currently does not establish the agency responsible for the assessment or a collection mechanism for these fines; therefore, no fine revenue has been collected to date. The report also stated, as of February 1, 2013, the potential accumulated fine amounts were $16,859,000.

ASSUMPTION (continued)

IT impact

DOR officials provided an estimate of the IT cost to implement this proposal of $10,449 based on 139 hours of programming at the current state contract rate for IT services.

**Oversight** assumes DOR could absorb the IT cost to implement this proposal with existing resources.

**Oversight** also notes this proposal would require future fine revenue to be distributed to local school districts (after the Department of Revenue retains a collection fee of not more than two percent) in the same manner that proceeds for all penalties, forfeitures, and fines collected for any breach of the penal law of the state are distributed.

**Oversight** assumes the $500 fine is already established in statutes and that Transportation Development Districts (currently 195 districts) would timely submit their financial statements. Therefore, Oversight will assume no additional fiscal impact from this proposal.

In response to a similar proposal (HB 136 LR 0499-01) from this year, officials from **Department of Transportation** assumed the proposal would have no fiscal impact on their organization.

In response to a similar proposal (HB 136 LR 0499-01) from this year, officials from the **City of Kansas City Public School District** assumed the proposal would have no fiscal impact on their organization.

Bill as a whole response

Officials from the **Platte County Board of Elections** assume this proposal would have no fiscal impact on their organization.

| FISCAL IMPACT - State Government | FY 2016 (10 Mo.) | FY 2017 | FY 2018 |
|---|---|---|---|
| | **$0** | **$0** | **$0** |

| FISCAL IMPACT - Local Government | FY 2016 (10 Mo.) | FY 2017 | FY 2018 |
|---|---|---|---|
| **LOCAL GOVERNMENTS** | | | |
| Additional revenue - City of Kansas City Sales tax | $18,250,000 | $36,500,000 | $36,500,000 |
| Additional expenditures - City of Kansas City Transportation | ($18,250,000) | ($36,500,000) | ($36,500,000) |
| **ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS** | **$0** | **$0** | **$0** |

SS:LR:OD

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

The proposed legislation would remove the current expiration date for the Kansas City transportation sales tax and would provide specific statutory requirements for audits of transportation development districts.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Secretary of State
Joint Committee on Administrative Rules
Office of Administration
Division of Budget and Planning
Department of Revenue
City of Kansas City
Platte County Board of Elections

Mickey Wilson, CPA
Director
May 1, 2015

Ross Strope
Assistant Director
May 1, 2015

SS:LR:OD

The State Auditor's office did not receive a response from the **Department of Agriculture, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, St. Louis Community College,** and the **State Tax Commission.**

**Fiscal Note Summary**

Potential costs to state and local governmental entities are unknown, but could be significant. The proposal's passage would impact governmental entity's ability to revise their tax structures. State and local governments expect no savings from this proposal.

16-054

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

May 11, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Chuck Hatfield regarding a proposed constitutional amendment to Article X (2016-054)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Chuck Hatfield on May 7, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

RECEIVED
MAY 11 2015
STATE AUDITOR'S OFFICE

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-054

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and name of the city, town or village in which I live are correctly written after my name.

(Official Ballot title)

RECEIVED
2015 MAY -7 PM 4:05
SEC. OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI,

COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)
(Petition Circulator's Printed Name)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | Zip Code | Congr. Dist. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer _____.

_____ Signature of Affiant (Person obtaining signatures)

_____ Street address of Affiant

_____ Printed Name of Affiant

_____ City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____ Signature of Notary

Notary Public (Seal)

_____ Address of Notary

My commission expires:

16-054

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Article X is amended by adding one new section to be known as Section 26, to read as follows:

Section 26. The state is hereby prohibited from imposing a sales or use tax on any service or activity that was not subject to a sales or use tax on January 1, 2015.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-054)**

## Subject

Initiative petition from Chuck Hatfield regarding a proposed constitutional amendment to Article X. (Received May 11, 2015)

## Date

June 1, 2015

## Description

This proposal would amend Article X of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **State Tax Commission.**

**Marc Ellinger** provided information on this proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated no cost to their department.

Officials from the **Department of Higher Education** indicated they have reviewed the provisions of this initiative petition. Although the proposal would limit the ability of the state to revise its sales tax structure, it is impossible for their department to determine what tax revenues the state might forgo as a result or the impact the limit would have on appropriations to higher education. Consequently, while they do not believe the proposal would have a direct fiscal impact on their department, the actual potential impact is unknown.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated the fiscal impact from this proposal is unknown. While there would appear to be no current and direct fiscal impact from these provisions on their department, they would certainly and perhaps severely limit what state and local governments can do in the future in terms of changing the way taxes are handled.

Officials from the **Department of Corrections** indicated no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this petition will have no fiscal impact on their department.

Department officials provided the following additional information:

They reviewed the comments submitted and disagree with the assumptions. Please see below:

**The Initiative Petition will require a substantial increase in Department of Revenue lawyer FTEs**
The department feels there is already a sufficient legal staff available to handle any possible new litigation.

**The Initiative Petition will require a substantial increase in Department of Revenue non-lawyer FTEs**
The department currently maintains records of all exemptions under Missouri law and how they apply. These provisions will not change anything.

**The Initiative Petition will eliminate the revenue from the Parks and Soils tax**
Both are constitutional provisions. This provision does not trump the tax or the need for election in another provision. Also, the tax is imposed as of January 1, 2015. Therefore, it may still be approved to continue after that date.

**The Initiative Petition will eliminate the revenue from the Kansas City transportation sales tax**
The tax is imposed as of January 1, 2015. Therefore, it may still be approved to continue after that date. Where there is some litigation risk, the law already says that there must be a vote to extend. This provision should not impact that fact.

Officials from the **Department of Public Safety** indicated this petition could restrict their ability to establish a way to fund public safety programs going forward, but the fiscal impact would not measurable at this point.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated they assume there will be no fiscal impact.

Officials from the **Office of Administration** indicated:

The proposal enacts a new section (Section 26) in Article X of the Missouri Constitution. This section would prohibit the state from imposing sales or use tax on anything not subject to sales or use tax on January 1, 2015.

The state sales tax base continues to shrink as the amount of Internet sales increases. This proposal would prevent the state from modernizing its taxing structure in the future to include Internet sales, which would negatively impact the state's ability to raise sufficient revenue to support vital state services. This proposal would also negatively impact the state's ability to restructure tax policy in the future.

This proposal will not impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **St. Louis County** indicated although there would be no impact on existing revenue streams, passage of this initiative petition would preclude the state of Missouri from enabling their county's proposed law enforcement sales tax for unincorporated areas. This would eliminate potential future revenues of $16 million to their county. This petition would also tie the hands of future legislators in terms of authorizing any need-specific sales or use taxes in coming years.

Officials from the **City of Columbia** indicated it does not appear to have a fiscal impact unless reduced sales and use tax revenues affect state funding sources that help support local programs through grants, incentives or other arrangements.

Officials from the **City of Kansas City** indicated:

Initiative Petition 16-054 would prohibit the state from imposing a sales or use tax on any service or activity that was not subject to a sales or use tax on January 1, 2015. Initiative Petition 16-055 would prohibit the state from imposing any new tax on services or activities that were not subject to tax on January 1, 2015. In the 2015 session, the Missouri legislature passed Senate Bill 190 to eliminate the December 31, 2015 expiration date of the Kansas City transportation sales tax. If Initiative Petitions 16-054 and 16-055 are adopted and interpreted so as to nullify Senate Bill 190 and cause the Kansas City transportation sales tax to expire on December 31, 2015, Kansas City would sustain the following revenue losses:

Revenue Loss from Kansas City transportation sales tax
Fiscal Year 2016: $12,166,667 loss (period of 1/1/16 to 4/30/16)
Fiscal Year 2017: $36,500,000 loss
Fiscal Year 2018: $36,500,000 loss
All future fiscal years after 2018: $36,500,000 loss

These two initiatives could also be interpreted to prevent the Missouri legislature from fully adopting the Streamlined Sales Tax and taxing remote on-line sales if Congress were to enact the Marketplace Fairness Act. The Marketplace Fairness Act would enable states and local governments to levy sales and use tax on Internet purchases by their residents from out-of-state merchants. The future revenue loss to Kansas City from the inability to levy sales and use tax on Internet purchases from out-of-state merchants is estimated at $203 million per year.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from **Metropolitan Community College** indicated unknown impact for their college.

Officials from **University of Missouri** indicated this initiative petition would not have a significant fiscal impact on their university.

**Marc Ellinger** provided the following information for this initiative petition.

I submit the following proposed statement of fiscal impact for the Initiative Petition that was filed by Chuck Hatfield on May 7, 2015. The initiative petition has been labeled by the Secretary of State as 2016-054.

The initiative petition would prohibit the state from imposing a sales or use tax on any service or activity that was not subject to a sales or use tax on January 1, 2015.

**(1) Initiative Petition 2016-054 will require a substantial increase in Department of Revenue lawyer FTEs**

The Initiative Petition will increase costs to the state due to increased litigation as a result of the proposed measure. The largest component of "litigation costs" is the personnel costs. The Department of Revenue currently employs a small army of lawyers. In 2014, the State spent more than 1.6 million dollars of taxpayer money to fund the salaries of the Department's lawyers. (See Appendix A). Since 2010, the Director of Revenue has been a party to more than fifty Missouri Supreme Court cases.[1]

Whether or not a service or activity is currently subject to sales or use tax has been subject the focus of considerable litigation, especially in recent years. Already this year, the Missouri Supreme Court has decided *Alberici Constructors, Inc. v. Director of Revenue*, 452 S.W.3d 632 (Mo. banc 2015) (a use tax case), *Fred Weber Inc. v. Director of Revenue*, 452 S.W.3d 628 (Mo. banc 2015) (a sales tax case), *Ben Hur Steel Worx v. Director of Revenue*, 452 S.W.3d 624 (Mo. banc 2015) (a sales and use tax case), *Five Delta Alpha, LLC v. Director of Revenue*, --- S.W.3d ---, 2015 WL 777898 (Mo. banc

[1] See, generally, www.courts.mo.gov/casenet.

2015) (a use tax case), and *Tatson, LLC v. Director of Revenue*, 456 S.W.3d 43 (Mo. banc 2015) (a sales tax case). These cases account for 14% of the total cases handed down so far this year by the Missouri Supreme Court.

Furthermore, an amendment of this type would incentivize parties, who previously would have reached a settlement with the Department, to seek a legal determination that their services and/or activities were not subject to a sales or use tax on January 1, 2015. Such determination would essentially provide them with a perpetual exemption from tax.

The increase in litigation will necessitate additional lawyer FTEs for the Department of Revenue. These costs should be included in the Fiscal Note Summary. At the very least, the Fiscal Note Summary should state "the proposal's passage will likely lead to increased litigation-related costs." [2]

**(2) Initiative Petition 2016-054 will require a substantial increase in Department of Revenue non-lawyer FTEs**

The initiative would also prohibit the state from repealing any of the current exemptions in Missouri's sales and use tax law. Thus, the initiative would require the Department to track current exemptions. In a 2013 audit, the Department of Revenue admitted it does not currently track or report exemptions and stated "to track and report exemptions, the Department would require a substantial increase in FTE[.]" [3]

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[2] This language was previously adopted by the Auditor for Initiative Petitions 2016-021 and 2016-022 (attached hereto as Appendix B).

[3] http://auditor.mo.gov/Repository/Press/2013-015.pdf (attached hereto, without Appendixes, as Appendix C).

**(3) Initiative Petition 2016-054 will eliminate the revenue from the Parks and Soils tax**

The proposed measure essentially prohibits any new sales or use taxes. The existing Parks and Soils tax in Article IV, Section 47(a) of the Missouri Constitution, which imposes a sales tax of one-tenth of one percent, expires in 2016. Mo. Const. art. IV, Section 47(c). Without additional voter approval, Sections 47(a), (b), and (c) terminate. As of January 1, 2015 there is not a sales or use tax under Section 47 of the Missouri Constitution on or after 2016. The initiative effectively eliminates the Parks and Soils tax after 2016. The amount collected in FY2014 from the state sales and use tax for Parks and Soils was $76,121,334.[4] That is an increase over the $67.9 million that was collected in FY2010. The loss to the state in 2017 as a result of the elimination of the Parks and Soils tax in Article IV, Section 47 will be at least $76 million dollars.

**(4) Initiative Petition 2016-054 will eliminate the revenue from the Kansas City transportation sales tax**

In 2015, the legislature passed Senate Bill 190 (attached as Appendix D) which would extend the Kansas City transportation sales tax indefinitely. However, the proposed measure prohibits any new sales or use taxes that were not in effect as of January 1, 2015. As of January 1, 2015, there was no Kansas City transportation sales tax on or after December 31, 2015. As such, the state would be prohibited from imposing

[4] http://dor.mo.gov/pdf/financialstatreport14.pdf.

or extending such tax as a result of Initiative Petition 2016-054. If the sales tax expires, the result is a loss to the City of Kansas City in the amount of $36.5 million dollars annually (Fiscal Note for SB 190 attached as Appendix E).

**Conclusion**

No savings or reduction in costs to state government can be gleaned in any manner from the proposed Initiative Petition. Additionally, since the local sales taxes are based upon the State Sales Tax Act, the limitations noted above would therefore affect local sales and use taxes. Thus local governments could also see reduced revenues in the future as a result of the proposed measure.

The proposed measure would have a significant negative economic impact on the state. The proposed measure will increase litigation related costs, eliminate the state Parks and Soils tax, and eliminate the Kansas City transportation sales tax. Any estimate of fiscal impact of the proposed measure must include these significant losses in order to adequately inform potential signors and voters. The use of the phrase "unknown" suggests an ambiguity regarding costs or savings – that such costs or savings could be positive or negative. Since there is no evidence to support (1) any reduction in costs (2) any savings, or (3) any increased revenues, such ambiguity cannot be included in the fiscal note summary. Therefore use of the word "unknown," unless it includes the phrase "negative impact," is improper.

| | | | |
|---|---|---|---|
| 2014 REVENUE | ASSOCIATE COUNSEL | ALLEN, CHANDREKA N. | 26,374.38 |
| 2014 REVENUE | ASSOCIATE COUNSEL | AUSMUS, MARK DAVID | 5,859.96 |
| 2014 REVENUE | ASSOCIATE COUNSEL | BRIGHT, DEANNA MARIE | 33,185.44 |
| 2014 REVENUE | ASSOCIATE COUNSEL | FEHR, CHRISTOPHER R. | 46,858.68 |
| 2014 REVENUE | ASSOCIATE COUNSEL | HOUDEK, THOMAS A | 9,766.60 |
| 2014 REVENUE | ASSOCIATE COUNSEL | MARTIN, SPENCER ADAM | 9,766.60 |
| 2014 REVENUE | ASSOCIATE COUNSEL | SANDERS, MARIA A | 30,983.49 |
| 2014 REVENUE | CHIEF COUNSEL | MONAGHAN, MAUREEN M | 65,583.00 |
| 2014 REVENUE | GENERAL COUNSEL - DIVISION | HALE, JONATHAN HOWARD | 41,588.75 |
| 2014 REVENUE | GENERAL COUNSEL - DIVISION | KISLING, MICHAEL SHAYNE | 70,483.08 |
| 2014 REVENUE | GENERAL COUNSEL - DIVISION | PLAGGENBERG, JOSEPH G | 1,875.00 |
| 2014 REVENUE | LEGAL COUNSEL | AUSMUS, MARK DAVID | 37,642.50 |
| 2014 REVENUE | LEGAL COUNSEL | BERNSEN, TORY DOWD | 43,023.00 |
| 2014 REVENUE | LEGAL COUNSEL | CONWAY, STEPHEN | 43,023.00 |
| 2014 REVENUE | LEGAL COUNSEL | COOPER, CAMERON H | 43,023.00 |
| 2014 REVENUE | LEGAL COUNSEL | HOUDEK, THOMAS A | 34,055.50 |
| 2014 REVENUE | LEGAL COUNSEL | KENNEDY, DANIEL J | 43,023.00 |
| 2014 REVENUE | LEGAL COUNSEL | MARTIN, SPENCER ADAM | 34,055.50 |
| 2014 REVENUE | LEGAL COUNSEL | SLAWSON, BENJAMIN C | 43,023.00 |
| 2014 REVENUE | LEGAL COUNSEL | VEIT, DAWN RENEE | 12,228.41 |
| 2014 REVENUE | LEGAL COUNSEL | VITALE, DESIREE JUDE | 48,483.00 |
| 2014 REVENUE | MANAGING COUNSEL | BERTELS, RYAN EUGENE | 4,361.59 |
| 2014 REVENUE | MANAGING COUNSEL | FREUDENBERG, ROGER L. | 67,602.12 |
| 2014 REVENUE | MANAGING COUNSEL | GINTHER, STEVEN ALLAN | 67,602.12 |
| 2014 REVENUE | MANAGING COUNSEL | GOOCH, CHARLES L | 67,602.12 |
| 2014 REVENUE | MANAGING COUNSEL | LAKS, YAMINI A. | 51,729.10 |
| 2014 REVENUE | MANAGING COUNSEL | MILLER, DALE WOOD | 39,660.62 |
| 2014 REVENUE | SENIOR COUNSEL | ALLEN, CHANDREKA N. | 15,642.69 |
| 2014 REVENUE | SENIOR COUNSEL | BRIGHT, DEANNA MARIE | 15,642.69 |
| 2014 REVENUE | SENIOR COUNSEL | CHENAULT, JAMES A. | 60,363.48 |
| 2014 REVENUE | SENIOR COUNSEL | COX, JOSEPH M | 53,611.08 |
| 2014 REVENUE | SENIOR COUNSEL | LAFAVER, BEVERLY L | 54,718.44 |
| 2014 REVENUE | SENIOR COUNSEL | LAKS, YAMINI A. | 2,708.33 |
| 2014 REVENUE | SENIOR COUNSEL | LAUGHLIN, JANE A | 59,983.08 |
| 2014 REVENUE | SENIOR COUNSEL | LISSANT, SUSAN LEAH | 53,611.08 |
| 2014 REVENUE | SENIOR COUNSEL | MOREAU, SHERYL L | 28,738.76 |
| 2014 REVENUE | SENIOR COUNSEL | MURRAY, MICHAEL LEE | 56,987.16 |
| 2014 REVENUE | SENIOR COUNSEL | PRITCHARD, JAN | 53,611.08 |
| 2014 REVENUE | SENIOR COUNSEL | ROSE, GLORIA JEAN | 59,445.71 |
| 2014 REVENUE | SENIOR COUNSEL | SANDERS, MARIA A | 20,112.03 |
| 2014 REVENUE | SENIOR COUNSEL | SPRADLIN, JAMES L | 53,611.08 |
| 2014 REVENUE | SENIOR COUNSEL | SULLIVAN, STEPHEN PATRICK | 56,987.16 |
| | | Total | 1,668,236.41 |

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

CHRIS KOSTER
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

March 12, 2015

OPINION LETTER NO. 26-2015

The Honorable John Watson
Missouri State Auditor
State Capitol, Room 121
Jefferson City, MO 65101

Dear Auditor Watson:

This office received your letter of March 2, 2015, submitting a fiscal note and fiscal note summary prepared under § 116.175, RSMo, for an initiative petition submitted by Jill Carter, version 1 (16-021). The fiscal note summary that you submitted is as follows:

> Any potential costs or savings from this proposal to state and local governmental entities is unknown. However, the proposal's passage will likely lead to increased litigation-related costs and impact the ability of state and local governments to provide certain health and welfare services.

Under § 116.175.4, RSMo, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the initiative petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

**CHRIS KOSTER**
Attorney General

OP-2015-0031

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY
65102

CHRIS KOSTER
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

March 12, 2015

OPINION LETTER NO. 27-2015

The Honorable John Watson
Missouri State Auditor
State Capitol, Room 121
Jefferson City, MO 65101

Dear Auditor Watson:

This office received your letter of March 2, 2015, submitting a fiscal note and fiscal note summary prepared under § 116.175, RSMo, for an initiative petition submitted by Jill Carter, version 2 (16-022). The fiscal note summary that you submitted is as follows:

> Any potential costs or savings from this proposal to state and local governmental entities is unknown. However, the proposal's passage will likely lead to increased litigation-related costs and impact the ability of state and local governments to provide certain health and welfare services.

Under § 116.175.4, RSMo, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the initiative petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

**CHRIS KOSTER**
Attorney General

OP-2015-0032

# Thomas A. Schweich

**Missouri State Auditor**

# REVENUE

# Sales and Use Tax

**February 2013**

**Report No. 2013-15**

**http://auditor.mo.gov**

APPENDIX C

**Thomas A. Schweich**
**Missouri State Auditor**

# CITIZENS SUMMARY

## Findings in the audit of the Department of Revenue, Sales and Use Tax

### Individual Consumer Use Tax and Internet Sales

Missouri's individual consumer use tax requirements are not well known by the general public and are difficult to enforce and administer. The audit report expresses no opinion on the economic effect of collecting the tax but notes the unworkable structure in place now. Missouri law imposes an individual consumer use tax on the storage, use, or consumption of tangible personal property which is required to be paid unless sales or use tax is paid to the seller or the property is tax exempt. Also, use tax is due on purchases from a seller which is not engaged in business. A purchaser is required to file a use tax return if the cumulative purchases subject to use tax exceed $2,000 in a calendar year. The United States Supreme Court has held that states cannot require companies that do not have a physical presence in the state to collect state and local sales taxes. University studies have estimated that Missouri state and local governments have lost and will continue to lose sales/use tax revenue of between $358 million and $474 million annually by not collecting taxes on these sales. The Streamlined Sales and Use Tax Agreement (Agreement) is a cooperative effort among states, local governments, and businesses to simplify sales and use tax collection and administration by retailers and states, intended to minimize costs and administrative burdens on retailers that collect sales tax while encouraging out-of-state sellers to collect tax on sales to customers in the Streamlined states. Forty-four states, including Missouri, signed the Agreement, but Missouri has not passed implementing legislation.

The Department of Revenue (DOR) does not include a specific line that requires state individual income taxpayers to state whether they made purchases exceeding $2,000 for which sales or use tax was not paid, and, as a result, most taxpayers are not likely aware of the consumer use tax requirement. If the state continues to impose the individual consumer use tax, there are additional enforcement procedures the DOR should consider.

### Ongoing Concerns

The DOR does not track and report information regarding some sales and use tax exemptions, and so the cost in terms of reduced state revenue for each exemption cannot be determined. DOR records indicate adjustments to gross sales receipts totaled over $154 billion, $144 billion, and $147 billion in fiscal years 2011, 2010, and 2009, respectively. The DOR has agreed that tracking exemptions is a good idea, but it believes the recommendation increases the reporting burden on vendors and has indicated the current sales tax system might not have the capacity to handle the additional information. However, the DOR and the Office of Administration awarded a contract in February 2012 for a new Missouri Integrated Revenue System (MIRS) which should not have similar limitations.

The state is foregoing a significant amount of sales tax revenue because there is no cap on the amount of timely discounts large vendors can take. Business were allowed to keep approximately $102 million, $94 million, and $95 million in state and local sales tax revenues collected from purchases in fiscal years 2011, 2010, and 2009, respectively, as an incentive for timely submitting state sales tax payments. Moreover, the DOR does not routinely report the amount of timely discounts to the General Assembly.

When consumers overpay sales or use taxes, the DOR refunds the vendor the overpayment plus interest, but vendors are not required to return these funds to the original purchaser, resulting in a windfall for the vendor. The DOR has previously agreed to support legislation that would require sales and use tax refunds and related interest to be returned to the original purchaser, but, to date, such legislation has not been successful.

The General Revenue Fund (GRF) does not receive reimbursement from local funds for their proportionate share of interest paid on refunds of sales and use taxes. Sales and use tax refunds, including interest, are made from the GRF, and adjustments are automatically made to reimburse the GRF for the principal amount due from local funds. However, adjustments are not automatically made to reimburse the GRF for the amount of interest due from local funds. Although the DOR has previously agreed that local funds should pay their proportionate share of this interest, the DOR has not been able to develop a method for recovering this interest with the current tax system, but according to DOR personnel the new MIRS should not have this limitation.

## Automated Sales Suppression Device

Missouri law does not prohibit the creation, sale, purchase, installation, transfer, or possession of an automated sales suppression device (a software program commonly known as a zapper). Zapper software enables businesses to evade tax liability by altering the electronic sales records in a cash register to make it appear that fewer transactions have occurred. At least 10 other states have passed or are considering similar legislation.

In the areas audited, the overall performance of this entity was **Good**.*

## American Recovery and Reinvestment Act (Federal Stimulus)

The Department of Revenue did not receive any federal stimulus monies for sales and use tax operations during the audited time period.

*The rating(s) cover only audited areas and do not reflect an opinion on the overall operation of the entity. Within that context, the rating scale indicates the following:

**Excellent:** The audit results indicate this entity is very well managed. The report contains no findings. In addition, if applicable, prior recommendations have been implemented.

**Good:** The audit results indicate this entity is well managed. The report contains few findings, and the entity has indicated most or all recommendations have already been, or will be, implemented. In addition, if applicable, many of the prior recommendations have been implemented.

**Fair:** The audit results indicate this entity needs to improve operations in several areas. The report contains several findings, or one or more findings that require management's immediate attention, and/or the entity has indicated several recommendations will not be implemented. In addition, if applicable, several prior recommendations have not been implemented.

**Poor:** The audit results indicate this entity needs to significantly improve operations. The report contains numerous findings that require management's immediate attention, and/or the entity has indicated most recommendations will not be implemented. In addition, if applicable, most prior recommendations have not been implemented.

# Department of Revenue
# Sales and Use Tax
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# THOMAS A. SCHWEICH
## Missouri State Auditor

Honorable Jeremiah W. (Jay) Nixon, Governor
and
Brian K. Long, Director
Department of Revenue
Jefferson City, Missouri

We have audited certain operations of the Department of Revenue, sales and use tax collections, as required by Sections 32.087 and 67.525, RSMo. The scope of our audit included, but was not necessarily limited to, the years ended June 30, 2011, 2010, and 2009. The objectives of our audit were to:

1. Evaluate the department's internal controls over significant management and financial functions.

2. Evaluate the department's compliance with certain legal provisions.

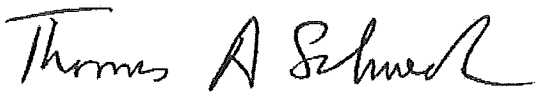
3. Evaluate the economy and efficiency of certain management practices and operations, including certain financial transactions.

Our methodology included reviewing written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the department; analysis of comparative data obtained from internal sources; and testing selected transactions. We obtained an understanding of internal controls that are significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We tested certain of those controls to obtain evidence regarding the effectiveness of their design and operation. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contract or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

The accompanying Organization and Statistical Information is presented for informational purposes. This information was obtained from the department's management and was not subjected to the procedures applied in our audit of the department.

For the areas audited, we identified (1) a deficiency in internal controls, (2) no significant noncompliance with legal provision, and (3) the need for improvement in management practices and procedures. The accompanying Management Advisory Report presents our findings arising from our audit of the Department of Revenue, sales and use tax collections.



Thomas A. Schweich
State Auditor

The following auditors participated in the preparation of this report:

| | |
|---|---|
| Deputy State Auditor: | Harry J. Otto, CPA |
| Director of Audits: | John Luetkemeyer, CPA |
| Audit Manager: | Toni Crabtree, CPA |
| In-Charge Auditor: | Robyn Vogt, M.Acct., CPA |
| Audit Staff: | Corey McComas, M.Acct., CPA |
| | Aaron D. Allen |

# Department of Revenue
# Sales and Use Tax
# Management Advisory Report - State Auditor's Findings

## 1. Individual Consumer Use Tax and Internet Sales

Missouri's individual consumer use tax requirements are not well known by the general public, require extensive taxpayer record keeping, are generally not complied with, and are difficult to enforce and administer. This report expresses no opinion on the economic effect of collecting the tax on the economy of Missouri; the report simply notes the unworkable structure in place now.

### Background information

State law imposes an individual consumer use tax on the storage, use, or consumption of tangible personal property in Missouri. The consumer use tax is required to be paid unless sales or use tax is paid to the seller or the property is tax exempt. Also, use tax should be paid on purchases from a seller which is not engaged in business. A purchaser is required to file an annual use tax return with the Department of Revenue (DOR) if the cumulative purchases subject to use tax exceed $2,000 in a calendar year. The use tax is computed on the purchase price of all goods once purchases exceed $2,000. Consumer use tax information and requirements are posted on the DOR website.

The type of purchases subject to use tax include, but are not limited to, 1) catalog purchases, 2) magazine subscriptions, 3) cross-border purchases of goods, 4) TV marketing purchases, 5) computer software and hardware, 6) mail-order supply purchases, 7) furniture and equipment purchases from out-of-state sellers, 8) purchases of goods over the Internet (e-commerce) and by phone, and 9) purchases of goods from outside the United States. Currently, state law requires local businesses to collect sales tax, even if they have an online business, because these businesses have a physical presence (nexus) in the state. However, under a 1992 U.S. Supreme Court ruling[1], states cannot require companies that do not have nexus to collect state and local sales taxes. As a result, Missouri cannot require businesses without nexus to collect sales tax on goods sold to Missouri residents. Federal legislation has been proposed that would enable states to require online retailers to collect and remit sales taxes, while also providing businesses with an effective means to comply. Such legislation includes the Marketplace Fairness Act, the Main Street Fairness Act, and the Marketplace Equity Act.

With the increasing popularity and usage of the Internet, e-commerce sales have grown significantly over recent years. University studies[2] have

[1] Quill orp v, North Dakota, 504 U.S.298 (1992)

[2] Bruce, Donald, William F. Fox, LeAnn Luna, "State and Local Government Sales Tax Revenue Losses from Electronic Commerce," University of Tennessee, Center for Business and Economic Research, <http://cber.bus.utk.edu/ecomm.htm>, accessed on April 27,2012; and Huanfin Ting, John Kosash and Andrew Wesemann (2012). "Internet Sales and Use Tax Issues in Missouri" Report 01-2012, University of Missouri Columbia, Institute of Public Policy, <http://ipp.missouri.edu/Publications/306>, accessed on June 5, 2012.

estimated that Missouri state and local governments have lost and will continue to lose sales/use tax revenue of between $358 million and $474 million annually by not collecting taxes on these sales. Both studies also noted that local vendors face a competitive disadvantage because consumers that make purchases online avoid paying sales/use taxes. However, it is possible that if taxes were collected on e-commerce sales, consumer purchasing habits could change resulting in less revenue for the state than forecasted. The issues of revenue, consumer spending habits, and the economic effect of increased taxation are beyond the scope of this report.

## Streamlined Sales and Use Tax Agreement

The Streamlined Sales and Use Tax Agreement (Agreement) is a cooperative effort among states, local governments, and businesses to simplify sales and use tax collection and administration by retailers and states. The Agreement aims to minimize costs and administrative burdens on retailers that collect sales tax, while also encouraging out-of-state sellers to collect tax on sales to customers in the Streamlined states. Forty-four states, including Missouri, signed the Agreement, originally adopted in November 2002, and 24 of these states have passed legislation to conform to the Agreement. Legislation was introduced in Missouri during the 2012 legislative session and in prior years to implement the provisions of the Agreement; however, such legislation has not passed. Participation in the Agreement is voluntary for businesses and consumers; therefore, Missouri cannot require out-of-state sellers without nexus to collect sales taxes on purchases made by Missouri residents. However, according to the University of Missouri report, each state that has entered into the Agreement collected, on average, an additional $30.7 million, in total, in e-commerce tax revenue between 2005 to 2010.

Some states (such as Washington, North Dakota, New York, Kansas, and Kentucky) have entered into agreements with large Internet sellers, to collect and remit state and local sales taxes. Large Internet sellers have also negotiated deals with other states to collect sales tax in the future. In other instances, Internet sellers have agreed to disclose sales and use tax requirements on their Internet sites for certain states. Such disclosures inform customers that many states require purchasers to file a sales or use tax return reporting all taxable purchases that were not taxed and to pay tax on those purchases, and may include a link to that state's website.

## Individual income tax forms

The DOR does not include a specific line that requires state individual income taxpayers to state whether they made purchases exceeding $2,000 for which sales or use tax was not paid. As a result, most taxpayers are not likely aware of the consumer use tax requirements as evidenced by the small amount of consumer use tax collections.

According to DOR records, the following consumer use tax was paid:

| Tax Year | 2011 (1) | 2010 | 2009 | 2008 |
|---|---|---|---|---|
| Number of individual tax returns | 2,917,023 | 2,876,787 | 3,019,358 | 3,080,945 |
| Number of use tax returns | 168 | 190 | 125 | 96 |
| Use tax paid | $205,087 | 301,474 | 110,784 | 40,714 |

(1) Tax year 2011 information through August, 2012.

If the state continues to impose the individual consumer use tax, there are additional enforcement procedures the DOR should consider. Our review of other states' procedures noted some states include a specific line on its individual income tax return to report purchases made for which sales or use tax was not paid. In addition, to reduce taxpayer recordkeeping burden, some states provide an optional use tax reporting table which bases the consumer's use tax liability on a percentage of adjusted gross income rather than actual purchases.

To increase taxpayer compliance with existing individual consumer use tax laws, the DOR should consider revising individual income tax forms to include a specific line regarding purchases made for which sales or use tax was not paid, and an optional use tax reporting table which bases consumer use tax liability on a percentage of adjusted gross income rather than actual purchases.

## Recommendation

The DOR revise the individual income tax forms to increase taxpayer compliance with existing individual consumer use tax laws.

## Auditee's Response

*The Department supports the collection of all taxes due the state of Missouri, including use taxes. However, adding a line on the return may not have much impact on use tax collections, but it would delay the availability of general revenue funds. This delay could be substantial in the April-May time frame when the majority of individual income tax revenues are received.*

*Individual income tax revenues are all general revenue funds and currently are deposited very quickly, usually the same or next day even during the April-May time frame. If those funds were combined with use tax funds, all money would need to be deposited in a suspense account until the return is processed and the appropriate local and state fund distribution can be determined. This could delay availability of the funds by as much as six weeks. The Department will continue to explore other ways to encourage compliance with use tax laws that do not negatively affect the timely transfer of funds to the general revenue fund.*

## Auditor's Comment

We do not agree with the Department's contention that enforcing existing consumer use tax law would need to unnecessarily delay the availability of general revenue funds. The DOR could place only the consumer use tax portion in the suspense account thereby eliminating any need to delay the availability of general revenue funds.

# 2. Ongoing Concerns

The DOR does not track and report information regarding some sales and use tax exemptions or routinely report to the General Assembly for its consideration the amount of timely discounts taken by businesses. Under Missouri law, vendors are not required to return sales and use tax refunds to the original purchaser when applicable, and local funds are not paying their proportionate share of interest paid on refunds of sales and use taxes.

These issues are ongoing concerns and have been reported in prior audit reports.

## 2.1 Sales and use tax exemptions

The DOR does not track and report information regarding some sales and use tax exemptions. As a result, the cost in terms of reduced state revenue for each exemption cannot be determined.

According to DOR records, there are currently 150 sales and use tax exemptions provided by state law. The DOR only tracks exemptions related to the 3 percent reduction on food sales, textbook sales, and manufacturing sales.

Vendors remit monthly, quarterly, or annual sales and use tax returns to the DOR. The returns include gross sales receipts, adjustments to gross sales receipts, and taxable sales. The adjustment amounts include, but are not limited to, exempt sales for the period of the sales tax return (file period), and corrections of errors from previous file periods.

DOR records indicate adjustments to gross sales receipts totaled over $154 billion, $144 billion, and $147 billion in fiscal years 2011, 2010, and 2009, respectively. Detailed information of what is included in the adjustments total is not required to be provided on returns, and according to DOR personnel, only taxable sales are reported on some returns, with the gross sales receipts or adjustment amounts not included.

Although the DOR has previously agreed that tracking exemptions is a laudable goal, the DOR believes the recommendation increases the burden of reporting on taxpayers (vendor) and is contrary to the provision which requires simplified returns in the Streamlined Sales and Use Tax Agreement, (see MAR finding number 1). The DOR has indicated that when Missouri comes into substantial conformity with the Agreement, the DOR will require filers to submit a report of consolidated exempt sales by exemption type in accordance with the Agreement. However, as previously

noted, legislation is required to put the state into conformity with the Agreement and Missouri has yet to pass such legislation.

The DOR has also indicated the current sales tax system would require significant reprogramming, and might not have the capacity to handle the additional information from tracking and reporting exemptions. In February 2012, the DOR and the Office of Administration awarded a contract for a new Missouri Integrated Revenue System (MIRS). According to DOR personnel, although the new system is currently in the developmental stages, it should not have similar limitations.

## 2.2 Timely discounts

The DOR does not routinely report to the General Assembly for its consideration the amount of timely discounts taken by businesses. This discount was established for businesses to recover a portion of their costs for compliance with state sales tax laws. However, the state is foregoing a significant amount of sales taxes revenue because there is not a cap on the amount of timely discounts taken by large vendors.

Approximately $102 million, $94 million, and $95 million in state and local sales tax revenues were collected from purchasers but retained as timely discounts by businesses remitting sales and use taxes in fiscal years 2011, 2010, and 2009, respectively.

Section 144.710, RSMo, allows businesses remitting sales and use taxes to retain 2 percent of taxes payable to the DOR if the business remits payments in a timely manner. These discounts reduce the amount of sales and use taxes received by the state and local governments. According to a November 2008 report[3], 46 states (including the District of Columbia) impose state sales taxes, 26 states allow businesses a discount and/or compensation for recording and remitting sales tax collections, and 13 states, including Missouri, have not established a ceiling to limit amount of taxes businesses can retain. Of the eight states contiguous to Missouri, three (Iowa, Kansas and Tennessee) do not allow businesses to retain any compensation, and four (Arkansas, Kentucky, Nebraska, and Oklahoma) have established ceilings to limit the amount of discount and/or compensation retained by businesses.

Sales and use tax revenues are used to fund significant portions of state and local government budgets. For example, in fiscal year 2011, sales and use taxes comprise approximately 25 percent of the state's general revenue. The General Assembly needs timely and accurate information regarding reductions to sales and use tax revenues resulting from timely discounts to make informed financial decisions.

[3] *Skimming the Sales Tax,* Good Jobs First, November 2008.

The DOR previously indicated they provided the timely discount information when requested, and is willing and able to do so.

## 2.3 Refunds

State law does not require vendors to return sales and use tax refunds and related interest to the original purchaser when applicable, resulting in a windfall for the vendor. In addition, in many instances, the vendor may not even be able to identify the original purchasers to whom the refunds are due, further increasing the likelihood of a windfall. The DOR distributed sales and use tax refunds, including interest, of approximately $50 million, $60 million, and $71 million during fiscal years 2011, 2010, and 2009, respectively.

Vendors collect sales and use taxes from their customers and remit the taxes to the DOR. Section 144.190, RSMo, authorizes the DOR to issue sales and use tax refunds due to an overpayment of sales or use taxes. For some refunds the vendor is the original purchaser and some refunds are the result of taxpayer errors, incorrect quarter-monthly filer estimates, or other circumstances in which sales and use taxes were not collected from a purchaser, and as a result, should be retained by the vendor. However, in many cases, the refund is the result of an over collection of sales tax by the vendor and the refund is due back to the original purchaser.

Section 144.190.6, RSMo, provides, ". . . if a person legally obligated to remit the tax levied pursuant to sections 144.010 to 144.525 has received a refund of such taxes for a specific issue and submits a subsequent claim for refund of such taxes on the same issue for a tax period beginning on or after the date the original refund check issued to such person, no refund shall be allowed . . . . " This section further provides situations in which this section shall not apply and a refund shall be allowed. These include the receipt of additional information or an exemption certificate from the purchaser of the item at issue, a decision of a court of competent jurisdiction or the Administrative Hearing Commission, or changes in regulations or policy by the DOR. However, Section 144.190.6, RSMo, does not provide that refunds must be returned to the original purchaser. In addition, it appears that a vendor may not be able to identify the original purchaser in some cases, such as cash transactions or other point of sale settings where purchaser name or contact information is not captured. In these situations, the vendor would be unable to forward the refund to the original purchaser and would receive the windfall refund.

The DOR has previously agreed to support legislation that would require sales and use tax refunds and related interest to be returned to the original purchaser. However, to date, such legislation has not been successful. The legislation should also address how the refund should be handled when the original purchasers cannot be identified.

## 2.4 Interest paid on refunds local funds

The General Revenue Fund (GRF) does not receive reimbursement from local funds for their proportionate share of interest paid on refunds of sales and use taxes.

Based on the percentage of distributions to local funds to total distributions to state and local funds (exclusive of the GRF), interest payments of approximately $383,000, $1,723,000, $2,133,000 should have been allocated to local funds during fiscal years 2011, 2010, 2009, respectively, and is due to the GRF from local funds.

Sales and use tax refunds are issued from the GRF. To reimburse the GRF, adjustments are automatically made in the DOR tax system for the principal and interest amount of the refunds due from other state funds and the principal amount of the refunds due from local funds. However, adjustments are not automatically made to local funds for the interest paid on sales tax refunds.

Although the DOR has previously agreed that local funds should pay their proportionate share of interest paid on refunds, the DOR has been unable to develop any alternatives for recovering interest from local governments without the acquisition of a new tax system. As noted above, a new MIRS is currently being developed, and according to DOR personnel, the limitations of the current tax system should not be an issue with the new system.

## Recommendations

The DOR:

2.1&2 Ensure the tracking and reporting of exemptions and the timely discount is a component of the new MIRS, so that the reductions of state revenue related to each exemption and the timely discount can be determined and reported to the General Assembly.

2.3 Continue to support legislation that would require sales and use tax refunds and related interest to be returned to the original purchaser. Such legislation should also address whether a refund should be made when the original purchaser is not known.

2.4 Ensure the new MIRS has the capability to calculate the reimbursement to the GRF for local funds' proportionate share of interest paid on sales and use tax refunds.

## Auditee's Response

*2.1&2 Tracking and reporting exemptions is an appropriate goal. Reporting exemptions would substantially increase the burden on businesses. Also, based on prior attempts to track limited exemptions, the data collected is likely to be highly inaccurate due to businesses errors in reporting. In addition, to track and report exemptions, the Department would require a substantial increase in*

*FTE, which the current budget does not support. The Department is in the process of implementing an integrated revenue system that may be able to track at least some exemptions, but tracking and reporting the data will still be a significant burden on businesses and the data collected will still be likely to be inaccurate.*

*The Department has provided information regarding the timely filing discount when requested by elected officials from time-to-time, but has not been requested to report this information on a regular basis. The Department is willing and able to do so.*

2.3 *The Department reviews and makes recommendations with respect to existing laws and proposed legislation every year. The Department will review this issue and support appropriate legislation.*

2.4 *This is a requirement in the request for proposal and is scheduled to be implemented when the sales and use tax portion of the system is implemented in 2016.*

## 3. Automated Sales Suppression Device

Missouri law does not prohibit the creation, sale, purchase, installation, transfer, or possession of an automated sales suppression device. This device gives retailers the ability to hide the amount of cash transactions, and thus, evade paying sales taxes on cash transactions.

An automated sales tax device, commonly known as a zapper, is a software program that falsifies the electronic records of point of sale (POS) systems for the purpose of tax evasion. Most often, transactions in stores and restaurants are recorded by a POS system, rather than a mechanical cash register. The POS system records are generally not alterable by the operator and are used as the basis of tax assessments and audits by tax authorities. To hide the removal of cash, a zapper often runs untraceably from a USB flash drive and alters the electronic sales records in a cash register. This makes it appear that fewer transactions occurred than was actually the case. The use of zapper software reduces the tax liability of the business.

Due to concerns about the potential of sales tax zappers to reduce state and local government revenues, some states are enacting legislation to address this type of fraud. According to a recent study[4], Georgia, Maine, Utah, and West Virginia, have passed legislation to subject the technology (automated sales suppression device) that facilitates the fraud to enforcement measures.

[4] Robert T. Ainsworth, "An American Look at Zappers", Boston University School of Law Working Paper No. 12-14, <http:www.bu.edu/law/facuity/scholarship/workpapers/2012.html#>, accessed on October 17, 2012.

Other states, such as Florida, Indiana, Michigan, New York, Oklahoma, and Tennessee have similar legislation pending.

According to DOR management, the DOR is familiar with zapper technology and has taken steps to monitor for the use of zappers. However, the DOR has not identified any business using zappers, and is not aware of pending legislation to address zapper technology.

## Recommendation

The DOR work with the General Assembly on legislation to address the possession and use of automated sales suppression devices by businesses.

## Auditee's Response

*The Department reviews and makes recommendations with respect to existing laws and proposed legislation every year. The Department will review this issue and support appropriate legislation.*

# Department of Revenue
# Sales and Use Tax
# Organization and Statistical Information

The Department of Revenue (DOR) was created by Article IV, Section 12, Missouri Constitution as the central collection agency for state revenues. The Director of Revenue is appointed by the Governor, with the advice and consent of the Senate, and is responsible for all operations and policies. DOR responsibilities include:

1) Administering and collecting state taxes and fees, including sales and use tax, motor vehicle sales tax, and highway use tax.
2) Collecting certain taxes and fees for local governments, including local sales and use tax.
3) Titling and licensing motor vehicles, trailers, and boats.
4) Licensing motor vehicle operators.

The DOR consists of four divisions and the Director's office.

Motor Vehicle and Driver Licensing Division: This division consists of three bureaus. 1) The Motor Vehicle Bureau issues titles and registers motor vehicles, trailers, all-terrain vehicles, manufactured homes, and marine craft. In addition, the bureau issues registration certificates to motor vehicle and salvage dealers and leasing companies. 2) The Driver Licensing Bureau issues, renews, suspends, revokes, and reinstates driver and nondriver licenses and driving permits. The bureau also processes and maintains records regarding license issuance, traffic violation point assessments, and failure to appear in court for traffic violations, and administers the alcohol and abuse laws for alcohol/drug offenders. 3) The License Offices Bureau manages the operations of the contract license offices throughout the state. These local offices provide driver licensing and motor vehicle services. This division collects motor vehicles sales and use taxes.

Taxation Division: This division consists of four bureaus which collect taxes and administer state tax law. 1) The Business Tax Bureau administers sales and use, financial institutions, insurance premiums, franchise, cigarette and other tobacco products, motor fuel, corporate income, withholding, and county taxes and fees. 2) The Personal Tax Bureau administers individual income, partnership, fiduciary, and estate taxes, plus the property tax credit and homestead preservation tax credit. 3) The Collections and Tax Assistance Bureau provides tax assistance to individuals and businesses and handles unpaid tax liabilities. 4) The Field Compliance Bureau audits businesses both in-state and out-of-state to ensure compliance with the state's tax laws.

Administration Division: This division consists of two bureaus. 1) Personnel Services Bureau is responsible for the DOR personnel matters, policies and procedures, training, and written communications. 2) The Financial and General Services Bureau is responsible for accounting, procurement,

banking, and general services such as telecommunications, safety issues, and maintenance.

Legal Services Division: This division ensures DOR compliance with law and internal policies. The General Counsel's Office advises the director and divisions on legal matters and represents the DOR in court. The Criminal Tax Investigation Bureau investigates and develops information for local prosecution of individuals and businesses suspected of violating laws the DOR administers. The Compliance and Investigation Bureau investigates illegal motor vehicle titling and registration, odometer fraud, and tax fraud involving motor fuel sales tax. The bureau also reviews and evaluates the DOR administrative, operations, and internal accounting controls and contract license offices.

Director's Office: This office includes the Director, Deputy Director and key administrative staff. The Director of Communications works with the news media and acts as the DOR spokesperson. The legislative liaison manages the DOR relationship with the General Assembly and other governmental branches. This office also develops fiscal and revenue estimates on proposed legislation.

The Directors of Revenue from July 2008 to November 2012 include:

Omar D. Davis, December 2007 to January 2009
Karen King Mitchell, January 2009 to July 2009
Alana M. Barragan-Scott, (Acting) July 2009 to November 2012 (officially appointed Director in October 2009)

In December 2012, Brian K. Long was appointed Director.

## American Recovery and Reinvestment Act 2009 (Federal Stimulus)

The DOR did not receive any federal stimulus monies for sales and use tax operations during the 3 years ended June 30, 2011.

Appendix A-1

Department of Revenue
Sales and Use Tax
Combined Statement of Receipts and Distributions - State Funds
Year Ended June 30, 2011

| | General Revenue Fund | Aviation Trust Fund | Conservation Commission Fund | Highway Department Fund | Parks Sales Tax Fund | School District Fund | Soil and Water Sales Tax Fund | State Road Bond Fund | State Road Fund | State Transportation Fund | Total (Memorandum Only) |
|---|---|---|---|---|---|---|---|---|---|---|---|
| RECEIPTS | | | | | | | | | | | |
| Highway use tax | $ 0 | 0 | 2,078,213 | 50,836,775 | 831,288 | 0 | 831,289 | 0 | 12,469,685 | 0 | 67,047,250 |
| Marine and ATV sales and use tax | 5,457,077 | 0 | 222,405 | 0 | 88,961 | 1,778,594 | 88,963 | 0 | 0 | 0 | 7,636,000 |
| Motor vehicle sales tax | 1,501,456 | 0 | 7,683,612 | 0 | 3,073,447 | 30,735,246 | 3,073,448 | 92,205,748 | 89,746,926 | 2,458,820 | 230,478,703 |
| Sales and use tax | 1,799,655,636 | 4,669,303 | 85,834,108 | 0 | 34,333,282 | 683,755,451 | 34,333,282 | 8,739,431 | 8,504,938 | 232,453 | 2,660,057,884 |
| Total Receipts | 1,806,614,169 | 4,669,303 | 95,818,338 | 50,836,775 | 38,326,978 | 716,269,291 | 38,326,982 | 100,945,179 | 110,721,549 | 2,691,273 | 2,965,219,837 |
| DISTRIBUTIONS | | | | | | | | | | | |
| Transmitted to State Treasurer | 1,806,614,169 | 4,669,303 | 95,818,338 | 50,836,775 | 38,326,978 | 716,269,291 | 38,326,982 | 100,945,179 | 110,721,549 | 2,691,273 | 2,965,219,837 |
| Total Distributions | 1,806,614,169 | 4,669,303 | 95,818,338 | 50,836,775 | 38,326,978 | 716,269,291 | 38,326,982 | 100,945,179 | 110,721,549 | 2,691,273 | 2,965,219,837 |
| RECEIPTS OVER (UNDER) DISTRIBUTIONS | $ 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

Appendix A-2

Department of Revenue
Sales and Use Tax
Combined Statement of Receipts and Distributions - State Funds
Year Ended June 30, 2010

| | General Revenue Fund | Aviation Trust Fund | Conservation Commission Fund | Highway Department Fund | Parks Sales Tax Fund | School District Fund | Soil and Water Sales Tax Fund | State Road Bond Fund | State Road Fund | State Transportation Fund | Total (Memorandum Only) |
|---|---|---|---|---|---|---|---|---|---|---|---|
| RECEIPTS | | | | | | | | | | | |
| Highway use tax | $ 0 | 0 | 1,893,291 | 46,278,120 | 757,319 | 0 | 757,320 | 0 | 11,360,121 | 0 | 61,046,171 |
| Marine and ATV sales and use tax | 5,431,651 | 0 | 223,480 | 0 | 89,392 | 1,787,499 | 89,393 | 0 | 0 | 0 | 7,621,415 |
| Motor vehicle sales tax | 1,482,390 | 0 | 7,075,789 | 0 | 2,830,318 | 28,304,001 | 2,830,319 | 84,912,003 | 82,647,682 | 2,264,320 | 212,346,822 |
| Sales and use tax | 1,783,069,451 | 4,018,391 | 84,661,629 | 0 | 33,864,165 | 674,348,210 | 33,864,165 | 8,831,602 | 8,594,637 | 234,905 | 2,631,487,155 |
| Total Receipts | 1,789,983,492 | 4,018,391 | 93,854,189 | 46,278,120 | 37,541,194 | 704,439,710 | 37,541,197 | 93,743,605 | 102,602,440 | 2,499,225 | 2,912,501,563 |
| DISTRIBUTIONS | | | | | | | | | | | |
| Transmitted to State Treasurer | 1,789,983,492 | 4,018,391 | 93,854,189 | 46,278,120 | 37,541,194 | 704,439,710 | 37,541,197 | 93,743,605 | 102,602,440 | 2,499,225 | 2,912,501,563 |
| Total Distributions | 1,789,983,492 | 4,018,391 | 93,854,189 | 46,278,120 | 37,541,194 | 704,439,710 | 37,541,197 | 93,743,605 | 102,602,440 | 2,499,225 | 2,912,501,563 |
| RECEIPTS OVER (UNDER) DISTRIBUTIONS | $ 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

Appendix A-3

Department of Revenue
Sales and Use Tax
Combined Statement of Receipts and Distributions - State Funds
Year Ended June 30, 2009

| | General Revenue Fund | Aviation Trust Fund | Conservation Commission Fund | Highway Department Fund | Parks Sales Tax Fund | School District Fund | Soil and Water Sales Tax Fund | State Road Bond Fund | State Road Fund | State Transportation Fund | Total (Memorandum Only) |
|---|---|---|---|---|---|---|---|---|---|---|---|
| RECEIPTS | | | | | | | | | | | |
| Highway use tax | $ 0 | 0 | 1,726,092 | 42,248,271 | 690,439 | 0 | 690,440 | 0 | 10,356,893 | 0 | 55,712,135 |
| Marine and ATV sales and use tax | 5,165,759 | 0 | 212,366 | 0 | 84,946 | 1,698,576 | 84,947 | 0 | 0 | 0 | 7,246,594 |
| Motor vehicle sales tax | 1,508,529 | 0 | 6,711,217 | 0 | 2,684,489 | 26,845,675 | 2,684,491 | 80,537,024 | 78,389,369 | 2,147,653 | 201,508,447 |
| Sales and use tax | 1,874,358,571 | 4,777,063 | 87,921,543 | 0 | 35,167,711 | 699,861,771 | 35,167,711 | 10,476,221 | 10,195,128 | 278,649 | 2,758,204,368 |
| Total Receipts | 1,881,032,859 | 4,777,063 | 96,571,218 | 42,248,271 | 38,627,585 | 728,406,022 | 38,627,589 | 91,013,245 | 98,941,390 | 2,426,302 | 3,022,671,544 |
| DISTRIBUTIONS | | | | | | | | | | | |
| Transmitted to State Treasurer | 1,881,032,859 | 4,777,063 | 96,571,218 | 42,248,271 | 38,627,585 | 728,406,022 | 38,627,589 | 91,013,245 | 98,941,390 | 2,426,302 | 3,022,671,544 |
| Total Distributions | 1,881,032,859 | 4,777,063 | 96,571,218 | 42,248,271 | 38,627,585 | 728,406,022 | 38,627,589 | 91,013,245 | 98,941,390 | 2,426,302 | 3,022,671,544 |
| RECEIPTS OVER (UNDER) DISTRIBUTIONS | $ 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

FIRST REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 190

**98TH GENERAL ASSEMBLY**

2015

0805S.02T

## AN ACT

To repeal section 92.402, RSMo, and to enact in lieu thereof one new section relating to public mass transportation sales taxes.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 92.402, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 92.402, to read as follows:

92.402. 1. Any city may, by a majority vote of its council or governing body, impose a sales tax for the benefit of the public mass transportation system operating within such city as provided in sections 92.400 to 92.421.

2. The sales tax may be imposed at a rate not to exceed one-half of one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within any city adopting such tax, if such property and services are subject to taxation by the state of Missouri pursuant to the provisions of sections 144.010 to 144.525. Seven and one-half percent of the sales tax shall be distributed to the interstate transportation authority pursuant to the provisions of section 92.421. The **[**remainder of the tax in excess of such seven and one-half percent shall expire on December 31, 2015, on which date the**]** authority shall be in full compliance with handicapped accessibility pursuant to the terms of the Americans with Disabilities Act.

3. Within ten days after the adoption of any ordinance imposing such a sales tax, the city clerk shall forward to the director of revenue by United States registered mail or certified mail a certified copy of the ordinance of the council or governing body. The ordinance shall reflect the effective date thereof and shall be accompanied by a map of the city clearly showing the boundaries thereof.

**EXPLANATION–Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

4. If the boundaries of a city in which such sales tax has been imposed shall thereafter be changed or altered, the city clerk shall forward to the director of revenue by United States registered mail or certified mail a certified copy of the ordinance adding or detaching territory from the city. The ordinance shall reflect the effective date thereof, and shall be accompanied by a map of the city clearly showing the territory added thereto or detached therefrom. Upon receipt of the ordinance and map, the tax imposed by sections 92.400 to 92.421 shall be effective in the added territory or abolished in the detached territory on the effective date of the change of the city boundary.

✓

**EXPLANATION–Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0805-04
Bill No.: HCS for SCS for SB 190
Subject: Kansas City; Taxation and Revenue - Sales and Use; Transportation
Type: Original
Date: May 1, 2015

---

Bill Summary: This proposal would remove the current expiration date for the Kansas City transportation sales tax and would add statutory audit requirements for transportation development districts.

**FISCAL SUMMARY**

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2016 | FY 2017 | FY 2018 |
| | | | |
| **Total Estimated Net Effect on General Revenue** | **$0** | **$0** | **$0** |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2016 | FY 2017 | FY 2018 |
| | | | |
| | | | |
| **Total Estimated Net Effect on Other State Funds** | **$0** | **$0** | **$0** |

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 7 pages.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2016 | FY 2017 | FY 2018 |
| | | | |
| | | | |
| **Total Estimated Net Effect on All Federal Funds** | **$0** | **$0** | **$0** |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2016 | FY 2017 | FY 2018 |
| | | | |
| | | | |
| **Total Estimated Net Effect on FTE** | **0** | **0** | **0** |

☐ Estimated Net Effect (expenditures or reduced revenues) expected to exceed $100,000 in any of the three fiscal years after implementation of the act.

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2016 | FY 2017 | FY 2018 |
| **Local Government *** | **$0** | **$0** | **$0** |

* Net of additional revenues and expenditures.

## FISCAL ANALYSIS

ASSUMPTION

Section 92.402, RSMo. - Kansas City Area Transportation Sales Tax:

This proposal would eliminate the expiration of a portion of the Kansas City Area Transportation Sales Tax. (Under current law that portion of the tax is scheduled to expire December 31, 2015.)

Officials from the **City of Kansas City** stated this proposal would maintain transportation sales tax revenues of $12,166,167 for January 1, 2016 to April 30, 2016, and $36,500,000 per year for FY 2017 and FY 2018.

**Oversight** has no independent information regarding transportation sales tax revenues and will assume for fiscal note purposes the City of Kansas City response is the best available estimate of the impact of this proposal.

**Oversight** notes that current provisions would let a portion of the sales tax expire on December 31, 2015 (FY 2016) and the proposal would extend the sales tax indefinitely. If the sales tax expired, the revenue reduction for the City of Kansas City from January 1, 2016 to June 30, 2016 (FY 2016) would be ($36,500,000 x 6/12) = $18,250,000 (disregarding reporting and distribution delays), and the fiscal impact of this proposal for FY 2017 and FY 2018 would be $36,500,000 per year. Oversight will include these amounts in this fiscal note.

For simplicity, **Oversight** will not include any impact for the Department of Revenue's collection costs. Oversight will also assume that all or substantially all of the sales tax revenues would be expended on transportation costs and will so indicate in this fiscal note.

Officials from the **Kansas City Election Board** assumed a previous version of this proposal could result in jurisdiction-wide election at a cost of $400,000.

**Oversight** notes that current provisions regarding the KCATA Sales Tax do not appear to provide for an election.

Officials from the **Office of the Secretary of State**, the **Joint Committee on Administrative Rules**, the **Department of Revenue**, the **Jackson County Election Board**, and the **Platte County Board of Elections** assumed a previous version of this proposal would have no fiscal impact on their organizations.

SS:LR:OD

ASSUMPTION (continued)

Officials from the **Office of Administration - Division of Budget and Planning** assumed a previous version of this proposal would have no fiscal impact on their organization.

Not responding:

Officials from Jackson County, Belton, Excelsior Springs, Gladstone, Grandview, Harrisonville, Independence, the Kansas City Area Transit Authority, Kearney, Lees Summit, Liberty, Peculiar, Raytown, Sugar Creek, Cass County Elections, Clay County, the Clay County Board of Election Commissioners, the Jackson County Executive, and Platte County did not respond to our request for fiscal information.

Sections 105.145, 238.222, and 238.272, RSMo. - Transportation Development Districts:

Changes to these provisions would provide specific statutory audit requirements for transportation development districts.

Officials from the **Office of the State Auditor** assumed similar language in HCS for HB 477 LR 1681-03 would have no fiscal impact on their organization.

In response to similar language in HCS for HB 477 LR 1681-03, officials from the **Department of Revenue** assumed this legislation would require the department to create a form. DOR officials assumed the form could be set up in the department's existing county fees system without any additional resources.

**Oversight** notes the Office of the State Auditor (SAO) issued report No. 2013-065 in 2013 entitled Transportation Development Districts regarding their financial statement reporting requirements. The report stated as of December 31, 2011, 49 districts (of the 176 at the time) filed financial statements/audit reports late or did not file financial statements with the Office of the State Auditor at all. While a fine for late filing of financial statements is provided, Section 105.145.8 currently does not establish the agency responsible for the assessment or a collection mechanism for these fines; therefore, no fine revenue has been collected to date. The report also stated, as of February 1, 2013, the potential accumulated fine amounts were $16,859,000.

ASSUMPTION (continued)

IT impact

DOR officials provided an estimate of the IT cost to implement this proposal of $10,449 based on 139 hours of programming at the current state contract rate for IT services.

**Oversight** assumes DOR could absorb the IT cost to implement this proposal with existing resources.

**Oversight** also notes this proposal would require future fine revenue to be distributed to local school districts (after the Department of Revenue retains a collection fee of not more than two percent) in the same manner that proceeds for all penalties, forfeitures, and fines collected for any breach of the penal law of the state are distributed.

**Oversight** assumes the $500 fine is already established in statutes and that Transportation Development Districts (currently 195 districts) would timely submit their financial statements. Therefore, Oversight will assume no additional fiscal impact from this proposal.

In response to a similar proposal (HB 136 LR 0499-01) from this year, officials from **Department of Transportation** assumed the proposal would have no fiscal impact on their organization.

In response to a similar proposal (HB 136 LR 0499-01) from this year, officials from the **City of Kansas City Public School District** assumed the proposal would have no fiscal impact on their organization.

Bill as a whole response

Officials from the **Platte County Board of Elections** assume this proposal would have no fiscal impact on their organization.

| FISCAL IMPACT - State Government | FY 2016 (10 Mo.) | FY 2017 | FY 2018 |
|---|---|---|---|
| | **$0** | **$0** | **$0** |

| FISCAL IMPACT - Local Government | FY 2016 (10 Mo.) | FY 2017 | FY 2018 |
|---|---|---|---|
| **LOCAL GOVERNMENTS** | | | |
| Additional revenue - City of Kansas City Sales tax | $18,250,000 | $36,500,000 | $36,500,000 |
| Additional expenditures - City of Kansas City Transportation | ($18,250,000) | ($36,500,000) | ($36,500,000) |
| **ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS** | **$0** | **$0** | **$0** |

SS:LR:OD

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

The proposed legislation would remove the current expiration date for the Kansas City transportation sales tax and would provide specific statutory requirements for audits of transportation development districts.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Secretary of State
Joint Committee on Administrative Rules
Office of Administration
Division of Budget and Planning
Department of Revenue
City of Kansas City
Platte County Board of Elections

Mickey Wilson, CPA
Director
May 1, 2015

Ross Strope
Assistant Director
May 1, 2015

SS:LR:OD

The State Auditor's office did not receive a response from the **Department of Agriculture, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, St. Louis Community College,** and the **State Tax Commission.**

**Fiscal Note Summary**

Potential costs to state and local governmental entities are unknown, but could be significant. The proposal's passage would impact governmental entity's ability to revise their tax structures. State and local governments expect no savings from this proposal.

16-053

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

May 4, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Winston Apple regarding a proposed statutory amendment to Chapter 67 (2016-053)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Winston Apple on May 4, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

RECEIVED
MAY 04 2015
STATE AUDITOR'S OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

K0-053

County:_____
Page number: _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021 RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail, or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

RECEIVED
2015 MAY -4 AM 10:1

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print of type names of signers)

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong Dist | NAME (Print or Typed) |
|---|---|---|---|---|---|---|
| 1. | | | | | | |
| 2. | | | | | | |
| 3. | | | | | | |
| 4. | | | | | | |
| 5. | | | | | | |
| 6. | | | | | | |
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| 9. | | | | | | |
| 10. | | | | | | |
| 11. | | | | | | |
| 12. | | | | | | |
| 13. | | | | | | |
| 14. | | | | | | |
| 15. | | | | | | |

Signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____.

_____
Signature of Affiant (Person obtaining signatures)

_____
(Printed Name of Affiant)

_____
Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A. D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)
My commission expires _____

IC0-053

Be it enacted by the people of the State of Missouri, as follows:

Section 67.1571of the Revised Missouri Statutes is hereby repealed:

[67.1571. No municipality as defined in section 1, paragraph 2, subsection (9) shall establish, mandate or otherwise require a minimum wage that exceeds the state minimum wage.]

16-052

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

May 4, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Winston Apple regarding a proposed statutory amendment to Chapters 130 & 143 (2016-052)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Winston Apple on May 4, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

RECEIVED
MAY 04 2015
STATE AUDITOR'S OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-052

County:_____
Page number: _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021 RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail, or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

RECEIVED
2015 MAY -4 P 10:03

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print of type names of signers)

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong Dist | NAME (Print or Typed) |
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Signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____.

_____
Signature of Affiant (Person obtaining signatures)

_____
(Printed Name of Affiant)

_____
Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A. D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)
My commission expires _____

16-052

Be it enacted by the people of Missouri:

Two new sections of the Revised Missouri Statutes are hereby enacted, to be known as sections 130.230 and 143.990, to read as follows:

130.230. 1. "The Missouri elections trust fund" is hereby created to provide public financing for candidates for office in Missouri who agree to accept and meet certain conditions and limitations.
2. The government by the people trust fund will be administered by a board, to be known as the "public finance commission" consisting of seven members, to be nominated by the governor and approved by the senate.

(1) No individual may be appointed to the public finance commission who is:

(a) a government employee;

(b) a registered lobbyist, or who has been a registered lobbyist at any time during the 5-year period preceding their appointment to the commission;

(c) an officer or employee of a political party or political campaign;

(d) an elected official, senator, or representative.

(2) Members of the public finance commission shall be appointed for a term of five years; except the second and third classes of the first seven members of the public finance commission , who shall be divided into three classes, as follows;

(a) The first three members to be confirmed shall serve a full five-year term;

(b) The fourth and fifth members to be confirmed shall serve a three-year term;

(c) The sixth and seventh members to be confirmed shall serve a one-year term.

(3) Members of the public finance commission may be removed from office if convicted of fraud or mismanagement of funds administered by the public finance commission, or conviction of a felony.

3. Members of the public finance commission will be reimbursed for travel and other expenses at the prevailing rate for other employees and officers of the state of Missouri.
4. The funds collected under this program will be distributed only to candidates who accept the conditions required to qualify for public financing.
5. Candidates accepting public funds must agree to and meet the following conditions:

(1) Not to accept contributions from corporations or political action committees that include corporate contributions in their fund-raising;

(2) Not to accept donations totaling more than $500 from any individual or other source, excluding a political party of which they are a member, during an election cycle (defined as the period between two general elections for the same office); and

(3) That at least half of the money they raise will come from individuals, political action committees, or other sources that contribute no more than $100 to them during an election cycle.
6. The funding provided to eligible candidates will be in the form of matching funds, with the size of the match (2 to 1; 5 to 1; etcetera) to be determined by the commission based on the total amount of money raised by all candidates who have elected to accept public funds and the total amount of money available from the fund during each election year.

(1) Thirty-five percent of the funds available shall be distributed on the first day of June of each general election year, based on total monetary contributions received during the election cycle up to the date of the quarterly report filed with the Missouri Ethics Commission for the quarter ending on the thirty-first day of March. (In-kind contributions are not eligible for matching funds.)

(2) The balance of available funds shall be distributed on the third Monday in September of each general election year to eligible candidates in the general election, based on total monetary contributions received and reported through the thirtieth day of August.
7. When a candidate or committee files a termination statement and disclosure report with the Missouri Ethics Commission, any and all funds remaining after dissolving any debt are to be paid over to the government by the people fund, up to and including an amount equal to the full amount of matching funds received by said candidate.

143.990. 1. In each taxable year beginning on or after January 1, 2016, each individual or corporation having paid state income taxes in the amount of twenty-five dollars or more may designate that five dollars of the tax paid shall be paid over to the Missouri elections trust fund as provided in section 130.230. In the case of a husband and wife with a filing status of married filing combined having paid state income tax in the amount of fifty dollars or more, each spouse may designate that five dollars shall be paid to the fund.

2. The designation authorized by this section shall be clearly and unambiguously printed on the same page of each income tax return form provided by the state upon which the amount of the amount of tax owed is indicated, and shall provide a statement that contributing to the fund will not increase the amount of tax owed or reduce the amount of overpayment to be refunded. The department of revenue shall deposit such amount to the Missouri election trust fund as created in section 130.230.

16-051

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

May 4, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Winston Apple regarding a proposed statutory amendment to Chapters 21 & 105 (2016-051)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Winston Apple on May 4, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

RECEIVED
MAY 04 2015
STATE AUDITOR'S OFFICE

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-051

County:_____
Page number: _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021 RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail, or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

RECEIVED
2015 MAY -4 AM 10:18

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print of type names of signers)

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong Dist | NAME (Print or Typed) |
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Signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____.

_____
Signature of Affiant (Person obtaining signatures)

_____
(Printed Name of Affiant)

_____
Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A. D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)
My commission expires _____.

16-051

Explanation: RSMo Section 21.140 is set forth hereinafter with the new matter underlined and deleted matter in brackets; **[**thus**]**

Be it enacted by the people of Missouri:

Section 21.140 and Section 105.005 of the Revised Missouri Statutes are amended, to read as follows:

21.140. 1. Each senator and representative shall receive from the treasury an annual salary of **[**eighteen thousand seventy-eight dollars**]** fifty thousand dollars, effective the first day of January, 2019, plus any salary adjustment provided pursuant to section 105.005, after the first day of July, 2019. The speaker of the house and the president pro tem of the senate shall each receive as additional annual compensation the amount of two thousand five hundred dollars, and the speaker pro tem of the house and the majority and minority floor leaders of the house and senate shall each receive as additional annual compensation the amount of one thousand five hundred dollars. Upon certification by the president and secretary of the senate and by the speaker and clerk of the house of representatives as to the respective members thereof, the commissioner of administration shall audit and the state treasurer shall pay such compensation. Senators and representatives shall receive, weekly, a mileage allowance as provided by law for state employees, in going to their place of meeting in Jefferson City from their place of residence, and returning from their place of meeting in Jefferson City to their place of residence while the legislature is in session, on the most usual route, if the senator or representative does travel to Jefferson City during that week.
2. The salary adjustment provided for herein by the amendment to section 150.005.1 shall only be enacted and take effect if the people of the state of Missouri approve an amendment to the constitution reducing the number of representatives from 163 to 50, thus providing the appropriations necessary to fund this particular salary adjustment.

105.005. 1. The salary set by sections 21.140, 26.010, 27.010, 28.010, 29.010, 30.010, 105.950, 138.230, 138.235, 138.236, 138.440, 138.445, 217.665, 286.005, 287.615, 386.150, 386.190, 621.015, and 621.055 shall be adjusted on July first of each year and the adjustment shall not be less than zero.
2. The salary adjustment provided by this section shall not be effective in any amount in excess of the salary adjustment for the executive department contained in the pay plan applicable to other state employees at a similar salary level for that fiscal year. The salary adjustments provided by this section shall not be effective unless appropriations necessary to fund the adjustments are approved by the general assembly and the governor. Each salary adjustment to be approved pursuant to this section shall be stated in a separate line item of the pertinent appropriation bill. If the constitution of the state of Missouri is amended in such manner as provided for by section 105.005.2 herein, the provisions of this section shall be waived for the particular salary adjustment provided for in the amendment to section 21.140.1 herein, and only for said salary adjustment.
3. Each salary adjustment approved pursuant to this section for offices that have a statutory salary shall be added to the compensation otherwise provided by law for each office if such, including prior salary adjustments made pursuant to this section, and the sum of these amounts shall be the statutory salary of the office for all purposes. Each such statutory salary shall be included in the pertinent appropriation bill in the same manner as any other personal service appropriation involving a statutory salary.
4. The office of administration shall maintain a compensation schedule for each fiscal year indicating the statutory salary or salary range paid for each office subject to this section and the salary adjustment contained in the pay plan applicable to other state employees generally. The schedule required by this subsection shall be open for public inspection during the normal business hours of the office of administration and shall be included annually in the Missouri Register and an appendix to the Revised Statutes of Missouri. For each office for which a salary adjustment is approved pursuant to this section, the revisor of statutes shall place a revisor's note following each section providing compensation for the office referencing the reader to the compensation appendix.

16-050

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

April 27, 2015

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Michael Dean regarding a proposed statutory amendment to Chapter 610 (2016-050)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Michael Dean on April 27, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

RECEIVED
APR 27 2015
STATE AUDITORS OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-050

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law (or amendment to the constitution) shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, unless the general assembly shall designate another date, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

RECEIVED 2015 APR 27 AM 9:32

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONG. DISTR. | NAME (Printed or Typed) |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis).

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do _____ do not _____ (check one) expect to be paid for circulating this petition. If paid, list the payer _____.

_____ _____ _____

Signature of Affiant (Person obtaining signatures) Printed Name of Affiant Address of Affiant

Subscribed and sworn to before me this _____ _ day of _____, A.D. 20_____ My Commission Expires: _____

_____ _____ _____

Signature of Notary Printed Name of Notary Address of Notary

_____ Notary Public (seal)

*Be it enacted by the people of the state of Missouri:*

16-050

Chapter 610, RsMO, is amended by adding thereto one new section, to be known as section 610.012, to read as follows:

610.012. (1) We the People of the state of Missouri, with the legislative power retained by us under the Missouri Constitution (including Article III, Sections 49 and 50), hereby call for an Article V Convention by enacting into law this Application, in accordance with Article V of the U. S. Constitution, for the specific and exclusive purpose of considering a Constitutional Amendment consistent with the following principles:

(a) Corporations Are Not People. Artificial entities, such as corporations, unions and non-profit corporations, established by the laws of any State, the United States, or any foreign state, shall have no constitutional rights and shall be subject to regulation by the People, through Federal, State or Local law. Nothing in this clause shall be construed to limit the rights of the People as specified in the U.S. Constitution and its Amendments.

(b) Money is Not Speech. Money is property and shall not be construed as speech. The People, to ensure a level playing field for all people regardless of their economic status, empower and direct Federal, State, and Local governments to regulate, limit or prohibit the contribution and spending of money for political purposes and to require full and prompt public disclosure of all such transactions.

(2) This measure constitutes a continuing application in accordance with Article V of the Constitution of the United States, until at least two-thirds of the legislatures of the several states have made similar applications pursuant to Article V.

(3) A copy of this initiative shall be transmitted to the President of the United States; to each member of the Missouri Congressional Delegation; to the presiding officers of the U.S. Senate and House of Representatives; to each Governor and presiding officer of each legislative body of each of the United States.

RECEIVED
2015 APR 27 AM 9:32
SECRETARY OF STATE

16-049

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

April 17, 2015

RECEIVED
APR 17 2015
STATE AUDITORS OFFICE

The Honorable John Watson
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Winston Apple regarding a proposed statutory amendment to Chapters 286 & 143 (2016-049)

Dear Auditor Watson:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Winston Apple on April 16, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-019

County:_____
Page number: _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021 RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail, or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

RECEIVED
2015 APR 16 PM 2:

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print of type names of signers)

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong Dist | NAME (Print or Typed) |
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Signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____.

_____
Signature of Affiant (Person obtaining signatures)

_____
(Printed Name of Affiant)

_____
Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A. D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)
My commission expires _____

16-049

Be it enacted by the people of Missouri:

Two new sections of the Revised Missouri Statutes are hereby enacted, to be known as sections 286.131 and 143.012, to read as follows:

286.131. 1. Effective June 1, 2017, the division of employment security will begin to provide employment through a program to be known as "public sector employment," in lieu of unemployment benefits to as many eligible citizens of Missouri as possible with the funds available.

2. Bonds shall be issued to provide initial funding for public sector employment, with principle and interest on said bonds being paid with funds collected through the surtax on capital gains, as provided for in Section 143.012, as funds become available through that surtax.

3. Public sector employment will be available only to residents of the state of Missouri.

4. If funding is insufficient to provide employment for all applicants, priority placement will be given to the applicants with the greatest number of dependents (as claimed on the applicant's federal Form W-4).

5. The compensation provided for, and other specific policies related to, work done through public sector employment shall be determined and set by the labor and industrial relations commission.

6. The work done as public sector employment should be directed toward projects that have some public benefit for the state of Missouri. Initial projects should focus on improving the energy efficiency of existing publically owned buildings, constructing state-owned and operated wind and solar projects, and planting trees.

7. Applicants for public sector employment may be required to take aptitude tests to determine the jobs for which they may be best suited and to receive training designed to improve their skills. Normal rates of compensation provided under this program will be paid for time spent testing and training.

8. In the event that an applicant employed through these public works projects consistently fails to provide adequately for the needs of his or her dependents, as a result of substance abuse problems, other addictions, or other mental health issues, guidance and assistance in financial management shall be offered. Should the applicant continue to misuse the income being provided through these public works projects, an amount equal to ninety percent of the income earned may be paid in the form of vouchers to be used exclusively to pay for rent, food, utilities, and medical care for the employee and her or his dependents.

143.012. 1. Beginning with the 2017 calendar year, a surtax of ten percent on the amount of capital gains reported on each Missouri resident's Federal tax return (Form 1040), will be imposed, with the funds collected dedicated to provide funding for public sector employment through the division of employment security.

2. To the extent that public sector employment reduces the funding needed to provide various forms of public assistance, the state of Missouri shall seek approval from the government of the United States of America to transfer funding provided for such assistance programs to the division of employment security.

3. In the event that excess funds remain after all applicants for employment have been employed, all funds beyond a reserve sufficient to meet anticipated funding for the succeeding twelve-month period, as determined by the commission, shall be transferred to the general fund. If, after funds have been transferred to the general fund, unexpected demand for public sector employment results in a shortfall of revenue needed to fully fund the program, an amount equal to all funds transferred to the general fund during the preceding 12 month period shall be returned to the division of employment security.

16-048

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
APR 17 2015
STATE AUDITORS OFFICE

April 17, 2015

The Honorable John Watson
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Winston Apple regarding a proposed statutory amendment to Chapter 192 (2016-048).

Dear Auditor Watson:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Winston Apple on April 16, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-048

County:_____
Page number: _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021 RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail, or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

RECEIVED
2015 APR 16 PM 2:38

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print of type names of signers)

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong Dist | NAME (Print or Typed) |
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Signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____.

_____
Signature of Affiant (Person obtaining signatures)

_____
(Printed Name of Affiant)

_____
Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A. D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)
My commission expires _____

16-018

Be it enacted by the people of Missouri:

One new section of the RSMo is enacted, to be known as section 192.008, to read as follows:

192.008. 1. "The Missouri Health Insurance Cooperative" (hereinafter referred to as "MHIC") is hereby created, within the department of health and senior services, to provide health insurance for citizens of Missouri who wish to become members of the cooperative.

2. The MHIC shall be administered by the director of the department of health and senior services.

3. The state of Missouri is authorized to issue bonds to cover the start-up costs for the MHIC and any shortages of funds needed to pay authorized benefits until such time as the premiums and out-of-pocket maximums for members have been adjusted to fully cover administrative expenses and benefits paid with money collected from premiums paid by members.

4. Memberships in The Missouri Health Insurance Cooperative shall be available beginning no later than January 1, 2018.

5. Enrollment in The Missouri Health Insurance Cooperative (hereinafter referred to as "MHIC") shall be voluntary and limited to citizens of the state of Missouri.

6. Premiums for insurance coverage through MHIC, as well as the out-of-pocket maximum for members will be based on a percentage of each member's gross annual income, as determined by the board. Premiums and out-of-pocket maximums will be adjusted annually, with premiums set as low as possible and out-of-pocket maximums set as high as possible.

7. The MHIC shall be revenue-neutral. The percentages of income established for premiums and out-of-pocket maximums shall be adjusted annually and set at levels that will insure that revenues are sufficient to cover all costs, including amounts paid out to members for health care expenses in excess of their out-of-pocket maximum and all administrative expenses; as well as funds necessary to pay principal and interest on bonds issued to fund start-up costs for MHIC.

8. Only treatments and procedures deemed medically necessary, as determined by the department of health and senior services shall be covered through the MHIC.

9. Members who waive coverage for health care expenses and treatments commonly associated with smoking tobacco or consuming alcohol will receive a discount on their premiums that reflects, as accurately as possible the benefits to The MHIC as a result of not having to pay for such care and treatment. Should the general assembly elect to provide subsidies to MHIC for health care expenses and treatments commonly associated with smoking tobacco, consuming alcohol, or other recreational drug use through the collection of excise taxes on tobacco products, alcohol, or recreational drugs, this discount will be suspended and all members of MHIC will pay the same percentage of their income as premiums.

10. Members of the MHIC and health care providers in the state of Missouri, are responsible for keeping records and receipts for covered health care, to be furnished to the MHIC in the event that expenses for needed health care exceed the out-of-pocket maximum for a given calendar year and reimbursement is thereby requested.

RECEIVED
APR 15 2015

16-047

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

April 15, 2015

The Honorable John Watson
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Lara Granich regarding a proposed statutory amendment to Chapter 290, version 3 (2016-047)

Dear Auditor Watson:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Lara Granich on April 14, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

16-047

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 APR 14 PM 4:19
SECRETARY OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
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| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____

(Name of payer) Signature of Affiant (Person obtaining signatures)

_____

Printed Name of Affiant

_____

Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____

Signature of Notary

_____

Address of Notary (Street, City, State & Zip Code)

My commission expires _____.

# Statutory Amendment to Chapter 290, RSMo, Relating to the Minimum Wage, Version 3

16-047

*Be it enacted by the people of the State of Missouri:*

Sections 290.502, 290.512, and 290.527 are amended and a new section to be known as section 290.529 is enacted to read as follows:

§ 290.502. Minimum wage rate -- increase or decrease, when

1. Except as may be otherwise provided pursuant to sections 290.500 to 290.530, effective January 1, 2007, every employer shall pay to each employee wages at the rate of $ 6.50 per hour, or wages at the same rate or rates set under the provisions of federal law as the prevailing federal minimum wage applicable to those covered jobs in interstate commerce, whichever rate per hour is higher.

2. The minimum wage shall be increased or decreased on January 1, 2008, and on January 1 of successive years, by the increase or decrease in the cost of living. On September 30, 2007, and on each September 30 of each successive year, the director shall measure the increase or decrease in the cost of living by the percentage increase or decrease as of the preceding July over the level as of July of the immediately preceding year of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) or successor index as published by the U.S. Department of Labor or its successor agency, with the amount of the minimum wage increase or decrease rounded to the nearest five cents.

3. Except as may be otherwise provided pursuant to sections 290.500 to 290.530, notwithstanding subsection 1 of this section, effective January 1, 2017, every employer shall pay to each employee wages at the rate of $9.00 per hour, and effective January 1, 2018 at the rate of $10.00 per hour, and effective January 1, 2019 at the rate of $11.00 per hour, or wages at the same rate or rates set under the provisions of federal law as the prevailing federal minimum wage applicable to those covered jobs in interstate commerce, whichever rate per hour is higher. Thereafter, the minimum wage rate shall be increased or decreased on January 1, 2020, and on January 1 of successive years, per the method set forth in subsection 2 of this section; but, if the federal minimum wage rate is above or is thereafter increased above the minimum wage rate then in effect under this subsection, the higher federal rate shall become the minimum wage rate for as long as it remains higher and shall be increased or decreased per the method set forth in subsection 2.

4. Every employer that is a public body shall pay to its employees wages at the rates established by subsection 3 of this section only provided there are appropriations for wages at those rates. If appropriations are not provided, the public body shall continue to be subject to the requirements of subsections 1 and 2 of this section. As used in this subsection, a public body means the state of Missouri, or any officer, agency, department, bureau, or division, board or commission of the state, or any municipality, county, township, authority, district, or any other political subdivision of or within the state.

**§ 290.512. Gratuities, goods or services as part of wages, effect on minimum wage requirement**

1. No employer of any employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages in excess of fifty percent of the minimum wage rate specified in sections 290.500 to 290.530, however, total compensation for such employee shall total at least the minimum wage specified in sections 290.500 to 290.530, the difference being made up by the employer.

2. Notwithstanding subsection 1 of this section, effective January 1, 2017, no employer of any employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages in excess of sixty percent of the minimum wage rate specified in sections 290.500 to 290.530, however, total compensation for such employee shall total at least the minimum wage specified in sections 290.500 to 290.530, the difference being made up by the employer.

3. A public body that is the employer of an employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages at the rates established by subsection 2 of this section only provided there are appropriations for wages at those rates. If appropriations are not provided, the public body shall continue to be subject to the requirements of subsection 1 of this section. As used in this subsection, a public body is defined as in subsection 4 of section 290.502.

[2.] 4. If an employee receives and retains compensation in the form of goods or services as an incident of his employment and if he is not required to exercise any discretion in order to receive the goods or services, the employer is required to pay only the difference between the fair market value of the goods and services and the minimum wage otherwise required to be paid by sections 290.500 to 290.530. The fair market value of the goods and services shall be computed on a weekly basis. The director shall provide by regulation a method of valuing the goods and services received by any employee in lieu of the wages otherwise required to be paid under the provisions of sections 290.500 to 290.530. He shall also provide by regulation a method of determining those types of goods and services that are an incident of employment the receipt of which does not require any discretion on the part of the employee.

**§ 290.527. Action for underpayment of wages, employee may bring--limitation**

Any employer who pays any employee less wages than the wages to which the employee is entitled under or by virtue of sections 290.500 to 290.530 shall be liable to the employee affected for the full amount of the wage rate and an additional [equal] amount equal to twice the unpaid wages as liquidated damages, less any amount actually paid to the employee by the employer and for costs and such reasonable attorney fees as may be allowed by the court or jury. The employee may bring any legal action necessary to collect the claim. Any agreement between the employee and the employer to work for less than the wage rate shall be no defense to the action. All actions for the collection of any deficiency in wages shall be commenced within [two] three years of the accrual of the cause of action.

§ 290.529. Severability

All the provisions of sections 290.500 to 290.530 are severable. If any provision, including any section, subsection, subdivision, paragraph, sentence, or clause, of sections 290.500 to 290.530, or the application thereof to any person or circumstance, is found by a court of competent jurisdiction to be invalid, unconstitutional, or unconstitutionally enacted, such decision shall not affect other provisions or applications of sections 290.500 to 290.530 that can be given effect without the invalid, unconstitutional, or unconstitutionally enacted provision or application.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-047)**

## Subject

Initiative petition from Lara Granich regarding a proposed amendment to Chapter 290 of the Revised Statutes of Missouri. (Received April 15, 2015)

## Date

May 5, 2015

## Description

This proposal would amend Chapter 290 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Lara Granich** provided information as a proponent of the proposal to the State Auditor's office.

**Edward D. Greim** provided information as an opponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated the total estimated costs for all state funds will be $0 for FY (fiscal year) 2017, $7,078 for FY 2018, $87,363 for FY 2019, and $80,285 for FY 2020.

Officials from the **Department of Higher Education** indicated they have reviewed the provisions of this initiative petition and determined it would have no direct fiscal impact on their department.

Officials from the **Department of Health and Senior Services** (DHSS) indicated the total estimated net cost for all state funds will be $6,283,730 for FY 2017, $25,032,309 for FY 2018, and $52,881,558 for FY 2019.

DHSS defers to the Office of Administration regarding the statewide fiscal impact of this proposed legislation relating to state employee wages.

Small Medicaid Home and Community Based Services (HCBS) vendors and providers would be required to ensure attendants are paid a minimum of $9.00 per hour for calendar year 2017, $10.00 per hour for calendar year 2018, $11.00 per hour starting 1/1/2019.

DHSS assumes HCBS providers and vendors would request an increase in the reimbursement rate to offset the higher minimum wage rates.

- The average growth in units of service per year from Fiscal Year 2012 to Fiscal Year 2014 is 9.58 percent. (Units are included from Agency Model Personal Care, Residential Care Facility Personal Care, Consumer Directed Services Personal Care, Adult Day Care, Independent Living Waiver Personal Care, Advanced Personal Care Agency Model, Advanced Personal Care Residential Care Facility, Basic In-Home Respite, and Advanced Respite.) Fiscal Year 2014 actual units of service (164,723,962) were multiplied times the 9.58 percent average growth rate, which yields an estimated 216,720,206 units of service for Fiscal Year 2017; 237,472,657 for Fiscal Year 2018; and 260,212,299 units for Fiscal Year 2019.
- The current average wage for personal care attendants is $8.50 + $0.89 in taxes (taxes at 10.45 percent) equals $9.39 per hour, or $2.35 per 15 minute unit.
- Actual wage data for the individuals involved in delivery of units of service is not available. In order to estimate the fiscal impact of this proposed rule, it is assumed that individuals who deliver services are equally represented in ten-cent wage intervals clustered around the $8.50 average wage. So the calculation

methodology includes ten wage intervals below $8.50 (starting at the current $7.50 minimum wage) and ten wage intervals above $8.50 (ending at $9.50).

- It is understood that the wages paid to some individuals are beyond the $9.50 ceiling employed in the calculation methodology. However, it is assumed that the number of individuals making more than $9.50 per hour would be relatively small. Also, it is not feasible to calculate the precise amounts absent actual wage data and the number of units provided by individuals at each wage level.
- The analysis assumes that the estimated units of service are uniformly spread among the individuals at the various 21 wage intervals ($7.50 through $9.50).
- The analysis determines the difference between the unit rate for wages and taxes at each of the ten-cent wage intervals versus the unit rate for wages and taxes.
- Services would be reimbursed at the Federal Medical Assistance Percentage (FMAP) rate. For this estimate, DHSS is using FY 2016 blended rate of 36.68 percent General Revenue and 63.32 percent Federal.
- The implementation date is January 1, 2017 for $9.00 per hour for calendar year 2017; one-half of Fiscal Year 2017.
- The implementation date is 1/1/2018 for $10.00 per hour for calendar year 2018.
- The implementation date is 1/1/2019 for $11.00 per hour.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated they defer to the Office of Administration for response to this petition regarding their employee cost as it relates to raising the minimum wage.

With regard to other issues this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated they defer to the Office of Administration for the fiscal impact.

Officials from the **Department of Natural Resources** indicated the estimated total costs for salaries, fringe benefits, equipment and expenses for all state funds will be $111,081 for FY 2017, $273,155 for FY 2018, and $335,573 for FY 2019.

Section 290.502.3, RSMo, would require the department to increase the minimum wage rate to $9.00 per hour effective January 1, 2017, to $10 per hour effective January 1, 2018, to $11 per hour effective January 1, 2019, or to the wages at the same rate(s) set under the provisions of federal law as the prevailing federal minimum age applicable to those covered jobs in interstate commerce, whichever is higher the minimum wage shall be updated every January 1 thereafter.

Sections 290.502.4 and 290.512.3, RSMo, provide an exemption for public bodies from the provision of 290.502.3 if appropriations for wages at those rates are not provided.

Section 290.512.2, RSMo, would require the department to increase minimum wage for employees that receive and retain gratuities effective January 1, 2017 to an excess of sixty percent of the minimum wage rate specified in Sections 290.500 to 290.530. This

provision also requires that such employee's total compensation be at least the minimum wage specified in 290.500 to 290.530.

Section 290.529, RSMo, makes the provisions of Sections 290.500 to 290.530 severable.

Their department anticipates the cost of the proposed legislation to start at $111,081 annually for fiscal year 2017 and ultimately increase to $335,573 for fiscal year 2019.

This legislation requires the minimum wage to be reviewed and adjusted every January 1.

For full time employees throughout the department they compared their current hourly wage rate to the minimum wage rate in the proposed legislation, taking the difference by 2,080 hours multiplied by the fringe rate for full time staff.

Missouri State Parks employs between 500-750 seasonal positions each year. In order to reflect a full year of seasonal employment, they based on their analysis off of FY14 staffing levels and upgraded their hourly wage to January 1, 2015. They then analyzed each January 1 upgrade to minimum wage compared to the prior year estimate. They assumed the per fiscal year designated minimum wage amount would be greater than the federal minimum wage.

Missouri State Parks does employ staff that is eligible for tips. For those individuals, they are required to ensure that their total wage plus tips meet or exceed the established minimum wage rate for non-tip staff. Therefore, they assumed the same minimum wage for estimated impact as other staff.

Seasonal positions' fringe benefit rate is 7.65 percent.

They also made the assumption that the personal service appropriations would be adjusted according to the levels necessary to provide the increased minimum wages provided in the law.

Officials from the **Department of Corrections** indicated they defer to the Office of Administration.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department. They defer to the Office of Administration for impact as an employer.

Officials from the **Department of Revenue** indicated this initiative petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they defer to the fiscal note response provided by the Office of Administration.

Officials from the **Department of Social Services** indicated they defer this initiative petition to the Office of Administration.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated their cost calculations related to this initiative petition is as follows based on 15 part-time employees working 1,039 hours per year:

| | |
|---|---|
| 2017 @ $9.00/hr. | No impact |
| 2018 @ $10.00/hr. | No impact |
| 2019 @ $11.00/hr | $15,585 annual |

Officials from the **Department of Conservation** indicated that this proposal, which would increase the minimum wage, would result in estimated additional annual cost to their department as follows:

1) an increase to $9/hour-$208,270; 2) an increase to $10/hour-$377,886; 3) an increase to $11/hour-$464,451. This reflects pay increases necessary to increase hourly and salaried pay rates to the proposed new minimum wage.

Officials from the **Office of Administration (OA)** indicated the proposal amends Sections 290.502, 290.512, 290.527, and adds 290.529 RSMo.

Section 290.502, RSMo, increases the minimum wage to $9.00 per hour, beginning January 1, 2017 and by another $1.00 per hour each year until it reaches $11.00 per hour beginning January 1, 2019. Thereafter, the minimum wage will be adjusted annually based on the increase/decrease in the cost of living.

Because no tax rates are affected, there is no direct impact on general and total state revenues. However, these proposals may have several indirect affects which could impact revenue collections by an unknown amount, including but not limited to:

- Increased wages for certain employees. According to the U.S. Bureau of Labor Statistics, in 2013, Missouri had 73,000 hourly employees earning wages at or below the federal minimum wage;[1]
- Increased consumption by those employees;
- Lower overall employment (if employers choose to hold costs steady);
- Lower business investment (if employers' payrolls increase);
- Increased prices as firms pass–through labor costs.

[1] http://www.bls.gov/cps/minwage2013.pdf

This proposal will increase state personnel costs at various state agencies. However, the proposal makes the increase for public bodies subject to appropriation. The estimated cost of the minimum wage increases are:

| Fiscal Year | Wage Rate | Time period | General Revenue Cost (including fringe benefits) | Total Cost (including fringe benefits) |
|---|---|---|---|---|
| 2017 | $9.00/hr | January –June | $171,193 | $464,938 |
| 2018 | $9.00/hr | July – December | | |
| | $10.00/hr | January – June | $513,523 | $1,673,380 |
| 2019 | $10.00/hr | July – December | | |
| | $11.00/hr | January –June | $1,464,340 | $4,407,549 |

Sections 290.512, 290.527 and 290.529, RSMo, will not impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office.

Officials from the **State Treasurer's office** indicated the estimated fiscal impact to their office is as follows:

| | |
|---|---|
| 2017 | $3,700 |
| 2018 | $8,300 |
| 2019 | $13,000 |

Officials from **Cole County** indicated they estimate that an increase of the minimum wage to $11/hour will have an increase of $8,000 per year fiscal impact to the county.

Officials from **Greene County** indicated county salary costs would increase by $280,839 annually.

Officials from the **City of Kansas City** indicated since their direct fiscal cost would be subject to annual City appropriations, this initiative petition has no fiscal cost for their city. This initiative petition would have a positive fiscal impact on their city as it would promote economic growth and stability.

Economic data shows that productivity has grown since the early 1970s while the value of the minimum wage has stayed flat, or even fallen. As a result, the nation has created a growing class of service workers and laborers who are not paid enough to support themselves and their families. The current low minimum wage has a large negative fiscal impact on their city that cannot be quantified.

Officials from **University of Missouri** indicated they anticipate the legislative proposal would create a significant overall cost of between $10-15 million after all rate increases were implemented.

**Lara Granich** provided the following information as a proponent of this initiative petition.

April 25, 2015
Missouri State Auditor
Jefferson City, MO
Submitted via email to moaudit@auditor.mo.gov

Re: Fiscal Impact Analysis of Minimum Wage Initiative Petitions
Version 1 (Increase to $15)
Version 2 (Increase to $12)
Version 3 (Increase to $11)

This letter is from Lara Granich and Missouri Jobs with Justice Voter Action, proponents of the above-referenced initiative petitions. Pursuant to RSMo. Section 116.175, we write to submit the following fiscal impact information to assist your office in its analysis of the fiscal impact of the above mentioned three proposed Minimum Wage Initiative Petitions.

Our analysis estimates the impact of the three proposed initiative petitions on state and local sales and personal income tax revenue in Missouri. We follow the process that has been used in the past to estimate the impact of minimum initiative petitions on state and local sales and personal income tax, with some refinements. We also address certain claims that have been made by opponents in the past.

As these petitions exclude public workers, we do not include in our analysis an estimate of the impact on state and local payroll costs of the minimum wage increases.

## I. Estimate of Number of Workers Affected Statewide and the Impact on Their Wages

We estimate that, under the three versions of the petition, increases in total wages in the state will be as follows:

| Proposed Min Wage Level | Size of Increase* | Total Estimated Workers** | Workers Affected*** | Workers Affected as % of Total Workers | Total Wage Increase**** |
|---|---|---|---|---|---|
| $11.00 | $3.20 | 2,845,927 | 880,593 | 30.94% | $4,167,807,617 |
| $12.00 | $4.20 | 2,845,927 | 995,901 | 34.99% | $5,508,377,721 |
| $15.00 | $7.20 | 2,845,927 | 1,351,386 | 47.48% | $10,801,510,192 |

*Over the legislated MO 2015 minimum wage of $7.65 + assumed 2% cost of living adjustment to MO minimum wage

**Based on 2013 American Community Survey for the State of Missouri

***The number of wage and salary workers with an hourly wage below the proposed minimum. The hourly wages in 2013 were increased by 5.497%, to account for inflation between 2013 and 2016, prior to comparison with the proposed minimum.

****The hourly wage difference was multiplied by the number of hours worked per year. That amount was then multiplied by the relevant person weight and summed over all persons with hourly wages below the proposed minimum.

The wage impact of an increase in the minimum wage for the state of Missouri is calculated using the following procedure. The American Community Survey Public Use Micro Sample for the most recent year available (2013) for the state of Missouri was downloaded from the US Census Bureau. The American Community survey was chosen over the Current Population survey because the ACS has a significantly larger sample.

Calculations were effectuated only for those individuals earning less than the proposed minimum wage. It is likely that there would be indirect impacts on others who earn more than the proposed minimum wage, especially those who earn close to the proposed hourly amount. These estimates therefore are likely to be smaller than the actual impact of increasing the minimum wage to the proposed level.

All wage earners are included in this calculation. To be consistent with past estimates, public employees should have been excluded. Employees in the public sector were included because the American Community Survey does not have a published variable that allows for identification of public employees. This inclusion of public employees will have a minimal impact on our results.[1]

All wages from the 2013 survey were adjusted upward to account for inflation between the time of the survey and the time of measurement of the impact. Actual inflation was used for 2013 and 2014, and a slightly higher rate was used for assumed inflation in 2015. The 2015 Missouri Minimum wage of $7.65 was adjusted by the same factor prior to measuring the impact of a change to the proposed minimum wage in 2016.

After these adjustments, the resulting hourly wage of all employees was compared to the proposed minimum wage. Three proposed levels for the minimum wage were examined: $11, $12, and $15. If the proposed minimum wage was less than the inflation adjusted hourly earnings of an employee, then no impact was calculated. If the proposed minimum wage was more than the hourly earnings on an employee, then the difference between the inflation adjusted hourly earnings and the proposed minimum wage was calculated. That difference was multiplied by the number of

[1] For the Missouri's state employees, this can be validated by viewing the earnings of all state employees at: http://mapyourtaxes.mo.gov/MAP/Employees/. Larger counties and cities will also have almost all public employees earning more than the highest proposed minimum wage. Local public employees in small counties and towns may have some public employees who earn less than the highest proposed minimum.

hours the employee worked in the year to calculate the impact for that employee. The result was then multiplied by a weighting factor for that employee in the population. The total impact for the state of Missouri was calculated by repeating this process for every employee and adding the results.

The impact grows as the proposed minimum wage grows. 31% of the labor force would be directly impacted by an increase in the minimum wage to $11 in 2016, whereas 47% would be impacted if the minimum wage were increased to $15 per hour.

It should be emphasized that there is no reason to expect even a substantial increase in the minimum wage to reduce employment. No credible research has demonstrated a negative employment effect of increases in the minimum wage and there is substantial research to indicate that increases in the minimum wage have multiplier effects that increase the direct effects. For this reason and because of the likely increases in wages to individuals who earn above the proposed minimum wages, the impacts summarized in the table are likely to be low, relative to the total impact that would occur as a result of increasing the minimum wage to the proposed levels.

## II. Economic Literature on the Impact of Minimum Wage Increases on Employment

Next it is necessary to review the economic literature on the impact of minimum wage increases on employment. Opponents often claim that minimum wage increases may reduce employment in a state. If that is true, then those employment reductions would result in reductions in state income and sales tax revenue. However, review of the most credible recent empirical research on the minimum wage shows that increases in the minimum wage have had no discernible impact on employment. We thus conclude that it is not appropriate to project that the proposed initiative petitions would result in any detectable employment reduction, and resulting losses in income and sales tax revenue, or increases in unemployment-related costs to the state.

Economists have conducted hundreds of studies of the employment impact of the minimum wage. A recent meta-study – a formal statistical study of studies – by Doucouliagos and Stanley (2009) reviewed all the research conducted over the last three decades on the employment impact of minimum-wage increases on teenagers in the United States. The researchers concluded that the minimum wage has little or no discernible effect on the employment prospects of low-wage workers. Their study followed a rigorous, peer-reviewed procedure and has the advantage of using a set of predetermined, objective criteria for weighing the validity of statistical findings across studies with different results. (Source: Doucouliagos, Hristos and T. D. Stanley. 2009. “Publication Selection Bias in Minimum-Wage Research? A Meta-Regression Analysis.” British Journal of Industrial Relations,vol. 47, no. 2, pp. 406-428.)

Recent theoretical and empirical research emphasizes several explanations for the consistently negligible employment impacts of moderate increases in the minimum wage. First, relative to total wage costs, minimum-wage increases are small. Second, employers and workers appear to respond to minimum-wage increases in many ways that reduce the direct cost to employers and substantially reduce or eliminate the need to cut employment.

Probably the most important economic response to a higher minimum wage is a reduction in turnover. At higher wages, employers fill vacancies faster and retain employees longer, boosting total employment and average productivity per worker while reducing direct and indirect training costs. Dube, Lester, and Reich (2012), for example, examined the effect of the minimum wage on labor turnover among teens and restaurant workers. They find “...striking evidence that separations, new hires, and turnover rates for teens and restaurant workers fall substantially following a minimum wage increase...” (p. 2) Their findings, using nationally representative data, are consistent with local case studies of the minimum wage and related “living wage” laws, including Dube, Naidu, and Reich’s (2007) analysis of the San Francisco city-wide minimum wage; Fairris’s (2005) study of local government contractors in Los Angeles; Howes (2005) on

homecare workers in California; and Reich, Hall, and Jacobs (2005) on workers at the San Francisco airport. (Sources: Dube, Arindrajit, T. William Lester, and Michael Reich. 2012. "Minimum Wage Shocks, Employment Flows and Labor Market Frictions." Berkeley, CA: Institute for Research on Labor and Employment. http://escholarship.org/uc/item/76p927ks; Dube, Arindrajit, Suresh Naidu, and Michael Reich. 2007. "The Economic Effects of a Citywide Minimum Wage." *Industrial and Labor Relations Review*, vol. 60, no. 4, pp. 522-543; Fairris, David. 2005. "The Impact of Living Wages on Employers: A Control Group Analysis of the Los Angeles Ordinance." *Industrial Relations*, vol. 44, no. 1, pp. 84-105; Howes, Candace. 2005. "Living Wages and the Retention of Home Care Workers in San Francisco." *Industrial Relations*, vol. 44, 5 no. 1, pp. 139-163; Reich, Michael, Peter Hall, and Ken Jacobs. 2005. "Living Wage Policies at the San Francisco Airport: Impacts on Workers and Businesses." *Industrial Relations*, vol. 44, no. 1, pp. 106-138.)

Employers also appear to respond to increases in the minimum wage by taking measures to boost productivity. Hirsch, Kaufman, and Zelenska's (2011) study of the impact of the federal minimum-wage increase on 81 fast-food restaurants in Georgia and Alabama, for example, asked fast-food managers about the scope for efficiency improvements in response to the minimum-wage rise. About 90 percent of managers indicated that they planned to respond to the minimum-wage increase with increased performance standards such as "requiring a better attendance and on-time record, faster and more proficient performance of job duties, taking on additional tasks, and faster termination of poor performers." (p. 27) Roughly the same share of managers said that they sought to "boost morale" by presenting the minimum-wage increase as a "challenge to the store" and using this as a way "to energize employees to improve productivity." (pp. 28-29) Based on their interviews with store managers, the researchers concluded that a minimum-wage increase may function as a "catalyst or shock that forces managers to step out of the daily routine and think about where cost savings can occur." (p. 29) (Source: Hirsch, Barry T., Bruce Kaufman, and Tetyana Zelenska, "Minimum Wage Channels of Adjustment." IZA Discussion Paper No. 6132. Germany: Institute for the Study of Labor. http://www2.gsu.edu/~ecobth/IZA_HKZ_MinWageCoA_dp6132.pdf)

A higher minimum wage may also motivate workers to work harder, independently of any actions by employers to increase productivity. According to "efficiency wage" theory, wages above the competitive-market rate may elicit greater work effort for several reasons. As Carl Shapiro and Joseph Stiglitz (1984) have argued, higher pay increases the cost to workers of losing their job, potentially inducing greater effort from workers in order to reduce their chances of being fired. George Akerlof (1982), arguing from a more sociological point of view, has suggested that workers may see higher wages as a gift from employers, leading workers to reciprocate by working harder. (Sources: Shapiro, Carl and Joseph E. Stiglitz. 1984. "Equilibrium unemployment as a worker discipline device." *American Economic Review*, vol. 74, no. 3, pp. 433-444; Akerlof, George A. 1982. "Labor contracts as partial gift exchange." *Quarterly Journal of Economics*, vol. 97, no. 4, pp. 543-569.)

We therefore conclude that the proposed increase in the Missouri minimum wage would have no discernible impact on the employment levels of low-wage workers. Accordingly, we do not factor in reductions in employment, or any resulting decrease in sales tax or income tax. We also do not project any increased unemployment insurance costs – both because we do not project any resulting job losses, and additionally because unemployment insurance costs are paid for by employer premiums, and so are ultimately not a cost to the state.

## III. State and Local Sales and Personal Income Tax Revenue Impact of Raising the Minimum Wage

Based on the wage impact figures calculated above, and the understanding that the minimum wage increases would be unlikely to result in offsetting job losses, we next calculate the impact of the projected wage increases on state and local sales and personal income tax revenue in Missouri. We project only the direct impact of the three minimum wage increase scenarios on such tax revenue. We do not attempt to project the additional impact through a GDP multiplier effect.

**Increase in Personal Income Tax Revenue and Sales Tax Revenue Due to Increased Wages Personal Income Tax Revenue.** In order to determine the projected increase in personal income tax revenues that would result directly from the increased wages, we had to develop assumptions about the effective income tax rates of the affected workers. We made the following assumptions with respect to the effective tax rate:

1. That 25% of affected workers can be claimed as a dependent on another party's Missouri income tax return and as a result would pay an effective tax rate of 6.0% on the increase in income;
2. That 50% of the affected workers would file as single taxpayers, would claim one deduction of $2,100, and would be entitled to a standard deduction of $5,800. This would result in an effective tax rate of 2.47%;
3. The remaining 25% would, we assumed, would pay no additional Missouri income tax. In light of these assumptions, the increased Missouri income tax revenue for each petition version can be calculated as follows: (total wage increase * 25% * 6.0%) + (total wage increase * 50% * 2.47%) + (total wage increase *25% * 0%).

**Sales Tax Revenue.** The State of Missouri imposes a 4.225% state sales tax on those items that are not exempt from the sales tax base. In addition, the average local sales tax rate is 2.95%. As a result, the average Missouri net sales tax rate is 7.175%. We have conservatively estimated that just 25% of the higher wages would be spent on the purchase of goods that are subject to state and local sales tax in Missouri.

Based upon the above assumptions, and the total wage increase calculations for each version of the petition, we estimate that the increase in state income tax revenue resulting from the increased wages would be as follows:

| Increase in Sales and Personal Income Tax from Increased Wages | | | | | | |
|---|---|---|---|---|---|---|
| **Proposed Min Wage Level** | **Total Wage Increase** | **State Sales Tax (4.225%)** | **Local Sales Tax Revenue (2.95%)** | **Total Sales Tax Revenue Increase** | **Personal Income Tax Revenue** | **Total Sales and Personal Income Tax Revenue Increase** |
| $11.00 | $4,167,807,617 | $44,022,468 | $30,737,581.17 | $74,760,049.13 | $113,989,538 | $188,749,587 |
| $12.00 | $5,508,377,721 | $58,182,240 | $40,624,285.69 | $98,806,525.38 | $150,654,131 | $249,460,656 |
| $15.00 | $10,801,510,192 | $114,090,951 | $79,661,137.67 | $193,752,089.08 | $295,421,304 | $489,173,393 |

Moreover, one often-cited authority on tax information, the Tax Foundation, reports that the average local sales tax rate in Missouri is even higher at 3.53%. See http://taxfoundation.org/article/state-and-local-sales-taxes-midyear-2012 If one uses this higher rate, total revenue increases additionally by hundreds of thousand dollars.

We hope that this information is useful to your office as your prepare your analyses of the petitions.

Respectfully submitted,
Lara Granich
Missouri Jobs with Justice Voter Action

**Edward D. Greim** provided the following information as an opponent of this initiative petition.

He writes on behalf of Robert Bonney. Mr Bonney is the Chief Executive Officer of the Missouri Restaurant Association. Please consider this letter and the accompanying studies as his fiscal impact statement as an opponent of Initiative Petitions 2016-045, 2016-046 and 2016-047 (the "Initiative Petitions"). If passed, any of these three initiatives would have a substantial negative impact on state and local governments.

The two fiscal impact studies attached hereto were authored by Dr. David Macpherson, a nationally-recognized labor economist and expert on the impact of minimum wage increases. In reviewing previous minimum wage petitions, the Auditor's Office has previously found Dr. Macpherson's analyses to be helpful and persuasive.

The first study was prepared by Dr. Macpherson in June 2014 and details how a $10.10 per hour minimum wage would have impacted Missouri and the St. Louis area were it to have become effective in 2015. See Exhibit A. In addition to the estimated loss of nearly 15,000 jobs statewide, Dr. Macpherson estimated that the cost to taxpayers of a $10.10 minimum wage would be $87 million annually. While this study did not address the specific proposals in the Initiative Petitions, Dr. Macpherson's methodology applies directly to the impact of the proposed minimum wage increases.

The second fiscal study was reviewed and used by this office in evaluating earlier minimum wage proposals. It was prepared by Dr. Macpherson in March 2012 and details the impact of a statewide minimum wage increase to $8.25 per hour. This study is attached hereto as Exhibit B. In this study, Dr. Macpherson concluded that state and local entities would pay out $16 million in increased wages. What's more, Dr. Macpherson estimated that the net state and local fiscal impact would range from a loss of over $22 million to a loss of $13 million. While this study is now three years old, the analysis is pertinent to the proposed wage increase in the Initiative Petitions. Notably, using Dr. Macpherson's methodology, the heightened minimum wage proposals contained in the Initiative Petitions would have a substantially greater negative fiscal impact than that found in the 2012 study.

The proponents of the Initiative Petitions will likely rely on data sourced from political activist groups who claim increases in minimum wage only serve to create new taxable income. The reality is that such groups approach this issue with indisputable political bias. Further, that type of analysis is one-sided, disregarding the significant impact on Missouri businesses. True, some workers will collect increased wages, but no new money is created; Missouri businesses will be the source of the increase which will lower their taxable income and, from time to time, cause them to forego hiring or to cut employment. Regarding secondary employment and tax revenue effects, the Auditor must refrain from assessing only one half of the wage increase equation.

In addition, the most significant and most direct effect of a minimum wage increase is the amount of the increased wages that will actually be paid by state and local governments. As has been shown during prior efforts to increase the minimum wage, very few of the

hundreds of state and local entities who actually employ minimum wage workers will take the time to provide fiscal impact estimates in response to the Auditor's requests. Further, the Auditor's requests are simply sent to a sample of governmental employers. The more appropriate method to calculate the fiscal impact of the wage increase is to use the actual number of minimum wage workers who work for state and local governments, as calculated by the United States Census Bureau's CPS. Rather than simply adding the sums reported in the scattershot and unreliable fiscal note responses from state and local entities, the Auditor should supplement them with broader analyses such as those of Dr. Macpherson. At the very least, the Auditor should state in the fiscal note summary that state and local impacts are "large" or "substantial," rather than simply reporting impacts of "at least" the few thousand dollars in costs that may or may not be reported by those local entities that take the time to respond to the Auditor's sampling.

Finally, the proponents of the Initiative Petitions may argue that the Auditor should abandon the state and local cost estimates altogether. The proponents will argue that a new provision they have inserted in the statute would make the increases apply only if "there are appropriations for wages at those [i.e., the newly-increased] rates." The proponents will urge the Auditor's Office to assume that legislators will not actually fund the increases, and that therefore there will be no cost to taxpayers. Setting aside unjustifiable projections about the political judgments of legislators, the provision is of uncertain legal effect and constitutionality. On the one hand, it may not change existing law, since arguably the legislature always has the power to reduce or increase appropriations. But it is also unclear whether the legislature has the power to fix wage rates within an appropriations bill, or whether a mere statutory petition can confer this type of power upon the legislature. The application of the requirement for a specific type and manner of appropriation is also unclear in the context of political subdivisions and other public bodies whose funds are generally not appropriated by the general assembly. These are just a few examples of the serious flaws with the proposal itself that may have to be addressed by the courts. Suffice it to say that as a matter of law, it would be insufficient and unfair for the Auditor's fiscal note or summary to simply assume that these legal issues do not exist, or to make a political judgment that legislators will not in fact fund any of the minimum wage increases at any level of state government. Such assumptions would only serve to artificially deflate the fiscal note and fiscal note summary by tens of millions of dollars.

June 2014

MISSOURI
Restaurant Association
*Eat Out Often!*

# The Impact of a $10.10 Minimum Wage on Jobs and Taxpayer Costs in Missouri

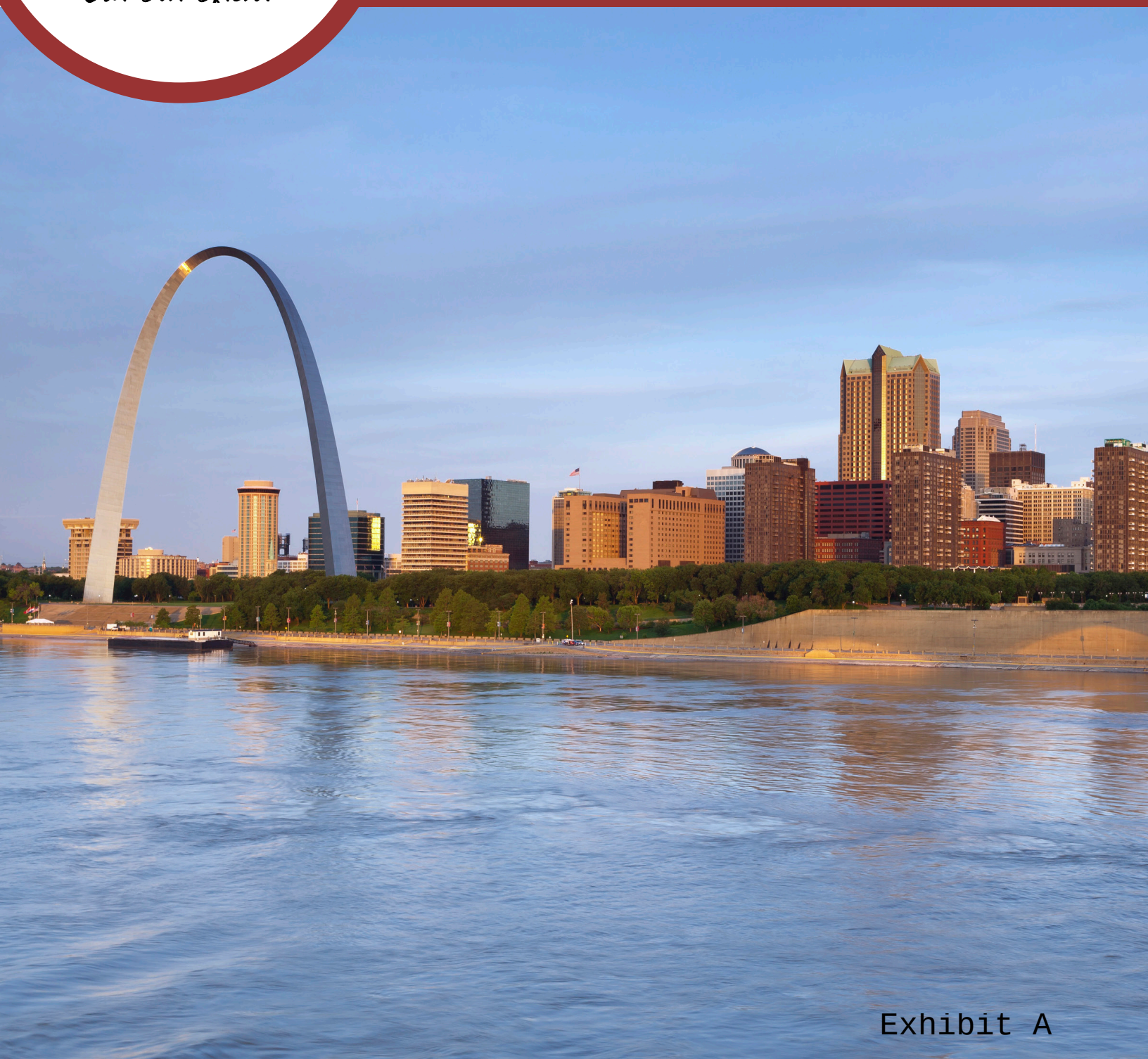

Exhibit A

# ABOUT THE MISSOURI RESTAURANT ASSOCIATION

With origins dating back to 1916, the Missouri Restaurant Association (MRA) is a statewide trade association representing over 1,500 member establishments. The association's membership is diverse, and includes full service, fast casual, and quick service restaurants, cafeterias, hotels, schools, institutions, contract feeders, and ancillary foodservice providers such as theme parks. The association has been successful in securing support from virtually every segment of the foodservice and hospitality industry.

MRA includes seven chapters as extensions of the parent organization, each with its own Officers, Board of Directors, and limited budget. The association is governed by a Board of Directors comprised of five Officers, 33 Directors, and each President of the seven affiliated chapters.

MRA is dedicated to serving the needs of the foodservice and hospitality industry, enhancing and improving its growth and development, assisting and educating its members in operating more effectively, improving the political and social environment in which the industry conducts business, for the benefit of its members, patrons, employees, and the well-being of the community.

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David A. Macpherson is the E.M. Stevens Professor of Economics at Trinity University. He received undergraduate and doctoral degrees in economics from Pennsylvania State University.

Dr. Macpherson has published over 60 articles in leading economics and real estate journals including Review of Economics and Statistics, Industrial and Labor Relations Review, Journal of Labor Economics, Journal of Human Resources, and Journal of Real Estate Economics and Finance. His research has been funded by a variety of entities including the National Science Foundation, Florida Legislature, and the National Association of Realtors. He is co-author of the undergraduate labor economics text, Contemporary Labor Economics, as well as the principles of economics text, Economics: Private and Public Choice. He is included in Who's Who in Economics, Fourth Edition, which includes the 1,200 most frequently cited economists.

# THE IMPACT OF A $10.10 MINIMUM WAGE ON JOBS AND TAXPAYER COSTS IN MISSOURI

June 2014

Economic Analysis by **Dr. David Macpherson**
**Trinity University**

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# EXECUTIVE SUMMARY

Missouri's minimum wage of $7.50 is linked to rise in most years with the inflation rate. But some state legislators and labor unions would like to raise that figure even higher. For instance, a recent labor union-organized bus tour in the state promoted a $10.10 minimum wage in St. Louis.

Proponents have enthusiastically pointed to the benefits of the $10.10 policy. But there's been far less discussion of the costs involved with a $10.10-an-hour minimum wage—both the cost on employment, and the cost to taxpayers.

In this study, labor economist David Macpherson of Trinity University uses Census Bureau data to estimate the impact on Missouri's labor market and budget from raising the minimum wage to $10.10 an hour. He also provides separate results for the St. Louis metropolitan area.

Dr. Macpherson's employment estimates follow the methodology used by the nonpartisan Congressional Budget Office in its report earlier this year estimating the impact of a $10.10 minimum wage nationwide, which in turn relied on 60 different empirical studies to formulate its estimates.

Statewide, he finds that over 15,000 jobs would be lost at the $10.10 wage level—with 9,300 of those jobs being held by women. In the St. Louis metropolitan area, approximately 4,800 jobs would be lost from a $10.10 minimum wage.

The cost to taxpayers would be significant: There are approximately 40,000 state and local employees whose wages would be affected by the $10.10 increase in Missouri, for a combined cost to taxpayers of $87 million annually.

Raising wages is an admirable goal, but the evidence suggests that accomplishing this goal with a blunt wage mandate could do more harm than good.

# RESULTS

The minimum wage is one of the most hotly-debated topics in the political world. Some legislators claim that a higher base wage will stimulate the economy; others claim that it will reduce jobs when affected employers can't offset the higher costs through higher prices.

Economists, who have studied the issue since the late 1940s, tend to take a skeptical view of minimum wage increases. Since the early 1990s, for instance, roughly 85 percent of the most credible research on the minimum wage points to job loss for less-skilled groups. The nonpartisan Congressional Budget Office (CBO), in an evaluation of President Obama's proposed $10.10 minimum wage increase, reviewed 60 different studies and concluded that the policy would eliminate 500,000 jobs if enacted.

The estimates that follow, of the employment impact of a higher minimum wage on Missouri's labor market, were performed by Dr. David Macpherson of Trinity University. Dr. Macpherson followed closely the methodology used by the CBO in its 2014 report. Dr. Macpherson also estimates the taxpayer costs of a higher minimum wage, as many state and local public employees will see their earnings increase when the minimum wage rises.

Dr. Macpherson's methodology is presented in detail in a technical appendix.

## Estimated Employment Effects of a $10.10 Minimum Wage in Missouri

Statewide, Dr. Macpherson finds that increasing the minimum wage to $10.10 would eliminate over 15,000 jobs—approximately 60 percent of which are jobs held by women. The bulk of the job losses would be concentrated among individuals with a high school degree or less, and among people who work in the retail or leisure & hospitality industries.

(Note: Totals have slight discrepancies due to rounding.)

**Estimates by Gender**

| | *Job Losses* |
|---|---|
| **Male** | 6,311 |
| **Female** | 9,364 |
| **TOTAL** | **15,705** |

**Estimates by Age**

| *Age* | *Job Loss* |
|---|---|
| **<=21** | 9,237 |
| **22-25** | 1,532 |
| **26-30** | 1,023 |
| **31-40** | 1,175 |
| **41-50** | 980 |
| **51 +** | 1,759 |

**Estimates by Race**

| *Race* | *Job Loss* |
|---|---|
| **White** | 13,299 |
| **Black or Other Race** | 2,406 |

# RESULTS CONTINUED

| Top Three Industries Affected | |
|---|---|
| *Industry* | *Job Loss* |
| **Retail Trade** | 3,835 |
| **Arts, Entertainment, Recreation, Accommodations, and Food Services** | 6,039 |
| **Healthcare** | 1,199 |

| Estimates by Education | |
|---|---|
| *Education* | *Job Loss* |
| **Less than High School** | 5,555 |
| **High School Grad, No College** | 4,921 |
| **Some College** | 4,428 |
| **Undergrad or Graduate Degree** | 802 |

## City-Specific Minimum Wage Employment Impacts

The city of St. Louis has been the subject of a number of protests calling for a higher minimum wage. Dr. Macpherson analyzed the employment impact of a $10.10 minimum wage in the St. Louis metropolitan area, providing breakouts by gender and education where the data permits. He estimates that the wage hike would eliminate approximately 5,000 jobs—just over half of which would be jobs held by women.

| Impact on St. Louis Metro Area of a $10.10 Minimum Wage | |
|---|---|
| *Gender* | *Job Loss* |
| **Male** | 2,033 |
| **Female** | 2,767 |
| **TOTAL** | **4,800** |
| *Race* | *Job Loss* |
| **White** | 3,641 |
| **Black or Other Race** | 1,158 |
| *Education* | *Job Loss* |
| **High School Grad or Less** | 3,097 |
| **Some College, Undergrad or Graduate Degree** | 1,703 |

# RESULTS CONTINUED

## Missouri Taxpayer Costs of a $10.10 Minimum Wage

Dr. Macpherson estimates that approximately forty thousand state & local public employees would be affected by a minimum wage increase to $10.10 an hour. These additional wage costs translate to new costs for state and local taxpayers. Following the methodology described in detail in the technical appendix, Dr. Macpherson estimates both the straight wage cost of a $10.10 minimum wage, as well as the total compensation cost with Social Security, Medicare, workers compensation, and unemployment insurance included. Statewide, taxpayers would shoulder an additional $87 million in costs if the base wage was increased to $10.10 an hour and public employees were covered by the new wage.

| Missouri Taxpayer Costs of a $10.10 Minimum Wage | |
|---|---|
| **# of State & Local Workers** | 304,588 |
| **# Affected By $10.10 MW** | 40,103 |
| **Annual Wage Cost** | $79,629,374 |
| **Annual Compensation Cost** | $87,004,355 |

*Note: Annual compensation costs include the cost of worker's compensation, FICA, and unemployment insurance benefits.*

MISSOURI Restaurant Association
Eat Out Often!

# TECHNICAL APPENDIX

## Estimating Employment Loss and the Cost to State and Local Government of an Increase in the Minimum Wage

**Dr. David Macpherson**
**E.M. Stevens Professor of Economics**
**Trinity University**

This paper describes how we estimate the employment loss and the cost to state and local governments of a proposed increase in the minimum wage effective on January 1, 2015.

## Data and Sample

First, we use data from the Current Population Survey (CPS) Outgoing Rotation Groups (ORG) from January 2011 through December 2013. For each worker in the sample, we calculate their wage rate. We also adjust the wage rate to reflect a forecast of wages in 2015. This is done in two steps. First, based on legislation enacted as of April 2014, we estimate the minimum wage that would be in effect in January 2015 for each state and city that we consider. If a state or city has an indexed minimum wage, we increase the January 2014 state or city minimum wage by the Congressional Budget Office (CBO) inflation forecast for 2014 of 1.7%.

Since we use data from 2011 through 2013, we also follow the CBO approach for forecasting what the wage distribution would be in 2015. This is done in two steps. First, we adjust wages observed prior to 2013 to reflect 2013 minimum wage legislation. For example, if the minimum wage in a state was $7.25 in 2011 and grew to $8.00 by 2013, anyone who earned between $7.25 and $8.00 in 2011 would have their wage increased to $8.00. After wages are adjusted to 2013 levels, we assume that all wages grow by 2.9% in 2014. Using the resulting 2015 distribution of wages, we adjust for minimum wage legislation that would increase the minimum between 2013 and 2015. Anyone earning a wage between the 2013 and 2015 minimum wage is assigned a wage matching the 2015 minimum wage.

After generating the forecast 2015 distribution of wages reflecting wage growth and existing minimum wage legislation, we identify workers who would be affected by additional changes to the 2015 minimum wage as those with wages between the predicted minimum wage legislated for 2015 (or up to $.25 below it) and the proposed minimum.

To estimate the number of affected workers, we take two steps. First, for each state, we estimate the number of affected workers for 2013. Second, we adjust the weights in the 2011 and 2012 data so that the state-specific number of affected workers implied by the 2011 and 2012 data matches that for 2013. This adjustment is designed to correct for the changing economic climate as the economy recovers from the great recession and to generate estimates that are as close as possible to the most recent data (2013). After we adjust the 2011 and 2012 weights, we estimate the number of affected workers by summing their earnings weights and dividing the total by 36 (the number of months of data).

[1] Also, following CBO, anyone earning up to $.25 less than the 2011 minimum wage would have their wage increased by the amount that the minimum wage increased (i.e. a $7.00 wage would be increased to $7.75 in this example). This approach is used to adjust for the fact that many workers round their answers when asked about their wage.

# TECHINCAL APPENDIX CONTINUED

## Employment Loss

To estimate employment loss, for each affected worker we compute:

**L = e *(Proposed Min Wage /Min Wage 2015 – 1)**

where e is an assumed elasticity of employment with respect to changes in the minimum wage, Min Wage 2015 is the minimum wage currently legislated for 2015, and Proposed Min Wage is the minimum wage that is being proposed for 2015. Thus, for example, if a worker is projected to earn the federal minimum of $7.25 in 2015, the expected reduction in employment resulting from a $10.10 minimum wage in 2015 if e=.45 is .45*(10.10/7.25 – 1) = .18. That is, for every 100 workers currently earning the federal minimum, the expectation is that 18 would lose a job if the minimum wage elasticity is .45.

To estimate the aggregate employment loss in the economy, we use earnings weights to sum L across workers. We also follow the Congressional Budget Office (2014) and use an elasticity of 0.15 for non-teenagers and 0.45 for teenagers.

## Cost to State and Local Government

We use the same data to estimate the cost to state and local government of a proposed minimum wage hike. We apply the same definition of affected workers described above and estimate the number of state and local government workers affected by a minimum wage hike. We do not, however, assume that there is any job loss for state and local workers as we do not have an appropriate elasticity estimate specific to state and local workers. To the extent that state or local governments reduce hours or employment in response tothe minimum wage hike, our estimate of the cost of the hike would be overstated.

To estimate the increase in annual payroll cost resulting from an increase in the minimum wage, we estimate the increase in annual cost for each worker as:

**(Proposed Min Wage-Min Wage 2015)*weekly hours*52**

We then multiply the increase in annual cost by the earnings weight for each worker and sum across workers. Since an increase in wages also requires increased employer contributions for Social Security, Medicare, workers' compensation and unemployment insurance, we apply an estimate of the payroll tax rate for these mandatory programs to calculate the additional cost for these programs.

For each state and city considered, we provide tables summarizing the number of affected workers, employment loss, and the distribution of employment loss by sex, education, race, age and industry. Given that we use three years of data, a rule of thumb for minimum sample size required to achieve a reasonably accurate estimate of the employment loss is to require at least 30,000 people be in the relevant category. For example, if there are fewer than 30,000 people projected to be in a particular industry category, the Bureau of Labor Statistics would not report the estimate due to a lack of reliability based on the variance of the estimate relative to its mean.

In addition to the estimate of employment loss, for each state or city considered, we estimate the number of state and local workers that would be affected by the minimum wage hike and the total annual cost to government in terms of wages and total compensation. As with the employment estimates, we advise caution in interpreting estimates that are based on fewer than 30,000 affected workers.

[3] Congressional Budget Office, "The Effects of a Minimum-Wage Increase on Employment and Family Income," February 2014.

[4] For workers paid by the hour the reported hourly wage was used. For workers who are not paid by the hour, we calculate the hourly wage by dividing usual weekly earnings by usual weekly hours. Overtime pay was calculated as time and one-half for hours above 40 hours for hourly workers.

[5] The assumed payroll tax for Medicare and Social Security is 7.65 percent. To estimate the payroll tax for workers' compensation and unemployment insurance, we use unpublished data from the 2010 Employer Cost of Employee Compensation database for state and local workers in the relevant region in 2010.

# FISCAL ANALYSIS
# OF
# PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

**Prepared for**

**Victor Allred versus Robin Carnahan and Thomas Schweich**
**Circuit Court of Cole County, Missouri**

**Prepared by**

**David A. Macpherson, Ph.D.**
**125 Park Drive**
**San Antonio, TX 78212**

**March 26, 2012**

Exhibit B

# FISCAL ANALYSIS
# OF
# PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

## I. Introduction

This report was undertaken at the request of counsel representing plaintiffs in the case of Victor Allred versus Robin Carnahan and Thomas Schweich. As part of the basis of the lawsuit, the plaintiffs allege that the fiscal note summaries for proposed statutory initiative petitions 2012-084 and 2012-085 are insufficient and unfair. I was asked by counsel to evaluate the fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085.

The results of my analysis indicate:

(1) labor costs to state and local government entities, based on state auditor fiscal notes, will rise by more than $1,352,182. A more inclusive estimate indicates that state and local government labor costs will increase by $16,003,712;

(2) unemployment benefit costs will rise by $4,397,510 during the first year of the minimum wage increase;

(3) individual income tax revenue will rise by at most $4,078,088;

(4) the loss in corporate income tax revenue could be as high as $9,243,105;

(5) state and local sales tax revenue will rise by at most $2,919,327;

(6) during the first year: state and local governments will incur increased costs of $20,401,222; the change in state and local government revenue will

range from -$2,245,690 to +$6,997,415; and the net state and local government fiscal impact will range from -$22,646,912 to -$13,403,807.

The report is organized as follows. My qualifications to prepare this report are contained in Section II. Section III describes the data and records I relied upon for this report. Section IV reviews the estimated fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085. A summary and my conclusions are provided in Section VI.

## II. Qualifications

I am currently the E.M. Stevens Professor of Economics at Trinity University in San Antonio, Texas. Previously, I was employed by Florida State University as Director of the Pepper Institute on Aging and Public Policy and the Rod and Hope Brim Eminent Scholar in Economics. I have taught both undergraduate and graduate Econometrics (statistical analysis of economic data), and Labor Economics. I have published over 50 articles in peer-reviewed professional journals.

I am currently serving on the editorial board of the *Journal of Forensic Economics*, which is a peer-reviewed journal. I have also served as a reviewer or 'referee' for 24 peer-reviewed journals, including the *Journal of Human Resources, Journal of Labor Economics, Quarterly Journal of Economics,* and the *Review of Economics and Statistics*. Based upon these experiences, I am very familiar with the scholarly and professional research process and the concept of peer review.

I have prepared numerous analyses and reports that use statistical methods as applied to specific questions. I have been responsible for developing the techniques and approaches required for these analyses. I routinely use computers and statistical software packages to assist me in my analytical work. I have been qualified as an expert witness on statistical analysis of employment discrimination and economic damages in state courts in Florida and Georgia and Federal Courts, and I have given expert testimony. I have prepared analyses and offered testimony on behalf of both plaintiffs and defendants.

Details of my qualifications are reflected in my current resume and legal cases, attached as Appendix A to the report.

## III. Data and Records

I reviewed the following materials in preparing this report.

- Plaintiff's Complaint
- Material cited in footnotes below.

## IV. Fiscal Impact

*A. Overview*

The proposed statutory initiative petitions 2012-084 and 2012-085 contain many elements in common. Both initiatives would increase the Missouri minimum wage to $8.25 per hour, alter the exemption for retail and service firms, raise the cash wage of tipped workers from 50% to 60% of the minimum wage, and increase the statute of limitation from two to three year for underpayment claims.

The initiatives differ in their linkage to the federal minimum wage. Initiative petition 2012-084 requires that the state minimum wage be automatically increased to the

federal minimum wage if it is higher than the state minimum wage. Initiative petition 2012-085 does not have such a linkage. It only requires that workers be paid the higher of the state minimum wage or the federal minimum wage. The linkage to the federal minimum wage will cause the state minimum wage to be higher under initiative petition 2012-084 over time. This is because the state minimum wage, in contrast to the federal minimum wage, is adjusted for inflation as measured by the Consumer Price Index.

An increase in the minimum wage in Missouri will affect state and local government entities in two ways. First, it will directly increase the cost of labor to state and local government entities. This will occur due to the increase in wages of state and local government workers earning between the existing minimum wage of $7.25 and the new minimum wage of $8.25.[1] In addition, workers laid off due to the minimum wage increase can collect unemployment benefits. The state government will bear the cost of unemployment benefits of these workers for the first 20 weeks. Second, state and local government may gain increased revenue through higher income tax and sales taxes paid by workers affected by the minimum wage who remain employed. However, state and local government will suffer reduced tax revenue to the extent the higher wage cost lowers profits of businesses.

The following sections estimate the cost and revenue effects to state and local government entities of the proposed minimum wage increase.

[1] Information about the minimum wage in Missouri is available at http://www.labor.mo.gov/DLS/minimumwage/.

*B. Direct Labor Cost Impact on State and Local Government Budgets*

There are two possible ways to measure the direct labor cost on state and local government budgets. First, one can use the information included in the fiscal notes prepared by the State Auditor regarding the proposed initiatives. It is important to note that the fiscal notes provide an incomplete and thus too low estimate of the direct labor cost. The fiscal notes indicate that the Office of Administration's (OA) Division of Personnel reported that as of September 2011 there were 834 state workers who would be affected by an increase of the minimum wage to $8.25 and the "approximate annual cost" would be more than $540,000.

This OA estimate excludes seasonal workers such as State Fair employees, State Parks Employees, and tax season staff. The Division of Revenue noted its labor cost would rise by $40,000. The Division of Natural Resources stated they have over 500 workers who would be affected by the increase, but did not provide an estimate of the cost. The State Fair hired 745 workers that would be affected, but no cost estimate was provided.

Thus, the cost to state government, based on the fiscal notes, would be more than $580,000.

The fiscal notes also provide an incomplete and thus too low measure of the cost to local government and public educational institutions. Many cities and educational institutions did not respond to Office of Auditor's survey or provide an estimate of the cost of the higher minimum wage. The City of Columbia, City of Jefferson, City of

Joseph, Linn State Technical College, and Metropolitan Community College did provide such an estimate. The total cost to these five institutions is $772,182.

Based on the fiscal notes, the cost to state and local government entities of the increase in the minimum wage to $8.25 will be more than $1,352,182.

Second, data from the U.S. Census Bureau's Current Population Survey (CPS) can also be used to calculate the cost of the increased labor cost to state and local government entities in Missouri. Using the data from January 2010 to December 2011 Outgoing Rotation Group (ORG) CPS, I calculated that 17,089 state and local government workers would be affected by the minimum wage increase. I defined affected workers as those individuals earning between $7.00 and $8.24 per hour. Though the minimum wage was $7.25 per hour during this period, I also included those workers reporting earnings of $7.00 to $7.24 since some individuals may round their wage rate. I calculated the annual wage cost for each state and local government worker (i) in the ORG CPS as:

$$Annual\ Wage\ Cost_i = (\$8.25 - current\ wage_i) * weekly\ hours_i * 52.$$[2]

The average annual wage cost increase was $870. I summed the cost over each worker (i) to obtain the total wage cost to state and local government entities in Missouri of $14,866,430.

The increased wage cost is not the only labor cost to state and local government entities of the minimum wage increase. Employers are required to pay 7.65% of their wage costs in Social Security and Medicare taxes. Thus, the total labor cost of the minimum wage increase will be 1.0765 times $14,866,430 or $16,003,712.

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[2] I assume that persons reporting an hourly wage rate between $7.00 and $7.24 are actually earning $7.25 per hour.

*C. Unemployment Benefit Impact*

The higher minimum wage will cause firms to reduce their level of employment.[3] As a result, the number of unemployed workers will increase. Thus, another important fiscal cost of the minimum wage increase is the cost of the unemployment insurance benefits for the workers laid off as a result of the minimum wage increase.

To calculate the cost to the unemployment benefits program, I first calculated the number of workers laid off. To do so, I calculated a probability of job loss for each affected Missouri worker (i) in the January 2010 to December 2011 ORG CPS:

$$Probability\ Job\ Loss_{\ i} = \frac{(\$8.25 - Current\ Wage_i)}{Current\ Wage_i} * elasticity_i.$$

I used the preferred employment elasticity (i.e., sensitivity of employment to wage changes) contained in Sabia and Burkhauser (2010), which was -0.6 for individuals aged 16 to 29 without a high school degree and -0.2 for all other individuals. The sole exception was for state and local government workers, where I assumed an elasticity of zero.[4] The sum across all affected workers yielded an estimated job loss of 5,745 jobs.

The next step was to calculate the weekly benefit for the average unemployed worker. Using the benefits calculator on the Missouri unemployment benefits web site and the wage income of average private-sector affected worker ($10,937), yields an average weekly benefit of $109.36[5]. The state of Missouri pays the first 20 weeks of benefits.[6] Thus, each eligible unemployed worker could receive a total of $2,187.20 in

[3] For a survey of research regarding the effect of the minimum wage on employment, see David Neumark and William L. Wascher, *Minimum Wages* (Cambridge, MA: MIT Press, 2008).
[4] Joseph J. Sabia and Richard V. Burkhauser, "Minimum Wages and Poverty: Will a $9.50 Federal Minimum Wage Really Help the Working Poor?" *Southern Economic Journal* (January 2010): 592-623.
[5] http://www.labor.mo.gov/DES/Claims/calculator.asp
[6] See http://www.labor.mo.gov/DES/Claims/

benefits paid for by the state of Missouri. These jobs are permanently eliminated and so it is appropriate to calculate the full amount of benefits for each worker.

Unemployment insurance, however, does not cover all unemployed workers. For example, it does not cover people who leave a job voluntarily, people looking for their first job, and re-entrants who previously left the labor force voluntarily. Furthermore, some individuals don't apply for benefits even though they are eligible. I assume that 35% of the unemployed workers will receive unemployment benefits based on analysis by Wenger (2001).[7]

The last step is to calculate the total cost to the Missouri unemployment benefits program. This done by multiplying the number of jobs lost (5,745) times the average benefit amount ($2,187.20) times the percent of unemployed individuals collecting benefits (35%). This calculation yields a figure of $4,397,510. This cost would be borne only during the first year of the minimum wage increase. The inflation adjustments in the minimum wage will also yield costs to the unemployment insurance program, but it is not possible to estimate the amount.

*D. Impact on State Income Tax Revenue*

The state of Missouri will gain increased revenue through higher income tax taxes paid by workers affected by the minimum wage who remain employed. However, it will

[7] Jeffery Wenger. "Divided We Fall: Deserving Workers Slip through America's Patchwork Unemployment Insurance System." *Economic Policy Institute*, 2001. Sabia and Burkhauser (2010) make the same assumption in their calculation of the amount of unemployment benefits generated by a minimum wage increase.

suffer reduced corporate income tax revenue to the extent the higher wage cost lowers profits of businesses.

To calculate the impact on individual income tax revenue, I again used data from January 2010 to December 2011 ORG CPS. I defined affected workers as those Missouri individuals earning between $7.00 and $8.24 per hour.[8] I used the following formula to estimate the change in income tax revenue:

$$\Delta Tax\ Revenue_i = (Tax_After_i - Tax_Before_i) - Prob_Job_Loss_i * Tax_Before_i,$$

where $Tax_After_i$ is the income tax paid by worker i after the minimum wage increase. $Tax_Before_i$ is the income tax paid by worker i after the minimum wage increase, and $Prob_Job_Loss_i$ is the probability of job loss for worker i. The first term shows the change in individual income tax revenue assuming no job loss and the second term shows the loss in tax revenue due to the employment loss caused by the minimum wage increase.

The income tax calculations were based on two assumptions.[9] First, the 50% percent of affected workers who were under the age 25 who were assumed to be dependents on another person's tax return. As a result, it was assumed that the affected workers' earnings were taxable at the maximum Missouri income tax rate of 6% both and after the minimum wage increase.[10] Second, all persons age 25 and older were assumed to be paying little or no income tax after exemptions and deductions. Thus, about 50% of the earnings increase will be taxed at a rate of 6%.

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[8] I again assume that persons reporting an hourly wage rate between $7.00 and $7.24 are actually earning $7.25 per hour. The annual earnings level was calculated as the worker's wage rate times usual weekly hours worked times 52.

[9] The same assumptions are used in the State Auditor's fiscal notes for the initiatives.

[10] This assumption will overstate the revenue increase as 20% of affected workers under the age 25 are living by themselves and some of these individuals will not be a dependent on another person's tax return.

The tax calculations reveal an increase in income tax revenue increase to the state. Assuming no workers were laid off by the minimum wage increase, income tax revenue would rise by $6,043,534. However, the state will lose $1,965,446 in income tax revenue due to the lost earnings of private-sector workers no longer employed due to the minimum wage hike.[11] Thus, the net increase in individual income tax revenue is $4,078,088.

Businesses have three options to respond to the higher labor costs of a higher minimum wage. They can reduce their profits, raise prices, or lay off workers. Based on the 2010-2011 ORG CPS data, the minimum wage increase will raise private-sector labor costs by $192,620,900 if employment levels are not reduced. However, labor costs will be lowered by $55,240,790 due to the reduction in employment. Thus, labor costs will, on net, rise by $137,380,110. These increased labor costs may be either passed on to consumers through higher prices or reduced profits or more likely some combination of higher prices and reduced profits. Assuming that businesses absorbed all of the higher costs through reduced profits, the corporate income tax revenue would fall by the Missouri corporate income tax of 6.25% times the rise in labor costs of $137,380,110 * 1.0765 (to account for employer-paid Social Security and Medicare taxes) or $9,243,106.[12] Alternatively, if half of the higher labor costs were passed on to consumers, then corporate income tax revenue would fall by $4,621,553.

[11] The probability of job loss was calculated in the same manner as in the prior section.
[12] The corporate income tax for Missouri is available at: http://dor.mo.gov/business/corporate/

*E. Impact on State and Local Sales Tax Revenue*

To calculate the impact on state and local sales tax revenue the following approach was undertaken.[13] First, the total increase in worker earnings, adjusted for employment reductions, was calculated using the 2010-2011 ORG CPS. This figure was $152,246,540. Second, the increase in Missouri taxable sales was calculated as 25% of the earnings increase or $38,061,635. Third, the increase in sales tax revenue was calculated by multiplying the taxable sales change times the average state and local rate of 7.67% or $2,919,327.[14]

The higher minimum wage may decrease sales tax revenue to the extent that it reduces business profits, which will lower spending by business owners.

## VI. Summary and Conclusions

I was asked by counsel to evaluate the fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085.

The results of my analysis indicate:

(1) labor costs to state and local government entities, based on state auditor fiscal notes, will rise by more than $1,352,182. A more inclusive estimate indicates that state and local government labor costs will increase by $16,003,712;

[13] The same general approach is used in the State Auditor's fiscal notes for the initiatives.
[14] The average rate comes from http://taxfoundation.org/news/show/27023.html

(2) unemployment benefit costs will rise by $4,397,510 during the first year of the minimum wage increase;

(3) individual income tax revenue will rise by at most $4,078,088;

(4) the loss in corporate income tax revenue could be as high as $9,243,105;

(5) state and local sales tax revenue will rise by at most $2,919,327;

(6) during the first year: state and local governments will incur increased costs of $20,401,222; the change in state and local government revenue will range from -$2,245,690 to +$6,997,415; and the net state and local government fiscal impact will range from -$22,646,912 to -$13,403,807.

**FISCAL ANALYSIS**
**OF**
**PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085**

David A. Macpherson

David A. Macpherson, Ph.D.
March 26, 2012

# Appendix A

## Resume and Testimony of David A. Macpherson, Ph.D.

# DAVID A. MACPHERSON

3/2012

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Ph.D., Economics, The Pennsylvania State University.
B.S., Economics, The Pennsylvania State University.

## Current Positions

E.M. Stevens Professor of Economics, Trinity University, 2009-
Research Fellow, Institute for the Study of Labor (IZA), Bonn, 2004-.

## Previous Positions

Rod and Hope Brim Eminent Scholar in Economics, FSU 2004-2009.
Director, Pepper Institute on Aging and Public Policy, FSU, 2003-2009.
Abba P. Lerner Professor of Economics, FSU, 2000-2009.
Professor, Department of Economics, Florida State University, 1996-2009.
Director of Research, Pepper Institute on Aging and Public Policy, FSU, 1995-2000.
Associate Professor, Department of Economics, Florida State University, 1993-1996.
Research Associate, Pepper Institute on Aging and Public Policy, FSU, 1993-2001, 2003-2009.
Visiting Associate Professor, Department of Economics, Florida State University, 1992-1993.
Research Affiliate, Pepper Institute on Aging and Public Policy, FSU, 1992-1993, 2001-2003.
Associate Professor, Department of Economics, Miami University, 1991-1993.
Assistant Professor, Department of Economics, Miami University, 1987-1991.

## Research Areas

Labor Economics, Labor Market Aspects of Pensions, Labor Unions, Racial and Gender Differences in the Labor Market, Minimum Wage, Deregulation.

**Teaching Areas**

Principles of Microeconomics and Macroeconomics, Intermediate Microeconomics, Money and Banking, Econometrics (undergraduate and graduate), Labor Economics and Labor Relations (undergraduate and graduate).

**Books**

*Economics: Private and Public Choice*, 14th edition, Southwestern: Cincinnati, OH, 2013, with James Gwartney, Richard Stroup, and Russell Sobel. Co-author on 10th, 11th, 12th, and 13th editions as well.

Instructor's Manual for *Economics: Private and Public Choice*, 14th edition, Southwestern: Cincinnati, OH, 2013. Author for instructor's manual for 10th, 11th, 12th, and 13th editions as well.

*Union Membership and Earnings Data Book: Compilations from the Current Population Survey (2011 Edition)*, Bureau of National Affairs, Washington, D.C., with Barry Hirsch.

Previous Editions: *Union Membership and Earnings Data Book: Compilations from the Current Population Survey* (Washington: Bureau of National Affairs, 1994-2010).

Tables derived from the *Data Book* are included in U.S. Department of Commerce, *Statistical Abstract of the United States 2011,* 130th Edition (Washington: GPO, 2011), Tables 663, 665; *Statistical Abstract of the United States 2010,* 129th Edition (Washington: GPO, 2010), Tables 648, 650; *Statistical Abstract of the United States 2009,* 128th Edition (Washington: GPO, 2009), Tables 642, 644; *Statistical Abstract of the United States 2008,* 127th Edition (Washington: GPO, 2008), Tables 642, 644; *Statistical Abstract of the United States 2007,* 126th Edition (Washington: GPO, 2006), Tables 645, 647; *Statistical Abstract of the United States 2006*, 125th Edition (Washington: GPO, 2005), Tables 647, 649; *Statistical Abstract 2004-2005*, Tables 638, 640; *Statistical Abstract 2003*, Tables 656, 658; *Statistical Abstract 2002*, Tables 628, 630; *Statistical Abstract 2001*, Tables 637, 639; *Statistical Abstract 2000*, Tables 712, 714; *Statistical Abstract 1999*, Tables 718, 720; *Statistical Abstract 1998*, Tables 712, 714; *Statistical Abstract 1997*, Tables 688, 690; *Statistical Abstract 1996*, Tables 681, 683; *Statistical Abstract 1995*, Tables 695, 697; and in U.S. Department of Commerce, *State and Metropolitan Area Data Book, 1997-98*, 5th Edition (Washington: GPO, 1998), Table A-22.

*Contemporary Labor Economics*, 9th edition, McGraw-Hill: New York, NY, 2010, with Campbell McConnell and Stanley Brue. Co-author on 5th, 6th, 7th, and 8th editions as well.

*Pensions and Productivity*, W.E. Upjohn Institute for Employment Research: Kalamazoo, MI, 1998, with Christopher Cornwell and Stuart Dorsey.

**Journal Publications (Economics)**

"Computing Lost Profits in Business Interruption Litigation: A General Model," *Journal of Business Valuation and Economic Loss Analysis*, forthcoming, with Stanley Stephenson and Gauri Prakash-Canjels.

"Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," *Southern Economic Journal*, forthcoming, April 2012, with William Even.

"Growth of Participant Direction in Defined Contribution Plans," April 2010, pp. 190-208, *Industrial Relations*, with William Even.

"Managing Risk Caused by Pension Investments in Company Stock," *National Tax Journal*, September 2009, pp. 439-453, with William Even.

"Pension Investments in Employer Stock," *Journal of Pension Economics and Finance*, March 2008, pp. 67-93, with William Even.

"Defined Contribution Plans and the Distribution of Pension Wealth," *Industrial Relations*, July 2007, pp. 551-581, with William Even.

"Lost Profits Damages to New Businesses: Adjusting for Survival," *Journal of Business Valuation and Economic Loss Analysis*, October 2006, pp. 1-12, with Stanley Stephenson.

"Determinants and Effects of Employer Matching Contributions in 401(k) Plans," *Industrial Relations*, July 2005, pp. 525-549, with William Even.

"When Will the Gender Gap in Retirement Income Narrow?" *Southern Economic Journal*, July 2004, pp. 182-200, with William Even.

"Company Stock in Pension Funds," *National Tax Journal*, June 2004, pp. 299-313, with William Even.

"Wages, Sorting on Skill, and the Racial Composition of Jobs," *Journal of Labor Economics*, January 2004, pp.189-210, with Barry Hirsch.

"Racial and Ethnic Differences in Pension Wealth," *Research in Labor Economics*, 2003, pp. 203-226, with William Even.

"Do Terminated Employees Catch Up? Evidence From the Displaced Worker Survey," *Journal of Forensic Economics*, Spring/Summer 2003, pp. 185-199, with Michael Piette.

"Union Membership and Coverage Database from the Current Population Survey: Note," *Industrial and Labor Relations Review*, January 2003, pp. 349-354, with Barry Hirsch.

"The Wage and Employment Dynamics of Minimum Wage Workers," *Southern Economic Journal,* January 2003, pp. 676-690, with William Even.

"State-Level Estimates of Union Density, 1964 to Present," *Monthly Labor Review*, July 2001, pp. 51-55, with Barry Hirsch and Wayne Vroman (accompanying data online).

"The Changing Distribution of Pension Coverage," *Industrial Relations*, April 2000, pp. 199-227, with William Even.

"Occupational Age Structure and Access for Older Workers," *Industrial and Labor Relations Review*, April 2000, pp. 401-418, with Barry Hirsch and Melissa Hardy.

"Earnings, Rents, and Competition in the Airline Labor Market," *Journal of Labor Economics*, January 2000, pp. 125-155, with Barry Hirsch.

"Estimating Wage Differentials: When Does Cost-of-Living Matter?" *Economic Inquiry*, October 1999, pp. 577-598, with Mike DuMond and Barry Hirsch.

"Worker's Compensation Recipency in Union and Nonunion Workplaces," *Industrial and Labor Relations Review*, January 1997, pp. 213-236, with Barry Hirsch and Michael DuMond.

"Pensions and Training," *Industrial Relations*, January 1997, pp. 81-96, with Stuart Dorsey.

"The Consequences of Indexing Minimum Wages," *Contemporary Economic Policy,* October 1996, pp. 67-77, with William Even.

"Employer Size and Labor Turnover: The Role of Pensions," *Industrial and Labor Relations Review*, July 1996, pp. 707-728, with William Even.

"The Consequences of Non-FICA Status in State and Local Pensions," *Proceedings of National Tax Association Meetings*, 1996, with William Even.

"Wages and Gender Composition: Why Do Women's Jobs Pay Less?" *Journal of Labor Economics*, July 1995, pp. 426-471, with Barry Hirsch.

"Employer Size and Compensation: The Role of Worker Characteristics," *Applied Economics*, September 1994, pp. 897-907, with William Even

"Gender Differences in Pensions," *Journal of Human Resources*, Spring 1994, pp. 555-587, with William Even.

"Why Did Male Pension Coverage Decline in the 1980s?", *Industrial and Labor Relations Review*, April 1994, pp. 439-453, with William Even.

"Unionism and Gross Employment Flows," *Southern Economic Journal*, January 1994, pp. 427-438, with Timothy Dunne.

"The Decline of Private-Sector Unionism and the Gender Wage Gap," *Journal of Human Resources*, Spring 1993, pp. 279-296, with William Even.

"Union Membership and Coverage Data Available From the Current Population Surveys: Note." *Industrial and Labor Relations Review*, April 1993, pp. 574-578, with Barry Hirsch.

"Employer-Provided Retiree Health Insurance: Who is Covered?" *Economics Letters*, May 1992, pp. 95-99.

"Union Wage Differentials and the Effects of Industry and Local Union Density: Evidence from the 1980s," *Journal of Labor Research*, Fall 1991, pp. 419-427, with Michael Curme.

"The Effects of Extended Families and Marital Status on Housing Consumption by Black Female-Headed Households," *Review of Black Political Economy*, Winter/Spring 1991, pp. 65-84, with James Stewart.

"The Impact of Unionism on Fringe Benefit Coverage," *Economics Letters*, May 1991, pp. 87-91, with William Even.

"A Note on Ownership and Performance in Manufacturing Firms," *Southern Economic Journal*, April 1991, pp. 1164-1169, with Timothy Dunne.

"Union Membership and Contract Coverage in the United States, 1983-1988," *Industrial and Labor Relations Review*, October 1990, pp. 5-33, with Michael Curme and Barry Hirsch.

"The Gender Gap in Pensions and Wages," *Review of Economics and Statistics*, May 1990, pp. 259-265, with William Even.

"The Effect of International Competition on Union and Nonunion Wages," *Industrial and Labor Relations Review*, April 1990, pp. 434-446, with James Stewart.

"Plant Size and the Decline of Unionism," *Economics Letters*, April 1990, pp. 393-398, with William Even.

"Trade Unions and Labor's Share in U.S. Manufacturing Industries," *International Journal of Industrial Organization*, March 1990, pp. 143-51.

"The Labor Force Participation and Earnings Profiles of Married Female Immigrants," *Quarterly Review of Economics and Business*, Autumn 1989, pp. 57-72, with James Stewart.

"The Labor Supply and School Attendance of Black Women in Extended and Nonextended Households," *American Economic Review Papers and Proceedings*, May 1989, pp. 71-74, with James Stewart.

"Self-Employment and Married Women," *Economics Letters*, December 1988, pp. 281-284.

"Unionism and the Dispersion of Wages Among Blue-Collar Women," *Journal of Labor Research*, Fall 1987, pp. 395-405, with James Stewart.

**Journal Publications (Real Estate and Insurance)**

"The Use of Post-Loss Assessments in Catastrophic Financing," *Risk Insurance and Management Review*, forthcoming, with Patrick Maroney, Charles Nyce, Kathleen McCullough, James W. Newman Jr., and Cassandra Cole.

"A Meta Analysis of Selling Price and Time on the Market," *Journal of Housing Research,* Issue 2010, pp. 139-152, with Stacy Sirmans and Lynn MacDonald.

"A Comparison of Hurricane Loss Models," *Journal of Insurance Issues*, Spring 2010, pp. 31-53, with Kathleen McCullough and Cassandra Cole.

"A Review of the Development of Residual Market Mechanisms in Florida," *Journal of Insurance Regulation*, Summer 2009, pp. 55-80, with Patrick Maroney, Charles Nyce, Kathleen McCullough, James W. Newman Jr., and Cassandra Cole.

"The History of Property Tax Capitalization in Real Estate," *Journal of Real Estate Literature*, Issue 3 2008, pp. 327-343, with Dean Gatzlaff and Stacy Sirmans.

"Horizontal and Vertical Inequity in Real Property Taxation," *Journal of Real Estate Literature*, Issue 2 2008, pp. 167-180, with Dean Gatzlaff and Stacy Sirmans.

"The Title Insurance Industry: Examining a Decade of Growth," *Journal of Insurance Regulation*, Summer 2007, pp. 23-51, with Randy Dumm and Stacy Sirmans.

"The Value of Housing Characteristics: A Meta Analysis" *Journal of Real Estate Finance and Economics*, November 2006, pp. 215-240, with Stacy Sirmans, Lynn MacDonald, and Emily Zeitz.

"The Composition of Hedonic Pricing Models," *Journal of Real Estate Literature*, Issue 1 2005, pp. 3-43, with Stacy Sirmans.

"The State of Affordable Housing," *Journal of Real Estate Literature*, Issue 2 2003, pp. 133-155, with Stacy Sirmans.

"Affinity Programs and Real Estate Brokerage," *Journal of Real Estate Research*, November-December 2001, pp. 337-351, with Stacy Sirmans.

"Neighborhood Diversity and House Price Appreciation," *Journal of Real Estate Finance and Economics*, January 2001, pp. 81-97, with Stacy Sirmans.

"Forecasting Seniors Housing Demand in Florida," *Journal of Real Estate Portfolio Management*, 1999, pp. 259-74, with G. Stacy Sirmans.

**Publications in Books**

"Improving Pension Coverage at Small Firms," with William Even, in *Overcoming Barriers to Entrepreneurship*, ed. Diana Furchtgott-Roth, Rowman & Littlefield, 2008.

"Measuring Union and Nonunion Wage Growth: Puzzles in Search of Solutions" with Barry Hirsch and Edward Schumacher, in *Changing Role of Unions: New Forms of Representation*, Phanindra Wunnava, M.E. Sharpe, 2004.

"Living Wage Laws and the Case for a Targeted Wage Subsidy," in *Living Wage Movements: Global Perspectives*, ed. Deborah M. Figart, Routledge, 2004.

"Benefits and Worker Productivity," with William Even, in *Benefits for the Workplace of Tomorrow,* eds. Olivia S. Mitchell, David S. Blitzstein, Michael S. Gordon, and Judith F. Mazo, University of Pennsylvania Press, 2003.

"Children's Effects on Women's Labor Market Attachment and Earnings," with William Even, in *Changes in Working Time in Canada and the United States*, eds. Susan Houseman and Alice Nakamura, W.E. Upjohn Institute, 2001.

"Downsizing and Life Course Consequences of Job Loss: The Effect of Age and Gender on Employment and Income Security," with Jill Quadagno, Jennifer Reid, and Lori Parham, in *Restructuring Work and the Life Course*, eds. Victor Marshall, Walter Heinz, Helga Krueger, and Anil Verma, University of Toronto Press, 2001.

"The Effect of a Job Loss on the Employment Experience, Benefits, and Retirement Savings of Bank Officers," with Jill Quadagno and Jennifer Keene, in *Ensuring Health and Income Security for an Aging Workforce*, ed. Peter P. Budetti, W.E. Upjohn Institute, 2001.

"Earnings and Employment in Trucking: Deregulating a Naturally Competitive Industry," with Barry Hirsch, in *Regulatory Reform and Labor Markets*, ed. James Peoples, Kluwer Publishers, 1998.

"Gender-Related Differences in Pension Coverage," with William Even, in *Women and Work: A Handbook*, Garland Publishing, New York, NY, 1996.

"The Pension Coverage of Young and Mature Workers", with William Even, in *Pension Coverage Issues for the '90s*, eds. Richard Hinz, John Turner, and Phyllis Fernandez, U.S. Government Printing Office, Washington, D.C, 1994.

**Working Papers (Economics)**

"Deferred Compensation vs. Efficiency Wages: An Experimental Test of Effort Provision and
Self-Selection," with Tim Salmon and Kislaya Prasad, under review, *Journal of Business and Economic Organization*

"What Do Unions Do to Pension Performance?" with William Even, September 2011, under revision

"Teacher Salaries, State Collective Bargaining Laws, and Union Coverage" March 2011, with Barry Hirsch and John Winters.

"The Effects of the 2007-2009 Federal Minimum Wage Increases on Teen Employment," with William Even, under revision, July 2010.

"Participant Direction in Defined Contribution Plans," April 2006, with William Even, under revision.

"Do Pensions Impede Phased Retirement?" September 2004, with William Even, under revision.

**Working Papers (Real Estate and Insurance)**

"An Empirical Analysis of Socio-Demographic Factors and the Mispricing of Homeowners Insurance in Florida," under review *Journal of Financial Services Research*, with Ronald Cheung, Charles Nyce, Kathleen McCullough, and Cassandra Cole.

"The Impact of No-Fault Legislation on Automobile Insurance Premiums," revised and resubmitted to *North American Actuarial Journal*, with Cassandra Cole, Kevin Eastman, Patrick Maroney, and Kathleen McCullough.

**Funded Projects**

Employment Policies Institute, 5/2010-7/2010, $16,500 (Trinity University portion), "Employment Effects of the 2007-2009 Federal Minimum Wage Increases," with William Even.

National Science Foundation, 9/2009-8/2012, $125,866 (Trinity University portion), "Incentives in the Workplace: An Experimental Examination of How Wage Differences Across Time and Among Peers Affect Productivity and Self-Selection," with Tim Salmon, Kislaya Prasad, and Hyejin Ku.

Florida Legislature, 10/2007-6/2009, $175,000, "Child Support Guidelines," with Stefan Norrbin and Thomas McCaleb.

Florida Legislature (through University of Florida), 12/2006-9/2007, $223,000, "Analysis of Save our Homes Amendment," with Dean Gatzlaff.

U.S. Administration on Aging (through University of South Florida), 5/2005-9/2007, $175,000, "Employment in the Long-Term Care Industry: The Importance of Recruitment and Retention," with William Even.

Florida Legislature, 2/2003-8/2004, $175,000, "Child Support Guidelines," with Stefan Norrbin and Thomas McCaleb.

Florida Department of Environmental Protection, 6/2002-2/2003, $94,157, "Affordability Index," with Stefan Norrbin and William Serow.

University of South Carolina, 4/2000-11/2000, $10,000, "Minority Homeownership in South Carolina," with Stacy Sirmans.

Florida Department of Business and Professional Regulation, 3/1999-6/1999, $21,739, "Forecasting Housing Demand in Florida," with Stacy Sirmans.

University of South Carolina, 4/1999-11/1999, $10,000, "Forecasting Housing Demand in South Carolina," with Stacy Sirmans.

Florida State University, 6/1999-8/1999, $7,500, "Support for Preparing ECO 2000 as a Web-Based Course."

TIAA-CREF, 8/1998-8/1999, $23,000, "Determinants of Savings in Supplemental Pension Plans: A Case Study of Pension Choices in Higher Education," with Melissa Hardy and Larry Hazelrigg.

Florida Department of Business and Professional Regulation, 4/1998-6/1998, $16,638, "Forecasting Seniors' Demand for Housing in Florida," with Stacy Sirmans.

Florida Department of Business and Professional Regulation, 12/1997-6/1998, $18,472, "Housing Price Appreciation in Orlando and Tampa," with Stacy Sirmans.

Florida State University, 6/1998-8/1998, $7,500, "Support for Preparing ECO 2000 as a Web-Assisted Course."

Florida Department of Business and Professional Regulation, 3/1997-6/1997, $17,898, "Minority Homeownership in Florida," with Stacy Sirmans.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 12/1996-8/1997, $20,000, "The Impact of Rising 401(k) Pension Coverage on Retirement Income," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 3/1996-6/1997, $15,000, "The Determinants of 401(k) Participation and Contribution Levels," with William Even.

Florida Department of Business and Professional Regulation, 4/1996-6/1996, $22,702, "Forecasting the Number of New Florida Real Estate Licensees," with Stacy Sirmans.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 3/1995-6/1996, $15,000, "Explaining the Decline in Pension Coverage of Less Educated Workers," with William Even.

Florida State University COFRS Grant, 6/1994-8/1994, $8,000, "The Relative Compensation and Quality of Public and Private Sector Workers."

W.E. Upjohn Institute for Employment Research, 3/1994-12/1995, $35,000, "Pensions and Productivity," with Stuart Dorsey and Christopher Cornwell.

Florida Division of Workers' Compensation, 1/94-12/1995, $100,000, "Worker's Compensation Recipency in Union and Nonunion Workplaces," part of a service contract titled "Research Partnership with the Division of Workers' Compensation," co-investigator (one of several).

University of Wisconsin Institute for Research on Poverty Small Grant Program, 7/1993-6/1994, $15,000, "Racial Composition, Wages, and Quality Sorting," with Barry Hirsch.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 7/1993-6/1993, $10,000, "Trends in Individual and Family Pension Coverage," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 6/1992-5/1993, $10,000, "The Pension Coverage of Young and Mature Workers," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration and American Society of Pension Actuaries, 6/1991-5/1992, $10,000, "A Conference on Current Pension Policy Issues," with William Even.

Miami University Faculty Research Grant, 6/1991-8/1991, $4,000, "Projected Growth in Retiree Health Insurance Liabilities."

Ohio Board of Regents Research Challenge Grant, 1/1990-12/1990, $4,980, "Proposal to Enhance the Data Library of the Center of Pension and Retirement Research," with William Even and Samuel Williamson.

Miami University Faculty Research Grant, 6/1990-8/1990, $4,000, "The Role of Firm Size in Pension Coverage and Options."

Miami University Faculty Research Grant, 6/1989-8/1989, $4,000, "Declining Unionism and the Gender Wage Gap," with William Even.

**Participation in National Meetings**

Panel Discussant, American Real Estate and Urban Economics Association/ASSA meetings, January 2008.

Presented, "Employee Turnover in the Long-Term Care Industry," at Academy Health Annual Research Meetings, June 2007.

Presented, "Participant Direction in Defined Contribution Pension Plans," at International Atlantic Economic Society meetings, October 2006.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at International Atlantic Economic Society meetings, October 2005.

Presented, "Replacing Earnings After Termination: Evidence from the Displaced Worker Survey," at the Allied Social Science Association/National Association of Forensic Economics, January 2002.

Presented, "Labor Market Transitions of Older Workers," at the Allied Social Science Association/Society of Government Economists meetings, January 1999.

Presented, "Why has the Loss in Pension Coverage Accelerated Among Less Educated Workers?" at the American Economic Association Meetings, 1995.

Presented, "Wages and Gender Composition: Why Do Women's Jobs Pay Less?" at the American Economic Association Meetings, 1994, with Barry Hirsch.

Presented, "Pensions, Labor Turnover, and Employer Size" at the American Economic Association Meetings, 1993, with William Even.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the American Economic Association meetings, 1992, with William Even.

**Participation in Regional Meetings**

Presented "Unions and Pension Performance: The Role of Pension Design," at Southern Economics Association meetings, November 2009.

Panel member, "Recent Federal Reserve Policy: An Evaluation" at Southern Economics Association meetings, November 2009.

Discussant, "Topics in Health Economics," at Southern Economics Association meetings, November 2009.

Discussant, "Teacher Pay, Principals, and Schooling," at Southern Economics Association meetings, November 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Western Economic Association meetings, July 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Eastern Economic Association meetings, February 2009.

Panel Discussant at the Southern Economic Association meetings, November 2008.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Southern Economic Association meetings, November 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Western Economic Association meetings, July 2008.

Chair "Pensions and Retirement" Session at Southern Economic Association meetings, November 2007.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Southern Economic Association meetings, November 2007.

Presented, "Participant Direction in Defined Contribution Pension Plans," at Southern Economic Association meetings, November 2006.

Panel Discussant, Southern Economic Association meetings, November 2005.

Presented, "Do Pensions Impede Phased Retirement?" at the Southern Economic Association meetings, November 2004.

Presented, "When Will the Gender Gap in Retirement Income Narrow?" at the Southern Economic Association meetings, November 2003.

Presented, "How Will the Growth of DC and 401(k) Plans Affect Pension Income?" at the Southern Economic Association meetings, November 2002.

Presented, "Racial Composition, Wages, and Quality Sorting," at the Southern Economic Association meetings, November 1999.

Presented, "Racial and Ethnic Differences in Pension Coverage and Benefit Levels," at the Southern Economic Association meetings, November 1998.

Presented, "Factors Influencing Participation and Contribution Levels in 401(k) Plans," at the Western Economics Association meetings, July 1998.

Presented, "Aging at Work: Employment Determination, Firm Strategies, and Public Policy in the United States," at the Western Economic Association meetings, July 1994.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Western Economic Association meetings, July 1992.

Presented "Plant Size and the Decline of Unionism," at the Southern Economic Association meetings, 1989, with William Even.

Panel Discussant, Southern Economic Association meetings, November 1989.

Presented "The Labor Force Participation and Earnings Profiles of Married Female Immigrants," at the Southern Economic Association meetings, November 1988.

Presented "Pensions, Screening, and the Gender Wage Gap," at the Southern Economic Association meetings, November 1988.

Session Chair and Panel Discussant at the Southern Economic Association meetings, November 1988.

**Participation in Invited Seminars, Conferences, and other Presentations**

Presented, "Teaching Macroeconomics During Troubled Times," at Creative Ideas for Your Basic Economics Course Conference at Florida State University, February 2012.

Presented, "Participant Direction in Defined Contribution Pension Plans," at Pennsylvania State University, April 2010.

Presented, "The Parallels Between the Japanese Economic Crisis of the 1990s and the US Today" at Creative Ideas for Your Basic Economics Course Conference at Florida State University, February 2010.

Chair "Minimum Wage & EITC" Session at Society of Labor Economists meetings, May 2009.

Presented "Participant Direction in Defined Contribution Plans," at Lehigh University, April 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Association of Private Enterprise Education meetings, April 2009.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Trinity University, October 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Georgia State University, April 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Association of Private Enterprise Education meetings, April 2008.
Presented, "Improving Pension Coverage at Small Firms," at Hudson Institute, May 2006.

Presented, "Participant Direction in Defined Contribution Plans," at Society of Labor Economics meetings, May 2006.

Presented, "Participant Direction in Defined Contribution Plans," at Association of Private Enterprise Education meetings, April 2006.

Presented, "Participant Direction in Defined Contribution Plans," at University of Wisconsin-Milwaukee, April 2006.

Invited Panel Participant for Pepper Foundation and Center Symposium on pension reform, Washington, DC, February 2006.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at West Virginia University, April 2005.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at the University of Kentucky, November 2004.

Presented, "The Causes and Consequences of Company Stock Holdings in Pension Funds," at the Federal Reserve Bank of Atlanta, April 2004.

Presented, "The Causes and Consequences of Company Stock Holdings in Pension Funds," at the University of Oklahoma, February 2004.

Presented, "Tracking Union and Nonunion Wages in the U.S.: Can the Evidence be Reconciled?" at the Middlebury Annual Conference on Economic Issues, April 2002.

Presented, "How Will the Growth of DC and 401(k) Plans Affect Pension Income?" at the Miami University Center for Pension and Retirement Research Conference, June 2001.

Presented, "Benefits and Worker Productivity," Benefits for the Workplace of Tomorrow Conference, Wharton School, University of Pennsylvania, May 2001.

Participant, Innovations in Managing the Financial Risks of Retirement Conference, Wharton School, University of Pennsylvania, May 2000.

Presented "Using Hi-Tech in Large Lectures," at Association of Private Enterprise Education meetings, April 2000.

Presented "Employee Participation in 401(k) Plans," at University of Wisconsin-Milwaukee, October 1999.

Presented "Gender, Race, and Ethnicity in the Labor Market," as part of the Smith Chair course in Labor Economics at Brigham Young University, September 1999.

Presented, "The Decline in Pension Coverage Among Less Educated Workers," at the Florida State University Economics Department Seminar Series, 1996.

Presented, "Children's Effects on Women's Labor Market Attachment and Earnings" at the Conference on the Changes in Working Time in Canada and the United States, Canadian Employment Research Forum, 1996.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" at the Ohio State University Economics Department Seminar Series, 1996.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" at the Florida State University Economics Department Seminar Series, 1995.

Presented, "Employer Size and Labor Turnover: The Role of Pensions," at Syracuse University, 1995.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" while visiting scholar at the Federal Reserve Bank of Cleveland, 1995.

Presented, "Trends in Individual and Household Pension Coverage," at the Miami University Center for Pension and Retirement Research Conference, 1994.

Presented, "Racial Composition, Quality Sorting, and the Black-White Wage Gap" at the University of Wisconsin, Institute for Research on Poverty, Small Grants Workshop, 1993, with Barry Hirsch.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Florida State University Economics Department Seminar Series, 1992.

Participant at National Bureau of Economic Research (NBER) Labor Studies meetings of the Summer Institute, 1992.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Miami University Conference on Current Pension Policy Issues, 1992.

Organizer and participant at conference on "Contemporary Issues in Pension Economics," hosted by the Center for Pension and Retirement Research, Miami University, 1990.

Presented "The Effect of International Competition on Union and Nonunion Wages," at the University of Cincinnati Seminar Series, 1987.

**Refereeing**

*Bulletin of Economic Research, Canadian Journal of Economics, Contemporary Economic Policy, Eastern Economics Journal, Economic Development and Cultural Change, Economic Inquiry, Industrial Relations, Industrial and Labor Relations Review, International Economic Review, Journal of Economics and Business, Journal of Human Resources, Journal of Labor Economics, Journal of Labor Research, Journal of Pension Economics and Finance, Labour Economics, Mid-American Journal of Business, Policy Studies Review, Quarterly Journal of Economics, Quarterly Review of Economics and Finance, Real Estate Economics,* Review *of Economics and Statistics, Social Science Quarterly, Southern Economic Journal*

Outside reviewer for Department of Economics, UNC-Greensboro, Georgia State University.

Promotion and tenure letters for candidates at Georgia State University, Kansas State University, Monmouth University, Ohio State University, University of Massachusetts, University of Southern California, and University of Wisconsin-Milwaukee.

**Honors and Awards**

Awarded sabbatical, Trinity, Fall 2011.

Nominated for FSU Award for Excellence in Undergraduate Teaching, Spring 2005.

Named Rod and Hope Brim Eminent Scholar in Economics, FSU, Fall 2004.

Research Fellow, Institute for the Study of Labor (IZA), Bonn, 2004-.

*Who's Who in Economics, Fourth Edition*, Mark Blaug and Howard Vane (eds), Edward Elgar Publishing, 2003, pp. 524 (selection criteria: one of the 1,200 most frequently cited economists in the years 1990-2000 using the Social Science Citation Index).

Awarded Abba Lerner named professorship, FSU, Spring 2000.

Awarded sabbatical, FSU, Spring 2000.

Received FSU Award for Excellence in Undergraduate Teaching, Spring 2000.

Received FSU Teaching Incentive Program Award, Fall 1995.

Nominated for FSU Award for Excellence in Undergraduate Teaching, Spring 1994.

Nominated for Outstanding Teaching Award, Associated Student Government, Miami University,1992.
Selected by the Miami University Sisters of Delta Gamma for a "Favorite Professor Award" in Fall 1990.

Honorary Member of Golden Key National Honor Society, Fall 1989.

Selected by the Sisters of Delta Gamma as "One of the twenty five most outstanding faculty members at Miami University" in Fall 1988.

**Service**

Vice President, Southern Economic Association, 2011-

Trinity University

Dick and Peggy Prassel Professor of Business Administration Search Committee, 2011
Faculty and Staff Compensation Committee, 2010-2011
Student Retention Committee, 2010

Florida State University

University and College Committees:

Member, GPC subcommittee for Marketing, Spring 2008.
Member, Graduate Policy Committee, Fall 2007-.
Chair, GPC subcommittee for Political Science, Fall 2006.
Member, Title IV Admissions Attendance Committee, Fall 2003-Spring 2004.
Member, College of Social Sciences Executive Committee, Fall 2003-.
Member, Ad Hoc Committee on COSS Technology, Spring 2003.
Member, Computing and Information Resource Committee, Fall 1999-.
Member, Academic and Policy Affairs Committee, Fall 1996-Spring 1998.

Economics Department Committees:

Member, Ad Hoc Committee on Economics 2000 Level Courses, Spring 1999.
Member, Undergraduate Economics Committee, Fall 1998-
Member, Economics Department Executive Committee, Fall 1994-Spring 1995, Fall 1996-Spring 1999, Fall 2000-.
Economics Department Library Representative, Fall 1993-.
Micro/Macroeconomics Seminar Coordinator, Fall 1993-Spring 1995, Fall 1998-Fall 1999, Fall 2001, Fall 2006-.

Comprehensive Examination Committees:

Member, Masters Comprehensive Exam Committee, Spring 1994.
Member, Ph.D. Labor Field Exam Committee, Fall 1992, Spring 1994, Fall 1994, Fall 1995, Fall 1996, Spring 1997, Spring 1998.
Chair, Masters Comprehensive Exam Committee, Fall 1994, Spring 1998.
Chair, Ph.D. Labor Field Exam Committee, Spring 1993-Fall 1993, Spring 1995, Spring 1996, Spring 2000, Spring 2001, Fall 2001.

Miami University

Computing Task Force, Department of Economics, 1991-92.
Recruiting Committee, Department of Economics, 1990-92.
Economics Club Advisor, 1988-1991.
Research Associate, Center for Pension and Retirement Research, 1988-92.
Delta Sigma Pi Chapter Advisor, 1988-89.
Student Finance Committee, Student Affairs Council, 1988-89.
Omicron Delta Epsilon Advisor, 1987-88.

**Theses, Extended Papers, and Dissertations**

Undergraduate Honors Thesis:

Chair, Leela Hebbar, 1995

Member, Nicole Cubies, 2006
Member, John Stutts, 2006
Member, Todd Crannell, 2000
Member, Mark Plotnick, 2000
Member, Bobby Pittman, 1998

MS Thesis and Extended Paper:

Chair, Maria Arce-Trigatti, 2009
Chair, George Holescko, 2000
Chair, J. Michael DuMond, 1994

Member, Shael Wolfson, 2000

Member, Lehr Eliason, 2000
Member, Steve Muri, 2000
Member, Ken Meier, 1998
Member, Tarteshia Williams, 1995
Member, Richard Page, 1994

PhD Dissertation:

Chair, James Farrell, 2009
Chair, Mark Keightley, 2008
Chair, Ali Al-Malki, 2007
Chair, Carter Doyle, 2005
Chair, Edward Wolpert, 1998
Chair, J. Michael DuMond, 1997

Member, Bogdan Daraban, 2007
Member, Russell Engel, 2007
Member, Li Feng, 2006
Member, Chuck Skipton, 2003
Member, Nicole Yurgin, 2003
Member, Jennifer Troyer, 1999
Member, Josefina Tranfa, 1999
Member, Shaliesh Bandarhi, 1998
Member, James Freeman, 1998
Member, Brian Nottage, 1998
Member, Ben Shippen, 1995
Member, Ed Schumacher, 1994

Outside Member, Stephanie Burge, Sociology, 2006
Outside Member, Reg Albritton, Special Education, 2005
Outside Member, Kim Shuey, Sociology, 2001
Outside Member, Andrea Willson, Sociology, 2001
Outside Member, Phyllis Keys, Finance, 1998

# David A. Macpherson

Depositions and Trial Testimony: 2008 to 2012

1. Angela Speed and Adrian Speed vs. Hertz Corporation
   Atty: Dawn Pompey Whitehurst; Brevard County, Florida; gave deposition; wrongful injury; 2008; Case No: 05-2005-CA-065447

2. Patricia Morrison vs. Anthony Mork and Microspine Surgery
   Atty: Steven Andrews; Walton County, Florida; testified at trial; wrongful injury; 2008; Case No: 06000249CA.

3. James Tomaselli vs. State of Florida, Department of Corrections
   Atty: Gordon Leech; Martin County, Florida; gave deposition; wrongful termination; 2008; Case No: 01-554-CA.

4. Russell Martin, et al. v. City of Atlanta, et al.
   Atty: Andrew Coffman; U.S. District Court, Northern District of Georgia, Atlanta 5Division; gave deposition; racial discrimination; 2008; Case CA File No: 1:07-cv-00326-BBM

5. McCabe, et al. v. Harmon Fruit, et al.
   Atty: Larry Perry; Polk County, Florida; gave deposition; wrongful death; 2008; Case 53-2005-CA-003612-0000-00

6. Thomas Faulkner v. Michael Chertoff and Department of Homeland Security
   Atty: John Davis; U.S. District Court; Northern District of Florida; gave deposition; wrongful termination; 2009; Case 4:08CV341-SPM/WCS

7. Matthew Debord and Tabitha Debord vs. G & S Material Service et al.
   Atty: Hubert Brown; U.S. District Court; Northern District of Florida; gave deposition; wrongful injury; 2009; Case 3:07cv365-LAC/MD

8. Jessica Loveday vs. USA
   Atty: Anthony Caggiano; U.S. District Court; Northern District of Florida; gave deposition; wrongful injury; 2009; Case 1:08cv205/SPM

9. Julia Keyes vs. AIG
   Atty: Larry Perry; Jackson County, Florida; gave deposition; wrongful injury; 2009; Case 08706CA

10. Estate of Linda DePuy vs. Broeseker et al.
    Atty: Steve Andrews; Leon County, Florida; gave deposition; wrongful death; 2009; Case 2007 CA 2509

11. Oliver and Sollman vs. VSoft Inc.
    Atty: Larry Pankey; U.S. District Court, Northern District of Georgia, Atlanta Division; gave deposition; age discrimination; 2009; Case CA File No: 1:09-CV-0185

12. Yolanda Young vs. Covington and Burling, LLP
    Atty: Latif Damon; U.S. District Court for the District of Columbia; gave deposition; racial discrimination; 2009; Case CA File No: 1:09-CV-0464 RBW

13. Deborah Suboh vs. Mark Bergeson et al.
    Atty: Stephanie Wright and Charlotte Perrell; Georgia, Dekalb County; Case 07A77585-5, gave deposition; legal malpractice; 2010.

14. Rolando Simmons vs. Davis and Peterson
    Atty: Hubert Brown; Florida, Calhoun County; Case 2008-0150-CA, gave deposition and testified at trial; medical malpractice; 2010.

15. Lorie J. Marshall, et al. vs. H & R Block Tax Services, Inc.
    Atty: Allan Steyer; U.S, U.S. District Court
    Southern District of Illinois; Case No. 3:08-CV591-MJR; gave deposition; consumer damages; 2010.

16. Daren Davis vs. Joseph Austin and Terry Roberts Work Site
    Atty: Anthony Caggiano; Florida, Osceola County; gave deposition; wrongful injury; 2010; Case 2006 CA 002997 AN

17. David Darrow vs. Adventist Health Systems/Sunbelt Inc.
    Atty: Anthony Caggiano; Florida, Orange County; gave deposition; wrongful injury; 2010; Case 48-2009-CA-004897-0

18. Samuel Gonzalez vs. Gurdev Singh Nijjar et al.
    Atty: Ramon Rodriguez; Texas, El Paso County; gave deposition; wrongful injury; 2010; Case 2007-011

19. John Davis vs. Devereux Foundation.
    Atty: Thomas Brown; Florida, Brevard County; gave deposition; wrongful injury; 2010; Case 99-15992-CA-F

20. Al Kowalski vs. et al. YellowPages.Com, LLC
    Atty: Peter Pearlman; U.S. District Court Southern District of New York; Case No. 10-7318 (PGG); gave deposition; consumer damages; 2011.

21. Christina Glover and Jason Glover vs. Publix Super Markets
    Atty: Phelicia Steill; Florida, Leon; Case No. 08 CA 2695; gave deposition; wrongful injury; 2011.

22. Lissette Cartagena and William Cartagena vs. Bracero et al.
    Atty: Thomas Brown; Florida, Orange County; Case No. 07-CA-2645 DIV 34; gave deposition and testified at trial; wrongful injury; 2011.

23. Lillie Conyers and James Conyers vs. Werner Enterprises et al.
    Atty: Thomas Brown; Florida, Jackson County; Case No. 09-1174-CA; gave deposition; wrongful injury; 2011.

24. Shannon McCants vs. Wackenhut Corporation
    Atty: Dawn Pompey Whitehurst; Duval County, Florida; gave deposition and testified at trial; wrongful death; 2011; Case No: 16-2008-CA-014834

25. Christina Whipple versus R.E.S.A, Inc.
    Atty: Susan Haney; Bexar County, Texas; gave deposition; business damages; 2011; Case No.: 2009-CI-17074

26. Daniel Plouffe, et al. versus General Motors, LLC
    Atty: Michael Pitt; Wayne County, Michigan; gave deposition; age discrimination; 2012; Case No.: Case No. 11-007645-CL

27. Johnny Cash versus State Farm
    Atty: Steven Andrews; Leon County, Florida; testified at trial; wrongful injury; 2012; Case No.: Case No. 10-CA-2429

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College**.

**Fiscal Note Summary**

Increased state and local government expenses resulting from this proposal may be up to $73 million annually if funding is appropriated. State and local government tax revenue could increase by an estimated $189 million annually; however, employment decisions made by businesses could impact this estimate.

STATE AUDITOR'S OFFICE
RECEIVED
APR 15 2015

16-046

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

April 15, 2015

The Honorable John Watson
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Lara Granich regarding a proposed statutory amendment to Chapter 290, version 2 (2016-046).

Dear Auditor Watson:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Lara Granich on April 14, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-046

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 APR 14 PM 4:18
SEC. OF STATE

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____

(Name of payer) Signature of Affiant (Person obtaining signatures)

_____

Printed Name of Affiant

_____

Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this _____day of _____, A.D. 201____.

Notary Public (Seal)

_____

Signature of Notary

_____

Address of Notary (Street, City, State & Zip Code)

My commission expires _____.

# Statutory Amendment to Chapter 290, RSMo, Relating to the Minimum Wage, Version 2

16-046

*Be it enacted by the people of the State of Missouri:*

Sections 290.502, 290.512, and 290.527 are amended and a new section to be known as section 290.529 is enacted to read as follows:

§ 290.502. Minimum wage rate -- increase or decrease, when

1. Except as may be otherwise provided pursuant to sections 290.500 to 290.530, effective January 1, 2007, every employer shall pay to each employee wages at the rate of $ 6.50 per hour, or wages at the same rate or rates set under the provisions of federal law as the prevailing federal minimum wage applicable to those covered jobs in interstate commerce, whichever rate per hour is higher.

2. The minimum wage shall be increased or decreased on January 1, 2008, and on January 1 of successive years, by the increase or decrease in the cost of living. On September 30, 2007, and on each September 30 of each successive year, the director shall measure the increase or decrease in the cost of living by the percentage increase or decrease as of the preceding July over the level as of July of the immediately preceding year of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) or successor index as published by the U.S. Department of Labor or its successor agency, with the amount of the minimum wage increase or decrease rounded to the nearest five cents.

3. Except as may be otherwise provided pursuant to sections 290.500 to 290.530, notwithstanding subsection 1 of this section, effective January 1, 2017, every employer shall pay to each employee wages at the rate of $9.00 per hour, and effective January 1, 2018 at the rate of $10.00 per hour, and effective January 1, 2019 at the rate of $11.00 per hour, and effective January 1, 2020 at the rate of $12.00 per hour, or wages at the same rate or rates set under the provisions of federal law as the prevailing federal minimum wage applicable to those covered jobs in interstate commerce, whichever rate per hour is higher. Thereafter, the minimum wage rate shall be increased or decreased on January 1, 2021, and on January 1 of successive years, per the method set forth in subsection 2 of this section; but, if the federal minimum wage rate is above or is thereafter increased above the minimum wage rate then in effect under this subsection, the higher federal rate shall become the minimum wage rate for as long as it remains higher and shall be increased or decreased per the method set forth in subsection 2.

4. Every employer that is a public body shall pay to its employees wages at the rates established by subsection 3 of this section only provided there are appropriations for wages at those rates. If appropriations are not provided, the public body shall continue to be subject to the requirements of subsections 1 and 2 of this section. As used in this subsection, a public body means the state of Missouri, or any officer, agency, department, bureau, or division, board or commission of the state, or any municipality, county, township, authority, district, or any other political subdivision of or within the state.

**§ 290.512. Gratuities, goods or services as part of wages, effect on minimum wage requirement**

1. No employer of any employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages in excess of fifty percent of the minimum wage rate specified in sections 290.500 to 290.530, however, total compensation for such employee shall total at least the minimum wage specified in sections 290.500 to 290.530, the difference being made up by the employer.

2. Notwithstanding subsection 1 of this section, effective January 1, 2017, no employer of any employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages in excess of sixty percent of the minimum wage rate specified in sections 290.500 to 290.530, however, total compensation for such employee shall total at least the minimum wage specified in sections 290.500 to 290.530, the difference being made up by the employer.

3. A public body that is the employer of an employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages at the rates established by subsection 2 of this section only provided there are appropriations for wages at those rates. If appropriations are not provided, the public body shall continue to be subject to the requirements of subsection 1 of this section. As used in this subsection, a public body is defined as in subsection 4 of section 290.502.

[2.] 4. If an employee receives and retains compensation in the form of goods or services as an incident of his employment and if he is not required to exercise any discretion in order to receive the goods or services, the employer is required to pay only the difference between the fair market value of the goods and services and the minimum wage otherwise required to be paid by sections 290.500 to 290.530. The fair market value of the goods and services shall be computed on a weekly basis. The director shall provide by regulation a method of valuing the goods and services received by any employee in lieu of the wages otherwise required to be paid under the provisions of sections 290.500 to 290.530. He shall also provide by regulation a method of determining those types of goods and services that are an incident of employment the receipt of which does not require any discretion on the part of the employee.

**§ 290.527. Action for underpayment of wages, employee may bring--limitation**

Any employer who pays any employee less wages than the wages to which the employee is entitled under or by virtue of sections 290.500 to 290.530 shall be liable to the employee affected for the full amount of the wage rate and an additional [equal] amount equal to twice the unpaid wages as liquidated damages, less any amount actually paid to the employee by the employer and for costs and such reasonable attorney fees as may be allowed by the court or jury. The employee may bring any legal action necessary to collect the claim. Any agreement between the employee and the employer to work for less than the wage rate shall be no defense to the action. All actions for the collection of any deficiency in wages shall be commenced within [two] three years of the accrual of the cause of action.

§ 290.529. Severability

All the provisions of sections 290.500 to 290.530 are severable. If any provision, including any section, subsection, subdivision, paragraph, sentence, or clause, of sections 290.500 to 290.530, or the application thereof to any person or circumstance, is found by a court of competent jurisdiction to be invalid, unconstitutional, or unconstitutionally enacted, such decision shall not affect other provisions or applications of sections 290.500 to 290.530 that can be given effect without the invalid, unconstitutional, or unconstitutionally enacted provision or application.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-046)**

## Subject

Initiative petition from Lara Granich regarding a proposed amendment to Chapter 290 of the Revised Statutes of Missouri. (Received April 15, 2015)

## Date

May 5, 2015

## Description

This proposal would amend Chapter 290 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Lara Granich** provided information as a proponent of the proposal to the State Auditor's office.

**Edward D. Greim** provided information as an opponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated the total estimated costs for all state funds will be $0 for FY (fiscal year) 2017, $7,078 for FY 2018, $87,363 for FY 2019, $347,819 for FY 2020, and $267,534 for FY 2021.

Officials from the **Department of Higher Education** indicated they have reviewed the provisions of this initiative petition and determined it would have no direct fiscal impact on their department.

Officials from the **Department of Health and Senior Services** (DHSS) indicated the total estimated net cost for all state funds will be $6,283,730 for FY 2017, $25,032,309 for FY 2018, $52,881,558 for FY 2019, and $86,706,336 for FY 2020.

DHSS defers to the Office of Administration regarding the statewide fiscal impact of this proposed legislation relating to state employee wages.

Small Medicaid Home and Community Based Services (HCBS) vendors and providers would be required to ensure attendants are paid a minimum of $9.00 per hour for calendar year 2017, $10.00 per hour for calendar year 2018, $11.00 per hour for calendar year 2019, $12.00 per hour starting 1/1/2020.

DHSS assumes HCBS providers and vendors would request an increase in the reimbursement rate to offset the higher minimum wage rate.

- The average growth in units of service per year from Fiscal Year 2012 to Fiscal Year 2014 is 9.58 percent. (Units are included from Agency Model Personal Care, Residential Care Facility Personal Care, Consumer Directed Services Personal Care, Adult Day Care, Independent Living Waiver Personal Care, Advanced Personal Care Agency Model, Advanced Personal Care Residential Care Facility, Basic In-Home Respite, and Advanced Respite.) Fiscal Year 2014 actual units of service (164,723,962) were multiplied times the 9.58 percent average growth rate, which yields an estimated 216,720,206 units of service for Fiscal Year 2017; 237,472,657 for Fiscal Year 2018; 260,212,299 units for Fiscal Year 2019; and 285,129,419 for Fiscal Year 2020.
- The current average wage for personal care attendants is $8.50 + $0.89 in taxes (taxes at 10.45 percent) equals $9.39 per hour, or $2.35 per 15 minute unit.
- Actual wage data for the individuals involved in delivery of units of service is not available. In order to estimate the fiscal impact of this proposed rule, it is assumed that individuals who deliver services are equally represented in ten-cent wage

intervals clustered around the $8.50 average wage. So the calculation methodology includes ten wage intervals below $8.50 (starting at the current $7.50 minimum wage) and ten wage intervals above $8.50 (ending at $9.50).

- It is understood that the wages paid to some individuals are beyond the $9.50 ceiling employed in the calculation methodology. However, it is assumed that the number of individuals making more than $9.50 per hour would be relatively small. Also, it is not feasible to calculate the precise amounts absent actual wage data and the number of units provided by individuals at each wage level.
- The analysis assumes that the estimated units of service are uniformly spread among the individuals at the various 21 wage intervals ($7.50 through $9.50).
- The analysis determines the difference between the unit rate for wages and taxes at each of the ten-cent wage intervals versus the unit rate for wages and taxes.
- Services would be reimbursed at the Federal Medical Assistance Percentage (FMAP) rate. For this estimate, DHSS is using FY 2016 blended rate of 36.68 percent General Revenue and 63.32 percent Federal.
- The implementation date is 1/1/2017 for $9.00 per hour for calendar year 2017; one-half of Fiscal Year 2017.
- The implementation date is 1/1/2018 for $10.00 per hour for calendar year 2018.
- The implementation date is 1/1/2019 for $11.00 per hour for calendar year 2019.
- The implementation date is 1/1/2020 for $12.00 per hour.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated they defer to the Office of Administration for response to this petition regarding their employee cost as it relates to raising the minimum wage.

With regard to other issues this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated they defer to the Office of Administration for the fiscal impact.

Officials from the **Department of Natural Resources** indicated the estimated total costs for salaries, fringe benefits, equipment and expenses for all state funds will be $111,081 for FY 2017, $273,155 for FY 2018, $335,573 for FY 2019, and $381,796 for FY 2020.

Section 290.502.3, RSMo, would require the department to increase the minimum wage rate to $9.00 per hour effective January 1, 2017, to $10 per hour effective January 1, 2018, to $11 per hour effective January 1, 2019, to $12 per hour effective January 1, 2020, or to the wages at the same rate(s) set under the provisions of federal law as the prevailing federal minimum age applicable to those covered jobs in interstate commerce, whichever is higher the minimum wage shall be updated every January 1 thereafter.

Sections 290.502.4 and 290.512.3, RSMo, provides an exemption for public bodies from the provision of 290.502.3 if appropriations for wages at those rates are not provided.

Section 290.512.2, RSMo, would require the department to increase minimum wage for employees that receive and retain gratuities effective January 1, 2017 to an excess of sixty percent of the minimum wage rate specified in Sections 290.500 to 290.530. This provision also requires that such employee's total compensation be at least the minimum wage specified in 290.500 to 290.530.

Section 290.529, RSMo, makes the provisions of Sections 290.500 to 290.530 severable.

Their department anticipates the cost of the proposed legislation to start at $111,081 annually for fiscal year 2017 and ultimately increase to $381,796 for fiscal year 2020.

This legislation requires the minimum wage to be reviewed and adjusted every January 1.

For full time employees throughout the department they compared their current hourly wage rate to the minimum wage rate in the proposed legislation, taking the difference by 2,080 hours multiplied by the fringe rate for full time staff.

Missouri State Parks employs between 500-750 seasonal positions each year. In order to reflect a full year of seasonal employment, they based on their analysis off of FY14 staffing levels and upgraded their hourly wage to January 1, 2015. They then analyzed each January 1 upgrade to minimum wage compared to the prior year estimate. They assumed the per fiscal year designated minimum wage amount would be greater than the federal minimum wage.

Missouri State Parks does employ staff that is eligible for tips. For those individuals, they are required to ensure that their total wage plus tips meet or exceed the established minimum wage rate for non-tip staff. Therefore, they assumed the same minimum wage for estimated impact as other staff.

Seasonal positions' fringe benefit rate is 7.65 percent. Full time staff would begin to be given minimum wage increases in fiscal year 2020.

They also made the assumption that the personal service appropriations would be adjusted according to the levels necessary to provide the increased minimum wages provided in the law.

Officials from the **Department of Corrections** indicated they defer to the Office of Administration.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department. They defer to the Office of Administration for impact as an employer.

Officials from the **Department of Revenue** indicated this initiative petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they defer to the fiscal note response provided by the Office of Administration.

Officials from the **Department of Social Services** indicated they defer this initiative petition to the Office of Administration.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated their cost calculations related to this initiative petition is as follows based on 15 part-time employees working 1,039 hours per year:

| | |
|---|---|
| 2017 @ $9.00/hr. | No impact |
| 2018 @ $10.00/hr. | No impact |
| 2019 @ $11.00/hr | $15,585 annual |
| 2020 @ $12.00/hr | $30,170 annual |

Officials from the **Department of Conservation** indicated that this proposal, which would increase the minimum wage, would result in estimated additional annual cost to their department as follows:

1) an increase to $9/hour-$208,270; 2) an increase to $10/hour-$377,886; 3) an increase to $11/hour-$464,451; 4) an increase to $12/hour-$578,966. This reflects pay increases necessary to increase hourly and salaried pay rates to the proposed new minimum wage.

Officials from the **Office of Administration (OA)** indicated the proposal amends Sections 290.502, 290.512, 290.527, and adds 290.529 RSMo.

Section 290.502, RSMo, increases the minimum wage to $9.00 per hour, beginning January 1, 2017 and by another $1.00 per hour each year until it reaches $12.00 per hour beginning January 1, 2020. Thereafter, the minimum wage will be adjusted annually based on the increase/decrease in the cost of living.

Because no tax rates are affected, there is no direct impact on general and total state revenues. However, these proposals may have several indirect affects which could impact revenue collections by an unknown amount, including but not limited to:

- Increased wages for certain employees. According to the U.S. Bureau of Labor Statistics, in 2013, Missouri had 73,000 hourly employees earning wages at or below the federal minimum wage;[1]
- Increased consumption by those employees;
- Lower overall employment (if employers choose to hold costs steady);

[1] http://www.bls.gov/cps/minwage2013.pdf

- Lower business investment (if employers' payrolls increase);
- Increased prices as firms pass–through labor costs.

This proposal will increase state personnel costs at various state agencies. However, the proposal makes the increase for public bodies subject to appropriation. The estimated cost of the minimum wage increases are:

| Fiscal Year | Wage Rate | Time period | General Revenue Cost (including fringe benefits) | Total Cost (including fringe benefits) |
|---|---|---|---|---|
| 2017 | $9.00/hr | January –June | $171,193 | $464,938 |
| 2018 | $9.00/hr | July – December | | |
| | $10.00/hr | January – June | $513,523 | $1,673,380 |
| 2019 | $10.00/hr | July – December | | |
| | $11.00/hr | January –June | $1,464,340 | $4,407,549 |
| 2020 | $11.00/hr | July – December | | |
| | $12.00/hr | January – June | $6,222,694 | $13,640,373 |

Sections 290.512, 290.527 and 290.529, RSMo, will not impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it

needs to meet the publishing requirements. Because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office.

Officials from the **State Treasurer's office** indicated the estimated fiscal impact to their office is the following:

| | |
|---|---|
| 2017 | $3,700 |
| 2018 | $8,300 |
| 2019 | $13,000 |
| 2020 | $17,700 |

Officials from **Greene County** provided information related to the increase in hourly wage rates for county employee classifications that would be affected by this initiative petition but did not provide information regarding any changes in estimated costs or revenues for the county.

Officials from the **City of Kansas City** indicated since their direct fiscal cost would be subject to annual City appropriations, this initiative petition has no fiscal cost for their city. This initiative petition would have a positive fiscal impact on their city as it would promote economic growth and stability.

Economic data shows that productivity has grown since the early 1970s while the value of the minimum wage has stayed flat, or even fallen. As a result, the nation has created a growing class of service workers and laborers who are not paid enough to support themselves and their families. The current low minimum wage has a large negative fiscal impact on their city that cannot be quantified.

Officials from **University of Missouri** indicated they anticipate the legislative proposal would create a significant overall cost of between $15-25 million after all rate increases were implemented.

**Lara Granich** provided the following information as a proponent of this initiative petition.

April 25, 2015
Missouri State Auditor
Jefferson City, MO
Submitted via email to moaudit@auditor.mo.gov

Re: Fiscal Impact Analysis of Minimum Wage Initiative Petitions
Version 1 (Increase to $15)
Version 2 (Increase to $12)
Version 3 (Increase to $11)

This letter is from Lara Granich and Missouri Jobs with Justice Voter Action, proponents of the above-referenced initiative petitions. Pursuant to RSMo. Section 116.175, we write to submit the following fiscal impact information to assist your office in its analysis of the fiscal impact of the above mentioned three proposed Minimum Wage Initiative Petitions.

Our analysis estimates the impact of the three proposed initiative petitions on state and local sales and personal income tax revenue in Missouri. We follow the process that has been used in the past to estimate the impact of minimum initiative petitions on state and local sales and personal income tax, with some refinements. We also address certain claims that have been made by opponents in the past.

As these petitions exclude public workers, we do not include in our analysis an estimate of the impact on state and local payroll costs of the minimum wage increases.

## I. Estimate of Number of Workers Affected Statewide and the Impact on Their Wages

We estimate that, under the three versions of the petition, increases in total wages in the state will be as follows:

| Proposed Min Wage Level | Size of Increase* | Total Estimated Workers** | Workers Affected*** | Workers Affected as % of Total Workers | Total Wage Increase**** |
|---|---|---|---|---|---|
| $11.00 | $3.20 | 2,845,927 | 880,593 | 30.94% | $4,167,807,617 |
| $12.00 | $4.20 | 2,845,927 | 995,901 | 34.99% | $5,508,377,721 |
| $15.00 | $7.20 | 2,845,927 | 1,351,386 | 47.48% | $10,801,510,192 |

*Over the legislated MO 2015 minimum wage of $7.65 + assumed 2% cost of living adjustment to MO minimum wage

**Based on 2013 American Community Survey for the State of Missouri

***The number of wage and salary workers with an hourly wage below the proposed minimum. The hourly wages in 2013 were increased by 5.497%, to account for inflation between 2013 and 2016, prior to comparison with the proposed minimum.

****The hourly wage difference was multiplied by the number of hours worked per year. That amount was then multiplied by the relevant person weight and summed over all persons with hourly wages below the proposed minimum.

The wage impact of an increase in the minimum wage for the state of Missouri is calculated using the following procedure. The American Community Survey Public Use Micro Sample for the most recent year available (2013) for the state of Missouri was downloaded from the US Census Bureau. The American Community survey was chosen over the Current Population survey because the ACS has a significantly larger sample.

Calculations were effectuated only for those individuals earning less than the proposed minimum wage. It is likely that there would be indirect impacts on others who earn more than the proposed minimum wage, especially those who earn close to the proposed hourly amount. These estimates therefore are likely to be smaller than the actual impact of increasing the minimum wage to the proposed level.

All wage earners are included in this calculation. To be consistent with past estimates, public employees should have been excluded. Employees in the public sector were included because the American Community Survey does not have a published variable that allows for identification of public employees. This inclusion of public employees will have a minimal impact on our results.[1]

All wages from the 2013 survey were adjusted upward to account for inflation between the time of the survey and the time of measurement of the impact. Actual inflation was used for 2013 and 2014, and a slightly higher rate was used for assumed inflation in 2015. The 2015 Missouri Minimum wage of $7.65 was adjusted by the same factor prior to measuring the impact of a change to the proposed minimum wage in 2016.

After these adjustments, the resulting hourly wage of all employees was compared to the proposed minimum wage. Three proposed levels for the minimum wage were examined: $11, $12, and $15. If the proposed minimum wage was less than the inflation adjusted hourly earnings of an employee, then no impact was calculated. If the proposed minimum wage was more than the hourly earnings on an employee, then the difference between the inflation adjusted hourly earnings and the proposed minimum wage was calculated. That difference was multiplied by the number of

[1] For the Missouri's state employees, this can be validated by viewing the earnings of all state employees at: http://mapyourtaxes.mo.gov/MAP/Employees/. Larger counties and cities will also have almost all public employees earning more than the highest proposed minimum wage. Local public employees in small counties and towns may have some public employees who earn less than the highest proposed minimum.

hours the employee worked in the year to calculate the impact for that employee. The result was then multiplied by a weighting factor for that employee in the population. The total impact for the state of Missouri was calculated by repeating this process for every employee and adding the results.

The impact grows as the proposed minimum wage grows. 31% of the labor force would be directly impacted by an increase in the minimum wage to $11 in 2016, whereas 47% would be impacted if the minimum wage were increased to $15 per hour.

It should be emphasized that there is no reason to expect even a substantial increase in the minimum wage to reduce employment. No credible research has demonstrated a negative employment effect of increases in the minimum wage and there is substantial research to indicate that increases in the minimum wage have multiplier effects that increase the direct effects. For this reason and because of the likely increases in wages to individuals who earn above the proposed minimum wages, the impacts summarized in the table are likely to be low, relative to the total impact that would occur as a result of increasing the minimum wage to the proposed levels.

## II. Economic Literature on the Impact of Minimum Wage Increases on Employment

Next it is necessary to review the economic literature on the impact of minimum wage increases on employment. Opponents often claim that minimum wage increases may reduce employment in a state. If that is true, then those employment reductions would result in reductions in state income and sales tax revenue. However, review of the most credible recent empirical research on the minimum wage shows that increases in the minimum wage have had no discernible impact on employment. We thus conclude that it is not appropriate to project that the proposed initiative petitions would result in any detectable employment reduction, and resulting losses in income and sales tax revenue, or increases in unemployment-related costs to the state.

Economists have conducted hundreds of studies of the employment impact of the minimum wage. A recent meta-study – a formal statistical study of studies – by Doucouliagos and Stanley (2009) reviewed all the research conducted over the last three decades on the employment impact of minimum-wage increases on teenagers in the United States. The researchers concluded that the minimum wage has little or no discernible effect on the employment prospects of low-wage workers. Their study followed a rigorous, peer-reviewed procedure and has the advantage of using a set of predetermined, objective criteria for weighing the validity of statistical findings across studies with different results. (Source: Doucouliagos, Hristos and T. D. Stanley. 2009. “Publication Selection Bias in Minimum-Wage Research? A Meta-Regression Analysis.” British Journal of Industrial Relations,vol. 47, no. 2, pp. 406-428.)

Recent theoretical and empirical research emphasizes several explanations for the consistently negligible employment impacts of moderate increases in the minimum wage. First, relative to total wage costs, minimum-wage increases are small. Second, employers and workers appear to respond to minimum-wage increases in many ways that reduce the direct cost to employers and substantially reduce or eliminate the need to cut employment.

Probably the most important economic response to a higher minimum wage is a reduction in turnover. At higher wages, employers fill vacancies faster and retain employees longer, boosting total employment and average productivity per worker while reducing direct and indirect training costs. Dube, Lester, and Reich (2012), for example, examined the effect of the minimum wage on labor turnover among teens and restaurant workers. They find “...striking evidence that separations, new hires, and turnover rates for teens and restaurant workers fall substantially following a minimum wage increase...” (p. 2) Their findings, using nationally representative data, are consistent with local case studies of the minimum wage and related “living wage” laws, including Dube, Naidu, and Reich’s (2007) analysis of the San Francisco city-wide minimum wage; Fairris’s (2005) study of local government contractors in Los Angeles; Howes (2005) on

homecare workers in California; and Reich, Hall, and Jacobs (2005) on workers at the San Francisco airport. (Sources: Dube, Arindrajit, T. William Lester, and Michael Reich. 2012. "Minimum Wage Shocks, Employment Flows and Labor Market Frictions." Berkeley, CA: Institute for Research on Labor and Employment. http://escholarship.org/uc/item/76p927ks; Dube, Arindrajit, Suresh Naidu, and Michael Reich. 2007. "The Economic Effects of a Citywide Minimum Wage." *Industrial and Labor Relations Review*, vol. 60, no. 4, pp. 522-543; Fairris, David. 2005. "The Impact of Living Wages on Employers: A Control Group Analysis of the Los Angeles Ordinance." *Industrial Relations*, vol. 44, no. 1, pp. 84-105; Howes, Candace. 2005. "Living Wages and the Retention of Home Care Workers in San Francisco." *Industrial Relations*, vol. 44, 5 no. 1, pp. 139-163; Reich, Michael, Peter Hall, and Ken Jacobs. 2005. "Living Wage Policies at the San Francisco Airport: Impacts on Workers and Businesses." *Industrial Relations*, vol. 44, no. 1, pp. 106-138.)

Employers also appear to respond to increases in the minimum wage by taking measures to boost productivity. Hirsch, Kaufman, and Zelenska's (2011) study of the impact of the federal minimum-wage increase on 81 fast-food restaurants in Georgia and Alabama, for example, asked fast-food managers about the scope for efficiency improvements in response to the minimum-wage rise. About 90 percent of managers indicated that they planned to respond to the minimum-wage increase with increased performance standards such as "requiring a better attendance and on-time record, faster and more proficient performance of job duties, taking on additional tasks, and faster termination of poor performers." (p. 27) Roughly the same share of managers said that they sought to "boost morale" by presenting the minimum-wage increase as a "challenge to the store" and using this as a way "to energize employees to improve productivity." (pp. 28-29) Based on their interviews with store managers, the researchers concluded that a minimum-wage increase may function as a "catalyst or shock that forces managers to step out of the daily routine and think about where cost savings can occur." (p. 29) (Source: Hirsch, Barry T., Bruce Kaufman, and Tetyana Zelenska, "Minimum Wage Channels of Adjustment." IZA Discussion Paper No. 6132. Germany: Institute for the Study of Labor. http://www2.gsu.edu/~ecobth/IZA_HKZ_MinWageCoA_dp6132.pdf)

A higher minimum wage may also motivate workers to work harder, independently of any actions by employers to increase productivity. According to "efficiency wage" theory, wages above the competitive-market rate may elicit greater work effort for several reasons. As Carl Shapiro and Joseph Stiglitz (1984) have argued, higher pay increases the cost to workers of losing their job, potentially inducing greater effort from workers in order to reduce their chances of being fired. George Akerlof (1982), arguing from a more sociological point of view, has suggested that workers may see higher wages as a gift from employers, leading workers to reciprocate by working harder. (Sources: Shapiro, Carl and Joseph E. Stiglitz. 1984. "Equilibrium unemployment as a worker discipline device." *American Economic Review*, vol. 74, no. 3, pp. 433-444; Akerlof, George A. 1982. "Labor contracts as partial gift exchange." *Quarterly Journal of Economics*, vol. 97, no. 4, pp. 543-569.)

We therefore conclude that the proposed increase in the Missouri minimum wage would have no discernible impact on the employment levels of low-wage workers. Accordingly, we do not factor in reductions in employment, or any resulting decrease in sales tax or income tax. We also do not project any increased unemployment insurance costs – both because we do not project any resulting job losses, and additionally because unemployment insurance costs are paid for by employer premiums, and so are ultimately not a cost to the state.

## III. State and Local Sales and Personal Income Tax Revenue Impact of Raising the Minimum Wage

Based on the wage impact figures calculated above, and the understanding that the minimum wage increases would be unlikely to result in offsetting job losses, we next calculate the impact of the projected wage increases on state and local sales and personal income tax revenue in Missouri. We project only the direct impact of the three minimum wage increase scenarios on such tax revenue. We do not attempt to project the additional impact through a GDP multiplier effect.

**Increase in Personal Income Tax Revenue and Sales Tax Revenue Due to Increased Wages Personal Income Tax Revenue.** In order to determine the projected increase in personal income tax revenues that would result directly from the increased wages, we had to develop assumptions about the effective income tax rates of the affected workers. We made the following assumptions with respect to the effective tax rate:

1. That 25% of affected workers can be claimed as a dependent on another party's Missouri income tax return and as a result would pay an effective tax rate of 6.0% on the increase in income;
2. That 50% of the affected workers would file as single taxpayers, would claim one deduction of $2,100, and would be entitled to a standard deduction of $5,800. This would result in an effective tax rate of 2.47%;
3. The remaining 25% would, we assumed, would pay no additional Missouri income tax. In light of these assumptions, the increased Missouri income tax revenue for each petition version can be calculated as follows: (total wage increase * 25% * 6.0%) + (total wage increase * 50% * 2.47%) + (total wage increase *25% * 0%).

**Sales Tax Revenue.** The State of Missouri imposes a 4.225% state sales tax on those items that are not exempt from the sales tax base. In addition, the average local sales tax rate is 2.95%. As a result, the average Missouri net sales tax rate is 7.175%. We have conservatively estimated that just 25% of the higher wages would be spent on the purchase of goods that are subject to state and local sales tax in Missouri.

Based upon the above assumptions, and the total wage increase calculations for each version of the petition, we estimate that the increase in state income tax revenue resulting from the increased wages would be as follows:

| Increase in Sales and Personal Income Tax from Increased Wages | | | | | | |
|---|---|---|---|---|---|---|
| **Proposed Min Wage Level** | **Total Wage Increase** | **State Sales Tax (4.225%)** | **Local Sales Tax Revenue (2.95%)** | **Total Sales Tax Revenue Increase** | **Personal Income Tax Revenue** | **Total Sales and Personal Income Tax Revenue Increase** |
| $11.00 | $4,167,807,617 | $44,022,468 | $30,737,581.17 | $74,760,049.13 | $113,989,538 | $188,749,587 |
| $12.00 | $5,508,377,721 | $58,182,240 | $40,624,285.69 | $98,806,525.38 | $150,654,131 | $249,460,656 |
| $15.00 | $10,801,510,192 | $114,090,951 | $79,661,137.67 | $193,752,089.08 | $295,421,304 | $489,173,393 |

Moreover, one often-cited authority on tax information, the Tax Foundation, reports that the average local sales tax rate in Missouri is even higher at 3.53%. See http://taxfoundation.org/article/state-and-local-sales-taxes-midyear-2012 If one uses this higher rate, total revenue increases additionally by hundreds of thousand dollars.

We hope that this information is useful to your office as your prepare your analyses of the petitions.

Respectfully submitted,
Lara Granich
Missouri Jobs with Justice Voter Action

**Edward D. Greim** provided the following information as an opponent of this initiative petition.

He writes on behalf of Robert Bonney. Mr Bonney is the Chief Executive Officer of the Missouri Restaurant Association. Please consider this letter and the accompanying studies as his fiscal impact statement as an opponent of Initiative Petitions 2016-045, 2016-046 and 2016-047 (the "Initiative Petitions"). If passed, any of these three initiatives would have a substantial negative impact on state and local governments.

The two fiscal impact studies attached hereto were authored by Dr. David Macpherson, a nationally-recognized labor economist and expert on the impact of minimum wage increases. In reviewing previous minimum wage petitions, the Auditor's Office has previously found Dr. Macpherson's analyses to be helpful and persuasive.

The first study was prepared by Dr. Macpherson in June 2014 and details how a $10.10 per hour minimum wage would have impacted Missouri and the St. Louis area were it to have become effective in 2015. See Exhibit A. In addition to the estimated loss of nearly 15,000 jobs statewide, Dr. Macpherson estimated that the cost to taxpayers of a $10.10 minimum wage would be $87 million annually. While this study did not address the specific proposals in the Initiative Petitions, Dr. Macpherson's methodology applies directly to the impact of the proposed minimum wage increases.

The second fiscal study was reviewed and used by this office in evaluating earlier minimum wage proposals. It was prepared by Dr. Macpherson in March 2012 and details the impact of a statewide minimum wage increase to $8.25 per hour. This study is attached hereto as Exhibit B. In this study, Dr. Macpherson concluded that state and local entities would pay out $16 million in increased wages. What's more, Dr. Macpherson estimated that the net state and local fiscal impact would range from a loss of over $22 million to a loss of $13 million. While this study is now three years old, the analysis is pertinent to the proposed wage increase in the Initiative Petitions. Notably, using Dr. Macpherson's methodology, the heightened minimum wage proposals contained in the Initiative Petitions would have a substantially greater negative fiscal impact than that found in the 2012 study.

The proponents of the Initiative Petitions will likely rely on data sourced from political activist groups who claim increases in minimum wage only serve to create new taxable income. The reality is that such groups approach this issue with indisputable political bias. Further, that type of analysis is one-sided, disregarding the significant impact on Missouri businesses. True, some workers will collect increased wages, but no new money is created; Missouri businesses will be the source of the increase which will lower their taxable income and, from time to time, cause them to forego hiring or to cut employment. Regarding secondary employment and tax revenue effects, the Auditor must refrain from assessing only one half of the wage increase equation.

In addition, the most significant and most direct effect of a minimum wage increase is the amount of the increased wages that will actually be paid by state and local governments. As has been shown during prior efforts to increase the minimum wage, very few of the

hundreds of state and local entities who actually employ minimum wage workers will take the time to provide fiscal impact estimates in response to the Auditor's requests. Further, the Auditor's requests are simply sent to a sample of governmental employers. The more appropriate method to calculate the fiscal impact of the wage increase is to use the actual number of minimum wage workers who work for state and local governments, as calculated by the United States Census Bureau's CPS. Rather than simply adding the sums reported in the scattershot and unreliable fiscal note responses from state and local entities, the Auditor should supplement them with broader analyses such as those of Dr. Macpherson. At the very least, the Auditor should state in the fiscal note summary that state and local impacts are "large" or "substantial," rather than simply reporting impacts of "at least" the few thousand dollars in costs that may or may not be reported by those local entities that take the time to respond to the Auditor's sampling.

Finally, the proponents of the Initiative Petitions may argue that the Auditor should abandon the state and local cost estimates altogether. The proponents will argue that a new provision they have inserted in the statute would make the increases apply only if "there are appropriations for wages at those [i.e., the newly-increased] rates." The proponents will urge the Auditor's Office to assume that legislators will not actually fund the increases, and that therefore there will be no cost to taxpayers. Setting aside unjustifiable projections about the political judgments of legislators, the provision is of uncertain legal effect and constitutionality. On the one hand, it may not change existing law, since arguably the legislature always has the power to reduce or increase appropriations. But it is also unclear whether the legislature has the power to fix wage rates within an appropriations bill, or whether a mere statutory petition can confer this type of power upon the legislature. The application of the requirement for a specific type and manner of appropriation is also unclear in the context of political subdivisions and other public bodies whose funds are generally not appropriated by the general assembly. These are just a few examples of the serious flaws with the proposal itself that may have to be addressed by the courts. Suffice it to say that as a matter of law, it would be insufficient and unfair for the Auditor's fiscal note or summary to simply assume that these legal issues do not exist, or to make a political judgment that legislators will not in fact fund any of the minimum wage increases at any level of state government. Such assumptions would only serve to artificially deflate the fiscal note and fiscal note summary by tens of millions of dollars.

June 2014

MISSOURI
Restaurant Association
*Eat Out Often!*

# The Impact of a $10.10 Minimum Wage on Jobs and Taxpayer Costs in Missouri

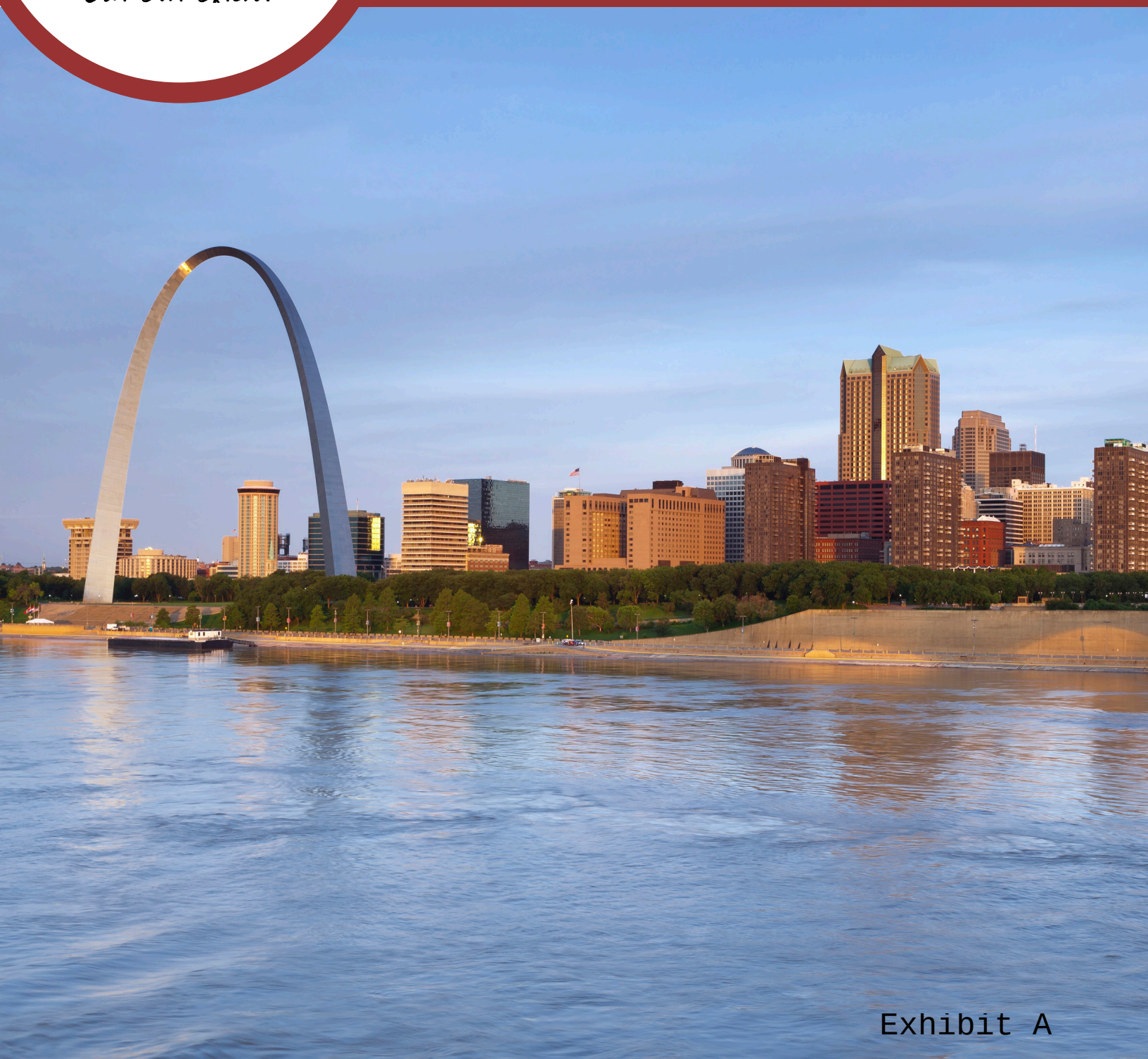

Exhibit A

# ABOUT THE MISSOURI RESTAURANT ASSOCIATION

With origins dating back to 1916, the Missouri Restaurant Association (MRA) is a statewide trade association representing over 1,500 member establishments. The association's membership is diverse, and includes full service, fast casual, and quick service restaurants, cafeterias, hotels, schools, institutions, contract feeders, and ancillary foodservice providers such as theme parks. The association has been successful in securing support from virtually every segment of the foodservice and hospitality industry.

MRA includes seven chapters as extensions of the parent organization, each with its own Officers, Board of Directors, and limited budget. The association is governed by a Board of Directors comprised of five Officers, 33 Directors, and each President of the seven affiliated chapters.

MRA is dedicated to serving the needs of the foodservice and hospitality industry, enhancing and improving its growth and development, assisting and educating its members in operating more effectively, improving the political and social environment in which the industry conducts business, for the benefit of its members, patrons, employees, and the well-being of the community.

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David A. Macpherson is the E.M. Stevens Professor of Economics at Trinity University. He received undergraduate and doctoral degrees in economics from Pennsylvania State University.

Dr. Macpherson has published over 60 articles in leading economics and real estate journals including Review of Economics and Statistics, Industrial and Labor Relations Review, Journal of Labor Economics, Journal of Human Resources, and Journal of Real Estate Economics and Finance. His research has been funded by a variety of entities including the National Science Foundation, Florida Legislature, and the National Association of Realtors. He is co-author of the undergraduate labor economics text, Contemporary Labor Economics, as well as the principles of economics text, Economics: Private and Public Choice. He is included in Who's Who in Economics, Fourth Edition, which includes the 1,200 most frequently cited economists.

# THE IMPACT OF A $10.10 MINIMUM WAGE ON JOBS AND TAXPAYER COSTS IN MISSOURI

June 2014

Economic Analysis by **Dr. David Macpherson**
**Trinity University**

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# EXECUTIVE SUMMARY

Missouri's minimum wage of $7.50 is linked to rise in most years with the inflation rate. But some state legislators and labor unions would like to raise that figure even higher. For instance, a recent labor union-organized bus tour in the state promoted a $10.10 minimum wage in St. Louis.

Proponents have enthusiastically pointed to the benefits of the $10.10 policy. But there's been far less discussion of the costs involved with a $10.10-an-hour minimum wage—both the cost on employment, and the cost to taxpayers.

In this study, labor economist David Macpherson of Trinity University uses Census Bureau data to estimate the impact on Missouri's labor market and budget from raising the minimum wage to $10.10 an hour. He also provides separate results for the St. Louis metropolitan area.

Dr. Macpherson's employment estimates follow the methodology used by the nonpartisan Congressional Budget Office in its report earlier this year estimating the impact of a $10.10 minimum wage nationwide, which in turn relied on 60 different empirical studies to formulate its estimates.

Statewide, he finds that over 15,000 jobs would be lost at the $10.10 wage level—with 9,300 of those jobs being held by women. In the St. Louis metropolitan area, approximately 4,800 jobs would be lost from a $10.10 minimum wage.

The cost to taxpayers would be significant: There are approximately 40,000 state and local employees whose wages would be affected by the $10.10 increase in Missouri, for a combined cost to taxpayers of $87 million annually.

Raising wages is an admirable goal, but the evidence suggests that accomplishing this goal with a blunt wage mandate could do more harm than good.

# RESULTS

The minimum wage is one of the most hotly-debated topics in the political world. Some legislators claim that a higher base wage will stimulate the economy; others claim that it will reduce jobs when affected employers can't offset the higher costs through higher prices.

Economists, who have studied the issue since the late 1940s, tend to take a skeptical view of minimum wage increases. Since the early 1990s, for instance, roughly 85 percent of the most credible research on the minimum wage points to job loss for less-skilled groups. The nonpartisan Congressional Budget Office (CBO), in an evaluation of President Obama's proposed $10.10 minimum wage increase, reviewed 60 different studies and concluded that the policy would eliminate 500,000 jobs if enacted.

The estimates that follow, of the employment impact of a higher minimum wage on Missouri's labor market, were performed by Dr. David Macpherson of Trinity University. Dr. Macpherson followed closely the methodology used by the CBO in its 2014 report. Dr. Macpherson also estimates the taxpayer costs of a higher minimum wage, as many state and local public employees will see their earnings increase when the minimum wage rises.

Dr. Macpherson's methodology is presented in detail in a technical appendix.

## Estimated Employment Effects of a $10.10 Minimum Wage in Missouri

Statewide, Dr. Macpherson finds that increasing the minimum wage to $10.10 would eliminate over 15,000 jobs—approximately 60 percent of which are jobs held by women. The bulk of the job losses would be concentrated among individuals with a high school degree or less, and among people who work in the retail or leisure & hospitality industries.

(Note: Totals have slight discrepancies due to rounding.)

**Estimates by Gender**

| | *Job Losses* |
|---|---|
| **Male** | 6,311 |
| **Female** | 9,364 |
| **TOTAL** | **15,705** |

**Estimates by Age**

| *Age* | *Job Loss* |
|---|---|
| **<=21** | 9,237 |
| **22-25** | 1,532 |
| **26-30** | 1,023 |
| **31-40** | 1,175 |
| **41-50** | 980 |
| **51 +** | 1,759 |

**Estimates by Race**

| *Race* | *Job Loss* |
|---|---|
| **White** | 13,299 |
| **Black or Other Race** | 2,406 |

# RESULTS CONTINUED

| Top Three Industries Affected | |
|---|---|
| *Industry* | *Job Loss* |
| **Retail Trade** | 3,835 |
| **Arts, Entertainment, Recreation, Accommodations, and Food Services** | 6,039 |
| **Healthcare** | 1,199 |

| Estimates by Education | |
|---|---|
| *Education* | *Job Loss* |
| **Less than High School** | 5,555 |
| **High School Grad, No College** | 4,921 |
| **Some College** | 4,428 |
| **Undergrad or Graduate Degree** | 802 |

## City-Specific Minimum Wage Employment Impacts

The city of St. Louis has been the subject of a number of protests calling for a higher minimum wage. Dr. Macpherson analyzed the employment impact of a $10.10 minimum wage in the St. Louis metropolitan area, providing breakouts by gender and education where the data permits. He estimates that the wage hike would eliminate approximately 5,000 jobs—just over half of which would be jobs held by women.

| Impact on St. Louis Metro Area of a $10.10 Minimum Wage | |
|---|---|
| *Gender* | *Job Loss* |
| **Male** | 2,033 |
| **Female** | 2,767 |
| **TOTAL** | **4,800** |
| *Race* | *Job Loss* |
| **White** | 3,641 |
| **Black or Other Race** | 1,158 |
| *Education* | *Job Loss* |
| **High School Grad or Less** | 3,097 |
| **Some College, Undergrad or Graduate Degree** | 1,703 |

# RESULTS CONTINUED

## Missouri Taxpayer Costs of a $10.10 Minimum Wage

Dr. Macpherson estimates that approximately forty thousand state & local public employees would be affected by a minimum wage increase to $10.10 an hour. These additional wage costs translate to new costs for state and local taxpayers. Following the methodology described in detail in the technical appendix, Dr. Macpherson estimates both the straight wage cost of a $10.10 minimum wage, as well as the total compensation cost with Social Security, Medicare, workers compensation, and unemployment insurance included. Statewide, taxpayers would shoulder an additional $87 million in costs if the base wage was increased to $10.10 an hour and public employees were covered by the new wage.

| Missouri Taxpayer Costs of a $10.10 Minimum Wage | |
|---|---|
| **# of State & Local Workers** | 304,588 |
| **# Affected By $10.10 MW** | 40,103 |
| **Annual Wage Cost** | $79,629,374 |
| **Annual Compensation Cost** | $87,004,355 |

*Note: Annual compensation costs include the cost of worker's compensation, FICA, and unemployment insurance benefits.*

MISSOURI Restaurant Association
Eat Out Often!

# TECHNICAL APPENDIX

## Estimating Employment Loss and the Cost to State and Local Government of an Increase in the Minimum Wage

**Dr. David Macpherson**
**E.M. Stevens Professor of Economics**
**Trinity University**

This paper describes how we estimate the employment loss and the cost to state and local governments of a proposed increase in the minimum wage effective on January 1, 2015.

## Data and Sample

First, we use data from the Current Population Survey (CPS) Outgoing Rotation Groups (ORG) from January 2011 through December 2013. For each worker in the sample, we calculate their wage rate. We also adjust the wage rate to reflect a forecast of wages in 2015. This is done in two steps. First, based on legislation enacted as of April 2014, we estimate the minimum wage that would be in effect in January 2015 for each state and city that we consider. If a state or city has an indexed minimum wage, we increase the January 2014 state or city minimum wage by the Congressional Budget Office (CBO) inflation forecast for 2014 of 1.7%.

Since we use data from 2011 through 2013, we also follow the CBO approach for forecasting what the wage distribution would be in 2015. This is done in two steps. First, we adjust wages observed prior to 2013 to reflect 2013 minimum wage legislation. For example, if the minimum wage in a state was $7.25 in 2011 and grew to $8.00 by 2013, anyone who earned between $7.25 and $8.00 in 2011 would have their wage increased to $8.00. After wages are adjusted to 2013 levels, we assume that all wages grow by 2.9% in 2014. Using the resulting 2015 distribution of wages, we adjust for minimum wage legislation that would increase the minimum between 2013 and 2015. Anyone earning a wage between the 2013 and 2015 minimum wage is assigned a wage matching the 2015 minimum wage.

After generating the forecast 2015 distribution of wages reflecting wage growth and existing minimum wage legislation, we identify workers who would be affected by additional changes to the 2015 minimum wage as those with wages between the predicted minimum wage legislated for 2015 (or up to $.25 below it) and the proposed minimum.

To estimate the number of affected workers, we take two steps. First, for each state, we estimate the number of affected workers for 2013. Second, we adjust the weights in the 2011 and 2012 data so that the state-specific number of affected workers implied by the 2011 and 2012 data matches that for 2013. This adjustment is designed to correct for the changing economic climate as the economy recovers from the great recession and to generate estimates that are as close as possible to the most recent data (2013). After we adjust the 2011 and 2012 weights, we estimate the number of affected workers by summing their earnings weights and dividing the total by 36 (the number of months of data).

[1] Also, following CBO, anyone earning up to $.25 less than the 2011 minimum wage would have their wage increased by the amount that the minimum wage increased (i.e. a $7.00 wage would be increased to $7.75 in this example). This approach is used to adjust for the fact that many workers round their answers when asked about their wage.

# TECHINCAL APPENDIX CONTINUED

## Employment Loss

To estimate employment loss, for each affected worker we compute:

**L = e *(Proposed Min Wage /Min Wage 2015 – 1)**

where e is an assumed elasticity of employment with respect to changes in the minimum wage, Min Wage 2015 is the minimum wage currently legislated for 2015, and Proposed Min Wage is the minimum wage that is being proposed for 2015. Thus, for example, if a worker is projected to earn the federal minimum of $7.25 in 2015, the expected reduction in employment resulting from a $10.10 minimum wage in 2015 if e=.45 is .45*(10.10/7.25 – 1) = .18. That is, for every 100 workers currently earning the federal minimum, the expectation is that 18 would lose a job if the minimum wage elasticity is .45.

To estimate the aggregate employment loss in the economy, we use earnings weights to sum L across workers. We also follow the Congressional Budget Office (2014) and use an elasticity of 0.15 for non-teenagers and 0.45 for teenagers.

## Cost to State and Local Government

We use the same data to estimate the cost to state and local government of a proposed minimum wage hike. We apply the same definition of affected workers described above and estimate the number of state and local government workers affected by a minimum wage hike. We do not, however, assume that there is any job loss for state and local workers as we do not have an appropriate elasticity estimate specific to state and local workers. To the extent that state or local governments reduce hours or employment in response tothe minimum wage hike, our estimate of the cost of the hike would be overstated.

To estimate the increase in annual payroll cost resulting from an increase in the minimum wage, we estimate the increase in annual cost for each worker as:

**(Proposed Min Wage-Min Wage 2015)*weekly hours*52**

We then multiply the increase in annual cost by the earnings weight for each worker and sum across workers. Since an increase in wages also requires increased employer contributions for Social Security, Medicare, workers' compensation and unemployment insurance, we apply an estimate of the payroll tax rate for these mandatory programs to calculate the additional cost for these programs.

For each state and city considered, we provide tables summarizing the number of affected workers, employment loss, and the distribution of employment loss by sex, education, race, age and industry. Given that we use three years of data, a rule of thumb for minimum sample size required to achieve a reasonably accurate estimate of the employment loss is to require at least 30,000 people be in the relevant category. For example, if there are fewer than 30,000 people projected to be in a particular industry category, the Bureau of Labor Statistics would not report the estimate due to a lack of reliability based on the variance of the estimate relative to its mean.

In addition to the estimate of employment loss, for each state or city considered, we estimate the number of state and local workers that would be affected by the minimum wage hike and the total annual cost to government in terms of wages and total compensation. As with the employment estimates, we advise caution in interpreting estimates that are based on fewer than 30,000 affected workers.

[3] Congressional Budget Office, "The Effects of a Minimum-Wage Increase on Employment and Family Income," February 2014.

[4] For workers paid by the hour the reported hourly wage was used. For workers who are not paid by the hour, we calculate the hourly wage by dividing usual weekly earnings by usual weekly hours. Overtime pay was calculated as time and one-half for hours above 40 hours for hourly workers.

[5] The assumed payroll tax for Medicare and Social Security is 7.65 percent. To estimate the payroll tax for workers' compensation and unemployment insurance, we use unpublished data from the 2010 Employer Cost of Employee Compensation database for state and local workers in the relevant region in 2010.

# FISCAL ANALYSIS
# OF
# PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

**Prepared for**

**Victor Allred versus Robin Carnahan and Thomas Schweich**
**Circuit Court of Cole County, Missouri**

**Prepared by**

**David A. Macpherson, Ph.D.**
**125 Park Drive**
**San Antonio, TX 78212**

**March 26, 2012**

Exhibit B

# FISCAL ANALYSIS
# OF
# PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

## I. Introduction

This report was undertaken at the request of counsel representing plaintiffs in the case of Victor Allred versus Robin Carnahan and Thomas Schweich. As part of the basis of the lawsuit, the plaintiffs allege that the fiscal note summaries for proposed statutory initiative petitions 2012-084 and 2012-085 are insufficient and unfair. I was asked by counsel to evaluate the fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085.

The results of my analysis indicate:

(1) labor costs to state and local government entities, based on state auditor fiscal notes, will rise by more than $1,352,182. A more inclusive estimate indicates that state and local government labor costs will increase by $16,003,712;

(2) unemployment benefit costs will rise by $4,397,510 during the first year of the minimum wage increase;

(3) individual income tax revenue will rise by at most $4,078,088;

(4) the loss in corporate income tax revenue could be as high as $9,243,105;

(5) state and local sales tax revenue will rise by at most $2,919,327;

(6) during the first year: state and local governments will incur increased costs of $20,401,222; the change in state and local government revenue will

range from -$2,245,690 to +$6,997,415; and the net state and local government fiscal impact will range from -$22,646,912 to -$13,403,807.

The report is organized as follows. My qualifications to prepare this report are contained in Section II. Section III describes the data and records I relied upon for this report. Section IV reviews the estimated fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085. A summary and my conclusions are provided in Section VI.

## II. Qualifications

I am currently the E.M. Stevens Professor of Economics at Trinity University in San Antonio, Texas. Previously, I was employed by Florida State University as Director of the Pepper Institute on Aging and Public Policy and the Rod and Hope Brim Eminent Scholar in Economics. I have taught both undergraduate and graduate Econometrics (statistical analysis of economic data), and Labor Economics. I have published over 50 articles in peer-reviewed professional journals.

I am currently serving on the editorial board of the *Journal of Forensic Economics*, which is a peer-reviewed journal. I have also served as a reviewer or 'referee' for 24 peer-reviewed journals, including the *Journal of Human Resources, Journal of Labor Economics, Quarterly Journal of Economics,* and the *Review of Economics and Statistics*. Based upon these experiences, I am very familiar with the scholarly and professional research process and the concept of peer review.

I have prepared numerous analyses and reports that use statistical methods as applied to specific questions. I have been responsible for developing the techniques and approaches required for these analyses. I routinely use computers and statistical software packages to assist me in my analytical work. I have been qualified as an expert witness on statistical analysis of employment discrimination and economic damages in state courts in Florida and Georgia and Federal Courts, and I have given expert testimony. I have prepared analyses and offered testimony on behalf of both plaintiffs and defendants.

Details of my qualifications are reflected in my current resume and legal cases, attached as Appendix A to the report.

## III. Data and Records

I reviewed the following materials in preparing this report.

- Plaintiff's Complaint
- Material cited in footnotes below.

## IV. Fiscal Impact

*A. Overview*

The proposed statutory initiative petitions 2012-084 and 2012-085 contain many elements in common. Both initiatives would increase the Missouri minimum wage to $8.25 per hour, alter the exemption for retail and service firms, raise the cash wage of tipped workers from 50% to 60% of the minimum wage, and increase the statute of limitation from two to three year for underpayment claims.

The initiatives differ in their linkage to the federal minimum wage. Initiative petition 2012-084 requires that the state minimum wage be automatically increased to the

federal minimum wage if it is higher than the state minimum wage. Initiative petition 2012-085 does not have such a linkage. It only requires that workers be paid the higher of the state minimum wage or the federal minimum wage. The linkage to the federal minimum wage will cause the state minimum wage to be higher under initiative petition 2012-084 over time. This is because the state minimum wage, in contrast to the federal minimum wage, is adjusted for inflation as measured by the Consumer Price Index.

An increase in the minimum wage in Missouri will affect state and local government entities in two ways. First, it will directly increase the cost of labor to state and local government entities. This will occur due to the increase in wages of state and local government workers earning between the existing minimum wage of $7.25 and the new minimum wage of $8.25.[1] In addition, workers laid off due to the minimum wage increase can collect unemployment benefits. The state government will bear the cost of unemployment benefits of these workers for the first 20 weeks. Second, state and local government may gain increased revenue through higher income tax and sales taxes paid by workers affected by the minimum wage who remain employed. However, state and local government will suffer reduced tax revenue to the extent the higher wage cost lowers profits of businesses.

The following sections estimate the cost and revenue effects to state and local government entities of the proposed minimum wage increase.

[1] Information about the minimum wage in Missouri is available at http://www.labor.mo.gov/DLS/minimumwage/.

*B. Direct Labor Cost Impact on State and Local Government Budgets*

There are two possible ways to measure the direct labor cost on state and local government budgets. First, one can use the information included in the fiscal notes prepared by the State Auditor regarding the proposed initiatives. It is important to note that the fiscal notes provide an incomplete and thus too low estimate of the direct labor cost. The fiscal notes indicate that the Office of Administration's (OA) Division of Personnel reported that as of September 2011 there were 834 state workers who would be affected by an increase of the minimum wage to $8.25 and the "approximate annual cost" would be more than $540,000.

This OA estimate excludes seasonal workers such as State Fair employees, State Parks Employees, and tax season staff. The Division of Revenue noted its labor cost would rise by $40,000. The Division of Natural Resources stated they have over 500 workers who would be affected by the increase, but did not provide an estimate of the cost. The State Fair hired 745 workers that would be affected, but no cost estimate was provided.

Thus, the cost to state government, based on the fiscal notes, would be more than $580,000.

The fiscal notes also provide an incomplete and thus too low measure of the cost to local government and public educational institutions. Many cities and educational institutions did not respond to Office of Auditor's survey or provide an estimate of the cost of the higher minimum wage. The City of Columbia, City of Jefferson, City of

Joseph, Linn State Technical College, and Metropolitan Community College did provide such an estimate. The total cost to these five institutions is $772,182.

Based on the fiscal notes, the cost to state and local government entities of the increase in the minimum wage to $8.25 will be more than $1,352,182.

Second, data from the U.S. Census Bureau's Current Population Survey (CPS) can also be used to calculate the cost of the increased labor cost to state and local government entities in Missouri. Using the data from January 2010 to December 2011 Outgoing Rotation Group (ORG) CPS, I calculated that 17,089 state and local government workers would be affected by the minimum wage increase. I defined affected workers as those individuals earning between $7.00 and $8.24 per hour. Though the minimum wage was $7.25 per hour during this period, I also included those workers reporting earnings of $7.00 to $7.24 since some individuals may round their wage rate. I calculated the annual wage cost for each state and local government worker (i) in the ORG CPS as:

$$Annual\ Wage\ Cost_i = (\$8.25 - current\ wage_i) * weekly\ hours_i * 52.$$[2]

The average annual wage cost increase was $870. I summed the cost over each worker (i) to obtain the total wage cost to state and local government entities in Missouri of $14,866,430.

The increased wage cost is not the only labor cost to state and local government entities of the minimum wage increase. Employers are required to pay 7.65% of their wage costs in Social Security and Medicare taxes. Thus, the total labor cost of the minimum wage increase will be 1.0765 times $14,866,430 or $16,003,712.

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[2] I assume that persons reporting an hourly wage rate between $7.00 and $7.24 are actually earning $7.25 per hour.

*C. Unemployment Benefit Impact*

The higher minimum wage will cause firms to reduce their level of employment.[3] As a result, the number of unemployed workers will increase. Thus, another important fiscal cost of the minimum wage increase is the cost of the unemployment insurance benefits for the workers laid off as a result of the minimum wage increase.

To calculate the cost to the unemployment benefits program, I first calculated the number of workers laid off. To do so, I calculated a probability of job loss for each affected Missouri worker (i) in the January 2010 to December 2011 ORG CPS:

$$Probability\ Job\ Loss_{\ i} = \frac{(\$8.25 - Current\ Wage_i)}{Current\ Wage_i} * elasticity_i.$$

I used the preferred employment elasticity (i.e., sensitivity of employment to wage changes) contained in Sabia and Burkhauser (2010), which was -0.6 for individuals aged 16 to 29 without a high school degree and -0.2 for all other individuals. The sole exception was for state and local government workers, where I assumed an elasticity of zero.[4] The sum across all affected workers yielded an estimated job loss of 5,745 jobs.

The next step was to calculate the weekly benefit for the average unemployed worker. Using the benefits calculator on the Missouri unemployment benefits web site and the wage income of average private-sector affected worker ($10,937), yields an average weekly benefit of $109.36[5]. The state of Missouri pays the first 20 weeks of benefits.[6] Thus, each eligible unemployed worker could receive a total of $2,187.20 in

[3] For a survey of research regarding the effect of the minimum wage on employment, see David Neumark and William L. Wascher, *Minimum Wages* (Cambridge, MA: MIT Press, 2008).
[4] Joseph J. Sabia and Richard V. Burkhauser, "Minimum Wages and Poverty: Will a $9.50 Federal Minimum Wage Really Help the Working Poor?" *Southern Economic Journal* (January 2010): 592-623.
[5] http://www.labor.mo.gov/DES/Claims/calculator.asp
[6] See http://www.labor.mo.gov/DES/Claims/

benefits paid for by the state of Missouri. These jobs are permanently eliminated and so it is appropriate to calculate the full amount of benefits for each worker.

Unemployment insurance, however, does not cover all unemployed workers. For example, it does not cover people who leave a job voluntarily, people looking for their first job, and re-entrants who previously left the labor force voluntarily. Furthermore, some individuals don't apply for benefits even though they are eligible. I assume that 35% of the unemployed workers will receive unemployment benefits based on analysis by Wenger (2001).[7]

The last step is to calculate the total cost to the Missouri unemployment benefits program. This done by multiplying the number of jobs lost (5,745) times the average benefit amount ($2,187.20) times the percent of unemployed individuals collecting benefits (35%). This calculation yields a figure of $4,397,510. This cost would be borne only during the first year of the minimum wage increase. The inflation adjustments in the minimum wage will also yield costs to the unemployment insurance program, but it is not possible to estimate the amount.

*D. Impact on State Income Tax Revenue*

The state of Missouri will gain increased revenue through higher income tax taxes paid by workers affected by the minimum wage who remain employed. However, it will

[7] Jeffery Wenger. "Divided We Fall: Deserving Workers Slip through America's Patchwork Unemployment Insurance System." *Economic Policy Institute*, 2001. Sabia and Burkhauser (2010) make the same assumption in their calculation of the amount of unemployment benefits generated by a minimum wage increase.

suffer reduced corporate income tax revenue to the extent the higher wage cost lowers profits of businesses.

To calculate the impact on individual income tax revenue, I again used data from January 2010 to December 2011 ORG CPS. I defined affected workers as those Missouri individuals earning between $7.00 and $8.24 per hour.[8] I used the following formula to estimate the change in income tax revenue:

$$\Delta Tax\ Revenue_i = (Tax_After_i - Tax_Before_i) - Prob_Job_Loss_i * Tax_Before_i,$$

where $Tax_After_i$ is the income tax paid by worker i after the minimum wage increase. $Tax_Before_i$ is the income tax paid by worker i after the minimum wage increase, and $Prob_Job_Loss_i$ is the probability of job loss for worker i. The first term shows the change in individual income tax revenue assuming no job loss and the second term shows the loss in tax revenue due to the employment loss caused by the minimum wage increase.

The income tax calculations were based on two assumptions.[9] First, the 50% percent of affected workers who were under the age 25 who were assumed to be dependents on another person's tax return. As a result, it was assumed that the affected workers' earnings were taxable at the maximum Missouri income tax rate of 6% both and after the minimum wage increase.[10] Second, all persons age 25 and older were assumed to be paying little or no income tax after exemptions and deductions. Thus, about 50% of the earnings increase will be taxed at a rate of 6%.

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[8] I again assume that persons reporting an hourly wage rate between $7.00 and $7.24 are actually earning $7.25 per hour. The annual earnings level was calculated as the worker's wage rate times usual weekly hours worked times 52.

[9] The same assumptions are used in the State Auditor's fiscal notes for the initiatives.

[10] This assumption will overstate the revenue increase as 20% of affected workers under the age 25 are living by themselves and some of these individuals will not be a dependent on another person's tax return.

The tax calculations reveal an increase in income tax revenue increase to the state. Assuming no workers were laid off by the minimum wage increase, income tax revenue would rise by $6,043,534. However, the state will lose $1,965,446 in income tax revenue due to the lost earnings of private-sector workers no longer employed due to the minimum wage hike.[11] Thus, the net increase in individual income tax revenue is $4,078,088.

Businesses have three options to respond to the higher labor costs of a higher minimum wage. They can reduce their profits, raise prices, or lay off workers. Based on the 2010-2011 ORG CPS data, the minimum wage increase will raise private-sector labor costs by $192,620,900 if employment levels are not reduced. However, labor costs will be lowered by $55,240,790 due to the reduction in employment. Thus, labor costs will, on net, rise by $137,380,110. These increased labor costs may be either passed on to consumers through higher prices or reduced profits or more likely some combination of higher prices and reduced profits. Assuming that businesses absorbed all of the higher costs through reduced profits, the corporate income tax revenue would fall by the Missouri corporate income tax of 6.25% times the rise in labor costs of $137,380,110 * 1.0765 (to account for employer-paid Social Security and Medicare taxes) or $9,243,106.[12] Alternatively, if half of the higher labor costs were passed on to consumers, then corporate income tax revenue would fall by $4,621,553.

[11] The probability of job loss was calculated in the same manner as in the prior section.
[12] The corporate income tax for Missouri is available at: http://dor.mo.gov/business/corporate/

*E. Impact on State and Local Sales Tax Revenue*

To calculate the impact on state and local sales tax revenue the following approach was undertaken.[13] First, the total increase in worker earnings, adjusted for employment reductions, was calculated using the 2010-2011 ORG CPS. This figure was $152,246,540. Second, the increase in Missouri taxable sales was calculated as 25% of the earnings increase or $38,061,635. Third, the increase in sales tax revenue was calculated by multiplying the taxable sales change times the average state and local rate of 7.67% or $2,919,327.[14]

The higher minimum wage may decrease sales tax revenue to the extent that it reduces business profits, which will lower spending by business owners.

## VI. Summary and Conclusions

I was asked by counsel to evaluate the fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085.

The results of my analysis indicate:

(1) labor costs to state and local government entities, based on state auditor fiscal notes, will rise by more than $1,352,182. A more inclusive estimate indicates that state and local government labor costs will increase by $16,003,712;

[13] The same general approach is used in the State Auditor's fiscal notes for the initiatives.
[14] The average rate comes from http://taxfoundation.org/news/show/27023.html

(2) unemployment benefit costs will rise by $4,397,510 during the first year of the minimum wage increase;

(3) individual income tax revenue will rise by at most $4,078,088;

(4) the loss in corporate income tax revenue could be as high as $9,243,105;

(5) state and local sales tax revenue will rise by at most $2,919,327;

(6) during the first year: state and local governments will incur increased costs of $20,401,222; the change in state and local government revenue will range from -$2,245,690 to +$6,997,415; and the net state and local government fiscal impact will range from -$22,646,912 to -$13,403,807.

**FISCAL ANALYSIS**
**OF**
**PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085**

David A. Macpherson

David A. Macpherson, Ph.D.
March 26, 2012

# Appendix A

## Resume and Testimony of David A. Macpherson, Ph.D.

# DAVID A. MACPHERSON

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Ph.D., Economics, The Pennsylvania State University.
B.S., Economics, The Pennsylvania State University.

## Current Positions

E.M. Stevens Professor of Economics, Trinity University, 2009-
Research Fellow, Institute for the Study of Labor (IZA), Bonn, 2004-.

## Previous Positions

Rod and Hope Brim Eminent Scholar in Economics, FSU 2004-2009.
Director, Pepper Institute on Aging and Public Policy, FSU, 2003-2009.
Abba P. Lerner Professor of Economics, FSU, 2000-2009.
Professor, Department of Economics, Florida State University, 1996-2009.
Director of Research, Pepper Institute on Aging and Public Policy, FSU, 1995-2000.
Associate Professor, Department of Economics, Florida State University, 1993-1996.
Research Associate, Pepper Institute on Aging and Public Policy, FSU, 1993-2001, 2003-2009.
Visiting Associate Professor, Department of Economics, Florida State University, 1992-1993.
Research Affiliate, Pepper Institute on Aging and Public Policy, FSU, 1992-1993, 2001-2003.
Associate Professor, Department of Economics, Miami University, 1991-1993.
Assistant Professor, Department of Economics, Miami University, 1987-1991.

## Research Areas

Labor Economics, Labor Market Aspects of Pensions, Labor Unions, Racial and Gender Differences in the Labor Market, Minimum Wage, Deregulation.

**Teaching Areas**

Principles of Microeconomics and Macroeconomics, Intermediate Microeconomics, Money and Banking, Econometrics (undergraduate and graduate), Labor Economics and Labor Relations (undergraduate and graduate).

**Books**

*Economics: Private and Public Choice*, 14th edition, Southwestern: Cincinnati, OH, 2013, with James Gwartney, Richard Stroup, and Russell Sobel. Co-author on 10th, 11th, 12th, and 13th editions as well.

Instructor's Manual for *Economics: Private and Public Choice*, 14th edition, Southwestern: Cincinnati, OH, 2013. Author for instructor's manual for 10th, 11th, 12th, and 13th editions as well.

*Union Membership and Earnings Data Book: Compilations from the Current Population Survey (2011 Edition)*, Bureau of National Affairs, Washington, D.C., with Barry Hirsch.

Previous Editions: *Union Membership and Earnings Data Book: Compilations from the Current Population Survey* (Washington: Bureau of National Affairs, 1994-2010).

Tables derived from the *Data Book* are included in U.S. Department of Commerce, *Statistical Abstract of the United States 2011,* 130th Edition (Washington: GPO, 2011), Tables 663, 665; *Statistical Abstract of the United States 2010,* 129th Edition (Washington: GPO, 2010), Tables 648, 650; *Statistical Abstract of the United States 2009,* 128th Edition (Washington: GPO, 2009), Tables 642, 644; *Statistical Abstract of the United States 2008,* 127th Edition (Washington: GPO, 2008), Tables 642, 644; *Statistical Abstract of the United States 2007,* 126th Edition (Washington: GPO, 2006), Tables 645, 647; *Statistical Abstract of the United States 2006*, 125th Edition (Washington: GPO, 2005), Tables 647, 649; *Statistical Abstract 2004-2005*, Tables 638, 640; *Statistical Abstract 2003*, Tables 656, 658; *Statistical Abstract 2002*, Tables 628, 630; *Statistical Abstract 2001*, Tables 637, 639; *Statistical Abstract 2000*, Tables 712, 714; *Statistical Abstract 1999*, Tables 718, 720; *Statistical Abstract 1998*, Tables 712, 714; *Statistical Abstract 1997*, Tables 688, 690; *Statistical Abstract 1996*, Tables 681, 683; *Statistical Abstract 1995*, Tables 695, 697; and in U.S. Department of Commerce, *State and Metropolitan Area Data Book, 1997-98*, 5th Edition (Washington: GPO, 1998), Table A-22.

*Contemporary Labor Economics*, 9th edition, McGraw-Hill: New York, NY, 2010, with Campbell McConnell and Stanley Brue. Co-author on 5th, 6th, 7th, and 8th editions as well.

*Pensions and Productivity*, W.E. Upjohn Institute for Employment Research: Kalamazoo, MI, 1998, with Christopher Cornwell and Stuart Dorsey.

**Journal Publications (Economics)**

"Computing Lost Profits in Business Interruption Litigation: A General Model," *Journal of Business Valuation and Economic Loss Analysis*, forthcoming, with Stanley Stephenson and Gauri Prakash-Canjels.

"Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," *Southern Economic Journal*, forthcoming, April 2012, with William Even.

"Growth of Participant Direction in Defined Contribution Plans," April 2010, pp. 190-208, *Industrial Relations*, with William Even.

"Managing Risk Caused by Pension Investments in Company Stock," *National Tax Journal*, September 2009, pp. 439-453, with William Even.

"Pension Investments in Employer Stock," *Journal of Pension Economics and Finance*, March 2008, pp. 67-93, with William Even.

"Defined Contribution Plans and the Distribution of Pension Wealth," *Industrial Relations*, July 2007, pp. 551-581, with William Even.

"Lost Profits Damages to New Businesses: Adjusting for Survival," *Journal of Business Valuation and Economic Loss Analysis*, October 2006, pp. 1-12, with Stanley Stephenson.

"Determinants and Effects of Employer Matching Contributions in 401(k) Plans," *Industrial Relations*, July 2005, pp. 525-549, with William Even.

"When Will the Gender Gap in Retirement Income Narrow?" *Southern Economic Journal*, July 2004, pp. 182-200, with William Even.

"Company Stock in Pension Funds," *National Tax Journal*, June 2004, pp. 299-313, with William Even.

"Wages, Sorting on Skill, and the Racial Composition of Jobs," *Journal of Labor Economics*, January 2004, pp.189-210, with Barry Hirsch.

"Racial and Ethnic Differences in Pension Wealth," *Research in Labor Economics*, 2003, pp. 203-226, with William Even.

"Do Terminated Employees Catch Up? Evidence From the Displaced Worker Survey," *Journal of Forensic Economics*, Spring/Summer 2003, pp. 185-199, with Michael Piette.

"Union Membership and Coverage Database from the Current Population Survey: Note," *Industrial and Labor Relations Review*, January 2003, pp. 349-354, with Barry Hirsch.

"The Wage and Employment Dynamics of Minimum Wage Workers," *Southern Economic Journal,* January 2003, pp. 676-690, with William Even.

"State-Level Estimates of Union Density, 1964 to Present," *Monthly Labor Review*, July 2001, pp. 51-55, with Barry Hirsch and Wayne Vroman (accompanying data online).

"The Changing Distribution of Pension Coverage," *Industrial Relations*, April 2000, pp. 199-227, with William Even.

"Occupational Age Structure and Access for Older Workers," *Industrial and Labor Relations Review*, April 2000, pp. 401-418, with Barry Hirsch and Melissa Hardy.

"Earnings, Rents, and Competition in the Airline Labor Market," *Journal of Labor Economics*, January 2000, pp. 125-155, with Barry Hirsch.

"Estimating Wage Differentials: When Does Cost-of-Living Matter?" *Economic Inquiry*, October 1999, pp. 577-598, with Mike DuMond and Barry Hirsch.

"Worker's Compensation Recipency in Union and Nonunion Workplaces," *Industrial and Labor Relations Review*, January 1997, pp. 213-236, with Barry Hirsch and Michael DuMond.

"Pensions and Training," *Industrial Relations*, January 1997, pp. 81-96, with Stuart Dorsey.

"The Consequences of Indexing Minimum Wages," *Contemporary Economic Policy,* October 1996, pp. 67-77, with William Even.

"Employer Size and Labor Turnover: The Role of Pensions," *Industrial and Labor Relations Review*, July 1996, pp. 707-728, with William Even.

"The Consequences of Non-FICA Status in State and Local Pensions," *Proceedings of National Tax Association Meetings*, 1996, with William Even.

"Wages and Gender Composition: Why Do Women's Jobs Pay Less?" *Journal of Labor Economics*, July 1995, pp. 426-471, with Barry Hirsch.

"Employer Size and Compensation: The Role of Worker Characteristics," *Applied Economics*, September 1994, pp. 897-907, with William Even

"Gender Differences in Pensions," *Journal of Human Resources*, Spring 1994, pp. 555-587, with William Even.

"Why Did Male Pension Coverage Decline in the 1980s?", *Industrial and Labor Relations Review*, April 1994, pp. 439-453, with William Even.

"Unionism and Gross Employment Flows," *Southern Economic Journal*, January 1994, pp. 427-438, with Timothy Dunne.

"The Decline of Private-Sector Unionism and the Gender Wage Gap," *Journal of Human Resources*, Spring 1993, pp. 279-296, with William Even.

"Union Membership and Coverage Data Available From the Current Population Surveys: Note." *Industrial and Labor Relations Review*, April 1993, pp. 574-578, with Barry Hirsch.

"Employer-Provided Retiree Health Insurance: Who is Covered?" *Economics Letters*, May 1992, pp. 95-99.

"Union Wage Differentials and the Effects of Industry and Local Union Density: Evidence from the 1980s," *Journal of Labor Research*, Fall 1991, pp. 419-427, with Michael Curme.

"The Effects of Extended Families and Marital Status on Housing Consumption by Black Female-Headed Households," *Review of Black Political Economy*, Winter/Spring 1991, pp. 65-84, with James Stewart.

"The Impact of Unionism on Fringe Benefit Coverage," *Economics Letters*, May 1991, pp. 87-91, with William Even.

"A Note on Ownership and Performance in Manufacturing Firms," *Southern Economic Journal*, April 1991, pp. 1164-1169, with Timothy Dunne.

"Union Membership and Contract Coverage in the United States, 1983-1988," *Industrial and Labor Relations Review*, October 1990, pp. 5-33, with Michael Curme and Barry Hirsch.

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"Plant Size and the Decline of Unionism," *Economics Letters*, April 1990, pp. 393-398, with William Even.

"Trade Unions and Labor's Share in U.S. Manufacturing Industries," *International Journal of Industrial Organization*, March 1990, pp. 143-51.

"The Labor Force Participation and Earnings Profiles of Married Female Immigrants," *Quarterly Review of Economics and Business*, Autumn 1989, pp. 57-72, with James Stewart.

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"Self-Employment and Married Women," *Economics Letters*, December 1988, pp. 281-284.

"Unionism and the Dispersion of Wages Among Blue-Collar Women," *Journal of Labor Research*, Fall 1987, pp. 395-405, with James Stewart.

**Journal Publications (Real Estate and Insurance)**

"The Use of Post-Loss Assessments in Catastrophic Financing," *Risk Insurance and Management Review*, forthcoming, with Patrick Maroney, Charles Nyce, Kathleen McCullough, James W. Newman Jr., and Cassandra Cole.

"A Meta Analysis of Selling Price and Time on the Market," *Journal of Housing Research,* Issue 2010, pp. 139-152, with Stacy Sirmans and Lynn MacDonald.

"A Comparison of Hurricane Loss Models," *Journal of Insurance Issues*, Spring 2010, pp. 31-53, with Kathleen McCullough and Cassandra Cole.

"A Review of the Development of Residual Market Mechanisms in Florida," *Journal of Insurance Regulation*, Summer 2009, pp. 55-80, with Patrick Maroney, Charles Nyce, Kathleen McCullough, James W. Newman Jr., and Cassandra Cole.

"The History of Property Tax Capitalization in Real Estate," *Journal of Real Estate Literature*, Issue 3 2008, pp. 327-343, with Dean Gatzlaff and Stacy Sirmans.

"Horizontal and Vertical Inequity in Real Property Taxation," *Journal of Real Estate Literature*, Issue 2 2008, pp. 167-180, with Dean Gatzlaff and Stacy Sirmans.

"The Title Insurance Industry: Examining a Decade of Growth," *Journal of Insurance Regulation*, Summer 2007, pp. 23-51, with Randy Dumm and Stacy Sirmans.

"The Value of Housing Characteristics: A Meta Analysis" *Journal of Real Estate Finance and Economics*, November 2006, pp. 215-240, with Stacy Sirmans, Lynn MacDonald, and Emily Zeitz.

"The Composition of Hedonic Pricing Models," *Journal of Real Estate Literature*, Issue 1 2005, pp. 3-43, with Stacy Sirmans.

"The State of Affordable Housing," *Journal of Real Estate Literature*, Issue 2 2003, pp. 133-155, with Stacy Sirmans.

"Affinity Programs and Real Estate Brokerage," *Journal of Real Estate Research*, November-December 2001, pp. 337-351, with Stacy Sirmans.

"Neighborhood Diversity and House Price Appreciation," *Journal of Real Estate Finance and Economics*, January 2001, pp. 81-97, with Stacy Sirmans.

"Forecasting Seniors Housing Demand in Florida," *Journal of Real Estate Portfolio Management*, 1999, pp. 259-74, with G. Stacy Sirmans.

**Publications in Books**

"Improving Pension Coverage at Small Firms," with William Even, in *Overcoming Barriers to Entrepreneurship*, ed. Diana Furchtgott-Roth, Rowman & Littlefield, 2008.

"Measuring Union and Nonunion Wage Growth: Puzzles in Search of Solutions" with Barry Hirsch and Edward Schumacher, in *Changing Role of Unions: New Forms of Representation*, Phanindra Wunnava, M.E. Sharpe, 2004.

"Living Wage Laws and the Case for a Targeted Wage Subsidy," in *Living Wage Movements: Global Perspectives*, ed. Deborah M. Figart, Routledge, 2004.

"Benefits and Worker Productivity," with William Even, in *Benefits for the Workplace of Tomorrow,* eds. Olivia S. Mitchell, David S. Blitzstein, Michael S. Gordon, and Judith F. Mazo, University of Pennsylvania Press, 2003.

"Children's Effects on Women's Labor Market Attachment and Earnings," with William Even, in *Changes in Working Time in Canada and the United States*, eds. Susan Houseman and Alice Nakamura, W.E. Upjohn Institute, 2001.

"Downsizing and Life Course Consequences of Job Loss: The Effect of Age and Gender on Employment and Income Security," with Jill Quadagno, Jennifer Reid, and Lori Parham, in *Restructuring Work and the Life Course*, eds. Victor Marshall, Walter Heinz, Helga Krueger, and Anil Verma, University of Toronto Press, 2001.

"The Effect of a Job Loss on the Employment Experience, Benefits, and Retirement Savings of Bank Officers," with Jill Quadagno and Jennifer Keene, in *Ensuring Health and Income Security for an Aging Workforce*, ed. Peter P. Budetti, W.E. Upjohn Institute, 2001.

"Earnings and Employment in Trucking: Deregulating a Naturally Competitive Industry," with Barry Hirsch, in *Regulatory Reform and Labor Markets*, ed. James Peoples, Kluwer Publishers, 1998.

"Gender-Related Differences in Pension Coverage," with William Even, in *Women and Work: A Handbook*, Garland Publishing, New York, NY, 1996.

"The Pension Coverage of Young and Mature Workers", with William Even, in *Pension Coverage Issues for the '90s*, eds. Richard Hinz, John Turner, and Phyllis Fernandez, U.S. Government Printing Office, Washington, D.C, 1994.

**Working Papers (Economics)**

"Deferred Compensation vs. Efficiency Wages: An Experimental Test of Effort Provision and
Self-Selection," with Tim Salmon and Kislaya Prasad, under review, *Journal of Business and Economic Organization*

"What Do Unions Do to Pension Performance?" with William Even, September 2011, under revision

"Teacher Salaries, State Collective Bargaining Laws, and Union Coverage" March 2011, with Barry Hirsch and John Winters.

"The Effects of the 2007-2009 Federal Minimum Wage Increases on Teen Employment," with William Even, under revision, July 2010.

"Participant Direction in Defined Contribution Plans," April 2006, with William Even, under revision.

"Do Pensions Impede Phased Retirement?" September 2004, with William Even, under revision.

**Working Papers (Real Estate and Insurance)**

"An Empirical Analysis of Socio-Demographic Factors and the Mispricing of Homeowners Insurance in Florida," under review *Journal of Financial Services Research*, with Ronald Cheung, Charles Nyce, Kathleen McCullough, and Cassandra Cole.

"The Impact of No-Fault Legislation on Automobile Insurance Premiums," revised and resubmitted to *North American Actuarial Journal*, with Cassandra Cole, Kevin Eastman, Patrick Maroney, and Kathleen McCullough.

**Funded Projects**

Employment Policies Institute, 5/2010-7/2010, $16,500 (Trinity University portion), "Employment Effects of the 2007-2009 Federal Minimum Wage Increases," with William Even.

National Science Foundation, 9/2009-8/2012, $125,866 (Trinity University portion), "Incentives in the Workplace: An Experimental Examination of How Wage Differences Across Time and Among Peers Affect Productivity and Self-Selection," with Tim Salmon, Kislaya Prasad, and Hyejin Ku.

Florida Legislature, 10/2007-6/2009, $175,000, "Child Support Guidelines," with Stefan Norrbin and Thomas McCaleb.

Florida Legislature (through University of Florida), 12/2006-9/2007, $223,000, "Analysis of Save our Homes Amendment," with Dean Gatzlaff.

U.S. Administration on Aging (through University of South Florida), 5/2005-9/2007, $175,000, "Employment in the Long-Term Care Industry: The Importance of Recruitment and Retention," with William Even.

Florida Legislature, 2/2003-8/2004, $175,000, "Child Support Guidelines," with Stefan Norrbin and Thomas McCaleb.

Florida Department of Environmental Protection, 6/2002-2/2003, $94,157, "Affordability Index," with Stefan Norrbin and William Serow.

University of South Carolina, 4/2000-11/2000, $10,000, "Minority Homeownership in South Carolina," with Stacy Sirmans.

Florida Department of Business and Professional Regulation, 3/1999-6/1999, $21,739, "Forecasting Housing Demand in Florida," with Stacy Sirmans.

University of South Carolina, 4/1999-11/1999, $10,000, "Forecasting Housing Demand in South Carolina," with Stacy Sirmans.

Florida State University, 6/1999-8/1999, $7,500, "Support for Preparing ECO 2000 as a Web-Based Course."

TIAA-CREF, 8/1998-8/1999, $23,000, "Determinants of Savings in Supplemental Pension Plans: A Case Study of Pension Choices in Higher Education," with Melissa Hardy and Larry Hazelrigg.

Florida Department of Business and Professional Regulation, 4/1998-6/1998, $16,638, "Forecasting Seniors' Demand for Housing in Florida," with Stacy Sirmans.

Florida Department of Business and Professional Regulation, 12/1997-6/1998, $18,472, "Housing Price Appreciation in Orlando and Tampa," with Stacy Sirmans.

Florida State University, 6/1998-8/1998, $7,500, "Support for Preparing ECO 2000 as a Web-Assisted Course."

Florida Department of Business and Professional Regulation, 3/1997-6/1997, $17,898, "Minority Homeownership in Florida," with Stacy Sirmans.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 12/1996-8/1997, $20,000, "The Impact of Rising 401(k) Pension Coverage on Retirement Income," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 3/1996-6/1997, $15,000, "The Determinants of 401(k) Participation and Contribution Levels," with William Even.

Florida Department of Business and Professional Regulation, 4/1996-6/1996, $22,702, "Forecasting the Number of New Florida Real Estate Licensees," with Stacy Sirmans.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 3/1995-6/1996, $15,000, "Explaining the Decline in Pension Coverage of Less Educated Workers," with William Even.

Florida State University COFRS Grant, 6/1994-8/1994, $8,000, "The Relative Compensation and Quality of Public and Private Sector Workers."

W.E. Upjohn Institute for Employment Research, 3/1994-12/1995, $35,000, "Pensions and Productivity," with Stuart Dorsey and Christopher Cornwell.

Florida Division of Workers' Compensation, 1/94-12/1995, $100,000, "Worker's Compensation Recipency in Union and Nonunion Workplaces," part of a service contract titled "Research Partnership with the Division of Workers' Compensation," co-investigator (one of several).

University of Wisconsin Institute for Research on Poverty Small Grant Program, 7/1993-6/1994, $15,000, "Racial Composition, Wages, and Quality Sorting," with Barry Hirsch.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 7/1993-6/1993, $10,000, "Trends in Individual and Family Pension Coverage," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 6/1992-5/1993, $10,000, "The Pension Coverage of Young and Mature Workers," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration and American Society of Pension Actuaries, 6/1991-5/1992, $10,000, "A Conference on Current Pension Policy Issues," with William Even.

Miami University Faculty Research Grant, 6/1991-8/1991, $4,000, "Projected Growth in Retiree Health Insurance Liabilities."

Ohio Board of Regents Research Challenge Grant, 1/1990-12/1990, $4,980, "Proposal to Enhance the Data Library of the Center of Pension and Retirement Research," with William Even and Samuel Williamson.

Miami University Faculty Research Grant, 6/1990-8/1990, $4,000, "The Role of Firm Size in Pension Coverage and Options."

Miami University Faculty Research Grant, 6/1989-8/1989, $4,000, "Declining Unionism and the Gender Wage Gap," with William Even.

**Participation in National Meetings**

Panel Discussant, American Real Estate and Urban Economics Association/ASSA meetings, January 2008.

Presented, "Employee Turnover in the Long-Term Care Industry," at Academy Health Annual Research Meetings, June 2007.

Presented, "Participant Direction in Defined Contribution Pension Plans," at International Atlantic Economic Society meetings, October 2006.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at International Atlantic Economic Society meetings, October 2005.

Presented, "Replacing Earnings After Termination: Evidence from the Displaced Worker Survey," at the Allied Social Science Association/National Association of Forensic Economics, January 2002.

Presented, "Labor Market Transitions of Older Workers," at the Allied Social Science Association/Society of Government Economists meetings, January 1999.

Presented, "Why has the Loss in Pension Coverage Accelerated Among Less Educated Workers?" at the American Economic Association Meetings, 1995.

Presented, "Wages and Gender Composition: Why Do Women's Jobs Pay Less?" at the American Economic Association Meetings, 1994, with Barry Hirsch.

Presented, "Pensions, Labor Turnover, and Employer Size" at the American Economic Association Meetings, 1993, with William Even.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the American Economic Association meetings, 1992, with William Even.

**Participation in Regional Meetings**

Presented "Unions and Pension Performance: The Role of Pension Design," at Southern Economics Association meetings, November 2009.

Panel member, "Recent Federal Reserve Policy: An Evaluation" at Southern Economics Association meetings, November 2009.

Discussant, "Topics in Health Economics," at Southern Economics Association meetings, November 2009.

Discussant, "Teacher Pay, Principals, and Schooling," at Southern Economics Association meetings, November 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Western Economic Association meetings, July 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Eastern Economic Association meetings, February 2009.

Panel Discussant at the Southern Economic Association meetings, November 2008.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Southern Economic Association meetings, November 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Western Economic Association meetings, July 2008.

Chair "Pensions and Retirement" Session at Southern Economic Association meetings, November 2007.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Southern Economic Association meetings, November 2007.

Presented, "Participant Direction in Defined Contribution Pension Plans," at Southern Economic Association meetings, November 2006.

Panel Discussant, Southern Economic Association meetings, November 2005.

Presented, "Do Pensions Impede Phased Retirement?" at the Southern Economic Association meetings, November 2004.

Presented, "When Will the Gender Gap in Retirement Income Narrow?" at the Southern Economic Association meetings, November 2003.

Presented, "How Will the Growth of DC and 401(k) Plans Affect Pension Income?" at the Southern Economic Association meetings, November 2002.

Presented, "Racial Composition, Wages, and Quality Sorting," at the Southern Economic Association meetings, November 1999.

Presented, "Racial and Ethnic Differences in Pension Coverage and Benefit Levels," at the Southern Economic Association meetings, November 1998.

Presented, "Factors Influencing Participation and Contribution Levels in 401(k) Plans," at the Western Economics Association meetings, July 1998.

Presented, "Aging at Work: Employment Determination, Firm Strategies, and Public Policy in the United States," at the Western Economic Association meetings, July 1994.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Western Economic Association meetings, July 1992.

Presented "Plant Size and the Decline of Unionism," at the Southern Economic Association meetings, 1989, with William Even.

Panel Discussant, Southern Economic Association meetings, November 1989.

Presented "The Labor Force Participation and Earnings Profiles of Married Female Immigrants," at the Southern Economic Association meetings, November 1988.

Presented "Pensions, Screening, and the Gender Wage Gap," at the Southern Economic Association meetings, November 1988.

Session Chair and Panel Discussant at the Southern Economic Association meetings, November 1988.

**Participation in Invited Seminars, Conferences, and other Presentations**

Presented, "Teaching Macroeconomics During Troubled Times," at Creative Ideas for Your Basic Economics Course Conference at Florida State University, February 2012.

Presented, "Participant Direction in Defined Contribution Pension Plans," at Pennsylvania State University, April 2010.

Presented, "The Parallels Between the Japanese Economic Crisis of the 1990s and the US Today" at Creative Ideas for Your Basic Economics Course Conference at Florida State University, February 2010.

Chair "Minimum Wage & EITC" Session at Society of Labor Economists meetings, May 2009.

Presented "Participant Direction in Defined Contribution Plans," at Lehigh University, April 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Association of Private Enterprise Education meetings, April 2009.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Trinity University, October 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Georgia State University, April 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Association of Private Enterprise Education meetings, April 2008.
Presented, "Improving Pension Coverage at Small Firms," at Hudson Institute, May 2006.

Presented, "Participant Direction in Defined Contribution Plans," at Society of Labor Economics meetings, May 2006.

Presented, "Participant Direction in Defined Contribution Plans," at Association of Private Enterprise Education meetings, April 2006.

Presented, "Participant Direction in Defined Contribution Plans," at University of Wisconsin-Milwaukee, April 2006.

Invited Panel Participant for Pepper Foundation and Center Symposium on pension reform, Washington, DC, February 2006.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at West Virginia University, April 2005.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at the University of Kentucky, November 2004.

Presented, "The Causes and Consequences of Company Stock Holdings in Pension Funds," at the Federal Reserve Bank of Atlanta, April 2004.

Presented, "The Causes and Consequences of Company Stock Holdings in Pension Funds," at the University of Oklahoma, February 2004.

Presented, "Tracking Union and Nonunion Wages in the U.S.: Can the Evidence be Reconciled?" at the Middlebury Annual Conference on Economic Issues, April 2002.

Presented, "How Will the Growth of DC and 401(k) Plans Affect Pension Income?" at the Miami University Center for Pension and Retirement Research Conference, June 2001.

Presented, "Benefits and Worker Productivity," Benefits for the Workplace of Tomorrow Conference, Wharton School, University of Pennsylvania, May 2001.

Participant, Innovations in Managing the Financial Risks of Retirement Conference, Wharton School, University of Pennsylvania, May 2000.

Presented "Using Hi-Tech in Large Lectures," at Association of Private Enterprise Education meetings, April 2000.

Presented "Employee Participation in 401(k) Plans," at University of Wisconsin-Milwaukee, October 1999.

Presented "Gender, Race, and Ethnicity in the Labor Market," as part of the Smith Chair course in Labor Economics at Brigham Young University, September 1999.

Presented, "The Decline in Pension Coverage Among Less Educated Workers," at the Florida State University Economics Department Seminar Series, 1996.

Presented, "Children's Effects on Women's Labor Market Attachment and Earnings" at the Conference on the Changes in Working Time in Canada and the United States, Canadian Employment Research Forum, 1996.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" at the Ohio State University Economics Department Seminar Series, 1996.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" at the Florida State University Economics Department Seminar Series, 1995.

Presented, "Employer Size and Labor Turnover: The Role of Pensions," at Syracuse University, 1995.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" while visiting scholar at the Federal Reserve Bank of Cleveland, 1995.

Presented, "Trends in Individual and Household Pension Coverage," at the Miami University Center for Pension and Retirement Research Conference, 1994.

Presented, "Racial Composition, Quality Sorting, and the Black-White Wage Gap" at the University of Wisconsin, Institute for Research on Poverty, Small Grants Workshop, 1993, with Barry Hirsch.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Florida State University Economics Department Seminar Series, 1992.

Participant at National Bureau of Economic Research (NBER) Labor Studies meetings of the Summer Institute, 1992.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Miami University Conference on Current Pension Policy Issues, 1992.

Organizer and participant at conference on "Contemporary Issues in Pension Economics," hosted by the Center for Pension and Retirement Research, Miami University, 1990.

Presented "The Effect of International Competition on Union and Nonunion Wages," at the University of Cincinnati Seminar Series, 1987.

**Refereeing**

*Bulletin of Economic Research, Canadian Journal of Economics, Contemporary Economic Policy, Eastern Economics Journal, Economic Development and Cultural Change, Economic Inquiry, Industrial Relations, Industrial and Labor Relations Review, International Economic Review, Journal of Economics and Business, Journal of Human Resources, Journal of Labor Economics, Journal of Labor Research, Journal of Pension Economics and Finance, Labour Economics, Mid-American Journal of Business, Policy Studies Review, Quarterly Journal of Economics, Quarterly Review of Economics and Finance, Real Estate Economics,* Review *of Economics and Statistics, Social Science Quarterly, Southern Economic Journal*

Outside reviewer for Department of Economics, UNC-Greensboro, Georgia State University.

Promotion and tenure letters for candidates at Georgia State University, Kansas State University, Monmouth University, Ohio State University, University of Massachusetts, University of Southern California, and University of Wisconsin-Milwaukee.

**Honors and Awards**

Awarded sabbatical, Trinity, Fall 2011.

Nominated for FSU Award for Excellence in Undergraduate Teaching, Spring 2005.

Named Rod and Hope Brim Eminent Scholar in Economics, FSU, Fall 2004.

Research Fellow, Institute for the Study of Labor (IZA), Bonn, 2004-.

*Who's Who in Economics, Fourth Edition*, Mark Blaug and Howard Vane (eds), Edward Elgar Publishing, 2003, pp. 524 (selection criteria: one of the 1,200 most frequently cited economists in the years 1990-2000 using the Social Science Citation Index).

Awarded Abba Lerner named professorship, FSU, Spring 2000.

Awarded sabbatical, FSU, Spring 2000.

Received FSU Award for Excellence in Undergraduate Teaching, Spring 2000.

Received FSU Teaching Incentive Program Award, Fall 1995.

Nominated for FSU Award for Excellence in Undergraduate Teaching, Spring 1994.

Nominated for Outstanding Teaching Award, Associated Student Government, Miami University,1992.
Selected by the Miami University Sisters of Delta Gamma for a "Favorite Professor Award" in Fall 1990.

Honorary Member of Golden Key National Honor Society, Fall 1989.

Selected by the Sisters of Delta Gamma as "One of the twenty five most outstanding faculty members at Miami University" in Fall 1988.

**Service**

Vice President, Southern Economic Association, 2011-

Trinity University

Dick and Peggy Prassel Professor of Business Administration Search Committee, 2011
Faculty and Staff Compensation Committee, 2010-2011
Student Retention Committee, 2010

Florida State University

University and College Committees:

Member, GPC subcommittee for Marketing, Spring 2008.
Member, Graduate Policy Committee, Fall 2007-.
Chair, GPC subcommittee for Political Science, Fall 2006.
Member, Title IV Admissions Attendance Committee, Fall 2003-Spring 2004.
Member, College of Social Sciences Executive Committee, Fall 2003-.
Member, Ad Hoc Committee on COSS Technology, Spring 2003.
Member, Computing and Information Resource Committee, Fall 1999-.
Member, Academic and Policy Affairs Committee, Fall 1996-Spring 1998.

Economics Department Committees:

Member, Ad Hoc Committee on Economics 2000 Level Courses, Spring 1999.
Member, Undergraduate Economics Committee, Fall 1998-
Member, Economics Department Executive Committee, Fall 1994-Spring 1995, Fall 1996-Spring 1999, Fall 2000-.
Economics Department Library Representative, Fall 1993-.
Micro/Macroeconomics Seminar Coordinator, Fall 1993-Spring 1995, Fall 1998-Fall 1999, Fall 2001, Fall 2006-.

Comprehensive Examination Committees:

Member, Masters Comprehensive Exam Committee, Spring 1994.
Member, Ph.D. Labor Field Exam Committee, Fall 1992, Spring 1994, Fall 1994, Fall 1995, Fall 1996, Spring 1997, Spring 1998.
Chair, Masters Comprehensive Exam Committee, Fall 1994, Spring 1998.
Chair, Ph.D. Labor Field Exam Committee, Spring 1993-Fall 1993, Spring 1995, Spring 1996, Spring 2000, Spring 2001, Fall 2001.

Miami University

Computing Task Force, Department of Economics, 1991-92.
Recruiting Committee, Department of Economics, 1990-92.
Economics Club Advisor, 1988-1991.
Research Associate, Center for Pension and Retirement Research, 1988-92.
Delta Sigma Pi Chapter Advisor, 1988-89.
Student Finance Committee, Student Affairs Council, 1988-89.
Omicron Delta Epsilon Advisor, 1987-88.

**Theses, Extended Papers, and Dissertations**

Undergraduate Honors Thesis:

Chair, Leela Hebbar, 1995

Member, Nicole Cubies, 2006
Member, John Stutts, 2006
Member, Todd Crannell, 2000
Member, Mark Plotnick, 2000
Member, Bobby Pittman, 1998

MS Thesis and Extended Paper:

Chair, Maria Arce-Trigatti, 2009
Chair, George Holescko, 2000
Chair, J. Michael DuMond, 1994

Member, Shael Wolfson, 2000

Member, Lehr Eliason, 2000
Member, Steve Muri, 2000
Member, Ken Meier, 1998
Member, Tarteshia Williams, 1995
Member, Richard Page, 1994

PhD Dissertation:

Chair, James Farrell, 2009
Chair, Mark Keightley, 2008
Chair, Ali Al-Malki, 2007
Chair, Carter Doyle, 2005
Chair, Edward Wolpert, 1998
Chair, J. Michael DuMond, 1997

Member, Bogdan Daraban, 2007
Member, Russell Engel, 2007
Member, Li Feng, 2006
Member, Chuck Skipton, 2003
Member, Nicole Yurgin, 2003
Member, Jennifer Troyer, 1999
Member, Josefina Tranfa, 1999
Member, Shaliesh Bandarhi, 1998
Member, James Freeman, 1998
Member, Brian Nottage, 1998
Member, Ben Shippen, 1995
Member, Ed Schumacher, 1994

Outside Member, Stephanie Burge, Sociology, 2006
Outside Member, Reg Albritton, Special Education, 2005
Outside Member, Kim Shuey, Sociology, 2001
Outside Member, Andrea Willson, Sociology, 2001
Outside Member, Phyllis Keys, Finance, 1998

# David A. Macpherson

Depositions and Trial Testimony: 2008 to 2012

1. Angela Speed and Adrian Speed vs. Hertz Corporation
   Atty: Dawn Pompey Whitehurst; Brevard County, Florida; gave deposition; wrongful injury; 2008; Case No: 05-2005-CA-065447

2. Patricia Morrison vs. Anthony Mork and Microspine Surgery
   Atty: Steven Andrews; Walton County, Florida; testified at trial; wrongful injury; 2008; Case No: 06000249CA.

3. James Tomaselli vs. State of Florida, Department of Corrections
   Atty: Gordon Leech; Martin County, Florida; gave deposition; wrongful termination; 2008; Case No: 01-554-CA.

4. Russell Martin, et al. v. City of Atlanta, et al.
   Atty: Andrew Coffman; U.S. District Court, Northern District of Georgia, Atlanta 5Division; gave deposition; racial discrimination; 2008; Case CA File No: 1:07-cv-00326-BBM

5. McCabe, et al. v. Harmon Fruit, et al.
   Atty: Larry Perry; Polk County, Florida; gave deposition; wrongful death; 2008; Case 53-2005-CA-003612-0000-00

6. Thomas Faulkner v. Michael Chertoff and Department of Homeland Security
   Atty: John Davis; U.S. District Court; Northern District of Florida; gave deposition; wrongful termination; 2009; Case 4:08CV341-SPM/WCS

7. Matthew Debord and Tabitha Debord vs. G & S Material Service et al.
   Atty: Hubert Brown; U.S. District Court; Northern District of Florida; gave deposition; wrongful injury; 2009; Case 3:07cv365-LAC/MD

8. Jessica Loveday vs. USA
   Atty: Anthony Caggiano; U.S. District Court; Northern District of Florida; gave deposition; wrongful injury; 2009; Case 1:08cv205/SPM

9. Julia Keyes vs. AIG
   Atty: Larry Perry; Jackson County, Florida; gave deposition; wrongful injury; 2009; Case 08706CA

10. Estate of Linda DePuy vs. Broeseker et al.
    Atty: Steve Andrews; Leon County, Florida; gave deposition; wrongful death; 2009; Case 2007 CA 2509

11. Oliver and Sollman vs. VSoft Inc.
    Atty: Larry Pankey; U.S. District Court, Northern District of Georgia, Atlanta Division; gave deposition; age discrimination; 2009; Case CA File No: 1:09-CV-0185

12. Yolanda Young vs. Covington and Burling, LLP
    Atty: Latif Damon; U.S. District Court for the District of Columbia; gave deposition; racial discrimination; 2009; Case CA File No: 1:09-CV-0464 RBW

13. Deborah Suboh vs. Mark Bergeson et al.
    Atty: Stephanie Wright and Charlotte Perrell; Georgia, Dekalb County; Case 07A77585-5, gave deposition; legal malpractice; 2010.

14. Rolando Simmons vs. Davis and Peterson
    Atty: Hubert Brown; Florida, Calhoun County; Case 2008-0150-CA, gave deposition and testified at trial; medical malpractice; 2010.

15. Lorie J. Marshall, et al. vs. H & R Block Tax Services, Inc.
    Atty: Allan Steyer; U.S, U.S. District Court
    Southern District of Illinois; Case No. 3:08-CV591-MJR; gave deposition; consumer damages; 2010.

16. Daren Davis vs. Joseph Austin and Terry Roberts Work Site
    Atty: Anthony Caggiano; Florida, Osceola County; gave deposition; wrongful injury; 2010; Case 2006 CA 002997 AN

17. David Darrow vs. Adventist Health Systems/Sunbelt Inc.
    Atty: Anthony Caggiano; Florida, Orange County; gave deposition; wrongful injury; 2010; Case 48-2009-CA-004897-0

18. Samuel Gonzalez vs. Gurdev Singh Nijjar et al.
    Atty: Ramon Rodriguez; Texas, El Paso County; gave deposition; wrongful injury; 2010; Case 2007-011

19. John Davis vs. Devereux Foundation.
    Atty: Thomas Brown; Florida, Brevard County; gave deposition; wrongful injury; 2010; Case 99-15992-CA-F

20. Al Kowalski vs. et al. YellowPages.Com, LLC
    Atty: Peter Pearlman; U.S. District Court Southern District of New York; Case No. 10-7318 (PGG); gave deposition; consumer damages; 2011.

21. Christina Glover and Jason Glover vs. Publix Super Markets
    Atty: Phelicia Steill; Florida, Leon; Case No. 08 CA 2695; gave deposition; wrongful injury; 2011.

22. Lissette Cartagena and William Cartagena vs. Bracero et al.
    Atty: Thomas Brown; Florida, Orange County; Case No. 07-CA-2645 DIV 34; gave deposition and testified at trial; wrongful injury; 2011.

23. Lillie Conyers and James Conyers vs. Werner Enterprises et al.
    Atty: Thomas Brown; Florida, Jackson County; Case No. 09-1174-CA; gave deposition; wrongful injury; 2011.

24. Shannon McCants vs. Wackenhut Corporation
    Atty: Dawn Pompey Whitehurst; Duval County, Florida; gave deposition and testified at trial; wrongful death; 2011; Case No: 16-2008-CA-014834

25. Christina Whipple versus R.E.S.A, Inc.
    Atty: Susan Haney; Bexar County, Texas; gave deposition; business damages; 2011; Case No.: 2009-CI-17074

26. Daniel Plouffe, et al. versus General Motors, LLC
    Atty: Michael Pitt; Wayne County, Michigan; gave deposition; age discrimination; 2012; Case No.: Case No. 11-007645-CL

27. Johnny Cash versus State Farm
    Atty: Steven Andrews; Leon County, Florida; testified at trial; wrongful injury; 2012; Case No.: Case No. 10-CA-2429

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College**.

**Fiscal Note Summary**

Increased state and local government expenses resulting from this proposal may be up to $125 million annually if funding is appropriated. State and local government tax revenue could increase by an estimated $249 million annually; however, employment decisions made by businesses could impact this estimate.

STATE AUDITOR'S OFFICE
RECEIVED
APR 15 2015

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-045

April 15, 2015

The Honorable John Watson
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Lara Granich regarding a proposed statutory amendment to Chapter 290, version 1 (2016-045)

Dear Auditor Watson:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Lara Granich on April 14, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-045

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

RECEIVED
2015 APR 14 PM 4:17
SECRETARY OF STATE

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
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| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____

(Name of payer) Signature of Affiant (Person obtaining signatures)

_____

Printed Name of Affiant

_____

Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 201____.

Notary Public (Seal)

_____

Signature of Notary

_____

Address of Notary (Street, City, State & Zip Code)

My commission expires _____.

# Statutory Amendment to Chapter 290, RSMo, Relating to the Minimum Wage, Version 1

16-045

*Be it enacted by the people of the State of Missouri:*

Sections 290.502, 290.512, and 290.527 are amended and a new section to be known as section 290.529 is enacted to read as follows:

§ 290.502. Minimum wage rate -- increase or decrease, when

1. Except as may be otherwise provided pursuant to sections 290.500 to 290.530, effective January 1, 2007, every employer shall pay to each employee wages at the rate of $ 6.50 per hour, or wages at the same rate or rates set under the provisions of federal law as the prevailing federal minimum wage applicable to those covered jobs in interstate commerce, whichever rate per hour is higher.

2. The minimum wage shall be increased or decreased on January 1, 2008, and on January 1 of successive years, by the increase or decrease in the cost of living. On September 30, 2007, and on each September 30 of each successive year, the director shall measure the increase or decrease in the cost of living by the percentage increase or decrease as of the preceding July over the level as of July of the immediately preceding year of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) or successor index as published by the U.S. Department of Labor or its successor agency, with the amount of the minimum wage increase or decrease rounded to the nearest five cents.

3. Except as may be otherwise provided pursuant to sections 290.500 to 290.530, notwithstanding subsection 1 of this section, effective January 1, 2017, every employer shall pay to each employee wages at the rate of $9.00 per hour, and effective January 1, 2018 at the rate of $10.00 per hour, and effective January 1, 2019 at the rate of $11.00 per hour, and effective January 1, 2020 at the rate of $12.00 per hour, and effective January 1, 2021 at the rate of $13.00 per hour, and effective January 1, 2022 at the rate of $14.00 per hour, and effective January 1, 2023 at the rate of $15.00 per hour, or wages at the same rate or rates set under the provisions of federal law as the prevailing federal minimum wage applicable to those covered jobs in interstate commerce, whichever rate per hour is higher. Thereafter, the minimum wage rate shall be increased or decreased on January 1, 2024, and on January 1 of successive years, per the method set forth in subsection 2 of this section; but, if the federal minimum wage rate is above or is thereafter increased above the minimum wage rate then in effect under this subsection, the higher federal rate shall become the minimum wage rate for as long as it remains higher and shall be increased or decreased per the method set forth in subsection 2.

4. Every employer that is a public body shall pay to its employees wages at the rates established by subsection 3 of this section only provided there are appropriations for wages at those rates. If appropriations are not provided, the public body shall continue to be subject to the requirements of subsections 1 and 2 of this section. As used in this subsection, a public body means the state of Missouri, or any officer, agency, department, bureau, or division, board or commission of the state, or any municipality, county, township, authority, district, or any other political subdivision of or within the state.

**§ 290.512. Gratuities, goods or services as part of wages, effect on minimum wage requirement**

1. No employer of any employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages in excess of fifty percent of the minimum wage rate specified in sections 290.500 to 290.530, however, total compensation for such employee shall total at least the minimum wage specified in sections 290.500 to 290.530, the difference being made up by the employer.

2. Notwithstanding subsection 1 of this section, effective January 1, 2017, no employer of any employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages in excess of sixty percent of the minimum wage rate specified in sections 290.500 to 290.530, however, total compensation for such employee shall total at least the minimum wage specified in sections 290.500 to 290.530, the difference being made up by the employer.

3. A public body that is the employer of an employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages at the rates established by subsection 2 of this section only provided there are appropriations for wages at those rates. If appropriations are not provided, the public body shall continue to be subject to the requirements of subsection 1 of this section. As used in this subsection, a public body is defined as in subsection 4 of section 290.502.

[2.] 4. If an employee receives and retains compensation in the form of goods or services as an incident of his employment and if he is not required to exercise any discretion in order to receive the goods or services, the employer is required to pay only the difference between the fair market value of the goods and services and the minimum wage otherwise required to be paid by sections 290.500 to 290.530. The fair market value of the goods and services shall be computed on a weekly basis. The director shall provide by regulation a method of valuing the goods and services received by any employee in lieu of the wages otherwise required to be paid under the provisions of sections 290.500 to 290.530. He shall also provide by regulation a method of determining those types of goods and services that are an incident of employment the receipt of which does not require any discretion on the part of the employee.

**§ 290.527. Action for underpayment of wages, employee may bring--limitation**

Any employer who pays any employee less wages than the wages to which the employee is entitled under or by virtue of sections 290.500 to 290.530 shall be liable to the employee affected for the full amount of the wage rate and an additional [equal] amount equal to twice the unpaid wages as liquidated damages, less any amount actually paid to the employee by the employer and for costs and such reasonable attorney fees as may be allowed by the court or jury. The employee may bring any legal action necessary to collect the claim. Any agreement between the employee and the employer to work for less than the wage rate shall be no defense to the action. All actions for the collection of any deficiency in wages shall be commenced within [two] three years of the accrual of the cause of action.

§ 290.529. Severability

All the provisions of sections 290.500 to 290.530 are severable. If any provision, including any section, subsection, subdivision, paragraph, sentence, or clause, of sections 290.500 to 290.530, or the application thereof to any person or circumstance, is found by a court of competent jurisdiction to be invalid, unconstitutional, or unconstitutionally enacted, such decision shall not affect other provisions or applications of sections 290.500 to 290.530 that can be given effect without the invalid, unconstitutional, or unconstitutionally enacted provision or application.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-045)**

## Subject

Initiative petition from Lara Granich regarding a proposed amendment to Chapter 290 of the Revised Statutes of Missouri. (Received April 15, 2015)

## Date

May 5, 2015

## Description

This proposal would amend Chapter 290 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Lara Granich** provided information as a proponent of the proposal to the State Auditor's office.

**Edward D. Greim** provided information as an opponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated the total estimated costs for all state funds will be $0 for FY (fiscal year) 2017, $7,078 for FY 2018, $87,363 for FY 2019, $347,819 for FY 2020, $790,578 for FY 2021, $1,164,782 for FY 2022, $1,449,700 for FY 2023, and $807,962 for FY 2024.

Officials from the **Department of Higher Education** indicated they have reviewed the provisions of this initiative petition and determined it would have no direct, immediate fiscal impact on their department. However, because the salary provisions extend to 2023 and they cannot project their employment or salary policies at that time, the long term impact is unknown.

Officials from the **Department of Health and Senior Services** (DHSS) indicated the total estimated net cost for all state funds will be $6,283,730 for FY 2017, $25,032,309 for FY 2018, $52,881,558 for FY 2019, $86,706,336 for FY 2020, $126,687,847 for FY 2021, $173,501,427 for FY 2022, and $228,118,804 for FY 2023.

DHSS defers to the Office of Administration regarding the statewide fiscal impact of this proposed legislation relating to state employee wages.

Small Medicaid Home and Community Based Services (HCBS) vendors and providers would be required to ensure attendants are paid a minimum of $9.00 per hour for calendar year 2017, $10.00 per hour for calendar year 2018, $11.00 per hour for calendar year 2019, $12.00 per hour for calendar year 2020, $13.00 per hour for calendar year 2021, $14.00 per hour for calendar year 2022, and $15.00 per hour starting 1/1/2023.

DHSS assumes HCBS providers and vendors would request an increase in the reimbursement rate to offset the higher minimum wage rate.

- The average growth in units of service per year from Fiscal Year 2012 to Fiscal Year 2014 is 9.58 percent. (Units are included from Agency Model Personal Care, Residential Care Facility Personal Care, Consumer Directed Services Personal Care, Adult Day Care, Independent Living Waiver Personal Care, Advanced Personal Care Agency Model, Advanced Personal Care Residential Care Facility, Basic In-Home Respite, and Advanced Respite.) Fiscal Year 2014 actual units of service (164,723,962) were multiplied times the 9.58 percent average growth rate, which yields an estimated 216,720,206 units of service for Fiscal Year 2017; 237,472,657 for Fiscal Year 2018; 260,212,299 units for Fiscal Year 2019;

285,129,419 units for Fiscal Year 2020; 312,432,524 units for FY 2021; 343,350,089 units for FY 2022: and 375,132,467 units for FY 2023.

- The current average wage for personal care attendants is $8.50 + $0.89 in taxes (taxes at 10.45 percent) equals $9.39 per hour, or $2.35 per 15 minute unit.
- Actual wage data for the individuals involved in delivery of units of service is not available. In order to estimate the fiscal impact of this proposed rule, it is assumed that individuals who deliver services are equally represented in ten-cent wage intervals clustered around the $8.50 average wage. So the calculation methodology includes ten wage intervals below $8.50 (starting at the current $7.50 minimum wage) and ten wage intervals above $8.50 (ending at $9.50).
- It is understood that the wages paid to some individuals are beyond the $9.50 ceiling employed in the calculation methodology. However, it is assumed that the number of individuals making more than $9.50 per hour would be relatively small. Also, it is not feasible to calculate the precise amounts absent actual wage data and the number of units provided by individuals at each wage level.
- The analysis assumes that the estimated units of service are uniformly spread among the individuals at the various 21 wage intervals ($7.50 through $9.50).
- The analysis determines the difference between the unit rate for wages and taxes at each of the ten-cent wage intervals versus the unit rate for wages and taxes.
- Services would be reimbursed at the Federal Medical Assistance Percentage (FMAP) rate. For this estimate, DHSS is using FY 2016 blended rate of 36.68 percent General Revenue and 63.32 percent Federal.
- The implementation date is 1/1/2017 for $9.00 per hour for calendar year 2017; one-half of Fiscal Year 2017.
- The implementation date is 1/1/2018 for $10.00 per hour for calendar year 2018.
- The implementation date is 1/1/2019 for $11.00 per hour for calendar year 2019.
- The implementation date is 1/1/2020 for $12.00 per hour for calendar year 2020.
- The implementation date is 1/1/2021 for $13.00 per hour for calendar year 2021.
- The implementation date is 1/1/2022 for $14.00 per hour for calendar year 2022.
- The implementation date is 1/1/2023 for $15.00 per hour.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated they defer to the Office of Administration for response to this petition regarding their employee cost as it relates to raising the minimum wage.

With regard to other issues this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated they defer to the Office of Administration for the fiscal impact.

Officials from the **Department of Natural Resources** indicated the estimated total costs for salaries, fringe benefits, equipment and expenses for all state funds will be $111,081 for FY 2017, $273,155 for FY 2018, $335,573 for FY 2019, $381,796 for FY 2020, $533,892 for FY 2021, $931,422 for FY 2022, and $1,682,181 for FY 2023.

Section 290.502.3, RSMo, would require the department to increase the minimum wage rate to $9.00 per hour effective January 1, 2017, to $10 per hour effective January 1, 2018, to $11 per hour effective January 1, 2019, to $12 per hour effective January 1, 2020, to $13 per hour effective January 1, 2021, to $14 per hour effective January 1, 2022, and to $15 per hour effective January 1, 2023, or to the wages at the same rate(s) set under the provisions of federal law as the prevailing federal minimum age applicable to those covered jobs in interstate commerce, whichever is higher. The minimum wage shall be updated every January 1 thereafter.

Sections 290.502.4 and 290.512.3, RSMo, provide an exemption for public bodies from the provision of 290.502.3 if appropriations for wages at those rates are not provided.

Section 290.512.2, RSMo, would require the department to increase minimum wage for employees that receive and retain gratuities effective January 1, 2017 to an excess of sixty percent of the minimum wage rate specified in Sections 290.500 to 290.530. This provision also requires that such employee's total compensation be at least the minimum wage specified in 290.500 to 290.530.

Section 290.529, RSMo, makes the provisions of Sections 290.500 to 290.530 severable.

Their department anticipates the cost of the proposed legislation to start at $111,081 annually for fiscal year 2017 and ultimately increase to $1,682,181 in fiscal year 2023.

This initiative petition requires the minimum wage to be reviewed and adjusted every January 1.

For full time employees throughout their department they compared their current hourly wage rate to the minimum wage rate in the proposed legislation, taking the difference by 2,080 hours multiplied by the fringe rate for full time staff.

Missouri State Parks employs between 500-750 seasonal positions each year. In order to reflect a full year of seasonal employment, they based on their analysis off of FY14 staffing levels and upgraded their hourly wage to January 1, 2015. They then analyzed each January 1 upgrade to minimum wage compared to the prior year estimate. They assumed the per fiscal year designated minimum wage amount would be greater than the federal minimum wage.

Missouri State Parks does employ staff that is eligible for tips. For those individuals, they are required to ensure that their total wage plus tips meet or exceed the established minimum wage rate for non-tip staff. Therefore, they assumed the same minimum wage for estimated impact as other staff.

Seasonal positions' fringe benefit rate is 7.65 percent. Full time staff would begin to be given minimum wage increases in fiscal year 2020.

They also made the assumption that the personal service appropriations would be adjusted according to the levels necessary to provide the increased minimum wages provided in the law.

Officials from the **Department of Corrections** indicated they defer to the Office of Administration.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they defer to the fiscal note response provided by the Office of Administration.

Officials from the **Department of Social Services** indicated they defer this initiative petition to the Office of Administration.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated their cost calculations related to this initiative petition is as follows based on 15 part-time employees working 1,039 hours per year:

| | |
|---|---|
| 2017 @ $9.00/hr. | No impact |
| 2018 @ $10.00/hr. | No impact |
| 2019 @ $11.00/hr. | $15,585 annual |
| 2020 @ $12.00/hr. | $30,170 annual |
| 2021 @ $13.00/hr. | $46,755 annual |
| 2022 @ $14.00/hr. | $62,340 annual |
| 2023 @ $15.00/hr. | $77,925 annual |

Officials from the **Department of Conservation** indicated that this proposal, which would increase the minimum wage, would result in estimated additional annual cost to their department as follows:

1) an increase to $9/hour-$208,270; 2) an increase to $10/hour-$377,886; 3) an increase to $11/hour-$464,451; 4) an increase to $12/hour-$578,966; 5) an increase to $13/hour-$743,578; 6) an increase to $14/hour-$871,670; and 7) an increase to $15/hour-$1,036,042. This reflects pay increases necessary to increase hourly and salaried pay rates to the proposed new minimum wage.

Officials from the **Office of Administration (OA)** indicated the proposal amends Sections 290.502, 290.512, 290.527, and adds 290.529, RSMo.

Section 290.502, RSMo, increases the minimum wage to $9.00 per hour, beginning January 1, 2017 and by another $1.00 per hour each year until it reaches $15.00 per hour beginning January 1, 2023. Thereafter, the minimum wage will be adjusted annually based on the increase/decrease in the cost of living.

Because no tax rates are affected, there is no direct impact on general and total state revenues. However, these proposals may have several indirect affects which could impact revenue collections by an unknown amount, including but not limited to:

- Increased wages for certain employees. According to the U.S. Bureau of Labor Statistics (BLS), in 2013, Missouri had 73,000 hourly employees earning wages at or below the federal minimum wage;[1]
- Increased consumption by those employees;
- Lower overall employment (if employers choose to hold costs steady);
- Lower business investment (if employers' payrolls increase);
- Increased prices as firms pass–through labor costs.

This proposal will increase state personnel costs at various state agencies. However, the proposal makes the increase for public bodies subject to appropriation. The estimated cost of the minimum wage increases are:

| Fiscal Year | Wage Rate | Time period | General Revenue Cost (including fringe benefits) | Total Cost (including fringe benefits) |
|---|---|---|---|---|
| 2017 | $9.00/hr | January –June | $171,193 | $464,938 |
| 2018 | $9.00/hr | July – December | | |
| | $10.00/hr | January – June | $513,523 | $1,673,380 |
| 2019 | $10.00/hr | July – December | | |
| | $11.00/hr | January –June | $1,464,340 | $4,407,549 |
| 2020 | $11.00/hr | July – December | | |
| | $12.00/hr | January – June | $6,222,694 | $13,640,373 |
| 2021 | $12.00/hr | July – December | | |
| | $13.00/hr | January – June | $17,386,077 | $33,385,765 |
| 2022 | $13.00/hr | July – December | | |
| | $14.00/hr | January – June | $34,452,207 | $63,042,619 |
| 2023 | $14.00/hr | July – December | | |
| | $15.00/hr | January – June | $62,036,019 | $108,793,353 |

Sections 290.512, 290.527 and 290.529, RSMo, will not impact their office.

[1] http://www.bls.gov/cps/minwage2013.pdf

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office.

Officials from the **State Treasurer's office** indicated the following is the estimated fiscal impact to their office:

| | |
|---|---|
| 2017 | $3,700 |
| 2018 | $8,300 |
| 2019 | $13,000 |
| 2020 | $17,700 |
| 2021 | $22,400 |
| 2022 | $27,062 |
| 2023 | $31,700 |

Officials from **Greene County** provided information related to the increase in hourly wage rates for county employee classifications that would be affected by this initiative petition but did not provide information regarding any changes in estimated costs or revenues for the county.

Officials from the **City of Kansas City** indicated since their direct fiscal cost would be subject to annual City appropriations, this initiative petition has no fiscal cost for their city. This initiative petition would have a positive fiscal impact on their city as it would promote economic growth and stability.

Economic data shows that productivity has grown since the early 1970s while the value of the minimum wage has stayed flat, or even fallen. As a result, the nation has created a growing class of service workers and laborers who are not paid enough to support themselves and their families. The current low minimum wage has a large negative fiscal impact on their city that cannot be quantified.

Officials from **University of Missouri** indicated they anticipate the legislative proposal would create a significant overall cost of between $40-60 million after all rate increases were implemented.

**Lara Granich** provided the following information as a proponent of this initiative petition.

April 25, 2015
Missouri State Auditor
Jefferson City, MO
Submitted via email to moaudit@auditor.mo.gov

Re: Fiscal Impact Analysis of Minimum Wage Initiative Petitions
Version 1 (Increase to $15)
Version 2 (Increase to $12)
Version 3 (Increase to $11)

This letter is from Lara Granich and Missouri Jobs with Justice Voter Action, proponents of the above-referenced initiative petitions. Pursuant to RSMo. Section 116.175, we write to submit the following fiscal impact information to assist your office in its analysis of the fiscal impact of the above mentioned three proposed Minimum Wage Initiative Petitions.

Our analysis estimates the impact of the three proposed initiative petitions on state and local sales and personal income tax revenue in Missouri. We follow the process that has been used in the past to estimate the impact of minimum initiative petitions on state and local sales and personal income tax, with some refinements. We also address certain claims that have been made by opponents in the past.

As these petitions exclude public workers, we do not include in our analysis an estimate of the impact on state and local payroll costs of the minimum wage increases.

## I. Estimate of Number of Workers Affected Statewide and the Impact on Their Wages

We estimate that, under the three versions of the petition, increases in total wages in the state will be as follows:

| Proposed Min Wage Level | Size of Increase* | Total Estimated Workers** | Workers Affected*** | Workers Affected as % of Total Workers | Total Wage Increase**** |
|---|---|---|---|---|---|
| $11.00 | $3.20 | 2,845,927 | 880,593 | 30.94% | $4,167,807,617 |
| $12.00 | $4.20 | 2,845,927 | 995,901 | 34.99% | $5,508,377,721 |
| $15.00 | $7.20 | 2,845,927 | 1,351,386 | 47.48% | $10,801,510,192 |

*Over the legislated MO 2015 minimum wage of $7.65 + assumed 2% cost of living adjustment to MO minimum wage

**Based on 2013 American Community Survey for the State of Missouri

***The number of wage and salary workers with an hourly wage below the proposed minimum. The hourly wages in 2013 were increased by 5.497%, to account for inflation between 2013 and 2016, prior to comparison with the proposed minimum.

****The hourly wage difference was multiplied by the number of hours worked per year. That amount was then multiplied by the relevant person weight and summed over all persons with hourly wages below the proposed minimum.

The wage impact of an increase in the minimum wage for the state of Missouri is calculated using the following procedure. The American Community Survey Public Use Micro Sample for the most recent year available (2013) for the state of Missouri was downloaded from the US Census Bureau. The American Community survey was chosen over the Current Population survey because the ACS has a significantly larger sample.

Calculations were effectuated only for those individuals earning less than the proposed minimum wage. It is likely that there would be indirect impacts on others who earn more than the proposed minimum wage, especially those who earn close to the proposed hourly amount. These estimates therefore are likely to be smaller than the actual impact of increasing the minimum wage to the proposed level.

All wage earners are included in this calculation. To be consistent with past estimates, public employees should have been excluded. Employees in the public sector were included because the American Community Survey does not have a published variable that allows for identification of public employees. This inclusion of public employees will have a minimal impact on our results.[1]

All wages from the 2013 survey were adjusted upward to account for inflation between the time of the survey and the time of measurement of the impact. Actual inflation was used for 2013 and 2014, and a slightly higher rate was used for assumed inflation in 2015. The 2015 Missouri Minimum wage of $7.65 was adjusted by the same factor prior to measuring the impact of a change to the proposed minimum wage in 2016.

After these adjustments, the resulting hourly wage of all employees was compared to the proposed minimum wage. Three proposed levels for the minimum wage were examined: $11, $12, and $15. If the proposed minimum wage was less than the inflation adjusted hourly earnings of an employee, then no impact was calculated. If the proposed minimum wage was more than the hourly earnings on an employee, then the difference between the inflation adjusted hourly earnings and the proposed minimum wage was calculated. That difference was multiplied by the number of

[1] For the Missouri's state employees, this can be validated by viewing the earnings of all state employees at: http://mapyourtaxes.mo.gov/MAP/Employees/. Larger counties and cities will also have almost all public employees earning more than the highest proposed minimum wage. Local public employees in small counties and towns may have some public employees who earn less than the highest proposed minimum.

hours the employee worked in the year to calculate the impact for that employee. The result was then multiplied by a weighting factor for that employee in the population. The total impact for the state of Missouri was calculated by repeating this process for every employee and adding the results.

The impact grows as the proposed minimum wage grows. 31% of the labor force would be directly impacted by an increase in the minimum wage to $11 in 2016, whereas 47% would be impacted if the minimum wage were increased to $15 per hour.

It should be emphasized that there is no reason to expect even a substantial increase in the minimum wage to reduce employment. No credible research has demonstrated a negative employment effect of increases in the minimum wage and there is substantial research to indicate that increases in the minimum wage have multiplier effects that increase the direct effects. For this reason and because of the likely increases in wages to individuals who earn above the proposed minimum wages, the impacts summarized in the table are likely to be low, relative to the total impact that would occur as a result of increasing the minimum wage to the proposed levels.

## II. Economic Literature on the Impact of Minimum Wage Increases on Employment

Next it is necessary to review the economic literature on the impact of minimum wage increases on employment. Opponents often claim that minimum wage increases may reduce employment in a state. If that is true, then those employment reductions would result in reductions in state income and sales tax revenue. However, review of the most credible recent empirical research on the minimum wage shows that increases in the minimum wage have had no discernible impact on employment. We thus conclude that it is not appropriate to project that the proposed initiative petitions would result in any detectable employment reduction, and resulting losses in income and sales tax revenue, or increases in unemployment-related costs to the state.

Economists have conducted hundreds of studies of the employment impact of the minimum wage. A recent meta-study – a formal statistical study of studies – by Doucouliagos and Stanley (2009) reviewed all the research conducted over the last three decades on the employment impact of minimum-wage increases on teenagers in the United States. The researchers concluded that the minimum wage has little or no discernible effect on the employment prospects of low-wage workers. Their study followed a rigorous, peer-reviewed procedure and has the advantage of using a set of predetermined, objective criteria for weighing the validity of statistical findings across studies with different results. (Source: Doucouliagos, Hristos and T. D. Stanley. 2009. “Publication Selection Bias in Minimum-Wage Research? A Meta-Regression Analysis.” British Journal of Industrial Relations,vol. 47, no. 2, pp. 406-428.)

Recent theoretical and empirical research emphasizes several explanations for the consistently negligible employment impacts of moderate increases in the minimum wage. First, relative to total wage costs, minimum-wage increases are small. Second, employers and workers appear to respond to minimum-wage increases in many ways that reduce the direct cost to employers and substantially reduce or eliminate the need to cut employment.

Probably the most important economic response to a higher minimum wage is a reduction in turnover. At higher wages, employers fill vacancies faster and retain employees longer, boosting total employment and average productivity per worker while reducing direct and indirect training costs. Dube, Lester, and Reich (2012), for example, examined the effect of the minimum wage on labor turnover among teens and restaurant workers. They find “...striking evidence that separations, new hires, and turnover rates for teens and restaurant workers fall substantially following a minimum wage increase...” (p. 2) Their findings, using nationally representative data, are consistent with local case studies of the minimum wage and related “living wage” laws, including Dube, Naidu, and Reich’s (2007) analysis of the San Francisco city-wide minimum wage; Fairris’s (2005) study of local government contractors in Los Angeles; Howes (2005) on

homecare workers in California; and Reich, Hall, and Jacobs (2005) on workers at the San Francisco airport. (Sources: Dube, Arindrajit, T. William Lester, and Michael Reich. 2012. "Minimum Wage Shocks, Employment Flows and Labor Market Frictions." Berkeley, CA: Institute for Research on Labor and Employment. http://escholarship.org/uc/item/76p927ks; Dube, Arindrajit, Suresh Naidu, and Michael Reich. 2007. "The Economic Effects of a Citywide Minimum Wage." *Industrial and Labor Relations Review*, vol. 60, no. 4, pp. 522-543; Fairris, David. 2005. "The Impact of Living Wages on Employers: A Control Group Analysis of the Los Angeles Ordinance." *Industrial Relations*, vol. 44, no. 1, pp. 84-105; Howes, Candace. 2005. "Living Wages and the Retention of Home Care Workers in San Francisco." *Industrial Relations*, vol. 44, 5 no. 1, pp. 139-163; Reich, Michael, Peter Hall, and Ken Jacobs. 2005. "Living Wage Policies at the San Francisco Airport: Impacts on Workers and Businesses." *Industrial Relations*, vol. 44, no. 1, pp. 106-138.)

Employers also appear to respond to increases in the minimum wage by taking measures to boost productivity. Hirsch, Kaufman, and Zelenska's (2011) study of the impact of the federal minimum-wage increase on 81 fast-food restaurants in Georgia and Alabama, for example, asked fast-food managers about the scope for efficiency improvements in response to the minimum-wage rise. About 90 percent of managers indicated that they planned to respond to the minimum-wage increase with increased performance standards such as "requiring a better attendance and on-time record, faster and more proficient performance of job duties, taking on additional tasks, and faster termination of poor performers." (p. 27) Roughly the same share of managers said that they sought to "boost morale" by presenting the minimum-wage increase as a "challenge to the store" and using this as a way "to energize employees to improve productivity." (pp. 28-29) Based on their interviews with store managers, the researchers concluded that a minimum-wage increase may function as a "catalyst or shock that forces managers to step out of the daily routine and think about where cost savings can occur." (p. 29) (Source: Hirsch, Barry T., Bruce Kaufman, and Tetyana Zelenska, "Minimum Wage Channels of Adjustment." IZA Discussion Paper No. 6132. Germany: Institute for the Study of Labor. http://www2.gsu.edu/~ecobth/IZA_HKZ_MinWageCoA_dp6132.pdf)

A higher minimum wage may also motivate workers to work harder, independently of any actions by employers to increase productivity. According to "efficiency wage" theory, wages above the competitive-market rate may elicit greater work effort for several reasons. As Carl Shapiro and Joseph Stiglitz (1984) have argued, higher pay increases the cost to workers of losing their job, potentially inducing greater effort from workers in order to reduce their chances of being fired. George Akerlof (1982), arguing from a more sociological point of view, has suggested that workers may see higher wages as a gift from employers, leading workers to reciprocate by working harder. (Sources: Shapiro, Carl and Joseph E. Stiglitz. 1984. "Equilibrium unemployment as a worker discipline device." *American Economic Review*, vol. 74, no. 3, pp. 433-444; Akerlof, George A. 1982. "Labor contracts as partial gift exchange." *Quarterly Journal of Economics*, vol. 97, no. 4, pp. 543-569.)

We therefore conclude that the proposed increase in the Missouri minimum wage would have no discernible impact on the employment levels of low-wage workers. Accordingly, we do not factor in reductions in employment, or any resulting decrease in sales tax or income tax. We also do not project any increased unemployment insurance costs – both because we do not project any resulting job losses, and additionally because unemployment insurance costs are paid for by employer premiums, and so are ultimately not a cost to the state.

## III. State and Local Sales and Personal Income Tax Revenue Impact of Raising the Minimum Wage

Based on the wage impact figures calculated above, and the understanding that the minimum wage increases would be unlikely to result in offsetting job losses, we next calculate the impact of the projected wage increases on state and local sales and personal income tax revenue in Missouri. We project only the direct impact of the three minimum wage increase scenarios on such tax revenue. We do not attempt to project the additional impact through a GDP multiplier effect.

**Increase in Personal Income Tax Revenue and Sales Tax Revenue Due to Increased Wages Personal Income Tax Revenue.** In order to determine the projected increase in personal income tax revenues that would result directly from the increased wages, we had to develop assumptions about the effective income tax rates of the affected workers. We made the following assumptions with respect to the effective tax rate:

1. That 25% of affected workers can be claimed as a dependent on another party's Missouri income tax return and as a result would pay an effective tax rate of 6.0% on the increase in income;
2. That 50% of the affected workers would file as single taxpayers, would claim one deduction of $2,100, and would be entitled to a standard deduction of $5,800. This would result in an effective tax rate of 2.47%;
3. The remaining 25% would, we assumed, would pay no additional Missouri income tax. In light of these assumptions, the increased Missouri income tax revenue for each petition version can be calculated as follows: (total wage increase * 25% * 6.0%) + (total wage increase * 50% * 2.47%) + (total wage increase *25% * 0%).

**Sales Tax Revenue.** The State of Missouri imposes a 4.225% state sales tax on those items that are not exempt from the sales tax base. In addition, the average local sales tax rate is 2.95%. As a result, the average Missouri net sales tax rate is 7.175%. We have conservatively estimated that just 25% of the higher wages would be spent on the purchase of goods that are subject to state and local sales tax in Missouri.

Based upon the above assumptions, and the total wage increase calculations for each version of the petition, we estimate that the increase in state income tax revenue resulting from the increased wages would be as follows:

| Increase in Sales and Personal Income Tax from Increased Wages | | | | | | |
|---|---|---|---|---|---|---|
| **Proposed Min Wage Level** | **Total Wage Increase** | **State Sales Tax (4.225%)** | **Local Sales Tax Revenue (2.95%)** | **Total Sales Tax Revenue Increase** | **Personal Income Tax Revenue** | **Total Sales and Personal Income Tax Revenue Increase** |
| $11.00 | $4,167,807,617 | $44,022,468 | $30,737,581.17 | $74,760,049.13 | $113,989,538 | $188,749,587 |
| $12.00 | $5,508,377,721 | $58,182,240 | $40,624,285.69 | $98,806,525.38 | $150,654,131 | $249,460,656 |
| $15.00 | $10,801,510,192 | $114,090,951 | $79,661,137.67 | $193,752,089.08 | $295,421,304 | $489,173,393 |

Moreover, one often-cited authority on tax information, the Tax Foundation, reports that the average local sales tax rate in Missouri is even higher at 3.53%. See http://taxfoundation.org/article/state-and-local-sales-taxes-midyear-2012 If one uses this higher rate, total revenue increases additionally by hundreds of thousand dollars.

We hope that this information is useful to your office as your prepare your analyses of the petitions.

Respectfully submitted,
Lara Granich
Missouri Jobs with Justice Voter Action

**Edward D. Greim** provided the following information as an opponent of this initiative petition.

He writes on behalf of Robert Bonney. Mr Bonney is the Chief Executive Officer of the Missouri Restaurant Association. Please consider this letter and the accompanying studies as his fiscal impact statement as an opponent of Initiative Petitions 2016-045, 2016-046 and 2016-047 (the "Initiative Petitions"). If passed, any of these three initiatives would have a substantial negative impact on state and local governments.

The two fiscal impact studies attached hereto were authored by Dr. David Macpherson, a nationally-recognized labor economist and expert on the impact of minimum wage increases. In reviewing previous minimum wage petitions, the Auditor's Office has previously found Dr. Macpherson's analyses to be helpful and persuasive.

The first study was prepared by Dr. Macpherson in June 2014 and details how a $10.10 per hour minimum wage would have impacted Missouri and the St. Louis area were it to have become effective in 2015. See Exhibit A. In addition to the estimated loss of nearly 15,000 jobs statewide, Dr. Macpherson estimated that the cost to taxpayers of a $10.10 minimum wage would be $87 million annually. While this study did not address the specific proposals in the Initiative Petitions, Dr. Macpherson's methodology applies directly to the impact of the proposed minimum wage increases.

The second fiscal study was reviewed and used by this office in evaluating earlier minimum wage proposals. It was prepared by Dr. Macpherson in March 2012 and details the impact of a statewide minimum wage increase to $8.25 per hour. This study is attached hereto as Exhibit B. In this study, Dr. Macpherson concluded that state and local entities would pay out $16 million in increased wages. What's more, Dr. Macpherson estimated that the net state and local fiscal impact would range from a loss of over $22 million to a loss of $13 million. While this study is now three years old, the analysis is pertinent to the proposed wage increase in the Initiative Petitions. Notably, using Dr. Macpherson's methodology, the heightened minimum wage proposals contained in the Initiative Petitions would have a substantially greater negative fiscal impact than that found in the 2012 study.

The proponents of the Initiative Petitions will likely rely on data sourced from political activist groups who claim increases in minimum wage only serve to create new taxable income. The reality is that such groups approach this issue with indisputable political bias. Further, that type of analysis is one-sided, disregarding the significant impact on Missouri businesses. True, some workers will collect increased wages, but no new money is created; Missouri businesses will be the source of the increase which will lower their taxable income and, from time to time, cause them to forego hiring or to cut employment. Regarding secondary employment and tax revenue effects, the Auditor must refrain from assessing only one half of the wage increase equation.

In addition, the most significant and most direct effect of a minimum wage increase is the amount of the increased wages that will actually be paid by state and local governments. As has been shown during prior efforts to increase the minimum wage, very few of the

hundreds of state and local entities who actually employ minimum wage workers will take the time to provide fiscal impact estimates in response to the Auditor's requests. Further, the Auditor's requests are simply sent to a sample of governmental employers. The more appropriate method to calculate the fiscal impact of the wage increase is to use the actual number of minimum wage workers who work for state and local governments, as calculated by the United States Census Bureau's CPS. Rather than simply adding the sums reported in the scattershot and unreliable fiscal note responses from state and local entities, the Auditor should supplement them with broader analyses such as those of Dr. Macpherson. At the very least, the Auditor should state in the fiscal note summary that state and local impacts are "large" or "substantial," rather than simply reporting impacts of "at least" the few thousand dollars in costs that may or may not be reported by those local entities that take the time to respond to the Auditor's sampling.

Finally, the proponents of the Initiative Petitions may argue that the Auditor should abandon the state and local cost estimates altogether. The proponents will argue that a new provision they have inserted in the statute would make the increases apply only if "there are appropriations for wages at those [i.e., the newly-increased] rates." The proponents will urge the Auditor's Office to assume that legislators will not actually fund the increases, and that therefore there will be no cost to taxpayers. Setting aside unjustifiable projections about the political judgments of legislators, the provision is of uncertain legal effect and constitutionality. On the one hand, it may not change existing law, since arguably the legislature always has the power to reduce or increase appropriations. But it is also unclear whether the legislature has the power to fix wage rates within an appropriations bill, or whether a mere statutory petition can confer this type of power upon the legislature. The application of the requirement for a specific type and manner of appropriation is also unclear in the context of political subdivisions and other public bodies whose funds are generally not appropriated by the general assembly. These are just a few examples of the serious flaws with the proposal itself that may have to be addressed by the courts. Suffice it to say that as a matter of law, it would be insufficient and unfair for the Auditor's fiscal note or summary to simply assume that these legal issues do not exist, or to make a political judgment that legislators will not in fact fund any of the minimum wage increases at any level of state government. Such assumptions would only serve to artificially deflate the fiscal note and fiscal note summary by tens of millions of dollars.

June 2014

MISSOURI
Restaurant Association
*Eat Out Often!*

# The Impact of a $10.10 Minimum Wage on Jobs and Taxpayer Costs in Missouri

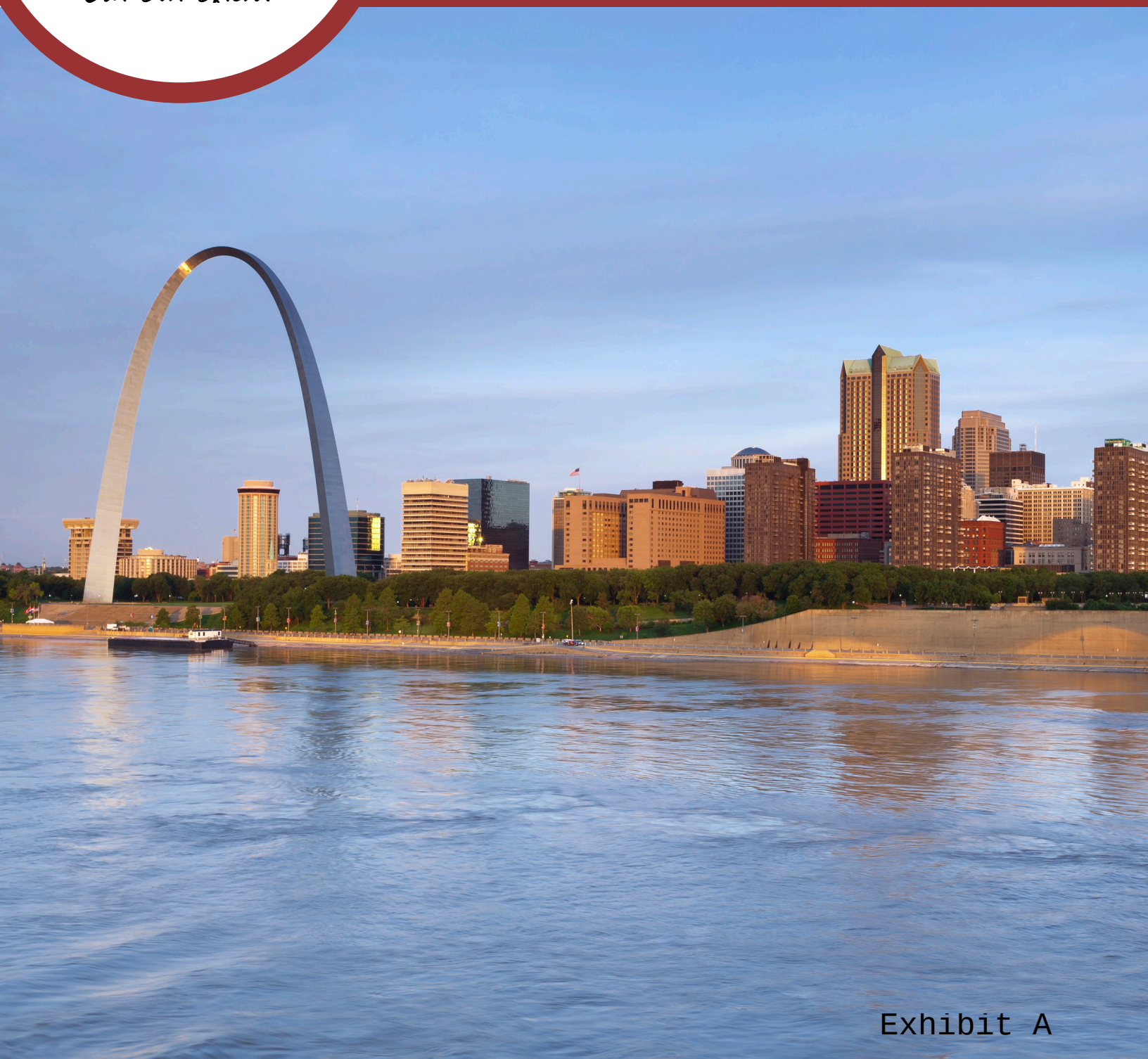

Exhibit A

# ABOUT THE MISSOURI RESTAURANT ASSOCIATION

With origins dating back to 1916, the Missouri Restaurant Association (MRA) is a statewide trade association representing over 1,500 member establishments. The association's membership is diverse, and includes full service, fast casual, and quick service restaurants, cafeterias, hotels, schools, institutions, contract feeders, and ancillary foodservice providers such as theme parks. The association has been successful in securing support from virtually every segment of the foodservice and hospitality industry.

MRA includes seven chapters as extensions of the parent organization, each with its own Officers, Board of Directors, and limited budget. The association is governed by a Board of Directors comprised of five Officers, 33 Directors, and each President of the seven affiliated chapters.

MRA is dedicated to serving the needs of the foodservice and hospitality industry, enhancing and improving its growth and development, assisting and educating its members in operating more effectively, improving the political and social environment in which the industry conducts business, for the benefit of its members, patrons, employees, and the well-being of the community.

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David A. Macpherson is the E.M. Stevens Professor of Economics at Trinity University. He received undergraduate and doctoral degrees in economics from Pennsylvania State University.

Dr. Macpherson has published over 60 articles in leading economics and real estate journals including Review of Economics and Statistics, Industrial and Labor Relations Review, Journal of Labor Economics, Journal of Human Resources, and Journal of Real Estate Economics and Finance. His research has been funded by a variety of entities including the National Science Foundation, Florida Legislature, and the National Association of Realtors. He is co-author of the undergraduate labor economics text, Contemporary Labor Economics, as well as the principles of economics text, Economics: Private and Public Choice. He is included in Who's Who in Economics, Fourth Edition, which includes the 1,200 most frequently cited economists.

# THE IMPACT OF A $10.10 MINIMUM WAGE ON JOBS AND TAXPAYER COSTS IN MISSOURI

June 2014

Economic Analysis by **Dr. David Macpherson**
**Trinity University**

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# EXECUTIVE SUMMARY

Missouri's minimum wage of $7.50 is linked to rise in most years with the inflation rate. But some state legislators and labor unions would like to raise that figure even higher. For instance, a recent labor union-organized bus tour in the state promoted a $10.10 minimum wage in St. Louis.

Proponents have enthusiastically pointed to the benefits of the $10.10 policy. But there's been far less discussion of the costs involved with a $10.10-an-hour minimum wage—both the cost on employment, and the cost to taxpayers.

In this study, labor economist David Macpherson of Trinity University uses Census Bureau data to estimate the impact on Missouri's labor market and budget from raising the minimum wage to $10.10 an hour. He also provides separate results for the St. Louis metropolitan area.

Dr. Macpherson's employment estimates follow the methodology used by the nonpartisan Congressional Budget Office in its report earlier this year estimating the impact of a $10.10 minimum wage nationwide, which in turn relied on 60 different empirical studies to formulate its estimates.

Statewide, he finds that over 15,000 jobs would be lost at the $10.10 wage level—with 9,300 of those jobs being held by women. In the St. Louis metropolitan area, approximately 4,800 jobs would be lost from a $10.10 minimum wage.

The cost to taxpayers would be significant: There are approximately 40,000 state and local employees whose wages would be affected by the $10.10 increase in Missouri, for a combined cost to taxpayers of $87 million annually.

Raising wages is an admirable goal, but the evidence suggests that accomplishing this goal with a blunt wage mandate could do more harm than good.

# RESULTS

The minimum wage is one of the most hotly-debated topics in the political world. Some legislators claim that a higher base wage will stimulate the economy; others claim that it will reduce jobs when affected employers can't offset the higher costs through higher prices.

Economists, who have studied the issue since the late 1940s, tend to take a skeptical view of minimum wage increases. Since the early 1990s, for instance, roughly 85 percent of the most credible research on the minimum wage points to job loss for less-skilled groups. The nonpartisan Congressional Budget Office (CBO), in an evaluation of President Obama's proposed $10.10 minimum wage increase, reviewed 60 different studies and concluded that the policy would eliminate 500,000 jobs if enacted.

The estimates that follow, of the employment impact of a higher minimum wage on Missouri's labor market, were performed by Dr. David Macpherson of Trinity University. Dr. Macpherson followed closely the methodology used by the CBO in its 2014 report. Dr. Macpherson also estimates the taxpayer costs of a higher minimum wage, as many state and local public employees will see their earnings increase when the minimum wage rises.

Dr. Macpherson's methodology is presented in detail in a technical appendix.

## Estimated Employment Effects of a $10.10 Minimum Wage in Missouri

Statewide, Dr. Macpherson finds that increasing the minimum wage to $10.10 would eliminate over 15,000 jobs—approximately 60 percent of which are jobs held by women. The bulk of the job losses would be concentrated among individuals with a high school degree or less, and among people who work in the retail or leisure & hospitality industries.

(Note: Totals have slight discrepancies due to rounding.)

**Estimates by Gender**

| | *Job Losses* |
|---|---|
| **Male** | 6,311 |
| **Female** | 9,364 |
| **TOTAL** | **15,705** |

**Estimates by Age**

| *Age* | *Job Loss* |
|---|---|
| **<=21** | 9,237 |
| **22-25** | 1,532 |
| **26-30** | 1,023 |
| **31-40** | 1,175 |
| **41-50** | 980 |
| **51 +** | 1,759 |

**Estimates by Race**

| *Race* | *Job Loss* |
|---|---|
| **White** | 13,299 |
| **Black or Other Race** | 2,406 |

# RESULTS CONTINUED

| Top Three Industries Affected | |
|---|---|
| *Industry* | *Job Loss* |
| **Retail Trade** | 3,835 |
| **Arts, Entertainment, Recreation, Accommodations, and Food Services** | 6,039 |
| **Healthcare** | 1,199 |

| Estimates by Education | |
|---|---|
| *Education* | *Job Loss* |
| **Less than High School** | 5,555 |
| **High School Grad, No College** | 4,921 |
| **Some College** | 4,428 |
| **Undergrad or Graduate Degree** | 802 |

## City-Specific Minimum Wage Employment Impacts

The city of St. Louis has been the subject of a number of protests calling for a higher minimum wage. Dr. Macpherson analyzed the employment impact of a $10.10 minimum wage in the St. Louis metropolitan area, providing breakouts by gender and education where the data permits. He estimates that the wage hike would eliminate approximately 5,000 jobs—just over half of which would be jobs held by women.

| Impact on St. Louis Metro Area of a $10.10 Minimum Wage | |
|---|---|
| *Gender* | *Job Loss* |
| **Male** | 2,033 |
| **Female** | 2,767 |
| **TOTAL** | **4,800** |
| *Race* | *Job Loss* |
| **White** | 3,641 |
| **Black or Other Race** | 1,158 |
| *Education* | *Job Loss* |
| **High School Grad or Less** | 3,097 |
| **Some College, Undergrad or Graduate Degree** | 1,703 |

# RESULTS CONTINUED

## Missouri Taxpayer Costs of a $10.10 Minimum Wage

Dr. Macpherson estimates that approximately forty thousand state & local public employees would be affected by a minimum wage increase to $10.10 an hour. These additional wage costs translate to new costs for state and local taxpayers. Following the methodology described in detail in the technical appendix, Dr. Macpherson estimates both the straight wage cost of a $10.10 minimum wage, as well as the total compensation cost with Social Security, Medicare, workers compensation, and unemployment insurance included. Statewide, taxpayers would shoulder an additional $87 million in costs if the base wage was increased to $10.10 an hour and public employees were covered by the new wage.

| Missouri Taxpayer Costs of a $10.10 Minimum Wage | |
|---|---|
| **# of State & Local Workers** | 304,588 |
| **# Affected By $10.10 MW** | 40,103 |
| **Annual Wage Cost** | $79,629,374 |
| **Annual Compensation Cost** | $87,004,355 |

*Note: Annual compensation costs include the cost of worker's compensation, FICA, and unemployment insurance benefits.*

MISSOURI Restaurant Association
Eat Out Often!

# TECHNICAL APPENDIX

## Estimating Employment Loss and the Cost to State and Local Government of an Increase in the Minimum Wage

**Dr. David Macpherson**
**E.M. Stevens Professor of Economics**
**Trinity University**

This paper describes how we estimate the employment loss and the cost to state and local governments of a proposed increase in the minimum wage effective on January 1, 2015.

## Data and Sample

First, we use data from the Current Population Survey (CPS) Outgoing Rotation Groups (ORG) from January 2011 through December 2013. For each worker in the sample, we calculate their wage rate. We also adjust the wage rate to reflect a forecast of wages in 2015. This is done in two steps. First, based on legislation enacted as of April 2014, we estimate the minimum wage that would be in effect in January 2015 for each state and city that we consider. If a state or city has an indexed minimum wage, we increase the January 2014 state or city minimum wage by the Congressional Budget Office (CBO) inflation forecast for 2014 of 1.7%.

Since we use data from 2011 through 2013, we also follow the CBO approach for forecasting what the wage distribution would be in 2015. This is done in two steps. First, we adjust wages observed prior to 2013 to reflect 2013 minimum wage legislation. For example, if the minimum wage in a state was $7.25 in 2011 and grew to $8.00 by 2013, anyone who earned between $7.25 and $8.00 in 2011 would have their wage increased to $8.00. After wages are adjusted to 2013 levels, we assume that all wages grow by 2.9% in 2014. Using the resulting 2015 distribution of wages, we adjust for minimum wage legislation that would increase the minimum between 2013 and 2015. Anyone earning a wage between the 2013 and 2015 minimum wage is assigned a wage matching the 2015 minimum wage.

After generating the forecast 2015 distribution of wages reflecting wage growth and existing minimum wage legislation, we identify workers who would be affected by additional changes to the 2015 minimum wage as those with wages between the predicted minimum wage legislated for 2015 (or up to $.25 below it) and the proposed minimum.

To estimate the number of affected workers, we take two steps. First, for each state, we estimate the number of affected workers for 2013. Second, we adjust the weights in the 2011 and 2012 data so that the state-specific number of affected workers implied by the 2011 and 2012 data matches that for 2013. This adjustment is designed to correct for the changing economic climate as the economy recovers from the great recession and to generate estimates that are as close as possible to the most recent data (2013). After we adjust the 2011 and 2012 weights, we estimate the number of affected workers by summing their earnings weights and dividing the total by 36 (the number of months of data).

[1] Also, following CBO, anyone earning up to $.25 less than the 2011 minimum wage would have their wage increased by the amount that the minimum wage increased (i.e. a $7.00 wage would be increased to $7.75 in this example). This approach is used to adjust for the fact that many workers round their answers when asked about their wage.

# TECHINCAL APPENDIX CONTINUED

## Employment Loss

To estimate employment loss, for each affected worker we compute:

**L = e *(Proposed Min Wage /Min Wage 2015 – 1)**

where e is an assumed elasticity of employment with respect to changes in the minimum wage, Min Wage 2015 is the minimum wage currently legislated for 2015, and Proposed Min Wage is the minimum wage that is being proposed for 2015. Thus, for example, if a worker is projected to earn the federal minimum of $7.25 in 2015, the expected reduction in employment resulting from a $10.10 minimum wage in 2015 if e=.45 is .45*(10.10/7.25 – 1) = .18. That is, for every 100 workers currently earning the federal minimum, the expectation is that 18 would lose a job if the minimum wage elasticity is .45.

To estimate the aggregate employment loss in the economy, we use earnings weights to sum L across workers. We also follow the Congressional Budget Office (2014) and use an elasticity of 0.15 for non-teenagers and 0.45 for teenagers.

## Cost to State and Local Government

We use the same data to estimate the cost to state and local government of a proposed minimum wage hike. We apply the same definition of affected workers described above and estimate the number of state and local government workers affected by a minimum wage hike. We do not, however, assume that there is any job loss for state and local workers as we do not have an appropriate elasticity estimate specific to state and local workers. To the extent that state or local governments reduce hours or employment in response tothe minimum wage hike, our estimate of the cost of the hike would be overstated.

To estimate the increase in annual payroll cost resulting from an increase in the minimum wage, we estimate the increase in annual cost for each worker as:

**(Proposed Min Wage-Min Wage 2015)*weekly hours*52**

We then multiply the increase in annual cost by the earnings weight for each worker and sum across workers. Since an increase in wages also requires increased employer contributions for Social Security, Medicare, workers' compensation and unemployment insurance, we apply an estimate of the payroll tax rate for these mandatory programs to calculate the additional cost for these programs.

For each state and city considered, we provide tables summarizing the number of affected workers, employment loss, and the distribution of employment loss by sex, education, race, age and industry. Given that we use three years of data, a rule of thumb for minimum sample size required to achieve a reasonably accurate estimate of the employment loss is to require at least 30,000 people be in the relevant category. For example, if there are fewer than 30,000 people projected to be in a particular industry category, the Bureau of Labor Statistics would not report the estimate due to a lack of reliability based on the variance of the estimate relative to its mean.

In addition to the estimate of employment loss, for each state or city considered, we estimate the number of state and local workers that would be affected by the minimum wage hike and the total annual cost to government in terms of wages and total compensation. As with the employment estimates, we advise caution in interpreting estimates that are based on fewer than 30,000 affected workers.

[3] Congressional Budget Office, "The Effects of a Minimum-Wage Increase on Employment and Family Income," February 2014.

[4] For workers paid by the hour the reported hourly wage was used. For workers who are not paid by the hour, we calculate the hourly wage by dividing usual weekly earnings by usual weekly hours. Overtime pay was calculated as time and one-half for hours above 40 hours for hourly workers.

[5] The assumed payroll tax for Medicare and Social Security is 7.65 percent. To estimate the payroll tax for workers' compensation and unemployment insurance, we use unpublished data from the 2010 Employer Cost of Employee Compensation database for state and local workers in the relevant region in 2010.

# FISCAL ANALYSIS
# OF
# PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

**Prepared for**

**Victor Allred versus Robin Carnahan and Thomas Schweich**
**Circuit Court of Cole County, Missouri**

**Prepared by**

**David A. Macpherson, Ph.D.**
**125 Park Drive**
**San Antonio, TX 78212**

**March 26, 2012**

Exhibit B

# FISCAL ANALYSIS
# OF
# PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085

## I. Introduction

This report was undertaken at the request of counsel representing plaintiffs in the case of Victor Allred versus Robin Carnahan and Thomas Schweich. As part of the basis of the lawsuit, the plaintiffs allege that the fiscal note summaries for proposed statutory initiative petitions 2012-084 and 2012-085 are insufficient and unfair. I was asked by counsel to evaluate the fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085.

The results of my analysis indicate:

(1) labor costs to state and local government entities, based on state auditor fiscal notes, will rise by more than $1,352,182. A more inclusive estimate indicates that state and local government labor costs will increase by $16,003,712;

(2) unemployment benefit costs will rise by $4,397,510 during the first year of the minimum wage increase;

(3) individual income tax revenue will rise by at most $4,078,088;

(4) the loss in corporate income tax revenue could be as high as $9,243,105;

(5) state and local sales tax revenue will rise by at most $2,919,327;

(6) during the first year: state and local governments will incur increased costs of $20,401,222; the change in state and local government revenue will

range from -$2,245,690 to +$6,997,415; and the net state and local government fiscal impact will range from -$22,646,912 to -$13,403,807.

The report is organized as follows. My qualifications to prepare this report are contained in Section II. Section III describes the data and records I relied upon for this report. Section IV reviews the estimated fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085. A summary and my conclusions are provided in Section VI.

## II. Qualifications

I am currently the E.M. Stevens Professor of Economics at Trinity University in San Antonio, Texas. Previously, I was employed by Florida State University as Director of the Pepper Institute on Aging and Public Policy and the Rod and Hope Brim Eminent Scholar in Economics. I have taught both undergraduate and graduate Econometrics (statistical analysis of economic data), and Labor Economics. I have published over 50 articles in peer-reviewed professional journals.

I am currently serving on the editorial board of the *Journal of Forensic Economics*, which is a peer-reviewed journal. I have also served as a reviewer or 'referee' for 24 peer-reviewed journals, including the *Journal of Human Resources, Journal of Labor Economics, Quarterly Journal of Economics,* and the *Review of Economics and Statistics*. Based upon these experiences, I am very familiar with the scholarly and professional research process and the concept of peer review.

I have prepared numerous analyses and reports that use statistical methods as applied to specific questions. I have been responsible for developing the techniques and approaches required for these analyses. I routinely use computers and statistical software packages to assist me in my analytical work. I have been qualified as an expert witness on statistical analysis of employment discrimination and economic damages in state courts in Florida and Georgia and Federal Courts, and I have given expert testimony. I have prepared analyses and offered testimony on behalf of both plaintiffs and defendants.

Details of my qualifications are reflected in my current resume and legal cases, attached as Appendix A to the report.

## III. Data and Records

I reviewed the following materials in preparing this report.

- Plaintiff's Complaint
- Material cited in footnotes below.

## IV. Fiscal Impact

*A. Overview*

The proposed statutory initiative petitions 2012-084 and 2012-085 contain many elements in common. Both initiatives would increase the Missouri minimum wage to $8.25 per hour, alter the exemption for retail and service firms, raise the cash wage of tipped workers from 50% to 60% of the minimum wage, and increase the statute of limitation from two to three year for underpayment claims.

The initiatives differ in their linkage to the federal minimum wage. Initiative petition 2012-084 requires that the state minimum wage be automatically increased to the

federal minimum wage if it is higher than the state minimum wage. Initiative petition 2012-085 does not have such a linkage. It only requires that workers be paid the higher of the state minimum wage or the federal minimum wage. The linkage to the federal minimum wage will cause the state minimum wage to be higher under initiative petition 2012-084 over time. This is because the state minimum wage, in contrast to the federal minimum wage, is adjusted for inflation as measured by the Consumer Price Index.

An increase in the minimum wage in Missouri will affect state and local government entities in two ways. First, it will directly increase the cost of labor to state and local government entities. This will occur due to the increase in wages of state and local government workers earning between the existing minimum wage of $7.25 and the new minimum wage of $8.25.[1] In addition, workers laid off due to the minimum wage increase can collect unemployment benefits. The state government will bear the cost of unemployment benefits of these workers for the first 20 weeks. Second, state and local government may gain increased revenue through higher income tax and sales taxes paid by workers affected by the minimum wage who remain employed. However, state and local government will suffer reduced tax revenue to the extent the higher wage cost lowers profits of businesses.

The following sections estimate the cost and revenue effects to state and local government entities of the proposed minimum wage increase.

[1] Information about the minimum wage in Missouri is available at http://www.labor.mo.gov/DLS/minimumwage/.

*B. Direct Labor Cost Impact on State and Local Government Budgets*

There are two possible ways to measure the direct labor cost on state and local government budgets. First, one can use the information included in the fiscal notes prepared by the State Auditor regarding the proposed initiatives. It is important to note that the fiscal notes provide an incomplete and thus too low estimate of the direct labor cost. The fiscal notes indicate that the Office of Administration's (OA) Division of Personnel reported that as of September 2011 there were 834 state workers who would be affected by an increase of the minimum wage to $8.25 and the "approximate annual cost" would be more than $540,000.

This OA estimate excludes seasonal workers such as State Fair employees, State Parks Employees, and tax season staff. The Division of Revenue noted its labor cost would rise by $40,000. The Division of Natural Resources stated they have over 500 workers who would be affected by the increase, but did not provide an estimate of the cost. The State Fair hired 745 workers that would be affected, but no cost estimate was provided.

Thus, the cost to state government, based on the fiscal notes, would be more than $580,000.

The fiscal notes also provide an incomplete and thus too low measure of the cost to local government and public educational institutions. Many cities and educational institutions did not respond to Office of Auditor's survey or provide an estimate of the cost of the higher minimum wage. The City of Columbia, City of Jefferson, City of

Joseph, Linn State Technical College, and Metropolitan Community College did provide such an estimate. The total cost to these five institutions is $772,182.

Based on the fiscal notes, the cost to state and local government entities of the increase in the minimum wage to $8.25 will be more than $1,352,182.

Second, data from the U.S. Census Bureau's Current Population Survey (CPS) can also be used to calculate the cost of the increased labor cost to state and local government entities in Missouri. Using the data from January 2010 to December 2011 Outgoing Rotation Group (ORG) CPS, I calculated that 17,089 state and local government workers would be affected by the minimum wage increase. I defined affected workers as those individuals earning between $7.00 and $8.24 per hour. Though the minimum wage was $7.25 per hour during this period, I also included those workers reporting earnings of $7.00 to $7.24 since some individuals may round their wage rate. I calculated the annual wage cost for each state and local government worker (i) in the ORG CPS as:

$$Annual\ Wage\ Cost_i = (\$8.25 - current\ wage_i) * weekly\ hours_i * 52.$$[2]

The average annual wage cost increase was $870. I summed the cost over each worker (i) to obtain the total wage cost to state and local government entities in Missouri of $14,866,430.

The increased wage cost is not the only labor cost to state and local government entities of the minimum wage increase. Employers are required to pay 7.65% of their wage costs in Social Security and Medicare taxes. Thus, the total labor cost of the minimum wage increase will be 1.0765 times $14,866,430 or $16,003,712.

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[2] I assume that persons reporting an hourly wage rate between $7.00 and $7.24 are actually earning $7.25 per hour.

*C. Unemployment Benefit Impact*

The higher minimum wage will cause firms to reduce their level of employment.[3] As a result, the number of unemployed workers will increase. Thus, another important fiscal cost of the minimum wage increase is the cost of the unemployment insurance benefits for the workers laid off as a result of the minimum wage increase.

To calculate the cost to the unemployment benefits program, I first calculated the number of workers laid off. To do so, I calculated a probability of job loss for each affected Missouri worker (i) in the January 2010 to December 2011 ORG CPS:

$$Probability\ Job\ Loss_{\ i} = \frac{(\$8.25 - Current\ Wage_i)}{Current\ Wage_i} * elasticity_i.$$

I used the preferred employment elasticity (i.e., sensitivity of employment to wage changes) contained in Sabia and Burkhauser (2010), which was -0.6 for individuals aged 16 to 29 without a high school degree and -0.2 for all other individuals. The sole exception was for state and local government workers, where I assumed an elasticity of zero.[4] The sum across all affected workers yielded an estimated job loss of 5,745 jobs.

The next step was to calculate the weekly benefit for the average unemployed worker. Using the benefits calculator on the Missouri unemployment benefits web site and the wage income of average private-sector affected worker ($10,937), yields an average weekly benefit of $109.36[5]. The state of Missouri pays the first 20 weeks of benefits.[6] Thus, each eligible unemployed worker could receive a total of $2,187.20 in

[3] For a survey of research regarding the effect of the minimum wage on employment, see David Neumark and William L. Wascher, *Minimum Wages* (Cambridge, MA: MIT Press, 2008).
[4] Joseph J. Sabia and Richard V. Burkhauser, "Minimum Wages and Poverty: Will a $9.50 Federal Minimum Wage Really Help the Working Poor?" *Southern Economic Journal* (January 2010): 592-623.
[5] http://www.labor.mo.gov/DES/Claims/calculator.asp
[6] See http://www.labor.mo.gov/DES/Claims/

benefits paid for by the state of Missouri. These jobs are permanently eliminated and so it is appropriate to calculate the full amount of benefits for each worker.

Unemployment insurance, however, does not cover all unemployed workers. For example, it does not cover people who leave a job voluntarily, people looking for their first job, and re-entrants who previously left the labor force voluntarily. Furthermore, some individuals don't apply for benefits even though they are eligible. I assume that 35% of the unemployed workers will receive unemployment benefits based on analysis by Wenger (2001).[7]

The last step is to calculate the total cost to the Missouri unemployment benefits program. This done by multiplying the number of jobs lost (5,745) times the average benefit amount ($2,187.20) times the percent of unemployed individuals collecting benefits (35%). This calculation yields a figure of $4,397,510. This cost would be borne only during the first year of the minimum wage increase. The inflation adjustments in the minimum wage will also yield costs to the unemployment insurance program, but it is not possible to estimate the amount.

*D. Impact on State Income Tax Revenue*

The state of Missouri will gain increased revenue through higher income tax taxes paid by workers affected by the minimum wage who remain employed. However, it will

[7] Jeffery Wenger. "Divided We Fall: Deserving Workers Slip through America's Patchwork Unemployment Insurance System." *Economic Policy Institute*, 2001. Sabia and Burkhauser (2010) make the same assumption in their calculation of the amount of unemployment benefits generated by a minimum wage increase.

suffer reduced corporate income tax revenue to the extent the higher wage cost lowers profits of businesses.

To calculate the impact on individual income tax revenue, I again used data from January 2010 to December 2011 ORG CPS. I defined affected workers as those Missouri individuals earning between $7.00 and $8.24 per hour.[8] I used the following formula to estimate the change in income tax revenue:

$$\Delta Tax\ Revenue_i = (Tax_After_i - Tax_Before_i) - Prob_Job_Loss_i * Tax_Before_i,$$

where $Tax_After_i$ is the income tax paid by worker i after the minimum wage increase. $Tax_Before_i$ is the income tax paid by worker i after the minimum wage increase, and $Prob_Job_Loss_i$ is the probability of job loss for worker i. The first term shows the change in individual income tax revenue assuming no job loss and the second term shows the loss in tax revenue due to the employment loss caused by the minimum wage increase.

The income tax calculations were based on two assumptions.[9] First, the 50% percent of affected workers who were under the age 25 who were assumed to be dependents on another person's tax return. As a result, it was assumed that the affected workers' earnings were taxable at the maximum Missouri income tax rate of 6% both and after the minimum wage increase.[10] Second, all persons age 25 and older were assumed to be paying little or no income tax after exemptions and deductions. Thus, about 50% of the earnings increase will be taxed at a rate of 6%.

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[8] I again assume that persons reporting an hourly wage rate between $7.00 and $7.24 are actually earning $7.25 per hour. The annual earnings level was calculated as the worker's wage rate times usual weekly hours worked times 52.

[9] The same assumptions are used in the State Auditor's fiscal notes for the initiatives.

[10] This assumption will overstate the revenue increase as 20% of affected workers under the age 25 are living by themselves and some of these individuals will not be a dependent on another person's tax return.

The tax calculations reveal an increase in income tax revenue increase to the state. Assuming no workers were laid off by the minimum wage increase, income tax revenue would rise by $6,043,534. However, the state will lose $1,965,446 in income tax revenue due to the lost earnings of private-sector workers no longer employed due to the minimum wage hike.[11] Thus, the net increase in individual income tax revenue is $4,078,088.

Businesses have three options to respond to the higher labor costs of a higher minimum wage. They can reduce their profits, raise prices, or lay off workers. Based on the 2010-2011 ORG CPS data, the minimum wage increase will raise private-sector labor costs by $192,620,900 if employment levels are not reduced. However, labor costs will be lowered by $55,240,790 due to the reduction in employment. Thus, labor costs will, on net, rise by $137,380,110. These increased labor costs may be either passed on to consumers through higher prices or reduced profits or more likely some combination of higher prices and reduced profits. Assuming that businesses absorbed all of the higher costs through reduced profits, the corporate income tax revenue would fall by the Missouri corporate income tax of 6.25% times the rise in labor costs of $137,380,110 * 1.0765 (to account for employer-paid Social Security and Medicare taxes) or $9,243,106.[12] Alternatively, if half of the higher labor costs were passed on to consumers, then corporate income tax revenue would fall by $4,621,553.

[11] The probability of job loss was calculated in the same manner as in the prior section.
[12] The corporate income tax for Missouri is available at: http://dor.mo.gov/business/corporate/

*E. Impact on State and Local Sales Tax Revenue*

To calculate the impact on state and local sales tax revenue the following approach was undertaken.[13] First, the total increase in worker earnings, adjusted for employment reductions, was calculated using the 2010-2011 ORG CPS. This figure was $152,246,540. Second, the increase in Missouri taxable sales was calculated as 25% of the earnings increase or $38,061,635. Third, the increase in sales tax revenue was calculated by multiplying the taxable sales change times the average state and local rate of 7.67% or $2,919,327.[14]

The higher minimum wage may decrease sales tax revenue to the extent that it reduces business profits, which will lower spending by business owners.

## VI. Summary and Conclusions

I was asked by counsel to evaluate the fiscal impact of proposed statutory initiative petitions 2012-084 and 2012-085.

The results of my analysis indicate:

(1) labor costs to state and local government entities, based on state auditor fiscal notes, will rise by more than $1,352,182. A more inclusive estimate indicates that state and local government labor costs will increase by $16,003,712;

[13] The same general approach is used in the State Auditor's fiscal notes for the initiatives.
[14] The average rate comes from http://taxfoundation.org/news/show/27023.html

(2) unemployment benefit costs will rise by $4,397,510 during the first year of the minimum wage increase;

(3) individual income tax revenue will rise by at most $4,078,088;

(4) the loss in corporate income tax revenue could be as high as $9,243,105;

(5) state and local sales tax revenue will rise by at most $2,919,327;

(6) during the first year: state and local governments will incur increased costs of $20,401,222; the change in state and local government revenue will range from -$2,245,690 to +$6,997,415; and the net state and local government fiscal impact will range from -$22,646,912 to -$13,403,807.

**FISCAL ANALYSIS**
**OF**
**PROPOSED STATUTORY INITIATIVE PETITIONS 2012-084 AND 2012-085**

David A. Macpherson

David A. Macpherson, Ph.D.
March 26, 2012

# Appendix A

## Resume and Testimony of David A. Macpherson, Ph.D.

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## Current Positions

E.M. Stevens Professor of Economics, Trinity University, 2009-
Research Fellow, Institute for the Study of Labor (IZA), Bonn, 2004-.

## Previous Positions

Rod and Hope Brim Eminent Scholar in Economics, FSU 2004-2009.
Director, Pepper Institute on Aging and Public Policy, FSU, 2003-2009.
Abba P. Lerner Professor of Economics, FSU, 2000-2009.
Professor, Department of Economics, Florida State University, 1996-2009.
Director of Research, Pepper Institute on Aging and Public Policy, FSU, 1995-2000.
Associate Professor, Department of Economics, Florida State University, 1993-1996.
Research Associate, Pepper Institute on Aging and Public Policy, FSU, 1993-2001, 2003-2009.
Visiting Associate Professor, Department of Economics, Florida State University, 1992-1993.
Research Affiliate, Pepper Institute on Aging and Public Policy, FSU, 1992-1993, 2001-2003.
Associate Professor, Department of Economics, Miami University, 1991-1993.
Assistant Professor, Department of Economics, Miami University, 1987-1991.

## Research Areas

Labor Economics, Labor Market Aspects of Pensions, Labor Unions, Racial and Gender Differences in the Labor Market, Minimum Wage, Deregulation.

**Teaching Areas**

Principles of Microeconomics and Macroeconomics, Intermediate Microeconomics, Money and Banking, Econometrics (undergraduate and graduate), Labor Economics and Labor Relations (undergraduate and graduate).

**Books**

*Economics: Private and Public Choice*, 14th edition, Southwestern: Cincinnati, OH, 2013, with James Gwartney, Richard Stroup, and Russell Sobel. Co-author on 10th, 11th, 12th, and 13th editions as well.

Instructor's Manual for *Economics: Private and Public Choice*, 14th edition, Southwestern: Cincinnati, OH, 2013. Author for instructor's manual for 10th, 11th, 12th, and 13th editions as well.

*Union Membership and Earnings Data Book: Compilations from the Current Population Survey (2011 Edition)*, Bureau of National Affairs, Washington, D.C., with Barry Hirsch.

Previous Editions: *Union Membership and Earnings Data Book: Compilations from the Current Population Survey* (Washington: Bureau of National Affairs, 1994-2010).

Tables derived from the *Data Book* are included in U.S. Department of Commerce, *Statistical Abstract of the United States 2011,* 130th Edition (Washington: GPO, 2011), Tables 663, 665; *Statistical Abstract of the United States 2010,* 129th Edition (Washington: GPO, 2010), Tables 648, 650; *Statistical Abstract of the United States 2009,* 128th Edition (Washington: GPO, 2009), Tables 642, 644; *Statistical Abstract of the United States 2008,* 127th Edition (Washington: GPO, 2008), Tables 642, 644; *Statistical Abstract of the United States 2007,* 126th Edition (Washington: GPO, 2006), Tables 645, 647; *Statistical Abstract of the United States 2006*, 125th Edition (Washington: GPO, 2005), Tables 647, 649; *Statistical Abstract 2004-2005*, Tables 638, 640; *Statistical Abstract 2003*, Tables 656, 658; *Statistical Abstract 2002*, Tables 628, 630; *Statistical Abstract 2001*, Tables 637, 639; *Statistical Abstract 2000*, Tables 712, 714; *Statistical Abstract 1999*, Tables 718, 720; *Statistical Abstract 1998*, Tables 712, 714; *Statistical Abstract 1997*, Tables 688, 690; *Statistical Abstract 1996*, Tables 681, 683; *Statistical Abstract 1995*, Tables 695, 697; and in U.S. Department of Commerce, *State and Metropolitan Area Data Book, 1997-98*, 5th Edition (Washington: GPO, 1998), Table A-22.

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*Pensions and Productivity*, W.E. Upjohn Institute for Employment Research: Kalamazoo, MI, 1998, with Christopher Cornwell and Stuart Dorsey.

**Journal Publications (Economics)**

"Computing Lost Profits in Business Interruption Litigation: A General Model," *Journal of Business Valuation and Economic Loss Analysis*, forthcoming, with Stanley Stephenson and Gauri Prakash-Canjels.

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"Improving Pension Coverage at Small Firms," with William Even, in *Overcoming Barriers to Entrepreneurship*, ed. Diana Furchtgott-Roth, Rowman & Littlefield, 2008.

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"Children's Effects on Women's Labor Market Attachment and Earnings," with William Even, in *Changes in Working Time in Canada and the United States*, eds. Susan Houseman and Alice Nakamura, W.E. Upjohn Institute, 2001.

"Downsizing and Life Course Consequences of Job Loss: The Effect of Age and Gender on Employment and Income Security," with Jill Quadagno, Jennifer Reid, and Lori Parham, in *Restructuring Work and the Life Course*, eds. Victor Marshall, Walter Heinz, Helga Krueger, and Anil Verma, University of Toronto Press, 2001.

"The Effect of a Job Loss on the Employment Experience, Benefits, and Retirement Savings of Bank Officers," with Jill Quadagno and Jennifer Keene, in *Ensuring Health and Income Security for an Aging Workforce*, ed. Peter P. Budetti, W.E. Upjohn Institute, 2001.

"Earnings and Employment in Trucking: Deregulating a Naturally Competitive Industry," with Barry Hirsch, in *Regulatory Reform and Labor Markets*, ed. James Peoples, Kluwer Publishers, 1998.

"Gender-Related Differences in Pension Coverage," with William Even, in *Women and Work: A Handbook*, Garland Publishing, New York, NY, 1996.

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**Working Papers (Economics)**

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Self-Selection," with Tim Salmon and Kislaya Prasad, under review, *Journal of Business and Economic Organization*

"What Do Unions Do to Pension Performance?" with William Even, September 2011, under revision

"Teacher Salaries, State Collective Bargaining Laws, and Union Coverage" March 2011, with Barry Hirsch and John Winters.

"The Effects of the 2007-2009 Federal Minimum Wage Increases on Teen Employment," with William Even, under revision, July 2010.

"Participant Direction in Defined Contribution Plans," April 2006, with William Even, under revision.

"Do Pensions Impede Phased Retirement?" September 2004, with William Even, under revision.

**Working Papers (Real Estate and Insurance)**

"An Empirical Analysis of Socio-Demographic Factors and the Mispricing of Homeowners Insurance in Florida," under review *Journal of Financial Services Research*, with Ronald Cheung, Charles Nyce, Kathleen McCullough, and Cassandra Cole.

"The Impact of No-Fault Legislation on Automobile Insurance Premiums," revised and resubmitted to *North American Actuarial Journal*, with Cassandra Cole, Kevin Eastman, Patrick Maroney, and Kathleen McCullough.

**Funded Projects**

Employment Policies Institute, 5/2010-7/2010, $16,500 (Trinity University portion), "Employment Effects of the 2007-2009 Federal Minimum Wage Increases," with William Even.

National Science Foundation, 9/2009-8/2012, $125,866 (Trinity University portion), "Incentives in the Workplace: An Experimental Examination of How Wage Differences Across Time and Among Peers Affect Productivity and Self-Selection," with Tim Salmon, Kislaya Prasad, and Hyejin Ku.

Florida Legislature, 10/2007-6/2009, $175,000, "Child Support Guidelines," with Stefan Norrbin and Thomas McCaleb.

Florida Legislature (through University of Florida), 12/2006-9/2007, $223,000, "Analysis of Save our Homes Amendment," with Dean Gatzlaff.

U.S. Administration on Aging (through University of South Florida), 5/2005-9/2007, $175,000, "Employment in the Long-Term Care Industry: The Importance of Recruitment and Retention," with William Even.

Florida Legislature, 2/2003-8/2004, $175,000, "Child Support Guidelines," with Stefan Norrbin and Thomas McCaleb.

Florida Department of Environmental Protection, 6/2002-2/2003, $94,157, "Affordability Index," with Stefan Norrbin and William Serow.

University of South Carolina, 4/2000-11/2000, $10,000, "Minority Homeownership in South Carolina," with Stacy Sirmans.

Florida Department of Business and Professional Regulation, 3/1999-6/1999, $21,739, "Forecasting Housing Demand in Florida," with Stacy Sirmans.

University of South Carolina, 4/1999-11/1999, $10,000, "Forecasting Housing Demand in South Carolina," with Stacy Sirmans.

Florida State University, 6/1999-8/1999, $7,500, "Support for Preparing ECO 2000 as a Web-Based Course."

TIAA-CREF, 8/1998-8/1999, $23,000, "Determinants of Savings in Supplemental Pension Plans: A Case Study of Pension Choices in Higher Education," with Melissa Hardy and Larry Hazelrigg.

Florida Department of Business and Professional Regulation, 4/1998-6/1998, $16,638, "Forecasting Seniors' Demand for Housing in Florida," with Stacy Sirmans.

Florida Department of Business and Professional Regulation, 12/1997-6/1998, $18,472, "Housing Price Appreciation in Orlando and Tampa," with Stacy Sirmans.

Florida State University, 6/1998-8/1998, $7,500, "Support for Preparing ECO 2000 as a Web-Assisted Course."

Florida Department of Business and Professional Regulation, 3/1997-6/1997, $17,898, "Minority Homeownership in Florida," with Stacy Sirmans.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 12/1996-8/1997, $20,000, "The Impact of Rising 401(k) Pension Coverage on Retirement Income," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 3/1996-6/1997, $15,000, "The Determinants of 401(k) Participation and Contribution Levels," with William Even.

Florida Department of Business and Professional Regulation, 4/1996-6/1996, $22,702, "Forecasting the Number of New Florida Real Estate Licensees," with Stacy Sirmans.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 3/1995-6/1996, $15,000, "Explaining the Decline in Pension Coverage of Less Educated Workers," with William Even.

Florida State University COFRS Grant, 6/1994-8/1994, $8,000, "The Relative Compensation and Quality of Public and Private Sector Workers."

W.E. Upjohn Institute for Employment Research, 3/1994-12/1995, $35,000, "Pensions and Productivity," with Stuart Dorsey and Christopher Cornwell.

Florida Division of Workers' Compensation, 1/94-12/1995, $100,000, "Worker's Compensation Recipency in Union and Nonunion Workplaces," part of a service contract titled "Research Partnership with the Division of Workers' Compensation," co-investigator (one of several).

University of Wisconsin Institute for Research on Poverty Small Grant Program, 7/1993-6/1994, $15,000, "Racial Composition, Wages, and Quality Sorting," with Barry Hirsch.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 7/1993-6/1993, $10,000, "Trends in Individual and Family Pension Coverage," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration, 6/1992-5/1993, $10,000, "The Pension Coverage of Young and Mature Workers," with William Even.

U.S. Department of Labor, Pension Welfare and Benefit Administration and American Society of Pension Actuaries, 6/1991-5/1992, $10,000, "A Conference on Current Pension Policy Issues," with William Even.

Miami University Faculty Research Grant, 6/1991-8/1991, $4,000, "Projected Growth in Retiree Health Insurance Liabilities."

Ohio Board of Regents Research Challenge Grant, 1/1990-12/1990, $4,980, "Proposal to Enhance the Data Library of the Center of Pension and Retirement Research," with William Even and Samuel Williamson.

Miami University Faculty Research Grant, 6/1990-8/1990, $4,000, "The Role of Firm Size in Pension Coverage and Options."

Miami University Faculty Research Grant, 6/1989-8/1989, $4,000, "Declining Unionism and the Gender Wage Gap," with William Even.

**Participation in National Meetings**

Panel Discussant, American Real Estate and Urban Economics Association/ASSA meetings, January 2008.

Presented, "Employee Turnover in the Long-Term Care Industry," at Academy Health Annual Research Meetings, June 2007.

Presented, "Participant Direction in Defined Contribution Pension Plans," at International Atlantic Economic Society meetings, October 2006.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at International Atlantic Economic Society meetings, October 2005.

Presented, "Replacing Earnings After Termination: Evidence from the Displaced Worker Survey," at the Allied Social Science Association/National Association of Forensic Economics, January 2002.

Presented, "Labor Market Transitions of Older Workers," at the Allied Social Science Association/Society of Government Economists meetings, January 1999.

Presented, "Why has the Loss in Pension Coverage Accelerated Among Less Educated Workers?" at the American Economic Association Meetings, 1995.

Presented, "Wages and Gender Composition: Why Do Women's Jobs Pay Less?" at the American Economic Association Meetings, 1994, with Barry Hirsch.

Presented, "Pensions, Labor Turnover, and Employer Size" at the American Economic Association Meetings, 1993, with William Even.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the American Economic Association meetings, 1992, with William Even.

**Participation in Regional Meetings**

Presented "Unions and Pension Performance: The Role of Pension Design," at Southern Economics Association meetings, November 2009.

Panel member, "Recent Federal Reserve Policy: An Evaluation" at Southern Economics Association meetings, November 2009.

Discussant, "Topics in Health Economics," at Southern Economics Association meetings, November 2009.

Discussant, "Teacher Pay, Principals, and Schooling," at Southern Economics Association meetings, November 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Western Economic Association meetings, July 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Eastern Economic Association meetings, February 2009.

Panel Discussant at the Southern Economic Association meetings, November 2008.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Southern Economic Association meetings, November 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Western Economic Association meetings, July 2008.

Chair "Pensions and Retirement" Session at Southern Economic Association meetings, November 2007.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Southern Economic Association meetings, November 2007.

Presented, "Participant Direction in Defined Contribution Pension Plans," at Southern Economic Association meetings, November 2006.

Panel Discussant, Southern Economic Association meetings, November 2005.

Presented, "Do Pensions Impede Phased Retirement?" at the Southern Economic Association meetings, November 2004.

Presented, "When Will the Gender Gap in Retirement Income Narrow?" at the Southern Economic Association meetings, November 2003.

Presented, "How Will the Growth of DC and 401(k) Plans Affect Pension Income?" at the Southern Economic Association meetings, November 2002.

Presented, "Racial Composition, Wages, and Quality Sorting," at the Southern Economic Association meetings, November 1999.

Presented, "Racial and Ethnic Differences in Pension Coverage and Benefit Levels," at the Southern Economic Association meetings, November 1998.

Presented, "Factors Influencing Participation and Contribution Levels in 401(k) Plans," at the Western Economics Association meetings, July 1998.

Presented, "Aging at Work: Employment Determination, Firm Strategies, and Public Policy in the United States," at the Western Economic Association meetings, July 1994.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Western Economic Association meetings, July 1992.

Presented "Plant Size and the Decline of Unionism," at the Southern Economic Association meetings, 1989, with William Even.

Panel Discussant, Southern Economic Association meetings, November 1989.

Presented "The Labor Force Participation and Earnings Profiles of Married Female Immigrants," at the Southern Economic Association meetings, November 1988.

Presented "Pensions, Screening, and the Gender Wage Gap," at the Southern Economic Association meetings, November 1988.

Session Chair and Panel Discussant at the Southern Economic Association meetings, November 1988.

**Participation in Invited Seminars, Conferences, and other Presentations**

Presented, "Teaching Macroeconomics During Troubled Times," at Creative Ideas for Your Basic Economics Course Conference at Florida State University, February 2012.

Presented, "Participant Direction in Defined Contribution Pension Plans," at Pennsylvania State University, April 2010.

Presented, "The Parallels Between the Japanese Economic Crisis of the 1990s and the US Today" at Creative Ideas for Your Basic Economics Course Conference at Florida State University, February 2010.

Chair "Minimum Wage & EITC" Session at Society of Labor Economists meetings, May 2009.

Presented "Participant Direction in Defined Contribution Plans," at Lehigh University, April 2009.

Presented "Is Bigger Still Better?: The Decline of the Wage Premium at Large Firms," at Association of Private Enterprise Education meetings, April 2009.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Trinity University, October 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Georgia State University, April 2008.

Presented "The Growth of Participant Direction in Defined Contribution Pensions," at Association of Private Enterprise Education meetings, April 2008.
Presented, "Improving Pension Coverage at Small Firms," at Hudson Institute, May 2006.

Presented, "Participant Direction in Defined Contribution Plans," at Society of Labor Economics meetings, May 2006.

Presented, "Participant Direction in Defined Contribution Plans," at Association of Private Enterprise Education meetings, April 2006.

Presented, "Participant Direction in Defined Contribution Plans," at University of Wisconsin-Milwaukee, April 2006.

Invited Panel Participant for Pepper Foundation and Center Symposium on pension reform, Washington, DC, February 2006.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at West Virginia University, April 2005.

Presented, "The Risk and Return of Pension Investments in Employer Stock," at the University of Kentucky, November 2004.

Presented, "The Causes and Consequences of Company Stock Holdings in Pension Funds," at the Federal Reserve Bank of Atlanta, April 2004.

Presented, "The Causes and Consequences of Company Stock Holdings in Pension Funds," at the University of Oklahoma, February 2004.

Presented, "Tracking Union and Nonunion Wages in the U.S.: Can the Evidence be Reconciled?" at the Middlebury Annual Conference on Economic Issues, April 2002.

Presented, "How Will the Growth of DC and 401(k) Plans Affect Pension Income?" at the Miami University Center for Pension and Retirement Research Conference, June 2001.

Presented, "Benefits and Worker Productivity," Benefits for the Workplace of Tomorrow Conference, Wharton School, University of Pennsylvania, May 2001.

Participant, Innovations in Managing the Financial Risks of Retirement Conference, Wharton School, University of Pennsylvania, May 2000.

Presented "Using Hi-Tech in Large Lectures," at Association of Private Enterprise Education meetings, April 2000.

Presented "Employee Participation in 401(k) Plans," at University of Wisconsin-Milwaukee, October 1999.

Presented "Gender, Race, and Ethnicity in the Labor Market," as part of the Smith Chair course in Labor Economics at Brigham Young University, September 1999.

Presented, "The Decline in Pension Coverage Among Less Educated Workers," at the Florida State University Economics Department Seminar Series, 1996.

Presented, "Children's Effects on Women's Labor Market Attachment and Earnings" at the Conference on the Changes in Working Time in Canada and the United States, Canadian Employment Research Forum, 1996.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" at the Ohio State University Economics Department Seminar Series, 1996.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" at the Florida State University Economics Department Seminar Series, 1995.

Presented, "Employer Size and Labor Turnover: The Role of Pensions," at Syracuse University, 1995.

Presented, "Earnings, Rents, and Competition in the Airline Labor Market" while visiting scholar at the Federal Reserve Bank of Cleveland, 1995.

Presented, "Trends in Individual and Household Pension Coverage," at the Miami University Center for Pension and Retirement Research Conference, 1994.

Presented, "Racial Composition, Quality Sorting, and the Black-White Wage Gap" at the University of Wisconsin, Institute for Research on Poverty, Small Grants Workshop, 1993, with Barry Hirsch.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Florida State University Economics Department Seminar Series, 1992.

Participant at National Bureau of Economic Research (NBER) Labor Studies meetings of the Summer Institute, 1992.

Presented, "Why Did Male Pension Coverage Decline in the 1980s?" at the Miami University Conference on Current Pension Policy Issues, 1992.

Organizer and participant at conference on "Contemporary Issues in Pension Economics," hosted by the Center for Pension and Retirement Research, Miami University, 1990.

Presented "The Effect of International Competition on Union and Nonunion Wages," at the University of Cincinnati Seminar Series, 1987.

**Refereeing**

*Bulletin of Economic Research, Canadian Journal of Economics, Contemporary Economic Policy, Eastern Economics Journal, Economic Development and Cultural Change, Economic Inquiry, Industrial Relations, Industrial and Labor Relations Review, International Economic Review, Journal of Economics and Business, Journal of Human Resources, Journal of Labor Economics, Journal of Labor Research, Journal of Pension Economics and Finance, Labour Economics, Mid-American Journal of Business, Policy Studies Review, Quarterly Journal of Economics, Quarterly Review of Economics and Finance, Real Estate Economics,* Review *of Economics and Statistics, Social Science Quarterly, Southern Economic Journal*

Outside reviewer for Department of Economics, UNC-Greensboro, Georgia State University.

Promotion and tenure letters for candidates at Georgia State University, Kansas State University, Monmouth University, Ohio State University, University of Massachusetts, University of Southern California, and University of Wisconsin-Milwaukee.

**Honors and Awards**

Awarded sabbatical, Trinity, Fall 2011.

Nominated for FSU Award for Excellence in Undergraduate Teaching, Spring 2005.

Named Rod and Hope Brim Eminent Scholar in Economics, FSU, Fall 2004.

Research Fellow, Institute for the Study of Labor (IZA), Bonn, 2004-.

*Who's Who in Economics, Fourth Edition*, Mark Blaug and Howard Vane (eds), Edward Elgar Publishing, 2003, pp. 524 (selection criteria: one of the 1,200 most frequently cited economists in the years 1990-2000 using the Social Science Citation Index).

Awarded Abba Lerner named professorship, FSU, Spring 2000.

Awarded sabbatical, FSU, Spring 2000.

Received FSU Award for Excellence in Undergraduate Teaching, Spring 2000.

Received FSU Teaching Incentive Program Award, Fall 1995.

Nominated for FSU Award for Excellence in Undergraduate Teaching, Spring 1994.

Nominated for Outstanding Teaching Award, Associated Student Government, Miami University,1992.
Selected by the Miami University Sisters of Delta Gamma for a "Favorite Professor Award" in Fall 1990.

Honorary Member of Golden Key National Honor Society, Fall 1989.

Selected by the Sisters of Delta Gamma as "One of the twenty five most outstanding faculty members at Miami University" in Fall 1988.

**Service**

Vice President, Southern Economic Association, 2011-

Trinity University

Dick and Peggy Prassel Professor of Business Administration Search Committee, 2011
Faculty and Staff Compensation Committee, 2010-2011
Student Retention Committee, 2010

Florida State University

University and College Committees:

Member, GPC subcommittee for Marketing, Spring 2008.
Member, Graduate Policy Committee, Fall 2007-.
Chair, GPC subcommittee for Political Science, Fall 2006.
Member, Title IV Admissions Attendance Committee, Fall 2003-Spring 2004.
Member, College of Social Sciences Executive Committee, Fall 2003-.
Member, Ad Hoc Committee on COSS Technology, Spring 2003.
Member, Computing and Information Resource Committee, Fall 1999-.
Member, Academic and Policy Affairs Committee, Fall 1996-Spring 1998.

Economics Department Committees:

Member, Ad Hoc Committee on Economics 2000 Level Courses, Spring 1999.
Member, Undergraduate Economics Committee, Fall 1998-
Member, Economics Department Executive Committee, Fall 1994-Spring 1995, Fall 1996-Spring 1999, Fall 2000-.
Economics Department Library Representative, Fall 1993-.
Micro/Macroeconomics Seminar Coordinator, Fall 1993-Spring 1995, Fall 1998-Fall 1999, Fall 2001, Fall 2006-.

Comprehensive Examination Committees:

Member, Masters Comprehensive Exam Committee, Spring 1994.
Member, Ph.D. Labor Field Exam Committee, Fall 1992, Spring 1994, Fall 1994, Fall 1995, Fall 1996, Spring 1997, Spring 1998.
Chair, Masters Comprehensive Exam Committee, Fall 1994, Spring 1998.
Chair, Ph.D. Labor Field Exam Committee, Spring 1993-Fall 1993, Spring 1995, Spring 1996, Spring 2000, Spring 2001, Fall 2001.

Miami University

Computing Task Force, Department of Economics, 1991-92.
Recruiting Committee, Department of Economics, 1990-92.
Economics Club Advisor, 1988-1991.
Research Associate, Center for Pension and Retirement Research, 1988-92.
Delta Sigma Pi Chapter Advisor, 1988-89.
Student Finance Committee, Student Affairs Council, 1988-89.
Omicron Delta Epsilon Advisor, 1987-88.

**Theses, Extended Papers, and Dissertations**

Undergraduate Honors Thesis:

Chair, Leela Hebbar, 1995

Member, Nicole Cubies, 2006
Member, John Stutts, 2006
Member, Todd Crannell, 2000
Member, Mark Plotnick, 2000
Member, Bobby Pittman, 1998

MS Thesis and Extended Paper:

Chair, Maria Arce-Trigatti, 2009
Chair, George Holescko, 2000
Chair, J. Michael DuMond, 1994

Member, Shael Wolfson, 2000

Member, Lehr Eliason, 2000
Member, Steve Muri, 2000
Member, Ken Meier, 1998
Member, Tarteshia Williams, 1995
Member, Richard Page, 1994

PhD Dissertation:

Chair, James Farrell, 2009
Chair, Mark Keightley, 2008
Chair, Ali Al-Malki, 2007
Chair, Carter Doyle, 2005
Chair, Edward Wolpert, 1998
Chair, J. Michael DuMond, 1997

Member, Bogdan Daraban, 2007
Member, Russell Engel, 2007
Member, Li Feng, 2006
Member, Chuck Skipton, 2003
Member, Nicole Yurgin, 2003
Member, Jennifer Troyer, 1999
Member, Josefina Tranfa, 1999
Member, Shaliesh Bandarhi, 1998
Member, James Freeman, 1998
Member, Brian Nottage, 1998
Member, Ben Shippen, 1995
Member, Ed Schumacher, 1994

Outside Member, Stephanie Burge, Sociology, 2006
Outside Member, Reg Albritton, Special Education, 2005
Outside Member, Kim Shuey, Sociology, 2001
Outside Member, Andrea Willson, Sociology, 2001
Outside Member, Phyllis Keys, Finance, 1998

# David A. Macpherson

Depositions and Trial Testimony: 2008 to 2012

1. Angela Speed and Adrian Speed vs. Hertz Corporation
   Atty: Dawn Pompey Whitehurst; Brevard County, Florida; gave deposition; wrongful injury; 2008; Case No: 05-2005-CA-065447

2. Patricia Morrison vs. Anthony Mork and Microspine Surgery
   Atty: Steven Andrews; Walton County, Florida; testified at trial; wrongful injury; 2008; Case No: 06000249CA.

3. James Tomaselli vs. State of Florida, Department of Corrections
   Atty: Gordon Leech; Martin County, Florida; gave deposition; wrongful termination; 2008; Case No: 01-554-CA.

4. Russell Martin, et al. v. City of Atlanta, et al.
   Atty: Andrew Coffman; U.S. District Court, Northern District of Georgia, Atlanta 5Division; gave deposition; racial discrimination; 2008; Case CA File No: 1:07-cv-00326-BBM

5. McCabe, et al. v. Harmon Fruit, et al.
   Atty: Larry Perry; Polk County, Florida; gave deposition; wrongful death; 2008; Case 53-2005-CA-003612-0000-00

6. Thomas Faulkner v. Michael Chertoff and Department of Homeland Security
   Atty: John Davis; U.S. District Court; Northern District of Florida; gave deposition; wrongful termination; 2009; Case 4:08CV341-SPM/WCS

7. Matthew Debord and Tabitha Debord vs. G & S Material Service et al.
   Atty: Hubert Brown; U.S. District Court; Northern District of Florida; gave deposition; wrongful injury; 2009; Case 3:07cv365-LAC/MD

8. Jessica Loveday vs. USA
   Atty: Anthony Caggiano; U.S. District Court; Northern District of Florida; gave deposition; wrongful injury; 2009; Case 1:08cv205/SPM

9. Julia Keyes vs. AIG
   Atty: Larry Perry; Jackson County, Florida; gave deposition; wrongful injury; 2009; Case 08706CA

10. Estate of Linda DePuy vs. Broeseker et al.
    Atty: Steve Andrews; Leon County, Florida; gave deposition; wrongful death; 2009; Case 2007 CA 2509

11. Oliver and Sollman vs. VSoft Inc.
    Atty: Larry Pankey; U.S. District Court, Northern District of Georgia, Atlanta Division; gave deposition; age discrimination; 2009; Case CA File No: 1:09-CV-0185

12. Yolanda Young vs. Covington and Burling, LLP
    Atty: Latif Damon; U.S. District Court for the District of Columbia; gave deposition; racial discrimination; 2009; Case CA File No: 1:09-CV-0464 RBW

13. Deborah Suboh vs. Mark Bergeson et al.
    Atty: Stephanie Wright and Charlotte Perrell; Georgia, Dekalb County; Case 07A77585-5, gave deposition; legal malpractice; 2010.

14. Rolando Simmons vs. Davis and Peterson
    Atty: Hubert Brown; Florida, Calhoun County; Case 2008-0150-CA, gave deposition and testified at trial; medical malpractice; 2010.

15. Lorie J. Marshall, et al. vs. H & R Block Tax Services, Inc.
    Atty: Allan Steyer; U.S, U.S. District Court
    Southern District of Illinois; Case No. 3:08-CV591-MJR; gave deposition; consumer damages; 2010.

16. Daren Davis vs. Joseph Austin and Terry Roberts Work Site
    Atty: Anthony Caggiano; Florida, Osceola County; gave deposition; wrongful injury; 2010; Case 2006 CA 002997 AN

17. David Darrow vs. Adventist Health Systems/Sunbelt Inc.
    Atty: Anthony Caggiano; Florida, Orange County; gave deposition; wrongful injury; 2010; Case 48-2009-CA-004897-0

18. Samuel Gonzalez vs. Gurdev Singh Nijjar et al.
    Atty: Ramon Rodriguez; Texas, El Paso County; gave deposition; wrongful injury; 2010; Case 2007-011

19. John Davis vs. Devereux Foundation.
    Atty: Thomas Brown; Florida, Brevard County; gave deposition; wrongful injury; 2010; Case 99-15992-CA-F

20. Al Kowalski vs. et al. YellowPages.Com, LLC
    Atty: Peter Pearlman; U.S. District Court Southern District of New York; Case No. 10-7318 (PGG); gave deposition; consumer damages; 2011.

21. Christina Glover and Jason Glover vs. Publix Super Markets
    Atty: Phelicia Steill; Florida, Leon; Case No. 08 CA 2695; gave deposition; wrongful injury; 2011.

22. Lissette Cartagena and William Cartagena vs. Bracero et al.
    Atty: Thomas Brown; Florida, Orange County; Case No. 07-CA-2645 DIV 34; gave deposition and testified at trial; wrongful injury; 2011.

23. Lillie Conyers and James Conyers vs. Werner Enterprises et al.
    Atty: Thomas Brown; Florida, Jackson County; Case No. 09-1174-CA; gave deposition; wrongful injury; 2011.

24. Shannon McCants vs. Wackenhut Corporation
    Atty: Dawn Pompey Whitehurst; Duval County, Florida; gave deposition and testified at trial; wrongful death; 2011; Case No: 16-2008-CA-014834

25. Christina Whipple versus R.E.S.A, Inc.
    Atty: Susan Haney; Bexar County, Texas; gave deposition; business damages; 2011; Case No.: 2009-CI-17074

26. Daniel Plouffe, et al. versus General Motors, LLC
    Atty: Michael Pitt; Wayne County, Michigan; gave deposition; age discrimination; 2012; Case No.: Case No. 11-007645-CL

27. Johnny Cash versus State Farm
    Atty: Steven Andrews; Leon County, Florida; testified at trial; wrongful injury; 2012; Case No.: Case No. 10-CA-2429

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Transportation,** the **Missouri Senate, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College**.

**Fiscal Note Summary**

Increased state and local government expenses resulting from this proposal may be up to $397 million annually if funding is appropriated. State and local government tax revenue could increase by an estimated $489 million annually; however, employment decisions made by businesses could impact this estimate.

16-044

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

April 9, 2015

The Honorable John Watson
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Gerald (Gary) Peterson regarding a proposed statutory amendment to Chapter 290 (2016-044)

Dear Auditor Watson:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Gerald (Gary) Peterson on April 9, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

RECEIVED
APR 09 2015
STATE AUDITORS OFFICE

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-044

County_____
Page No_____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

RECEIVED
2016 MAR -9 PM 2:0
SEC. OF STATE

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of the State for the state of Missouri:
We the undersigned, registered voters of the state of Missouri and _____ County (or city of St Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition, I a, a registered vpter pf the state of Missouri and County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

# Statutory Amendment to RSMo Chapter 290, Relating to Minimum Wage

Shall the. Sections 290.010, 290.011, 290.146, 290.502, 290.512 and 290.527 be amended to read as follows:
*Be it enacted by the people of the State of Missouri:*

***Minimum wages shall be increased to$15.00 per hour on a graduated basis by April 15th, 2019. Salaried employees will receive hourly wages If their salary is less than $70,000 annually. Employees will be available for earned vacation and no employee or prospective employee will be discriminated against for any reason. Wage theft will be punishable as a criminal offense.***

***CIRCULATOR'S AFFIDAIT*** **STATE OF MISSOURI, COUNTY OF _____**
**Being first duly sworn, say (print or type names of signers)**

| NAME(SIGNATURE) | DATE SIGNED | REGISTERED VOTING ADDRESS-STREET-(CITY,TOWN OR VILLAGE) | ZIP CODE | CONG. DIST | NAME (PRINTED OR TYPED) |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____. County.
FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.
I am at least 18 years of age. I do .... do not .... (check one) expect to be paid for circulating this petition. If paid, list the payer _____ .....

_____ _____ _____
Signature of Affiant (person obtaining signatures Printed name of affiant address of affiant

Subscribed and sworn to before me this ____ day of_____, A.D._____

_____ Notary Public Seal My commission expires on __/__/____
Signature of notary
Address of notary

K6-044

# Statutory Amendment to RSMo Chapter 290, Relating to Minimum Wage

Shall the. Sections 290.010, 290.011, 290.146, 290.502, 290.512 and 290.527 be amended to read as follows:
*Be it enacted by the people of the State of Missouri:*

***Minimum wages shall be increased to$15.00 per hour on a graduated basis by April 15th, 2019. Salaried employees will receive hourly wages If their salary is less than $70,000 annually. Employees will be available for earned vacation and no employee or prospective employee will be discriminated against for any reason. Wage theft will be punishable as a criminal offense.***

290.011 **Guaranteed benefits of employee's labor.**

1. Any employee showing up at request of employer will receive at least 4 hours pay even if hours of service are less than 4 hours.
2. Any employee working 180 shifts in a 12 month period will be entitled to one week's paid vacation time of 40 hours at a rate of his current salary.
3. Any employee working 180 shifts in 2nd and following years without a break in service of more than 3 months unless layoff by employer will earn 2 weeks vacation time of 40 hours at a rate of his current salary.
4. All employees will have a schedule of work hours posted at least for a week before their weekly schedule. Overtime will be mandatory only if given 24 hour notice.
5. Employers may have up to 20% of work force on call for unforeseen work loads. The 20% will be available by bid to those with seniority if they desire, otherwise to the newest employees. On call employees will receive a 10% bonus pay if on a weekly basis they meet the 'on call' requirements being available at all times.
6. Employees scheduled or working less than 32 hours a week because of employer choice will receive a 10% wage bonus.

290.146

**Discrimination by employer by refusal to hire, promote or terminate employee** or prospective employee **because** of age, race, nationality, marriage status, religious affiliation or sexual preference, dwarfism, immigrant status or handicap if employee is able to perform the duties required of the job. is prohibited.

1. All workers will receive equal compensation for comparable duties regardless of age, race, nationality, marriage status, religious affiliation or lack of, sex, sexual preference, dwarfism, immigrant status or handicap.

2. No prospective employee will be denied employment because of age, race, nationality, marriage status, religious affiliation or lack of, sex, sexual preference, dwarfism, immigrant status or handicap unless length of service is taken into account for wages.

3. No employee will be denied promotion opportunities or any benefits because of age, race, nationality, marriage status, religious affiliation or lack of, sex, sexual preference, dwarfism, immigrant status or handicap.

4. No employee will be fired because of age, race, nationality, marriage status, religious affiliation or lack of, sex, sexual preference, dwarfism, immigrant status or handicap.

5. No employee shall be fired or disciplined because of sharing information concerning salary or wages received.

**290.502. Minimum wage rate--increase or decrease, when**

1. Except as may be otherwise provided pursuant to sections 290.500 to 290.530, effective [January 1, 2007] April 15th. 2017, every employer shall pay to each employee no less than wages at the rate of [$6.50] $13.00 per hour increasing as noted in section 290.502.2, or wages at the same rate or rates set under the provisions of federal law as the prevailing federal minimum wage applicable to those covered jobs in interstate commerce, whichever rate per hour is higher.

160-44

2. If the federal minimum wage rate is increased above the minimum wage rate then in effect under this section, the higher federal rate shall become the minimum wage rate in effect under this section. The minimum wage rate in effect under this section shall be increased to $14.00 per hour on April 15th, [2008] 2018, and shall be increased to $15.00 per hour and on April15th, 2019 and on April 14th of successive years, by the increase or decrease in the cost of living. On September 30, [2007] 2019, and on each September 30 of each successive year, the director shall measure the increase or decrease in the cost of living by the percentage increase or decrease as of the preceding July over the level as of July of the immediately preceding year of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) or successor index as published by the U.S. Department of Labor or its successor agency, with the amount of the minimum wage increase or decrease rounded to the nearest five cents.

3. Businesses with less than 5 million dollars per year in sales (considered a small business) will have an introductive rate of 10 dollars per hour beginning on April 15th 2017 and will increase the per hour rate by one dollar per hour on April 15th of each year until their rate has become the same as larger businesses, then will be indexed and the same as larger businesses.

4. Executive, administrative, professional employees, and sales people(unless sales people in charge of own hours worked) making less than $70.000 per year as a salary will be paid an hourly wage with overtime for over 40 hours. Only salary employees making over $70,000 will not work under Section 290.502 regulations as a wage earner.

**Gratuities, goods or services as part of wages, effect on minimum wage requirements.**

**290.512**

1. [No employer] All employers of any employee who receives and retains compensation in the form of gratuities in addition to wages [is required] will be required to pay wages equal to or in excess of fifty percent of the minimum wage rate specified in sections290.500 to 290.530, however total compensation for such employee shall total at least the minimum wage specified in sections 290.500 to 290.530, the difference being made up by the employer.
2. If an employee receives and retains compensation in the form of goods or services as an incident of his employment and if he is not required to exercise any discretion in order to receive the goods or services, the employer is required to pay only the difference between the fair market value of the goods and services and the minimum wage otherwise required to be paid by sections 290.500 to 290.530. The fair market value of the goods and services shall be computed on a weekly basis. The director shall provide by regulation a method of valuing the goods and services received by any employee in lieu of the wages otherwise required to be paid under the provisions of sections 290.500 to 290.530. He shall also provide by regulation a method of determining those types of goods and services that are an incident of employment the receipt of which does not require any discretion on the part of the employee.

(L. 1990 H.B. 1881 § 6, A.L. 2006 Adopted by Initiative, Proposition B, November 7, 2006)

**290.527. Action for underpayment of wages, employee may bring--limitation**

1. Any employer who pays any employee less wages than the wages to which the employee is entitled under or by virtue of sections 290.500 to 290.530 shall be liable to the employee affected for the full amount of the wage rate and an additional [equal] amount equal to twice the underpaid wages as liquidated damages, less any amount actually paid to the employee by the employer and for costs and such reasonable attorney fees as may be allowed by the court or jury. The employee may bring any legal action necessary to collect the claim. Any agreement between the employee and the employer to work for less than the wage rate shall be no defense to the action. All actions for the collection of any deficiency in wages shall be commenced within [two] three years of the accrual of the cause of action.

2. Actions responsible for underpayment of/or lack of wages shall be considered wage theft or stealing. Employer theft of wages will carry the same penalties as stealing as in Chapter 570, Section 570.030.2. Persons responsible will be the immediate supervisor and each of his superiors who are aware of or involved in any way including accounting. Corporations will be responsible for their involvement, but the persons responsible shall be responsible for individual fines and or other penalties. Incorporation will not relieve individuals of responsibility.

16-043

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

April 9, 2015

The Honorable John Watson
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Gerald (Gary) Peterson regarding a proposed statutory amendment to Chapter 196 (2016-043)

Dear Auditor Watson:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Gerald (Gary) Peterson on April 9, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

RECEIVED
APR 09 2015
STATE AUDITORS OFFICE

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-043

County_____
Page No_____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of the State for the state of Missouri:

We the undersigned, registered voters of the state of Missouri and _____ County (or city of St Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition, I a, a registered vpter pf the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

2016 AUG 9 AM 9:39 RECEIVED

## Statutory Amendment to RSMo Chapter 196, "All foods sold in Missouri will be labeled if any addition of Sugars, and will denote Country of 'Origin and Processing' and if there is a Presence of GMO products"

***CIRCULATOR'S AFFIDAIT*** **STATE OF MISSOURI, COUNTY OF** _____

**Being first duly sworn, say (print or type names of signers)**

| NAME(SIGNATURE) | DATE SIGNED | REGISTERED VOTING ADDRESS-STREET-(CITY,TOWN OR VILLAGE) | ZIP CODE | CONG. DIST | NAME (PRINTED OR TYPED) |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____. County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do .... do not .... (check one) expect to be paid for circulating this petition. If paid, list the payer _____ .....

_____ _____ _____

Signature of Affiant (person obtaining signatures Printed name of affiant address of affiant

Subscribed and sworn to before me this ____ day of_____, A.D._____

_____ Notary Public Seal My commission expires on __/__/____

Signature of notary

Address of notary

16-043

# Missouri Constitution Article IV

**BE IT RESOLVED by the people of the state of Missouri that the Constitution be amended:**
**For the purpose of sections 196.010 to 196.120 of Article IV: Chapter 196:**

**Two new sections will be added and shall be know as Section 196.011.1 and Section 196.0111.2 and these sections witll be for the regulations of retail food sales concerning labeling for products containing 'added sugars', 'genentically modified organisms', and the 'orgin of and reparation of food' sold in the state of Missouri.**

**One new section adde shall be known as Section 196.011.1 and this section shall read as follows:**

**1. Sugars added will be listed separately from naturally occurring sugars under total carbohydrate with grams listed for each.**

**(a) "Added Sugars" will be any sugars not occurring in a natural state of a food, but added to the food at different stages of processing;**

**(b) "Sugars" including glucose (also known as dextrose), fructose and galactose, sucrose (a disaccharide), maltose and lactose or longer chains of sugars called oligosaccharides will be considered added sugars.**

**(c) "Sugars" will include the following names: Blackstrap molasses* Brown rice syrup* Brown sugar* Buttered syrup* Cane juice crystals* Cane sugar* Caramel* Carob syrup* Castor sugar* Confectioner's sugar* Corn syrup Corn syrup solids Crystalline fructose* Date sugar* Demerara sugar* Dextran Dextrose Diastatic malt Diatase Ethyl maltol Evaporated cane juice* Florida crystals* Fructose* Fruit juice* Fruit juice concentrate* Galactose Glucose Glucose solids Golden sugar* Golden syrup* Grape sugar* High-fructose corn syrup* Honey* Icing sugar* Invert sugar* Lactose Malt syrup Maltose . Maple syrup* Molasses* Muscovado sugar* Organic raw sugar* Panocha* Raw sugar* Refiner's syrup* Rice syrup Sorghum syrup* Sucrose* Sugar* Treacle* Turbinado sugar* Yellow sugar*as listed by Lustig, Robert H (2013-09-03). Sugar Has 56 Names: A Shopper's Guide (A Penguin Special from Hudson Street Press) (Kindle Locations 460-467). Penguin Group US. Kindle Edition. Other names for sugars that are added will fall under the same regulations. Any sugars listed above that have their name changed will not exempt them from these regulations.**

**2. The term "GMO" will be listed on the front of the packaging if in any part of food for sale in Missouri includes:**

**(a) genetically modified organism (GMO) –genetically modified (GM) or genetic engineering (GE). GMOs are created through transgenic engineering, unlike traditional breeding and any other similar gene insertion by any other name will be included in labeling regulation.**

**3. Country of origin of the food sold in Missouri will be listed and will include:**

**(a) Any Nation or Ocean where the food has been grown at any time and in the case of animals including fish, total locations by nation or ocean from birth to slaughter.**

**(b) Any nation other than the US where the food has been packaged, repackaged or reprocessed including injected with liquids or solids of any type. Any injectable product must be listed and if not approved by the US Dept. of Agriculture will not be sold in the state of Missouri.**

16-043

**One new section will be added and shall be known as Section 196.011. 2 and this section shall be read as follows:**

**Labeling requirements concerning GMO, GM, GE, added sugars, and country of origin and/or repackaging.**

**For all food products including beverages, gums, snacks, and energy drinks.**

1. **Any product containing genetically modified organisms will be labeled as: "This product contains genetically modified organisms (GMO)" or any product containing genetically engineered organisms will be labeled as: "This product contains genetically engineered organisms (GE)" .**
2. **Any product labeled 'reduced fat' or language that means a reduced fat content and/or diet control foods will label the amounts of sugar added in what amounts (if added) and other/or products added to replace the fat texture and taste and a warning that excess sugar is a major contributor to weight gain and overall health as outlined by the AHA(American Heart Association), WHO(World Health Organization) or AMA(American Medical Association).**
3. **All products sold as snacks shall if also sold in larger packages than single (one or two) servings, will also have the total sugar content added of the package listed in bold print on the front of the package with a warning if that amount is more than the total sugar recommended for daily consumption by the AHA(American Heart Association), WHO(World Health Organization) or AMA(American Medical Association).**
4. **All food products will have any 'sugars added' listed as a separate item. The total amount of 'sugars added' per serving if ¼ of the recommended daily allowance as listed by AHA (American Heart Association) will carry a "Warning" label. The box will include wording as put out by the AHA(American Heart Association), WHO(World Health Organization) or AMA(American Medical Association) that "Added sugars are contributing to obesity, diabetes and other conditions linked to heart disease, including unhealthy cholesterol and triglyceride levels" or other warnings as they become available from these health organizations. If warnings become available by AHA(American Heart Association), WHO(World Health Organization) or AMA(American Medical Association) concerning sugar substitutes contributing to health or weight gain, that warning will be required when part of the food.**
5. **Sugars added to food products advertised or directed toward children will have listed recommended amounts for children as listed by the AMA, WH0 or AHA and will have a warning located in a dark bold outlined box including dangers of sugar as listed by the AMA, WHO or AHA if sugars in excess of ¼ of the recommended daily amount. For any serving size for any foods targeted for an audience of 18 or under total sugars added that exceed 1/4 of a daily recommended amount by AHA (American Heart Association), WHO (World Health Organization) or AMA (American Medical Association)) will have a warning label with following (5.a) outlined in a dark bold outlined box as follows or as changed by AHA(American Heart Association), WHO(World Health Organization) or AMA(American Medical Association) as follows:**

   **(a)"Added sugars are contributing to obesity, diabetes and other conditions linked to heart disease, including unhealthy cholesterol and triglyceride levels and also consumption of Added Sugars and Indicators of Cardiovascular Disease Risk among US Adolescents as stated by the AHA(American Heart Association), WHO(World Health Organization) or AMA(American Medical Association)"**

**All warning signs for added sugars will include recommended amounts according to age, weight and sex. The warning sign will include – WARNING-SUGARS ADDED – in bold print at least equal in height to ingredients listed and will be located on the front of the packaging. The warning will be enclosed in a bold out-lined box. The amounts of added sugars will be listed by amounts both in teaspoons and grams**

**with % of teaspoons recommended. The values recommended may be from the AMA, WHO or AHA as long as listed in values of grams and teaspoons.**

**Small businesses of less than 1 million dollars in food sales per year will be exempt from the above requirements. Chains and related stores under the same ownership that have individual sales of less than one million will have all stores sales grouped together to determine if they are required by the above regulations. Total sales of all stores will be added together to qualify for exemption.**

**Restaurants, convenience stores and other businesses that prepare food on site will have the above information posted on menus or by the food product if menus are not available. Dispensed drinks will have a sign at eye level (about 5 ft.) and in large print of at least 24 point with a "Warning" sign listing each drink size and the amount of added sugars. The Warning sign will include the recommended daily amounts as well as health dangers of excessive sugar as listed above. All fountain drink cups of over 8 oz. size (disposable containers) will have a warning within a bold black outlined box listing the dangers of added sugars with amounts listed by the AMA or AHA. Warning will include recommended amounts according to weight and sex.**

**Regulations for labeling will be required on all products within 6 months of implementation of ordinance except as noted. Any foods labeled and packaged before the 6 month period will after one year if still available for sale be required to post warning signs.**

-

16-042

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

April 9, 2015

The Honorable John Watson
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Winston Apple regarding a proposed statutory amendment to Chapter 386 (2016-042).

Dear Auditor Watson:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Winston Apple on April 8, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

RECEIVED
APR 09 2015
STATE AUDITORS OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-042

County:_____
Page number: _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021 RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail, or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

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2015 APR -8 PM 4:
MO SEC. OF STATE

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print of type names of signers)

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong Dist | NAME (Print or Typed) |
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Signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____.

_____
Signature of Affiant (Person obtaining signatures)

_____
(Printed Name of Affiant)

_____
Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A. D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)
My commission expires _____

16-042

Be it enacted by the people of the state of Missouri, as follows:

Section A, Chapter 386, RSMo, is amended by adding thereto one new section, to be known as section 386.900, to read as follows:

386.900. 1. As used in this section, the following terms shall mean:

(1) "Contract customer", a person or corporation, including affiliates and subsidiaries, that executes or will execute a renewable energy contract with a renewable energy facility owner;

(2) "Qualified utility", any municipal utility, electrical corporation, or rural electric cooperative that provides retail electric service in this state;

(3) "Renewable energy contract", a contract between a renewable energy facility owner and a contract customer for the delivery of electricity from one or more renewable energy facilities to a contract customer requiring the use of the qualified utility's transmission or distribution system to deliver the electricity from a renewable energy facility to the contract customer;

(4) "Renewable energy facility", a facility that produces electrical energy that utilizes renewable energy sources as defined in section 393.1025, and does not include an electric generating facility whose costs have been included in a qualified utility's rates as a facility providing electric service to the qualified utility's system. A renewable energy facility shall not be considered a public utility as defined in section 386.020.

2. Under a renewable energy contract, a qualified utility shall:

(1) Contract with the renewable energy facility's owner;

(2) Purchase electricity for resale to one or more contract customers; and

(3) Sell such electricity to the contract customer or customers under a renewable energy contract with the same duration and pricing as the contract between the qualified utility and the owner of the electricity to be sold from the renewable energy facility.

3. Within sixty days of receiving a request from a contract customer, subject to reasonable credit requirements, a qualified utility shall approve the use of its transmission or distribution system pursuant to a renewable energy contract to supply some or all of the contract customer's electric service from one or more renewable energy facilities selected by the contract customer. The pricing and duration of the contract for electricity to be sold from the renewable energy facility shall be determined by negotiation between the renewable energy facility's owner and the contract customer. The contract customer shall be responsible for any incremental costs required for delivery of the electricity from the renewable energy facility to the transmission system granted by the regional transmission organization of which the qualified utility is a member. The qualified utility shall not be held responsible for any costs related to customer default. A qualified utility shall charge a contract customer the applicable generation charges including those in base rates, rider, or surcharges only for electricity delivered to the contract customer outside of a renewable energy contract.

4. A renewable energy contract may provide for electricity to be delivered to a contract customer:

(1) From one renewable energy facility to a contract customer's single metered delivery location;

(2) From multiple renewable energy facilities to a contract customer's single metered delivery location;

(3) From one or more renewable energy facilities to a single contract customer's multiple metered delivery locations; or

(4) From one or more renewable energy facilities to a single contract customer for distribution to multiple qualified utility customer's metered delivery locations.

5. By January 1, 2017, a qualified utility shall file a tariff with the commission or the governing body of the electric utility regarding the renewable real time pricing program. A qualified utility shall charge a contract customer for all metered electric service delivered to the contract customer under this program and the tariff shall include rates, as determined by the commission or the governing body of the electric utility, for the recovery of reasonable administrative costs, cost-based distribution service, cost-based transmission service, cost- based monthly generation capacity service, and supplemental energy service for any kilowatt-hours of electricity contracted for delivery but not delivered from the renewable energy facility priced at the hourly locational marginal price of the applicable regional transmission organization for the qualified utility or at a separately negotiated and agreed upon rate by the qualified utility and the contract customer.

6. To be eligible for service under this section, a contract customer shall have a minimum annual peak demand of one megawatt. A single contract customer may aggregate multiple metered delivery locations to satisfy such megawatt requirement.

7. Electricity generated by a renewable energy facility and delivered to a contract customer under a renewable energy contract shall not be included in a net metering program created under section 386.890. The right to any environmental attribute associated with the renewable energy facility shall remain the property of the renewable energy facility's owner, except to the extent that a contract to which the owner is a party provides otherwise.

8. The right to any environmental attribute associated with the renewable energy facility shall remain the property of the renewable energy facility's owner, except to the extent that a contract to which the owner is a party provides otherwise.

9. The commission may promulgate any rules and regulations necessary to effectuate the provisions of this section. Any rule or portion of a rule, as that term is defined in section 5 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2017, shall be invalid and void.

16-041

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

April 9, 2015

The Honorable John Watson
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Winston Apple regarding a proposed statutory amendment to Chapters 130 & 143 (2016-041).

Dear Auditor Watson:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Winston Apple on April 8, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

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APR 09 2015
STATE AUDITORS OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-041

County:_____
Page number: _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021 RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail, or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

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SEC OF STATE

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print of type names of signers)

| | NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong Dist | NAME (Print or Typed) |
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Signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____.

_____
Signature of Affiant (Person obtaining signatures)

_____
(Printed Name of Affiant)

_____
Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A. D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)
My commission expires _____

16-041

Be it enacted by the people of Missouri:

Two new sections of the Revised Missouri Statutes are hereby enacted, to be known as sections 130.230 and 143.990, to read as follows:

130.230. 1. "The Missouri elections trust fund" is hereby created to provide public financing for candidates for office in Missouri who agree to accept and meet certain conditions and limitations.

2. The government by the people trust fund will be administered by a board of trustees, consisting of seven members, to be nominated by the governor and approved by the senate, to be known as the "public finance commission."

(1) No individual may be appointed to the public finance commission who is:

(a) a government employee;

(b) a registered lobbyist, or who has been a registered lobbyist at any time during the 5-year period preceding their appointment to the commission;

(c) an officer or employee of a political party or political campaign;

(d) an elected official, senator, or representative.

(2) Members of the public finance commission shall be appointed for a term of five years; except the second and third classes of the first seven members of the public finance commission , who shall be divided into three classes, as follows;

(a) The first three members to be confirmed shall serve a full five year term;

(b) The fourth and fifth members to be confirmed shall serve a three year term;

(c) The sixth and seventh members to be confirmed shall serve a one-year term.

(3) Members of the public finance commission may be removed from office if convicted of fraud or mismanagement of funds administered by the public finance commission, or conviction of a felony.

3. Members of the public finance commission will be reimbursed for travel and other expenses at the prevailing rate for other employees and officers of the state of Missouri.

5. The funds collected under this program will be distributed only to candidates who accept the conditions required to qualify for public financing.

6. Candidates accepting public funds must agree to and meet the following conditions:

(1) Not to accept contributions from corporations or political action committees that include corporate contributions in their fund-raising;

(2) Not to accept donations totaling more than $500 from any individual or other source, excluding a political party of which they are a member, during an election cycle (defined as the period between two general elections for the same office); and

(3) That at least half of the money they raise will come from individuals, political action committees, or other sources that contribute no more than $100 to them during an election cycle.

7. The funding provided to eligible candidates will be in the form of matching funds, with the size of the match (2 to 1; 5 to 1; etcetera) to be determined by the commission based on the total amount of money raised by all candidates who have elected to accept public funds and the total amount of money available from the fund during each election year.

(1) Thirty-five percent of the funds available shall be distributed on the first day of June of each general election year, based on total monetary contributions received during the election cycle up to the date of the quarterly report filed with the Missouri Ethics Commission for the quarter ending on the thirty-first day of March. (In-kind contributions are not eligible for matching funds.)

(2) The balance of available funds shall be distributed on the third Monday in September of each general election year to eligible candidates in the general election, based on total monetary contributions received and reported through the thirtieth day of August.

8. When a candidate or committee files a termination statement and disclosure report with the Missouri Ethics Commission, any and all funds remaining after dissolving any debt are to be paid over to the government by the people fund, up to and including an amount equal to the full amount of matching funds received by said candidate.

143.990. 1. In each taxable year beginning on or after January 1, 2016, each individual or corporation having paid state income taxes in the amount of twenty-five dollars or more may designate that five dollars of the tax paid shall be paid over to the Missouri elections trust fund as provided in section 130.230. In the case of a husband and wife with a filing status of married filing combined having paid state income tax in the amount of fifty dollars or more, each spouse may designate that five dollars shall be paid to the fund.

2. The designation authorized by this section shall be clearly and unambiguously printed on the same page of each income tax return form provided by the state upon which the amount of the amount of tax owed is indicated, and shall provide a statement that contributing to the fund will not increase the amount of tax owed or reduce the amount of overpayment to be refunded. The department of revenue shall deposit such amount to the Missouri election trust fund as created in section 130.230.

16-040

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

April 9, 2015

The Honorable John Watson
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Winston Apple regarding a proposed statutory amendment to Chapter 21 (2016-040).

Dear Auditor Watson:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Winston Apple on April 8, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

RECEIVED
APR 09 2015
STATE AUDITORS OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-040

County:_____
Page number: _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021 RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail, or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

RECEIVED
2015 APR -8 PM 1:16
SEC OF STATE

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____
I, _____, being first duly sworn, say (print of type names of signers)

| | NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong Dist | NAME (Print or Typed) |
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Signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____.

_____
Signature of Affiant (Person obtaining signatures)

_____
(Printed Name of Affiant)

_____
Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A. D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)
My commission expires _____

16-040

Explanation: RSMo Section 21.140 is set forth hereinafter with the new matter underlined and deleted matter in brackets; [thus]

Be it enacted by the people of Missouri:

Section 21.140 of the Revised Missouri Statutes is amended, to read as follows:

21.140. Each senator and representative shall receive from the treasury an annual salary of [eighteen thousand seventy-eight dollars] fifty thousand dollars, effective the first day of January, 2017, plus any salary adjustment provided pursuant to section 105.005, after the first day of January, 2018. The speaker of the house and the president pro tem of the senate shall each receive as additional annual compensation the amount of two thousand five hundred dollars, and the speaker pro tem of the house and the majority and minority floor leaders of the house and senate shall each receive as additional annual compensation the amount of one thousand five hundred dollars. Upon certification by the president and secretary of the senate and by the speaker and clerk of the house of representatives as to the respective members thereof, the commissioner of administration shall audit and the state treasurer shall pay such compensation. Senators and representatives shall receive, weekly, a mileage allowance as provided by law for state employees, in going to their place of meeting in Jefferson City from their place of residence, and returning from their place of meeting in Jefferson City to their place of residence while the legislature is in session, on the most usual route, if the senator or representative does travel to Jefferson City during that week.

16-039

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

April 9, 2015

The Honorable John Watson
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Winston Apple regarding a proposed constitutional amendment to Article III (2016-039)

Dear Auditor Watson:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Winston Apple on April 8, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

RECEIVED
APR 09 2015
STATE AUDITORS OFFICE

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-039

County:_____
Page number: _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021 RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail, or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

RECEIVED
2015 APR -8 PM 4:3

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print of type names of signers)

| | NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong Dist | NAME (Print or Typed) |
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Signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____.

_____
Signature of Affiant (Person obtaining signatures)

_____
(Printed Name of Affiant)

_____
Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A. D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)
My commission expires _____

16-039

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article III, Section 8 of the Constitution is hereby repealed.

[Article 3, Section 8. No one shall be elected to serve more than eight years total in any one house of the General Assembly nor more than sixteen years total in both houses of the General Assembly. In applying this section, service in the General Assembly resulting from an election prior to December 3, 1992, or service of less than one year, in the case of a member of the house of representatives, or two years, in the case of a member of the senate, by a person elected after the effective date of this section to complete the term of another person, shall not be counted.]

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-039)**

**Subject**

Initiative petition from Winston Apple regarding a proposed constitutional amendment to Article III. (Received April 9, 2015)

**Date**

April 29, 2015

**Description**

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact on their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no direct fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this legislation.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated this proposal will have no impact on their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office.

Officials from the **State Treasurer's office** indicated no impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson** indicated they expect no fiscal impact if this initiative petition becomes law.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated this initiative petition would not have a significant fiscal impact on their university.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College.**

**Fiscal Note Summary**

It is estimated this proposal will result in no costs or savings for state and local governmental entities.

16-038

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

April 9, 2015

The Honorable John Watson
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Winston Apple regarding a proposed statutory amendment to Chapters 290 & 67 (2016-038)

Dear Auditor Watson:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Winston Apple on April 8, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

RECEIVED
APR 09 2015
STATE AUDITORS OFFICE

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-038

County:_____
Page number: _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021 RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail, or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

RECEIVED
2015 APR -8 PM 4:10
SEC. OF STATE

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print of type names of signers)

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong Dist | NAME (Print or Typed) |
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Signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____.

_____
Signature of Affiant (Person obtaining signatures)

_____
(Printed Name of Affiant)

_____
Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A. D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)
My commission expires _____

16-038

Be it enacted by the people of the State of Missouri, as follows:

Sections 290.502, RSMo and 67.1571, RSMo are amended to read as follows:

290.502. 1. Except as may be otherwise provided pursuant to sections 290.500 to 290.530, effective January 1, [2007] 2017, the minimum wage rate that every employer shall pay to each employee [wages at the rate of $6.50] shall be either no less than $11.00 per hour, or wages at the same rate or rates set under the provisions of federal law as the prevailing federal minimum wage applicable to those covered jobs in interstate commerce, whichever rate per hour is higher.

2. The minimum wage rate provided for in subsection 1 of this section shall, whether or not such wage is derived from the statutory minimum or the adoption of the federal minimum as required in subsection 1 of this section, be increased or decreased on January 1, 2008, and on January 1 of successive years, by the increase or decrease in the cost of living. On September 30, 2007, and on each September 30 of each successive year, the director shall measure the increase or decrease in the cost of living by the percentage increase or decrease as of the preceding July over the level as of July of the immediately preceding year of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) or successor index as published by the U.S. Department of Labor or its successor agency, with the amount of the minimum wage increase or decrease rounded to the nearest five cents.

[67.1571. No municipality as defined in section 1, paragraph 2, subsection (9) shall establish, mandate or otherwise require a minimum wage that exceeds the state minimum wage.]

16-037

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

April 9, 2015

The Honorable John Watson
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Winston Apple regarding a proposed constitutional amendment to Article III (2016-037)

Dear Auditor Watson:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Winston Apple on April 8, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

RECEIVED
APR 09 2015
STATE AUDITORS OFFICE

16-037

County:_____
Page number: _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021 RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail, or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

RECEIVED
2015 APR -8 PM 4:08
SEC. OF STATE

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print of type names of signers)

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong Dist | NAME (Print or Typed) |
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Signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____.

_____
Signature of Affiant (Person obtaining signatures)

_____
(Printed Name of Affiant)

_____
Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A. D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)
My commission expires _____

16-037

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article III, Section 2 of the Constitution is repealed and one new section enacted in lieu thereof, to be known as Article III, Section 2, to read as follows:

**[Section 2. Election of representatives—apportionment commission, appointment, duties, compensation.**—The house of representatives shall consist of one hundred sixty-three members elected at each general election and apportioned in the following manner: Within sixty days after the population of this state is reported to the President for each decennial census of the United States and, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.

Each district shall be composed of contiguous territory as compact as may be.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.

Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

No reapportionment shall be subject to the referendum.]

**Section 2. Election of representatives.** The house of representatives shall consist of 50 members, elected by votes cast, in each general election, for a political party, and its ordered list of candidates, or votes cast for independent candidates.

Political parties are free to determine their candidates, and the order in which they will be awarded seats in the house of representatives, through a primary election, caucuses, a statewide party nominating convention, or a combination of caucuses and a statewide party nominating convention.

For a political party having had a candidate for any statewide office receiving one per cent or more of the legal votes in the preceding general election, a primary election will be the default method for selecting candidates. Should a political party determine that they will select candidates for the house from said party by caucuses, statewide party convention, or a combination of caucuses and a statewide party convention, a legally designated representative of the party will notify the secretary of state, in writing, of the method to be used, no later than the first day of April of an election year.

If a political party elects to use a primary election as the means of determining its ordered list of candidates for the general election, all qualified candidates who file for a said party's nomination will appear on the primary ballot for that party. Registered voters will be allowed to vote in one, and only one, party's primary election, and for one, and only one candidate from that party. Based on the results of the primary election, candidates for each political party will be placed in an ordered list, with the candidate receiving the most votes listed first and the remaining candidates listed in descending order based on the number of votes received from highest to lowest total votes. A total of up to fifty candidates for each party will be eligible for seats in the house of representatives based on vote totals in the general election. Should a party elect to nominate candidates for the general election by means of caucuses and/or a statewide party convention, an ordered list of up to fifty candidates representing each political party shall be filed with the secretary of state's office no less than 90 days before the general election date in election years.

A political party having no candidate receiving, nor having received as a political party, at least one per cent of the vote in the preceding general election, may qualify to place for a place on the ballot by presenting petitions with signatures representing one-half of one per cent of the legal votes cast for candidates and political parties, running for seats in the house of representatives in the preceding general election. Said petitions to be delivered to the secretary of state no later than ninety days preceding the general election. At the time the petitions are presented, the political party will also notify the secretary of state of the method to be used by said party in nominating a slate of candidates.

To qualify for a place on the ballot, an independent candidate must present petitions with signatures of legal voters representing a total equal to, or greater than, one-quarter of one percent of the total number of votes cast for gubernatorial candidates in the preceding general election. Said petitions must be delivered to the secretary of state no later than one-hundred and twenty days before the general election. The signatures on petitions submitted by independent candidates shall be subject to verification according to the procedures in force in the code of state regulations for independent candidate petitions in force at the time the petitions are submitted.

In each general election, voters will cast one vote for a political party or for a single independent candidate appearing on the ballot, or a single write-in vote for a candidate not appearing on the ballot, having properly registered with the secretary of state as a write-in candidate.

Each political party will receive one seat in the house of representatives for each two percent of the vote received statewide for that party and its ordered list of candidates in the general election (rounded to account for fractions as necessary). Candidates from each political party will be awarded seats based on the ordered list submitted by each political party, with seats awarded, in order, from most votes received to least, by candidates in the primary election, caucuses, or nominating convention of that political party.

For purposes of apportioning seats in the house of representatives, any and all independent candidates will be treated jointly as a political party, with the total number of seats awarded to independent candidates based on the total number of votes cast for all independent candidates in the general election, with seats awarded to that number of independent candidates from an ordered list of all independent candidates, in descending order of the votes cast for each independent candidate, beginning with the independent candidate receiving the most votes.

Should the total number of votes for independent candidates exceed the sum of 2 percent per candidate, all of the independent candidates will be awarded seats and the percentage required for the remaining seats will be recalculated based on the number of seats remaining.

In the event that a representative resigns, dies, or is removed from office for any reason during the subsequent legislative sessions, the seat shall be filled by the next nominee from that party's ordered list of candidates or by the independent candidate who would have been seated next based on the total number of votes cast for independent candidates. In the event that there are no candidates remaining on the ordered list for a political party or from the list of independent candidates, the next candidate who would have been seated according to the system of apportionment described herein shall be seated.

This amendment shall take effect January 1 2017 and beginning with the selection and election of representatives in the general election to be held November of 2018.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-037)**

**Subject**

Initiative petition from Winston Apple regarding a proposed constitutional amendment to Article III. (Received April 9, 2015)

**Date**

April 29, 2015

**Description**

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College, St. Louis County Election Board, St. Louis City Election Board, Kansas City Election Board, Platte County Board of Elections, Jackson County Election Board,** and **Clay County Election Board.**

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact on their department.

Officials from the **Department of Higher Education** indicated this initiative petition would have no direct fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated they see no fiscal impact due to this legislation.

Officials from the **Department of Social Services** indicated there is no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated if passed, this initiative petition would, starting 2019, the first regular session of the 100th general assembly,

reduce the size of the House from 163 to 50 (reduction of 113 members). Savings calculated using today's values:

Member salary savings: 113 x $35,915 = $4,058,395
Member $700 account savings: 113 x $8,400 = $949,200
Legislative assistant reduction savings: 113 x $29,500 = $3,333,500
Session mileage savings: 19 weeks x average 270 miles x 0.37 per mile x 113 = $214,485
Session per diem savings: 70 days x $103.20 x 113 = $816,312
Total estimated savings: $9,371,892

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

The proposal amends Article III, Section 2 of the Missouri Constitution by reducing the size of the House of Representatives from 163 to 50 and changing the way Representatives are apportioned. This will begin with the November 2018 general election.

This proposal will have no impact on their office.

NOTE: There appears to be a drafting error in the second sentence of the fifth paragraph of the new language. It states "cent of the vote in the preceding general election, may qualify to place for a place on the ballot by". The underlined words appear to be incorrectly included in the sentence.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated:

This proposal will require changes be made regarding elections in the State of Missouri. These changes will likely include: the re-programing of voting machines, changes to the Missouri Centralized Voter Registration system, and postage costs for absentee ballots. Each of these changes is likely to include additional costs which must be covered by both the State of Missouri and local election authorities. Under this proposal, the State and local election authorities are also likely to incur additional costs associated with petition signature verification. Their office contacted vendors regarding the potential costs of these changes. Vendors were unable to provide an estimate of these potential costs. There is also the possibility of a special statewide primary election. If necessary, a special statewide primary election would have an estimated cost of $7.1 million (based on the cost of the 2012 Presidential Preference Primary).

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office.

Officials from the **State Treasurer's office** indicated no impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson** indicated they expect no fiscal impact if this initiative petition becomes law.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated this initiative petition would not have a significant fiscal impact on their university.

Officials from **St. Louis City Election Board** indicated there does not appear to be any substantial cost or savings for their board regarding the proposed constitutional amendment.

Officials from **Platte County Board of Elections** indicated they expect no increased cost directly related to the approval of the proposed petition to their board.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, St. Louis Community College, St. Louis County Election Board, Kansas City Election Board, Jackson County Election Board,** and **Clay County Election Board.**

**Fiscal Note Summary**

Reduced legislative operating costs would result in annual estimated savings to state government of at least $9.3 million. An unknown change in election related costs is expected for state and local governments.

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

April 2, 2015

The Honorable John Watson
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Gary (Winston) Apple regarding a proposed constitutional amendment to Article III (2016-036)

Dear Auditor Watson:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Gary (Winston) Apple on April 1, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

RECEIVED
APR 0 2 2015
STATE AUDITORS OFFICE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

RECEIVED
2015 APR -1 PM 3:57

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong. Dist. | NAME (Printed or Typed) |
|---|---|---|---|---|---|---|
| 1. | / / | | | | | |
| 2. | / / | | | | | |
| 3. | / / | | | | | |
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| 10. | / / | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant
(Person obtaining signature)

_____
Printed Name of Affiant

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____
_____

Notary Public (Seal)

My commission expires _____

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article III, Section 2 of the Constitution is repealed and one new section enacted in lieu thereof, to be known as Article III, Section 2, to read as follows:

[**Section 2. Election of representatives—apportionment commission, appointment, duties, compensation.**—The house of representatives shall consist of one hundred sixty-three members elected at each general election and apportioned in the following manner: Within sixty days after the population of this state is reported to the President for each decennial census of the United States and, in the event that a reapportionment has been invalidated by a court of competent jurisdiction, within sixty days after notification by the governor that such a ruling has been made, the congressional district committee of each of the two parties casting the highest vote for governor at the last preceding election shall meet and the members of the committee shall nominate, by a majority vote of the members of the committee present, provided that a majority of the elected members is present, two members of their party, residents in that district, as nominees for reapportionment commissioners. Neither party shall select more than one nominee from any one state legislative district. The congressional committees shall each submit to the governor their list of elected nominees. Within thirty days the governor shall appoint a commission consisting of one name from each list to reapportion the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts.

If any of the congressional committees fails to submit a list within such time the governor shall appoint a member of his own choice from that district and from the political party of the committee failing to make the appointment.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final statement of apportionment.

For the purposes of this article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

The commissioners so selected shall on the fifteenth day, excluding Sundays and holidays, after all members have been selected, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary and shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held. A copy of the agenda shall be filed with the clerk of the house of

representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

The commission shall reapportion the representatives by dividing the population of the state by the number one hundred sixty-three and shall establish each district so that the population of that district shall, as nearly as possible, equal that figure.

Each district shall be composed of contiguous territory as compact as may be.

Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative plan of apportionment and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons.

Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

After the statement is filed members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided, except that if the statement is not filed within six months of the time fixed for the appointment of the commission, it shall stand discharged and the house of representatives shall be apportioned by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of the discharge of the apportionment commission. Thereafter members of the house of representatives shall be elected according to such districts until a reapportionment is made as herein provided.

Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his actual and necessary expenses incurred while serving as a member of the commission.

No reapportionment shall be subject to the referendum.]

**Section 2. Election of representatives**. The house of representatives shall consist of 50 members, elected by votes cast, in each general election, for a political party, and its ordered list of candidates, or votes cast for independent candidates.

Political parties are free to determine their candidates, and the order in which they will be awarded seats in the house of representatives, through a primary election, caucuses, a statewide party nominating convention, or a combination of caucuses and a statewide party nominating convention.

For a political party having had a candidate for any statewide office receiving one per cent or more of the legal votes in the preceding general election, a primary election will

be the default method for selecting candidates. Should a political party determine that they will select candidates for the house from said party by caucuses, statewide party convention, or a combination of caucuses and a statewide party convention, a legally designated representative of the party will notify the secretary of state, in writing, of the method to be used, no later than the first day of April of an election year.

If a political party elects to use a primary election as the means of determining its ordered list of candidates for the general election, all qualified candidates who file for a said party's nomination will appear on the primary ballot for that party. Registered voters will be allowed to vote in one, and only one, party's primary election, and for one, and only one candidate from that party. Based on the results of the primary election, candidates for each political party will be placed in an ordered list, with the candidate receiving the most votes listed first and the remaining candidates listed in descending order based on the number of votes received from highest to lowest total votes. A total of up to fifty candidates for each party will be eligible for seats in the house of representatives based on vote totals in the general election.

Should a party elect to nominate candidates for the general election by means of caucuses and/or a statewide party convention, an ordered list of up to fifty candidates representing each political party shall be filed with the secretary of state's office no less than 90 days before the general election date in election years.

A political party having no candidate receiving, nor having received as a political party, at least one per cent of the vote in the preceding general election, may qualify to place for a place on the ballot by presenting petitions with signatures representing one-half of one per cent of the legal votes cast for candidates and political parties, running for seats in the house of representatives in the preceding general election. Said petitions to be delivered to the secretary of state no later than ninety days preceding the general election. At the time the petitions are presented, the political party will also notify the secretary of state of the method to be used by said party in nominating a slate of candidates.

To qualify for a place on the ballot, an independent candidate must present petitions with signatures of legal voters representing a total equal to, or greater than, one-quarter of one percent of the total number of votes cast for gubernatorial candidates in the preceding general election. Said petitions must be delivered to the secretary of state no later than one-hundred and twenty days before the general election. The signatures on petitions submitted by independent candidates shall be subject to verification according to the procedures in force in the code of state regulations for independent candidate petitions in force at the time the petitions are submitted.

In each general election, voters will cast one vote for a political party or for a single independent candidate appearing on the ballot, or a single write-in vote for a candidate not appearing on the ballot, having properly registered with the secretary of state as a write-in candidate.

Each political party will receive one seat in the house of representatives for each two percent of the vote received statewide for that party and its ordered list of candidates in

the general election (rounded to account for fractions as necessary).

Candidates from each political party will be awarded seats based on the ordered list submitted by each political party, with seats awarded, in order, from most votes received to least, by candidates in the primary election, caucuses, or nominating convention of that political party.

For purposes of apportioning seats in the house of representatives, any and all independent candidates will be treated jointly as a political party, with the total number of seats awarded to independent candidates based on the total number of votes cast for all independent candidates in the general election, with seats awarded to that number of independent candidates from an ordered list of all independent candidates, in descending order of the votes cast for each independent candidate, beginning with the independent candidate receiving the most votes.

Should the total number of votes for independent candidates exceed the sum of 2 percent per candidate, all of the independent candidates will be awarded seats and the percentage required for the remaining seats will be recalculated based on the number of seats remaining.

In the event that a representative resigns, dies, or is removed from office for any reason during the subsequent legislative sessions, the seat shall be filled by the next nominee from that party's ordered list of candidates or by the independent candidate who would have been seated next based on the total number of votes cast for independent candidates. In the event that there are no candidates remaining on the ordered list for a political party or from the list of independent candidates, the next candidate who would have been seated according to the system of apportionment described herein shall be seated.

This amendment shall take effect January 1 2017 and beginning with the selection and election of representatives in the general election to be held November of 2018.

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

April 2, 2015

The Honorable John Watson
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Gary (Winston) Apple regarding a proposed statutory amendment to Chapters 290 and 67 (2016-035)

Dear Auditor Watson:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Gary (Winston) Apple on April 1, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

RECEIVED
APR 02 2015
STATE AUDITORS OFFICE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

RECEIVED
2016 APR -1 PM 3:56

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____
I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong. Dist. | NAME (Printed or Typed) |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant
(Person obtaining signature)

_____
Address of Affiant

_____
Printed Name of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

Notary Public (Seal)

My commission expires _____

Be it enacted by the people of the State of Missouri, as follows:

Sections 290.502, RSMo and 67.1571, RSMo are amended to read as follows:

290.502. 1. Except as may be otherwise provided pursuant to sections 290.500 to 290.530, effective January 1, [2007] 2017, the minimum wage rate that every employer shall pay to each employee [wages at the rate of $6.50] shall be either no less than $11.00 per hour, or wages at the same rate or rates set under the provisions of federal law as the prevailing federal minimum wage applicable to those covered jobs in interstate commerce, whichever rate per hour is higher.

2. The minimum wage rate provided for in subsection 1 of this section shall, whether or not such wage is derived from the statutory minimum or the adoption of the federal minimum as required in subsection 1 of this section, be increased or decreased on January 1, 2008, and on January 1 of successive years, by the increase or decrease in the cost of living. On September 30, 2007, and on each September 30 of each successive year, the director shall measure the increase or decrease in the cost of living by the percentage increase or decrease as of the preceding July over the level as of July of the immediately preceding year of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) or successor index as published by the U.S. Department of Labor or its successor agency, with the amount of the minimum wage increase or decrease rounded to the nearest five cents.

67.1571. [No] A municipality as defined in section 1, paragraph 2, subsection (9) [shall] may establish, mandate or otherwise require a minimum wage that exceeds the state minimum wage.

RECEIVED
MAR 23 2015
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-034

March 23, 2015

The Honorable John Watson
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Michael Dean regarding a proposed statutory amendment to Chapter 610 (2016-034).

Dear Auditor Watson:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Michael Dean on March 23, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-034

County _____

Page No. _____

RECEIVED
2015 MAR 23 AM 10:
SEC. OF STATE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any referendum petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, unless the general assembly shall designate another date, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(OFFICIAL BALLOT TITLE)

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____, I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONG. DISTR. | NAME (Printed or Typed) |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLEAD GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do _____ do not _____ (check one) expect to be paid for circulating this petition. If paid, list the payer _____.

_____

Signature of Affiant (Person obtaining signatures)

_____

(Printed Name of Affiant)

_____

Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D._____

_____

Signature of Notary

Address of Notary:_____

_____

Notary Public (Seal)

My commission expires _____.

16-034

*Be it enacted by the people of the state of Missouri:*

Chapter 610, RsMO, is amended by adding thereto one new section, to be known as section 610.012, to read as follows:

610.012. (1) We the People of the state of Missouri, with the legislative power retained by us under the Missouri Constitution (including Article III, Sections 49 and 50), hereby call for an Article V Convention by enacting into law this Application, in accordance with Article V of the U. S. Constitution, for the specific and exclusive purpose of considering a Constitutional Amendment consistent with the following principles:

(a) Corporations Are Not People. Artificial entities, such as corporations, unions and non-profit corporations, established by the laws of any State, the United States, or any foreign state, shall have no constitutional rights and shall be subject to regulation by the People, through Federal, State or Local law. Nothing in this clause shall be construed to limit the rights of the People as specified in the U.S. Constitution and its Amendments.

(b) Money is Not Speech. Money is property and shall not be construed as speech. The People, to ensure a level playing field for all people regardless of their economic status, empower and direct Federal, State, and Local governments to regulate, limit or prohibit the contribution and spending of money for political purposes and to require full and prompt public disclosure of all such transactions.

(2) This measure constitutes a continuing application in accordance with Article V of the Constitution of the United States, until at least two-thirds of the legislatures of the several states have made similar applications pursuant to Article V.

(3) A copy of this initiative shall be transmitted to the President of the United States; to each member of the Missouri Congressional Delegation; to the presiding officers of the U.S. Senate and House of Representatives; to each Governor and presiding officer of each legislative body of each of the United States.

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

March 5, 2015

The Honorable John Watson
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Angela Daniels regarding a proposed constitutional amendment to Article VIII (2016-033)

Dear Auditor Watson:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Angela Daniels on March 5, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

RECEIVED
MAR 0 5 2015
STATE AUDITORS OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

RECEIVED
2015 MAR -5 AM 8:51
SEC. OF STATE

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong. Dist. | NAME (Printed or Typed) |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____

Signature of Affiant
(Person obtaining signatures)

_____

(Printed Name of Affiant)

_____

Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____

Signature of Notary

Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

*Be it resolved by* the *people of the state of Missouri that the Constitution be amended:*

One new section is adopted by adding one new section to be known as Article VIII, section 24 and to read as follows:

1. This section shall be known as the "Missouri Voter Disenfranchisement Reform Initiative."

2. Notwithstanding the provisions of Article VIII, section 2 of this Constitution, or any other provision of law, no citizen of the United States who is a resident of this state, who is eighteen years of age or older, and who is properly registered to vote at least thirty days before the election in which he or she offers to vote, shall be disqualified from voting due to conviction for felony, or imprisonment, unless he or she has been duly convicted of treason or duly convicted of a felony related to the right of suffrage.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-033)**

## Subject

Initiative petition from Angela Daniels regarding a proposed constitutional amendment to Article VIII. (Received March 5, 2015)

## Date

March 25, 2015

## Description

This proposal would amend Article VIII of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College, St. Louis County Election Board, St. Louis City Election Board, Kansas City Election Board, Platte County Board of Elections, Jackson County Election Board,** and **Clay County Election Board.**

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated this legislation does not impact their department or local schools.

Officials from the **Department of Higher Education** indicated this initiative petition does not have a direct fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their agency.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will not have a fiscal impact on their department.

Officials from the **Department of Public Safety** indicated there is no fiscal impact for their department for this initiative petition.

The **Missouri State Highway Patrol** indicated it anticipates no fiscal impact.

Officials from the **Department of Social Services** indicated no fiscal impact on their agency.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated:

This initiative petition would allow incarcerated prisoners and offenders on probation or parole to vote. If approved by voters, this petition would incur costs to both state and local governmental entities.

Mailing envelopes used to return absentee ballots are printed with business reply permits, the cost of which is reimbursed by the Missouri Secretary of State's Office (pursuant to Section 115.285, RSMo). Each envelope marked with a business reply permit costs $1.80.

The Missouri Department of Corrections' prison population totals 31,908 (as of 6/30/14). Assuming these incarcerated individuals are otherwise eligible to vote in the state of Missouri, this petition would cost the Missouri Secretary of State's Office between $0 and $172,303.20 in Fiscal Year 2017 and between $0 and $287,172 in Fiscal Year 2018.

**FY 2017 Election Dates (After petition election date on 11/8/16)**
February 2017
March 2017
April 2017

**FY 2018 Election Dates**
August 2017
November 2017
February 2018
March 2018
April 2018

**Business Reply Permit Printing**
31,908 Missouri inmates x $1.80 per envelope = $57,434.40
$57,434.40 x 3 Missouri election dates in FY 2017 = $172,303.20
$57,434.40 x 5 Missouri election dates in FY 2018 = $287,172

Local Election Authorities bear the cost of printing ballots for each election. Based on the current Missouri Department of Corrections' prison population of 31,908 and 64,841 supervised offenders on probation or parole, assuming these individuals are otherwise eligible to vote in the state of Missouri, this petition would potentially require Local Election Authorities to print an additional 96,749 ballots per election.

The Secretary of State's office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and the Secretary of State's Office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, the Secretary of State's office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, the Secretary of State's office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, the office reserves the right to request funding to meet the cost of its publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office.

Officials from the **State Treasurer's office** indicated no impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from **Metropolitan Community College** indicated this would not have a financial impact on their college.

Officials from **Platte County Board of Elections** indicated the changes proposed in the petition would have no fiscal impact on their office.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, University of Missouri, St. Louis Community College, St. Louis County Election Board, St. Louis City Election Board, Kansas City Election Board, Jackson County Election Board,** and **Clay County Election Board.**

**Fiscal Note Summary**

It is estimated this proposal will increase state government costs up to $285,000 annually or $57,000 per election, and have an unknown increase in costs for local governmental entities.

16-032

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

March 4, 2015

The Honorable John Watson
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Michael Dean regarding a proposed amendment to the Revised Statutes of Missouri (2016-032)

Dear Auditor Watson:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Michael Dean on March 4, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

RECEIVED
MAR 04 2015
STATE AUDITOR'S OFFICE

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

K0-032

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any referendum petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, unless the general assembly shall designate another date, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2015 MAR -4 AM 9:19
SECRETARY OF STATE

(OFFICIAL BALLOT TITLE)

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____,

_____, being first duly sworn, say (print or type names of signers)

| | NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONG. DISTR. | NAME (Printed or Typed) |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLEAD GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do _____ do not _____ (check one) expect to be paid for circulating this petition. If paid, list the payer _____.

_____

Signature of Affiant (Person obtaining signatures)

_____

(Printed Name of Affiant)

_____

Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D._____

_____

Signature of Notary

Address of Notary:_____

_____

Notary Public (Seal)

My commission expires _____.

16-032

Whereas:

• Decisions by the U.S. Supreme Court have equated spending money in elections with speech and granted corporations the constitutional rights of the People, permitting the wealthy to buy enormous influence in our government through uncontrolled political spending. This undermines the aspirations of Missourians to a true democracy with a level playing field.
• Corporations, including for-profit and non-profit organizations, unions, and other artificial legal entities, are created under state laws. There is no mention of these entities in the Constitution.
• Money is property, not speech. Its unregulated use for political purposes creates unequal access to political power and influence. Money contributed or spent for political purposes should be subject to regulation.

Therefore:

(1) We the People of the state of Missouri, with the legislative power retained by us under the Missouri Constitution (including Article III, Sections 49 through 53), hereby call for an Article V Convention by enacting into law this Application, in accordance with Article V of the U. S. Constitution, for the specific and exclusive purpose of considering a Constitutional Amendment consistent with the following principles:
(a) Corporations Are Not People. Artificial entities, such as corporations, unions and non-profit corporations, established by the laws of any State, the United States, or any foreign state, shall have no constitutional rights and shall be subject to regulation by the People, through Federal, State or Local law. Nothing in this clause shall be construed to limit the rights of the People as specified in the U.S. Constitution and its Amendments.
(b) Money is Not Speech. Money is property and shall not be construed as speech. The People, to ensure a level playing field for all people regardless of their economic status, empower and direct Federal, State, and Local governments to regulate, limit or prohibit the contribution and spending of money for political purposes and to require full and prompt public disclosure of all such transactions.

(2) This measure constitutes a continuing application in accordance with Article V of the Constitution of the United States, until at least two-thirds of the legislatures of the several states have made similar applications pursuant to Article V.

(3) A copy of this initiative shall be transmitted to the President of the United States; to each member of the Missouri Congressional Delegation; to the presiding officers of the U.S. Senate and House of Representatives; to each Governor and presiding officer of each legislative body of each of the United States.

(4) This Application shall be codified in the Missouri Revised Statutes.

16-031

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

February 27, 2015

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Michael Dean regarding a proposed amendment to the Revised Statutes of Missouri (2016-031)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Michael Dean on February 26, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

RECEIVED
FEB 27 2015
STATE AUDITORS OFFICE

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-031

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any referendum petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, unless the general assembly shall designate another date, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
FEB 26 2015
MO. SECRETARY OF STATE

(OFFICIAL BALLOT TITLE)

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____, I, _____, being first duly sworn, say (print or type names of signers)

| | NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONG. DISTR. | NAME (Printed or Typed) |
|---|---|---|---|---|---|---|
| 1. | | | | | | |
| 2. | | | | | | |
| 3. | | | | | | |
| 4. | | | | | | |
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| 8. | | | | | | |
| 9. | | | | | | |
| 10. | | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLEAD GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do _____ do not _____ (check one) expect to be paid for circulating this petition. If paid, list the payer _____.

_____
Signature of Affiant (Person obtaining signatures)

_____
(Printed Name of Affiant)

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D._____

_____
Signature of Notary

Address of Notary:_____

_____

Notary Public (Seal)

My commission expires _____.

Whereas:

K-031

• Decisions by the U.S. Supreme Court have equated spending money in elections with speech and granted corporations the constitutional rights of the People, permitting the wealthy to buy enormous influence in our government through uncontrolled political spending. This undermines the aspirations of Missourians to a true democracy with a level playing field.
• Corporations, including for-profit and non-profit organizations, unions, and other artificial legal entities, are created under state laws. There is no mention of these entities in the Constitution.
• Money is property, not speech. Its unregulated use for political purposes creates unequal access to political power and influence. Money contributed or spent for political purposes should be subject to regulation.

Therefore:

(1) We the People of the state of Missouri, with the legislative power retained by us under the Missouri Constitution (including Article III, Sections 49 through 53), hereby call for an Article V Convention by enacting into law this Application, in accordance with Article V of the U. S. Constitution, for the specific and exclusive purpose of considering a Constitutional Amendment consistent with the following principles:
(a) Corporations Are Not People. Artificial entities, such as corporations, unions and non-profit corporations, established by the laws of any State, the United States, or any foreign state, shall have no constitutional rights and shall be subject to regulation by the People, through Federal, State or Local law. Nothing in this clause shall be construed to limit the rights of the People as specified in the U.S. Constitution and its Amendments.
(b) Money is Not Speech. Money is property and shall not be construed as speech. The People, to ensure a level playing field for all people regardless of their economic status, empower and direct Federal, State, and Local governments to regulate, limit or prohibit the contribution and spending of money for political purposes and to require full and prompt public disclosure of all such transactions.

(2) This measure constitutes a continuing application in accordance with Article V of the Constitution of the United States, until at least two-thirds of the legislatures of the several states have made similar applications pursuant to Article V.

(3) A copy of this initiative shall be transmitted to the President of the United States; to each member of the Oregon Congressional Delegation; to the presiding officers of the U.S. Senate and House of Representatives; to each Governor and presiding officer of each legislative body of each of the United States.

(4) This Application shall be codified in the Missouri Revised Statutes.

16-030

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

February 13, 2015

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Aundrea Riffle regarding a proposed statutory amendment to Chapter 195 (2016-030)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Aundrea Riffle on February 13, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

RECEIVED
FEB 13 2015
STATE AUDITORS OFFICE

16-080

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the **same** measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law (or amendment to the constitution) shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot title)

RECEIVED
FEB 13 2015
MO. SECRETARY OF STATE

CIRCULATOR'S AFIDAVIT

STATE OF MISSOURI, COUNTY OF_____
I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street), (City, Town or Village) | ZIP CODE | CONGR DIST. | NAME ( Printed or Typed) |
|---|---|---|---|---|---|
| 1. | / /20 | | | | 1. |
| 2. | / /20 | | | | 2. |
| 3. | / /20 | | | | 3. |
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| 9 | / /20 | | | | 9 |
| 10. | / /20 | | | | 10. |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and_____County (or city of St. Louis).

FUTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___do not___ *(check one)* expect to be paid for circulating this petition. If paid, list the payer

_____

_____ Signature of Affiant (Person obtaining signatures)

_____ Printed Name of Affiant

_____ Address of Affiant

Subscribed and sworn to before me this _____ day of _____,A.D. 20___ My Commission Expires:_____

_____ Signature of Notary

_____ Printed Name of Notary

_____ Address of Notary

_____ Notary Public *(seal)*

16-080

Initiative Petition

Sections 195.291 and 195.295 of the Revised Missouri Statutes are amended and one new section enacted in place thereof to be known as

Sections 195.291, 195.295 and 195.297 to read as follows:

Explanation: The existing sections 195.291 and 195.295 is set forth hereinafter with the new matter underlined, and deleted matter in brackets; [thus]

"Be it enacted by the people of the state of Missouri:"

Section 195.291

1. Any person who has pleaded guilty to or been found guilty of violation of section 195.211, when punishable as a class B felony, shall be sentenced to the authorized term of imprisonment for a class A felony if the court finds the defendant is a prior drug offender.
2. Any person who has pleaded guilty to or been found guilty of a violation of section 195.211, when punishable as a class B felony, shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served [without probation or parole] in accordance with the provisions of section 195.297 if the court finds the defendant is a persistent drug offender.

Section 195.295

1. Any person who has pleaded guilty to or been found guilty of violation of subdivision (1) of subsection 1 of section 195.223, subdivision (1) of subsection 2 of section 195.223, subdivision (1) of subsection 3 of section 195.223, subdivision (1) of subsection 4 of section 195.223, subdivision (1) of subsection 5 of section 195.223, subdivision (1) of subsection 6 195.223, or subdivision (1) of subsection 7 of section 195 .223 shall be sentenced to the authorized term of imprisonment for a class A felony if the court finds the defendant is a prior drug offender.
2. Any person who has pleaded guilty to or been found guilty of a violation of subdivision (1) of subsection 1 of section 195.223, subdivision (1) of subsection 2 of section 195.223, subdivision (1) of subsection 3 of section 195.223, subdivision (1) of subsection 4 of section 195.223, subdivision (1) of subsection 5 of section 195.223, subdivision (1) of subsection 6 of section 195.223, or subdivision (1) of subsection 7 of section 195.223, or subdivision (1) of subsection 9 of section 195.223 shall be sentenced to the authorized term of imprisonment for a class A felony, which term shall be [without probation or parole] served in accordance with the provisions of section 195.297 if the court finds the defendant is a persistent drug offender.
3. Any person who has pleaded guilty to or been found guilty of a violation of subdivision (2) of subsection 1 of section 195.223, subdivision (2) of subsection (2) of section 195.223, subdivision (2) of subsection 3 of section 195.223, subdivision (2) of subsection 4 of section 195.223, subdivision (2) of subsection 5 of section 195.223, subdivision (2) of subsection 6 of section 195.223, or subdivision (2) of subsection 7 of section 195.223, or subsection 8 of section 195.223, or subdivision (2) of subsection 9 of section 195.223 shall be sentenced to the authorized term of imprisonment for a class A felony, which term shall be served in accordance with the provisions of section 195.297 [without probation or parole] if the court finds the defendant is a prior drug offender.

Section 195.297

1. Section 195.297 shall be known and may be cited as the "Smarter Non-Violent, Prior and Persistent Drug Offenders Act."
2. The provisions of subsections 1 to 3 of this section shall be applicable to a nonviolent offender serving without probation or parole sentences for drug felonies. For the purposes of this section, "previous conviction(s)" means any prior pleading to or being found guilty of a drug related felony. Other provisions of the law to the contrary notwithstanding, any offender who has pleaded guilty to or has been found guilty of a Class A felony under 195.291 (subsection 2) or 195.295 (subsection 2 and 3) and is committed to the department of corrections shall be required to serve the following minimum prison terms:
   (1) If the offender has one previous conviction for a non-violent drug felony unrelated to the present offense, the minimum prison term which the offender must serve shall be forty percent of his or her sentence or until the offender attains seventy years of age and has served at least thirty percent of the sentence imposed, whichever occurs first.
   (2) If the offender has two previous convictions for non-violent drug felonies unrelated to the present offense, the minimum prison term which the offender must serve shall be fifty percent of his or her sentence or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.
   (3) If the offender has three or more previous convictions for non-violent drug felonies unrelated to the present offense, the minimum prison term which the offender must serve shall be seventy percent of his or her sentence or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.
   (4) This new enactment shall not apply to any offender that has pleaded guilty to or has been convicted of a dangerous felony, in any relation to the relevant drug conviction.

16-030

3. For purposes of this section, the term "minimum prison term" shall mean time required to be served by the offender before he or she is eligible for parole, conditional release or other early release by the department of corrections.
4. Courts shall retain discretion to lower an offender's sentence, if they have been sentenced to a without probation or parole sentence, and order restorative justice methods, when applicable.
   (1) As alternative sentences, the Court may impose, prison work programs, work release, home-based incarceration, treatment programs outside of prison, probation and parole options, and any other programs.
   (2) The office of the state courts administrator, the department of public safety, and the department of corrections shall cooperate with the circuit courts of this state by providing information or access to information needed by the Court pertaining to an offender.
5. If the imposition or execution of a sentence is suspended, the court may order any or all of the following restorative justice methods, or any other method that the court finds just or appropriate:
   (1) Restitution to any victim or a statutorily created fund for costs incurred as a result of the offender's actions.
   (2) Offender treatment programs.
   (3) Mandatory community service.
   (4) Work release programs in local facilities.
   (5) Community-based residential and nonresidential programs.
   (6) Payment to the "Saving Families and Students Fund," ranging from $100.00 up to $500.00
6. The provisions of this section shall apply only to offenses occurring on or after August 3, 1993.
7. Pursuant to subdivision (1) of subsection 5 of this section, the court may order the assessment and payment of a designated amount of restitution to a county law enforcement restitution fund established by the county commission pursuant to section 50.565. Such contribution shall not exceed ten thousand dollars. Any restitution moneys deposited into the county law enforcement restitution fund pursuant to this section shall only be expended pursuant to the provisions of section 50.565.
8. A judge may order payment to a restitution fund only if such fund had been created by ordinance or resolution of a county of the State of Missouri prior to sentencing. A judge shall not have any direct supervisory authority or administrative control over any fund to which the judge is ordering a defendant to make payment.
9. A defendant who fails to make a payment to a county law enforcement restitution fund may not have his or her parole or probation revoked solely for failing to make such payment unless the judge, after evidentiary hearing, makes a finding supported by a preponderance of the evidence that the defendant either willfully refused to make the payment or that the defendant willfully, intentionally, and purposefully failed to make sufficient bona fide efforts to acquire the resources to pay.
10. Nothing in this section shall be construed to prevent circuit courts of the state from entertaining cases that are no longer pending and have become final.
11. All state laws and sentencing practices, which are inconsistent with the subsection (2) of section 195.297 shall no longer be in force and effect insofar as they are inconsistent with this section. As the sole purpose of the enactment, is to, "annul and repeal without probation or parole for non-violent drug offenders sentenced under Section 195.291 or 195.295." To include and replace any prior provisions, language and terminology of sections 195.291 and 195.295, and become consistent with repealing without probation or parole.
12. This measure mandates, that any offender currently serving a no parolable sentence for drugs sentenced under 195.291Subsection (2) or 195.295 Subsections (2 or 3), to immediately be considered by the Missouri Board of Probation and Parole: for parole consideration, in compliance with this measure.
13. Under this measure, a "Life sentence" shall be calculated as 30 years.
14. This measure requires that the annual savings to the state created thereby, of this measure, as estimated by the Governor's administration, be annually transferred from the General Fund into a new state fund; the Saving Families and Students Fund. Under this measure, monies in the fund would be divided as follows:
    (1) 25 percent to grants aimed at reducing truancy and drop-outs among K-12 students in Missouri Public Schools. (State Department of Education)
    (2) 10 percent for victims services grants. (Missouri Restorative Justice)
    (3) 50 percent to support mental health and drug abuse treatment services that are designed to help keep individuals out of prison and jail. (Missouri Department of Mental Health, Missouri Department of Corrections/Probation and Parole)
    (4) 15 percent to create and maintain employment training for convicted felons, aimed at lowering recidivism. (Missouri Department of Corrections, Missouri Office of Probation and Parole)

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-030)**

## Subject

Initiative petition from Aundrea Riffle regarding a proposed amendment to Chapter 195 of the Revised Statutes of Missouri. (Received February 13, 2015)

## Date

March 6, 2015

## Description

This proposal would amend Chapter 195 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Office of Prosecution Services.**

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated Section 195.297.14 RSMo appears to require the annual savings, created by the sections' provisions, to be transferred into the Saving Families and Students Fund. Twenty-five percent of the funds would go toward grants aimed at reducing truancy and drop-outs among K-12 students. Their department has no means to calculate the extent of this savings. Any funds would be additional monies to the local school districts.

Officials from the **Department of Higher Education** indicated they have determined it would have no direct fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their agency.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated:

This proposal includes language that would require the Governor’s office to calculate the savings created by these alternative sentences. It would require that the savings be transferred to the Saving Families and Students Fund. Half of these funds would be shared by the Department of Mental Health and Department of Corrections, Probation and Parole to support mental health and drug abuse treatment services that are designed to help keep individuals out of prison and jail.

This proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated the department would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated this petition amends only the old code and not the revised code for 2017. The 2017 code will repeal the no probation

and parole conditions for the type off offenses listed in this proposal. Therefore, there is no impact to their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will not have an impact on their department.

Officials from the **Department of Public Safety** indicated there is no fiscal impact for their department for this legislation.

The Missouri State Highway Patrol indicated it anticipates no fiscal impact.

Officials from the **Department of Social Services** indicated no fiscal impact on their agency.

Officials from the **Governor's Office** indicated there should be no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

This petition creates the “Smarter Non-Violent, Prior and Persistent Drug Offenders Act” which is applicable to nonviolent offenders serving without probation or parole sentences for drug felonies, for offenses occurring on or after August 3, 1993. Minimum prison terms are reduced based on the number of previous convictions for non-violent drug felonies unrelated to the present offense.

The courts retain discretion to lower sentences and order restorative justice methods, such as prison work programs, work release, home-based incarceration, treatment programs outside of prison, probation and parole options, and any other programs when applicable. The court may also order other restorative justice methods such as:

- Restitution to any victim or statutorily created fund for costs incurred as a result of the offender’s actions,
- Offender treatment programs,
- Mandatory community service,
- Work release programs in local facilities and;
- Payment to the “Saving Families and Students Fund” ranging from $100-$500.

In certain cases, the court may order a designated amount of restitution to a county law enforcement restitution fund, not to exceed $10,000.

The Governor's administration must calculate the annual savings to the state by this measure and annually transfer General Revenue in that amount to the newly created "Saving Families and Students Fund". This fund is to be used:

- 25% for grants aimed at reducing truancy and dropouts among K-12 students in MO public schools (Missouri Department of Education)
- 10% for victims services grants (Missouri Restorative Justice)
- 50% to support mental health and drug abuse treatment services that are designed to help keep individuals out of prison and jail. (Department of Mental Health and Department of Corrections)
- 15% to create and maintain employment training for convicted felons, aimed at lowering recidivism. (Department of Corrections)

The Office of Administration would have the responsibility for calculating the annual savings to the state and ensure the General Revenue transfer occurs, if applicable. The Office of Administration does not have this expertise and would expect to contract for those services at an estimated cost of $200,000.

Total State Revenue (TSR) could be impacted to the extent the monies are deposited in the "Saving Families and Students Fund". There could also be a positive impact to TSR if any restitution is ordered to be paid to a state fund.

An argument can be made that this petition would have no fiscal impact because of technical drafting issues. Two of the sections referred to in Section 195.297 RSMo will not exist after January 1, 2017 when the criminal code revisions are implemented. In addition, Section 195.297.11 RSMo states that sections of law which are inconsistent with Section 195.297 RSMo shall no longer be in force. Sections of law cannot be repealed by reference; each section must be listed separately.

Officials from the **Office of State Courts Administrator** indicated the proposed initiative petition would create the "Smarter Non-Violent, Prior and Persistent Drug Offenders Act".

It is unclear if this act designated to the Missouri Department of Mental Health for drug abuse treatment will be "in replacement of" or "in addition to" existing funding for drug abuse treatment services. There may be some impact but we are unable to estimate if there would be a fiscal impact to the treatment court programs.

Officials from the **Missouri Senate** indicated no fiscal impact for their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this

item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and the Secretary of State's Office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, the Secretary of State's office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, the Secretary of State's office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, our office reserves the right to request funding to meet the cost of its publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office. The number of public defender cases would remain constant, although sentences for specific crimes would change.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

Officials from the **City of St. Joseph** indicated this initiative has no apparent impact on expenditures at the city level. There could be grant funds available to the City's Health Department through the provisions of Section 195.297.14(3) RSMo. But any specific amount would be speculative.

Officials from the **Metropolitan Community College** indicated this would not have a fiscal impact on their college.

Officials from the **Missouri Office of Prosecution Services** indicated no measurable fiscal impact to their office. However, the proposal creates new potential litigation, which will create new duties for prosecuting attorneys. The creation of new duties would create additional responsibilities for prosecuting attorneys which may in turn result in additional unfunded costs which are difficult to determine.

The State Auditor's office did not receive a response from the **Missouri House of Representatives,** the **Department of Transportation,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles**

**County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, University of Missouri,** and **St. Louis Community College**.

**Fiscal Note Summary**

Any potential costs or savings to state and local government entities is unknown.

16-029

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

February 9, 2015

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Stacy Shore regarding a proposed constitutional amendment to Article IX, version 4 (2016-029)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Stacy Shore on February 6, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

RECEIVED
FEB 0 9 2015
STATE AUDITORS OFFICE

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County .....

Page No. .....

16-029

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and ..... County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and ..... County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot title.)

RECEIVED
2015 FEB -6 PM 5:01
SEC. OF STATE

## CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF .....

I, ....., being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and .....County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do..... do not ..... (check one) expect to be paid for circulating this petition.

If paid, list the payer: .....

Signature of Affiant: .....
(Person obtaining signatures)

Printed Name of Affiant: .....

.....
Address of Affiant

Subscribed and sworn to before me this ..... day of ....., A.D. .....

Signature of Notary: .....

.....
Address of Notary

Notary Public (Seal)
My commission expires .....

# Article IX – Education

16-029

*Be it resolved by the people of the State of Missouri that the Constitution be amended:*

Section 2 of Article IX of the Constitution of Missouri is amended by modifying sections 2(b) and adding section 2(c). The existing sections 2(b) is set forth hereinafter with the new matter underlined and deleted matter in brackets, [thus].

Article IX, Section 2(b). **1.** The state board of education shall select and appoint a commissioner of education as its chief administrative officer, who shall be a citizen and resident of the state, and removable at its discretion. The board shall prescribe his duties and fix his compensation, and upon his recommendation shall appoint the professional staff and fix their compensation. [The board shall succeed the state board of education heretofore established, with all its powers and duties, and shall have such other powers and duties as may be prescribed by law.]

2. The state board of education and the commissioner of education shall only have the authority (1) to research and offer opinions on the most efficient and effective ways to educate students, (2) to assess and publicly report on the quality and performance of the public schools in this state, and (3) to offer recommendations and training designed to help the public schools in this state improve their performance. Neither the board nor the commissioner may compel any school or school district to take any action, administer any test, or implement any policy. The General Assembly may limit the funding available to the board and commissioner for the performance of the duties enumerated herein, but the General Assembly may neither direct the manner in which the board and commissioner fulfill their duties under this article, nor expand the scope of those duties beyond what is established in this subsection.

Section 2(c). 1. Each public school district in this state shall be independent from state control and shall be governed by school board members elected by and accountable to voters residing in each public school district; provided, the General Assembly shall be authorized to pass general laws establishing procedures through which citizens may establish a school district and elect the board to govern that district.

2. Each public school district shall be exclusively responsible for (1) deciding the qualifications required of the public school teachers and administrators in that district; (2) setting the curriculum to be taught at the public schools in that district and the level of mastery students must demonstrate to advance from one grade to the next and to receive a diploma from its public schools; and (3) selecting, purchasing, developing, and disposing of property, books, buildings, and materials for use by the public schools and students of that district.

3. Nothing in this provision shall relieve the General Assembly of its obligation to provide funding for all public schools in this state in accordance with section 1(a) of this article; neither the General Assembly nor any other government entity shall in any way penalize or withhold funds from a public school district based on the public school district's exercise of the authority established in subsection 2 of this section.

16-028

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

February 9, 2015

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Stacy Shore regarding a proposed constitutional amendment to Article IX, version 3 (2016-028)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Stacy Shore on February 6, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

RECEIVED
FEB 09 2015
STATE AUDITORS OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County .....

16-028

Page No. .....

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and ..... County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and ..... County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot title.)

RECEIVED
2015 FEB -6 PM 5:01
SECRETARY OF STATE

## CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF .....

I, ....., being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and .....County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do..... do not ..... (check one) expect to be paid for circulating this petition.

If paid, list the payer: .....

Signature of Affiant: .....
(Person obtaining signatures)

(Printed Name of Affiant) .....

.....
Address of Affiant

Subscribed and sworn to before me this ..... day of ....., A.D. .....

Signature of Notary: .....

.....
Address of Notary

Notary Public (Seal)
My commission expires .....

*Be it resolved by the people of the State of Missouri that the Constitution be amended:* 16-028

Section 2 of Article IX of the Constitution of Missouri is amended by modifying sections 2(b) and adding section 2(c). The existing sections 2(b) is set forth hereinafter with the new matter underlined and deleted matter in brackets, [thus].

## Article IX – Education

Article IX, Section 2(b). **1.** The state board of education shall select and appoint a commissioner of education as its chief administrative officer, who shall be a citizen and resident of the state, and removable at its discretion. The board shall prescribe his duties and fix his compensation, and upon his recommendation shall appoint the professional staff and fix their compensation. [The board shall succeed the state board of education heretofore established, with all its powers and duties, and shall have such other powers and duties as may be prescribed by law.]

2. The state board of education and the commissioner of education shall only have the authority (1) to research and offer opinions on the most efficient and effective ways to educate students, (2) to assess and publicly report on the quality and performance of the public schools in this state, and (3) to offer recommendations and training designed to help the public schools in this state improve their performance. Neither the board nor the commissioner may compel any school or school district to take any action, administer any test, or implement any policy. The General Assembly may limit the funding available to the board and commissioner for the performance of the duties enumerated herein, but the General Assembly may neither direct the manner in which the board and commissioner fulfill their duties under this article, nor expand the scope of those duties beyond what is established in this subsection.

Section 2(c). 1. Each public school district in this state shall be independent from state control and shall be governed by school board members elected by and accountable to voters residing in each public school district; provided, the General Assembly shall be authorized to pass general laws establishing procedures through which citizens may establish a school district and elect the board to govern that district.

2. Each public school district shall be exclusively responsible for (1) deciding the qualifications required of the public school teachers and administrators in that district; (2) setting the curriculum to be taught at the public schools in that district and the level of mastery students must demonstrate to advance from one grade to the next and to receive a diploma from its public schools; and (3) selecting, purchasing, developing, and disposing of property, books, buildings, and materials for use by the public schools and students of that district.

3. Nothing in this provision shall relieve the General Assembly of its obligation to provide funding for all public schools in this state in accordance with section 1(a) of this article; neither the General Assembly nor any other government entity shall in any way penalize or withhold funds from a public school district based on the public school district's exercise of the authority established in subsection 2 of this section.

16-027

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

February 9, 2015

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Stacy Shore regarding a proposed constitutional amendment to Article IX, version 2 (2016-027)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Stacy Shore on February 6, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

RECEIVED
FEB 09 2015
STATE AUDITORS OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County .....

Page No. .....

16-027

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and ..... County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and ..... County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot title.)

RECEIVED
2015 FEB -6 PM 5:01
MO SEC. OF STATE

## CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF .....

I, ....., being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
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| 9. | | | | | 9. |
| 10. | | | | | 10. |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and .....County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do..... do not ..... (check one) expect to be paid for circulating this petition.

If paid, list the payer: .....

Signature of Affiant: .....
(Person obtaining signatures)

(Printed Name of Affiant) .....

.....
Address of Affiant

Subscribed and sworn to before me this ..... day of ....., A.D. .....

Signature of Notary: .....

.....
Address of Notary

Notary Public (Seal)
My commission expires .....

*Be it resolved by the people of the State of Missouri that the Constitution be amended:* 16-027

Section 2 of Article IX of the Constitution of Missouri is amended by modifying sections 2(b) and adding section 2(c). The existing sections 2(b) is set forth hereinafter with the new matter underlined and deleted matter in brackets, [thus].

Article IX, Section 2(b). **1.** The state board of education shall select and appoint a commissioner of education as its chief administrative officer, who shall be a citizen and resident of the state, and removable at its discretion. The board shall prescribe his duties and fix his compensation, and upon his recommendation shall appoint the professional staff and fix their compensation. [The board shall succeed the state board of education heretofore established, with all its powers and duties, and shall have such other powers and duties as may be prescribed by law.]

2. The state board of education and the commissioner of education shall only have the authority (1) to research and offer opinions on the most efficient and effective ways to educate students, (2) to assess and publicly report on the quality and performance of the public schools in this state, and (3) to offer recommendations and training designed to help the public schools in this state improve their performance. Neither the board nor the commissioner may compel any school or school district to take any action, administer any test, or implement any policy. The General Assembly may limit the funding available to the board and commissioner for the performance of the duties enumerated herein, but the General Assembly may neither direct the manner in which the board and commissioner fulfill their duties under this article, nor expand the scope of those duties beyond what is established in this subsection.

Section 2(c). 1. Each public school district in this state shall be independent from state control and shall be governed by school board members elected by and accountable to voters residing in each public school district; provided, the General Assembly shall be authorized to pass general laws establishing procedures through which citizens may establish a school district and elect the board to govern that district.

2. Each public school district shall be exclusively responsible for (1) deciding the qualifications required of the public school teachers and administrators in that district; (2) setting the curriculum to be taught at the public schools in that district and the level of mastery students must demonstrate to advance from one grade to the next and to receive a diploma from its public schools; and (3) selecting, purchasing, developing, and disposing of property, books, buildings, and materials for use by the public schools and students of that district.

3. Nothing in this provision shall relieve the General Assembly of its obligation to provide funding for all public schools in this state in accordance with section 1(a) of this article; neither the General Assembly nor any other government entity shall in any way penalize or withhold funds from a public school district based on the public school district's exercise of the authority established in subsection 2 of this section.

16-026

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

February 9, 2015

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Stacy Shore regarding a proposed constitutional amendment to Article IX, version 1 (2016-026)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Stacy Shore on February 6, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

RECEIVED
FEB 0 9 2015
STATE AUDITORS OFFICE

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County .....

Page No. ..... 16-026

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and ..... County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and ..... County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot title.)

RECEIVED
2015 FEB -6 PM 5:0
MO SEC OF STATE

## CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF .....

I, ....., being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
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| 9. | | | | | 9. |
| 10. | | | | | 10. |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and .....County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do..... do not ..... (check one) expect to be paid for circulating this petition. If paid, list the payer: .....

.....
Signature of Affiant
(Person obtaining signatures)

.....
(Printed Name of Affiant)

.....
Address of Affiant

Subscribed and sworn to before me this ..... day of ....., A.D. .....

.....
Signature of Notary

Address of Notary

Notary Public (Seal)
**My commission expires** .....

*Be it resolved by the people of the State of Missouri that the Constitution be amended:* 16-026

Section 2 of Article IX of the Constitution of Missouri is amended by modifying sections 2(b) and adding section 2(c). The existing sections 2(b) is set forth hereinafter with the new matter underlined and deleted matter in brackets, [thus].

Article IX, Section 2(b). **1.** The state board of education shall select and appoint a commissioner of education as its chief administrative officer, who shall be a citizen and resident of the state, and removable at its discretion. The board shall prescribe his duties and fix his compensation, and upon his recommendation shall appoint the professional staff and fix their compensation. [The board shall succeed the state board of education heretofore established, with all its powers and duties, and shall have such other powers and duties as may be prescribed by law.]

2. The state board of education and the commissioner of education shall only have the authority (1) to research and offer opinions on the most efficient and effective ways to educate students, (2) to assess and publicly report on the quality and performance of the public schools in this state, and (3) to offer recommendations and training designed to help the public schools in this state improve their performance. Neither the board nor the commissioner may compel any school or school district to take any action, administer any test, or implement any policy. The General Assembly may limit the funding available to the board and commissioner for the performance of the duties enumerated herein, but the General Assembly may neither direct the manner in which the board and commissioner fulfill their duties under this article, nor expand the scope of those duties beyond what is established in this subsection.

Section 2(c). 1. Each public school district in this state shall be independent from state control and shall be governed by school board members elected by and accountable to voters residing in each public school district; provided, the General Assembly shall be authorized to pass general laws establishing procedures through which citizens may establish a school district and elect the board to govern that district.

2. Each public school district shall be exclusively responsible for (1) deciding the qualifications required of the public school teachers and administrators in that district; (2) setting the curriculum to be taught at the public schools in that district and the level of mastery students must demonstrate to advance from one grade to the next and to receive a diploma from its public schools; and (3) selecting, purchasing, developing, and disposing of property, books, buildings, and materials for use by the public schools and students of that district.

3. Nothing in this provision shall relieve the General Assembly of its obligation to provide funding for all public schools in this state in accordance with section 1(a) of this article; neither the General Assembly nor any other government entity shall in any way penalize or withhold funds from a public school district based on the public school district's exercise of the authority established in subsection 2 of this section.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-026)**

## Subject

Initiative petition from Stacy Shore regarding a proposed constitutional amendment to Article IX. (Received February 9, 2015)

## Date

March 2, 2015

## Description

This proposal would amend Article IX of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and the **St. Louis Community College.**

### Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated:

This would place all instructionally related federal funding at risk. At a minimum, this would likely disqualify the state for all major ESEA (Elementary and Secondary Education Act) and IDEA (Individuals with Disabilities Education Act) Part B funds. ESEA Title I requires state standards and state assessments at specified grade levels and places requirements related to highly qualified teachers; Title II places further requirements on teacher qualifications and IDEA adopts the language of highly qualified teachers as defined in ESEA and places it in IDEA with the same requirements.

The following provides a listing of FY 15 grants and the corresponding award amount:

| Grant Name | Award Amount (FY 15) |
|---|---|
| Title I, Part A | $236,775,778 |
| Title I, Part C | $1,499,152 |
| Title I, Part D | $2,831,190 |
| Title II.A | $38,521,502 |
| Title III, Part A | $5,287,728 |
| Title VI.B | $3,226,330 |
| Title I SIG | $7,758,008 |
| Title II.B | $2,518,642 |
| Title X, Part C | $1,046,820 |
| Charter Schools Planning and Implementation Program | Allowed amount determined by USDE |
| Advanced Placement Program Test Fees | $12,104 |
| Part B | $224,294,599 |
| Part B (ECSE) | $5,544,843 |
| Part C | $7,797,120 |
| SPDG | $1,412,000 |
| Deaf/Blind | $197,129 |
| School Nutrition Services | $293,925,900 |
| | $832,648,845 |

Officials from the **Department of Higher Education** indicated they have determined it would not have a direct fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their agency.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated their department would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will not have an impact on their department.

Officials from the **Department of Public Safety** indicated there is no fiscal impact for their department.

Officials from the **Department of Social Services** indicated the total estimated costs for salaries, fringe benefits, and expense and equipment will be $4,842,284 for fiscal year 2016, $5,915,558 for fiscal year 2017, and $6,022,591 for fiscal year 2018.

This is an initiative petition for a proposed amendment to Article IX, Section 2(b) of the Missouri Constitution and for a new Section 2(c). Section 2(b) is amended to limit the authority of the board of education and the commissioner of education to (1) researching and offering opinions on the most effective ways of educating students, (2) assessing and reporting on the quality and performance of public schools and (3) offering recommendations and training to improve performance of public schools. Section 2(c).1 is added to provide that each public school district is independent from state control and shall be governed by elected school board members for each district. Section 2(c).2 is added to provide that each school district shall be exclusively responsible for (1) deciding qualifications for teachers and administrators, (2) setting the curriculum and graduation standards in each district and (3) selecting and purchasing all materials for each district. Section 2(c).3 prohibits the General Assembly from penalizing or withholding funds from a school district that exercises its authority under this section.

This proposed constitutional amendment primarily affects the Department of Elementary and Secondary Education (DESE) by limiting the authorities of the State Board of Education and the Commissioner of Education. Section 161.092 RSMo authorizes the State Board of Education to adopt and establish rules relating to the accreditation of school districts. Section 161.122 RSMo provides for the commissioner to supervise DESE. The proposed constitutional amendment will cause many of the rules contained

within Title 5 of the Missouri Code of State Regulations to be declared void. DESE will therefore be unable to enforce many of its current rules.

The Division of Youth Services (DYS) requires approval of its educational programs by DESE under Section 219.056 RSMo. Because DESE will no longer be authorized to approve DYS educational programs, DYS will no longer be able to function as a school district. As a result, the DYS will no longer be able to provide accredited education services and will have to rely upon local school districts to educate the youth in its custody.

The academic program currently operated within DYS is a critical element of the division's nationally recognized developmental treatment approach for delinquent youth. Youth committed to DYS typically arrive with a markedly unsuccessful history in their traditional public schools. DYS employs a model that emphasizes pursuit of educational goals within the context of, and with sensitivity to the unique treatment needs of each youth. DYS education staff receives comprehensive specialized adolescent care training focused on treatment. They are critical members of the treatment team serving DYS youth. DYS has learned through history and experience that a fully integrated treatment and educational approach yields the most successful outcomes for this population of youth. The division has long been aware that educational accomplishment is a key variable in achieving and sustaining positive outcomes. This model is a key contributor to creating healthier and more productive lives for our youth and their families while at the same time creating safer communities for all Missouri citizens.

Enactment of this amendment would cause DYS to eliminate its specialized educational services and revert to employing a model that historically has been unsuccessful and undoubtedly would substantially and negatively alter the outcomes of youth served by the division.

DYS receives reimbursement through a State Plan Amendment for rehabilitative treatment services to youth. In the current integrated treatment/education programing a certain amount of treatment activity takes place through the course of a school day. DYS directs the workforce and their schedules. This provides flexibility and allows DYS to prioritize, when appropriate, necessary treatment activities while ensuring that academic progress in each area is not compromised. Introducing an education scheme that does not fully integrate treatment and education will compromise this flexibility and will negatively impact the amount of timely and effective treatment interventions that take place during a school day. This impact will affect the volume of rehabilitative activities occurring during school time thus affecting not only youth outcomes but also the amount of reimbursement for such activities through the Medicaid state plan amendment. The reimbursement is determined by a time study and therefore would only be able to be quantified if this amendment was passed and changes occurred.

The (DYS) receives aid from DESE pursuant to Section 163.073 RSMo. This aid includes federal funding for particular programs: Title I ($949,591 FY 14), Special Education ($279,211 FY14) and Perkins Vocational Education ($103,730 FY14). The

division also receives foundation formula funding from DESE ($4,391,660 FY 14). The division receives the local tax effort funding from the home school district of the legal guardian as well ($3,824,907 FY 14). These funds would no longer be received however, would be redirected to other school districts.

The division would no longer employ educational staff (137 FTE). However the only cost savings associated with this reduction in FTE is the General Revenue portion ($1,353,616) as the federal and other funds would be redirected as referenced above.

DYS education personnel, because of their training and expertise, are qualified to provide supervision and are counted as such for staffing requirements. A reduction in these staff would result in the need for 86 new Youth Specialists ($3,718,587) as school district employees could not be considered in meeting DYS staffing/supervision requirements. As stated previously, the division cannot be sure of the rehabilitative services provided during the school day, therefore the funding for the additional 86 FTE will be 100% General Revenue.

DYS, as an educational provider, participates in the USDA's free and reduced meal program. The division would lose the USDA federal funding ($1,072,973 FY 14) currently received to support the provision of breakfast and lunch to its students. The division would still provide the same number of meals to youth, therefore the loss of federal funds would necessitate an increase in general revenue of $1,072,973. The Division will also need an estimated $2,000,000 for continued educational supplies as needed for DYS youth and classroom furnishings.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no impact on the operations of their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain

amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and the Secretary of State's Office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, the Secretary of State's office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, the Secretary of State's office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, the office reserves the right to request funding to meet the cost of its publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office.

Officials from the **State Treasurer's office** indicated no impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

Officials from the **City of St. Joseph** indicated this has no fiscal impact for the city.

Officials from **Metropolitan Community College** indicated this has no financial impact on their college.

The State Auditor's office did not receive a response from the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School**

**District, Hannibal 60 School District, State Technical College of Missouri, University of Missouri,** and **St. Louis Community College.**

**Fiscal Note Summary**

The proposal could risk the state's eligibility to receive federal education funds of approximately $800 million annually. Increased annual costs for schools operated by a state agency are estimated at approximately $6 million. Local schools would be impacted by any lost federal funding.

16-025

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

February 9, 2015

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Jill Carter regarding a proposed constitutional amendment to Article I, version 5 (2016-025)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Jill Carter on February 6, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

RECEIVED
FEB 0 9 2015
STATE AUDITORS OFFICE

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County .....

Page No. .....

16-025

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and ..... County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and ..... County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot title.)

RECEIVED
2015 FEB -6 PM 4:57
SECRETARY OF STATE

## CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF .....

I, ....., being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
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| 1. | | | | | 1. |
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| 10. | | | | | 10. |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and .....County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do..... do not ..... (check one) expect to be paid for circulating this petition.

If paid, list the payer: .....

Signature of Affiant: .....
(Person obtaining signatures)

(Printed Name of Affiant) .....

.....
Address of Affiant

Subscribed and sworn to before me this ..... day of ....., A.D. .....

Signature of Notary: .....

.....
Address of Notary

Notary Public (Seal)
My commission expires .....

# Article I – Bill of Rights

16-025

*Be it resolved by the people of the State of Missouri that the Constitution be amended:*

Article I, Constitution of Missouri, is amended by adding one new section, to be known as section 36, to read as follows:

*In order to assert our rights, acknowledge our duties, and proclaim the principles on which our government is founded, we declare:*

Section 36. 1. That every parent has a fundamental right to exercise exclusive control over all aspects of their minor children's lives without governmental interference, including, but not limited to, decisions regarding their minor children's custody, upbringing, education, religious instruction, discipline, physical and mental health care, and place of habitation; provided, this fundamental right shall not extend to any decision or action by a parent that threatens clear, immediate, and substantial physical injury to their minor child, nor shall it permit a parent to compel a minor child to have an abortion.

2. That every parent also has the right to require government entities to obtain the parent's explicit permission before gathering or sharing information or data about their child or the child's family members for purposes not directly related to a criminal investigation or, if enrolled in a public school, the child's knowledge of academic subjects; neither the parent nor child shall in any way be punished or penalized if the parent refuses such permission.

3. That every parent has the right to decide what educational setting will best prepare their children to meet the obligations of responsible adulthood, and therefore parents may choose to have their children educated in public, private, or parochial schools or to educate their children at home as an alternative to enrolling the children in any school; provided, nothing in this section shall require or prohibit any state or local government to fund or subsidize education in a non-public school setting or, unless otherwise required by law, require a public school to enroll or educate a child who does not live in that public school's district.

4. That a government entity in this state shall only be justified in interfering with the parental rights acknowledged in this section if (1) the interference is temporary and limited to only the degree and duration necessary to protect a child from a clear, immediate and substantial threat of physical injury; (2) a court of law has found by clear and convincing evidence that a parent has knowingly exposed a child to neglect, abandonment, reckless endangerment, or physical abuse, as each of those terms are defined by state statute; (3) a court of law has found by clear and convincing evidence that a parent is mentally incompetent as that term is defined by state statute; (4) a court of law has ruled that minor child is emancipated in accordance with state statutes; (5) a court of law has assumed jurisdiction over a minor child charged with violating or found beyond a reasonable doubt to have violated a criminal statute; or (6) a court of law has assigned parental rights to one parent or someone other than a biological parent as a result of adoption or marital dissolution. If, after considering evidence, a judge has first determined that a government entity has probable cause to believe that a parent has subjected their child to criminal physical abuse, neglect, or endangerment, it shall not be considered an interference with the parental rights acknowledged in this section for the government entity to question the parent or the child about the alleged crime, or for police to obtain a warrant to search the parent's home for evidence of the suspected crime.

5. That any parent whose rights under this section have been adversely affected by any statute, regulation, ordinance, policy, or other act of government authority shall be permitted to file a lawsuit challenging the constitutionality of the statute, regulation, ordinance, policy, or other act of government authority, and seeking damages against the government entity responsible for the violation of the parent's rights. In considering such a lawsuit, courts may not presume the constitutionality of the statute, regulation, ordinance, policy, or other act of government authority being challenged, may not defer to claims made by a government entity that the statute, regulation, ordinance, policy, or other act of government authority is justified unless the government entity supports all such claims with competent evidence, and shall award damages and reasonable attorney's fees for any infringement of this constitutional right that is not justified in accordance with subsection 4 of this section.

6. For the purposes of this section the term "parent" includes a child's legal guardian.

16-024

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

February 9, 2015

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Jill Carter regarding a proposed constitutional amendment to Article I, version 4 (2016-024)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Jill Carter on February 6, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

RECEIVED
FEB 09 2015
STATE AUDITORS OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County .....

Page No. ..... 16-024

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and ..... County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and ..... County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot title goes here.)

RECEIVED
2015 FEB -6 PM 4:57
MO SEC. OF STATE

## CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF .....

I, ....., being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
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| 10. | | | | | 10. |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and .....County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do..... do not ..... (check one) expect to be paid for circulating this petition.

If paid, list the payer: .....

Signature of Affiant: .....
(Person obtaining signatures)

(Printed Name of Affiant) .....

.....
Address of Affiant

Subscribed and sworn to before me this ..... day of ....., A.D. .....

Signature of Notary: .....

.....
Address of Notary

Notary Public (Seal)
My commission expires .....

*Be it resolved by the people of the State of Missouri that the Constitution be amended:* 16-024

Article I, Constitution of Missouri, is amended by adding one new section, to be known as section 36, to read as follows:

*In order to assert our rights, acknowledge our duties, and proclaim the principles on which our government is founded, we declare:*

Section 36. 1. That every parent has a fundamental right to exercise exclusive control over all aspects of their minor children's lives without governmental interference, including, but not limited to, decisions regarding their minor children's custody, upbringing, education, religious instruction, discipline, physical and mental health care, and place of habitation; provided, this fundamental right shall not extend to any decision or action by a parent that threatens clear, immediate, and substantial physical injury to their minor child, nor shall it permit a parent to compel a minor child to have an abortion.

2. That every parent also has the right to require government entities to obtain the parent's explicit permission before gathering or sharing information or data about their child or the child's family members for purposes not directly related to a criminal investigation or, if enrolled in a public school, the child's knowledge of academic subjects; neither the parent nor child shall in any way be punished or penalized if the parent refuses such permission.

3. That every parent has the right to decide what educational setting will best prepare their children to meet the obligations of responsible adulthood, and therefore parents may choose to have their children educated in public, private, or parochial schools or to educate their children at home as an alternative to enrolling the children in any school; provided, nothing in this section shall require or prohibit any state or local government to fund or subsidize education in a non-public school setting or, unless otherwise required by law, require a public school to enroll or educate a child who does not live in that public school's district.

4. That a government entity in this state shall only be justified in interfering with the parental rights acknowledged in this section if (1) the interference is temporary and limited to only the degree and duration necessary to protect a child from a clear, immediate and substantial threat of physical injury; (2) a court of law has found by clear and convincing evidence that a parent has knowingly exposed a child to neglect, abandonment, reckless endangerment, or physical abuse, as each of those terms are defined by state statute; (3) a court of law has found by clear and convincing evidence that a parent is mentally incompetent as that term is defined by state statute; (4) a court of law has ruled that minor child is emancipated in accordance with state statutes; (5) a court of law has assumed jurisdiction over a minor child charged with violating or found beyond a reasonable doubt to have violated a criminal statute; or (6) a court of law has assigned parental rights to one parent or someone other than a biological parent as a result of adoption or marital dissolution. If, after considering evidence, a judge has first determined that a government entity has probable cause to believe that a parent has subjected their child to criminal physical abuse, neglect, or endangerment, it shall not be considered an interference with the parental rights acknowledged in this section for the government entity to question the parent or the child about the alleged crime, or for police to obtain a warrant to search the parent's home for evidence of the suspected crime.

5. That any parent whose rights under this section have been adversely affected by any statute, regulation, ordinance, policy, or other act of government authority shall be permitted to file a lawsuit challenging the constitutionality of the statute, regulation, ordinance, policy, or other act of government authority, and seeking damages against the government entity responsible for the violation of the parent's rights. In considering such a lawsuit, courts may not presume the constitutionality of the statute, regulation, ordinance, policy, or other act of government authority being challenged, may not defer to claims made by a government entity that the statute, regulation, ordinance, policy, or other act of government authority is justified unless the government entity supports all such claims with competent evidence, and shall award damages and reasonable attorney's fees for any infringement of this constitutional right that is not justified in accordance with subsection 4 of this section.

6. For the purposes of this section the term "parent" includes a child's legal guardian.

16-023

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

February 9, 2015

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Jill Carter regarding a proposed constitutional amendment to Article I, version 3 (2016-023)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Jill Carter on February 6, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

RECEIVED
FEB 09 2015
STATE AUDITORS OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County .....

Page No. ..... 16-023

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and ..... County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and ..... County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot title)

RECEIVED
2015 FEB -6 PM 4:57
SEC. OF STATE

## CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF .....

I, ....., being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
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| 10. | | | | | 10. |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and .....County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do..... do not ..... (check one) expect to be paid for circulating this petition.

If paid, list the payer: .....

Signature of Affiant: .....
(Person obtaining signatures)

(Printed Name of Affiant) .....

.....
Address of Affiant

Subscribed and sworn to before me this ..... day of ....., A.D. .....

Signature of Notary: .....

.....
Address of Notary

Notary Public (Seal)
My commission expires .....

16-023

*Be it resolved by the people of the State of Missouri that the Constitution be amended:*

Article I, Constitution of Missouri, is amended by adding one new section, to be known as section 36, to read as follows:

Section 36. 1. That every parent has a fundamental right to exercise exclusive control over all aspects of their minor children's lives without governmental interference, including, but not limited to, decisions regarding their minor children's custody, upbringing, education, religious instruction, discipline, physical and mental health care, and place of habitation; provided, this fundamental right shall not extend to any decision or action by a parent that threatens clear, immediate, and substantial physical injury to their minor child, nor shall it permit a parent to compel a minor child to have an abortion.

2. That every parent also has the right to require government entities to obtain the parent's explicit permission before gathering or sharing information or data about their child or the child's family members for purposes not directly related to a criminal investigation or, if enrolled in a public school, the child's knowledge of academic subjects; neither the parent nor child shall in any way be punished or penalized if the parent refuses such permission.

3. That every parent has the right to decide what educational setting will best prepare their children to meet the obligations of responsible adulthood, and therefore parents may choose to have their children educated in public, private, or parochial schools or to educate their children at home as an alternative to enrolling the children in any school; provided, nothing in this section shall require or prohibit any state or local government to fund or subsidize education in a non-public school setting or, unless otherwise required by law, require a public school to enroll or educate a child who does not live in that public school's district.

4. That a government entity in this state shall only be justified in interfering with the parental rights acknowledged in this section if (1) the interference is temporary and limited to only the degree and duration necessary to protect a child from a clear, immediate and substantial threat of physical injury; (2) a court of law has found by clear and convincing evidence that a parent has knowingly exposed a child to neglect, abandonment, reckless endangerment, or physical abuse, as each of those terms are defined by state statute; (3) a court of law has found by clear and convincing evidence that a parent is mentally incompetent as that term is defined by state statute; (4) a court of law has ruled that minor child is emancipated in accordance with state statutes; (5) a court of law has assumed jurisdiction over a minor child charged with violating or found beyond a reasonable doubt to have violated a criminal statute; or (6) a court of law has assigned parental rights to one parent or someone other than a biological parent as a result of adoption or marital dissolution. If, after considering evidence, a judge has first determined that a government entity has probable cause to believe that a parent has subjected their child to criminal physical abuse, neglect, or endangerment, it shall not be considered an interference with the parental rights acknowledged in this section for the government entity to question the parent or the child about the alleged crime, or for police to obtain a warrant to search the parent's home for evidence of the suspected crime.

5. That any parent whose rights under this section have been adversely affected by any statute, regulation, ordinance, policy, or other act of government authority shall be permitted to file a lawsuit challenging the constitutionality of the statute, regulation, ordinance, policy, or other act of government authority, and seeking damages against the government entity responsible for the violation of the parent's rights. In considering such a lawsuit, courts may not presume the constitutionality of the statute, regulation, ordinance, policy, or other act of government authority being challenged, may not defer to claims made by a government entity that the statute, regulation, ordinance, policy, or other act of government authority is justified unless the government entity supports all such claims with competent evidence, and shall award damages and reasonable attorney's fees for any infringement of this constitutional right that is not justified in accordance with subsection 4 of this section.

6. For the purposes of this section the term "parent" includes a child's legal guardian.

16022

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

February 9, 2015

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Jill Carter regarding a proposed constitutional amendment to Article I, version 2 (2016-022)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Jill Carter on February 6, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

RECEIVED
FEB 0 9 2015
STATE AUDITORS OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County .....

Page No. .....

16-022

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and ..... County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and ..... County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot title.)

RECEIVED
2015 FEB -6 PM 4:57
SEC. OF STATE

## CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF .....

I, ....., being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | 1. |
| 2. | | | | | 2. |
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| 10. | | | | | 10. |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and .....County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do..... do not ..... (check one) expect to be paid for circulating this petition. If paid, list the payer: .....

.....
Signature of Affiant
(Person obtaining signatures)

.....
(Printed Name of Affiant)

.....
Address of Affiant

Subscribed and sworn to before me this ..... day of ....., A.D. .....

.....
Signature of Notary

Address of Notary

Notary Public (Seal)
**My commission expires** .....

*Be it resolved by the people of the State of Missouri that the Constitution be amended:* 16-022

Article I, Constitution of Missouri, is amended by adding one new section, to be known as section 36, to read as follows:

*In order to assert our rights, acknowledge our duties, and proclaim the principles on which our government is founded, we declare:*

Section 36. 1. That every parent has a fundamental right to exercise exclusive control over all aspects of their minor children's lives without governmental interference, including, but not limited to, decisions regarding their minor children's custody, upbringing, education, religious instruction, discipline, physical and mental health care, and place of habitation; provided, this fundamental right shall not extend to any decision or action by a parent that threatens clear, immediate, and substantial physical injury to their minor child, nor shall it permit a parent to compel a minor child to have an abortion.

2. That every parent also has the right to require government entities to obtain the parent's explicit permission before gathering or sharing information or data about their child or the child's family members for purposes not directly related to a criminal investigation or, if enrolled in a public school, the child's knowledge of academic subjects; neither the parent nor child shall in any way be punished or penalized if the parent refuses such permission.

3. That every parent has the right to decide what educational setting will best prepare their children to meet the obligations of responsible adulthood, and therefore parents may choose to have their children educated in public, private, or parochial schools or to educate their children at home as an alternative to enrolling the children in any school; provided, nothing in this section shall require or prohibit any state or local government to fund or subsidize education in a non-public school setting or, unless otherwise required by law, require a public school to enroll or educate a child who does not live in that public school's district.

4. That a government entity in this state shall only be justified in interfering with the parental rights acknowledged in this section if (1) the interference is temporary and limited to only the degree and duration necessary to protect a child from a clear, immediate and substantial threat of physical injury; (2) a court of law has found by clear and convincing evidence that a parent has knowingly exposed a child to neglect, abandonment, reckless endangerment, or physical abuse, as each of those terms are defined by state statute; (3) a court of law has found by clear and convincing evidence that a parent is mentally incompetent as that term is defined by state statute; (4) a court of law has ruled that minor child is emancipated in accordance with state statutes; (5) a court of law has assumed jurisdiction over a minor child charged with violating or found beyond a reasonable doubt to have violated a criminal statute; or (6) a court of law has assigned parental rights to one parent or someone other than a biological parent as a result of adoption or marital dissolution. If, after considering evidence, a judge has first determined that a government entity has probable cause to believe that a parent has subjected their child to criminal physical abuse, neglect, or endangerment, it shall not be considered an interference with the parental rights acknowledged in this section for the government entity to question the parent or the child about the alleged crime, or for police to obtain a warrant to search the parent's home for evidence of the suspected crime.

5. That any parent whose rights under this section have been adversely affected by any statute, regulation, ordinance, policy, or other act of government authority shall be permitted to file a lawsuit challenging the constitutionality of the statute, regulation, ordinance, policy, or other act of government authority, and seeking damages against the government entity responsible for the violation of the parent's rights. In considering such a lawsuit, courts may not presume the constitutionality of the statute, regulation, ordinance, policy, or other act of government authority being challenged, may not defer to claims made by a government entity that the statute, regulation, ordinance, policy, or other act of government authority is justified unless the government entity supports all such claims with competent evidence, and shall award damages and reasonable attorney's fees for any infringement of this constitutional right that is not justified in accordance with subsection 4 of this section.

6. For the purposes of this section the term "parent" includes a child's legal guardian.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-022)**

## Subject

Initiative petition from Jill Carter regarding a proposed constitutional amendment to Article I. (Received February 9, 2015)

## Date

March 2, 2015

## Description

This proposal would amend Article I of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and the **St. Louis Community College.**

### Assumptions

Officials from the **Attorney General's office** (AGO) indicated this proposal allows any parent whose rights have been adversely affected by governmental action to file suit

challenging the constitutionality of the governmental action and to seek damages against the governmental entity responsible for the violation of the parent's rights. The AGO is under a legal obligation to represent various state departments and agencies. Therefore, the AGO assumes that any potential costs arising from this proposal can be absorbed with existing resources but may seek additional appropriations if the proposal results in a significant increase in cases.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated there will be unknown costs incurred by local school districts to obtain parents' explicit permission.

Officials from the **Department of Higher Education** indicated they have determined it would not have a direct fiscal impact on their department. However, subsection 2 of section 36 states, in part, that "neither the parent nor child shall in any way be punished or penalized if the parent refuses such permission." The Department of Higher Education administers several state funded student aid programs that require the submission of information about the student and, in some instances, their family in order to determine their eligibility to receive funds through those programs. A parent's refusal to provide such information makes it impossible for the department to determine the eligibility of the student and, therefore, to provide the student with an award under such a program. It is not clear if this could be interpreted as penalizing the student as would be prohibited by this provision of the petition.

Officials from the **Department of Health and Senior Services** (DHSS) indicated this proposal will have an unknown fiscal impact on state and federal funds, and no impact on local funds.

This proposal will have an unknown economic impact on small businesses. DHSS works with numerous small businesses to carry out its public health functions and does not know what impact the proposed may have to these entities.

Section 36.2 would prohibit DHSS from collecting or sharing any information or data about a child without the explicit consent of the parent. There are many public health functions authorized by current law that involve the collection or sharing of data which do not require the explicit consent of the parent. These functions have been legislated by federal and state statutes and implemented over the years because the timely and complete collection and/or sharing of data are critical to preventing the loss of life, minimize the consequences of a congenital anomaly or condition, stopping the spread of dangerous and costly communicable diseases, and supplying data to improve the overall

population health of Missourians. This proposal would supersede these federal and state laws resulting in a destruction of the essential functions of public health.

Section 36.2 of the proposed constitutional amendment would result in an unknown negative fiscal impact for the Division of Community and Public Health.

First, there would be costs to establish partnerships and processes to acquire explicit consent. Requiring explicit consent would require the assistance of many stakeholders to the public health system, such as hospitals, direct care providers, laboratories, schools, etc. These entities are the primary providers of services and acquire the data initially. Collecting the explicit consent will also require the establishment of forms, modifications to existing electronic information systems, new information systems, and additional staff to collect and track the consents. These stakeholders may also request funding in order to assist the department in obtaining the explicit consent.

Secondly, there would be treatment costs and societal costs associated with the time delays in collecting and reporting of critical data should explicit consent be required. For example, elevated blood lead levels in children would not be automatically reported to DHSS. A healthcare provider would first need to obtain the parent's consent in order to report the result to the department. The time lost to this process results in a delay of the department initiating an environmental health risk assessment and working with the local public health agency to initiate nursing case management in order to reduce the blood lead level. The most devastating scenario would be the consequences (loss of life) if a parent refused to give this consent. Timely treatment of elevated blood lead levels is essential to minimizing medical intervention and cognitive impairments. Another example would be the reporting of tuberculosis infection. If reported timely, the treatment may be outpatient and of less program cost to the department than an infection that needs intensive inpatient care. A third example would be that the potential lack of reporting just one incident of a reportable communicable disease spirals into an outbreak jeopardizing the health of an unquantifiable number of Missourians. There are endless examples of how timely intervention through the department programs results in the increased likelihood of positive health outcomes and reduced societal and medical costs.

Thirdly, this amendment would likely result in the loss of quality data and diminish the data surveillance activities of the department. The ability to collect comprehensive sets of data will remove the department's greatest tool in identifying disease trends that guide targeted health outreach and prevention activities. Common health indicators regarding births, fetal deaths, abortions, teen pregnancy, and smoking rates are examples of some of the data that may no longer be available. The inability to work on improving health outcomes will lead to higher medical, societal and program costs in the future. It is also likely that Missouri would see a loss in federal grant funds for activities that fund disease prevention and require frequent and complete data reports. It is also likely that Missouri could miss new federal funding opportunities because of the lack of data to prove Missouri's need compared to national and other state's data.

A listing of current public health activities that would have direct impact from this amendment include:

- birth certificate registration
- newborn blood spot screening
- newborn hearing screening
- critical congenital heart disease screening
- childhood lead prevention and environmental risk assessment/nursing case management for elevated blood lead levels
- data collection and evaluation from patient abstract data reported by hospitals and ambulatory surgery centers
- infectious and communicable disease surveillance and investigation
- healthcare associated infection surveillance
- state immunization registry

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated their department would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact.

Officials from the **Department of Revenue** indicated this initiative petition will not have an impact on their department.

Officials from the **Department of Public Safety** indicated there is no fiscal impact for their department.

Officials from the **Department of Social Services** indicated this proposal will have an unknown fiscal impact on state, federal, and local funds.

This proposed amendment could have significant impact on small businesses who work with children in the state. The impact is unknown.

The long range implications of this proposal to amend the constitution are significant both fiscally and programmatically.

Should the constitution be amended in accordance with this proposal, the Children's Division would expect significant cost savings initially, due to necessary programmatic changes to come into compliance with the provisions of this proposed petition.

The Children's Division's ability to conduct child abuse and neglect investigations and assessments, provide protective services and ensure children's safety would be significantly reduced.

The cost savings experienced initially by the Children's Division will likely result in a failure to protect children, ensure safety, and otherwise provide the necessary services to offer the best chance for abused and neglected children to become independent, responsible, self-sufficient adults free from the future need of government intervention.

A study by Prevent Child Abuse America cites the indirect costs that result as a consequence of child abuse such as:

- Special Education and Early Intervention Services – Many children who have suffered abuse require special education services and early intervention services to manage developmental delays. The rate of special education services is 6% higher than the national average for children who have been maltreated.
- Emergency/Transitional Housing - Children who experience abuse are more likely to experience homelessness as adults. Of children who experience childhood physical abuse, 27.8% experience homelessness as adults.
- Mental Health and Health Care - The average annual cost of physical and mental health care is $591 higher for women who experienced physical or sexual abuse as children.
- Juvenile Delinquency – 27% of children who have experienced maltreatment will engage in acts of juvenile delinquency.
- Adult Criminal Justice – 13% of all violent crime can be attributed to early childhood maltreatment.

https://www.preventchildabusenc.org/assets/preventchildabusenc/files/$cms$/100/1299.pdf

The department believes the societal costs of not doing child abuse and neglect investigations would exceed any potential cost savings experienced.

This petition request proposes a constitutional amendment related to governmental interference with parental rights.

If the constitution were to be amended in accordance with the language in this petition, the Children's Division would be impacted fiscally and programmatically. The Children's Division's ability to investigate child abuse and neglect, ensure children's safety, and provide protective services to children and families would be significantly impacted.

In section 36.1, the constitution would be amended to state that every parent has a fundamental right to exercise exclusive control over all aspects of their minor children's

lives without governmental interference, including, but not limited to, decisions regarding their minor children's custody, upbringing, education, religious instruction, discipline, physical and mental health care, and place of habitation; provided, this fundamental right shall not extend to any decision or action by a parent that threatens clear, immediate, and substantial physical injury to the minor child, nor shall it permit a parent to compel a minor child to have an abortion.

Because this section specifically requires the threat of "clear, immediate, and substantial physical injury to the minor child" for the government to intervene, the Children's Division would not be able to conduct any investigations, including sexual abuse allegations, in the same manner as currently allowed by law, that do not have the elements which include "the threat of clear, immediate, and substantial physical injury." In addition, the Children's Division would not be able to conduct any family assessments or newborn crisis assessments or respond to any other reports made to the Child Abuse and Neglect hotline that do not involve a threat of clear, immediate, substantial physical injury. This section would create an initial cost savings to the Children's Division. This provision would significantly jeopardize the Children's Division ability to ensure child safety.

In section 36.2, the constitution would be amended to require the government to obtain parental permission before gathering or sharing information about their child or the child's family for purposes not directly related to a criminal investigation, or if enrolled in a public school, the child's knowledge of academic subjects. Neither the parent nor the child could be penalized for refusing such permission.

This section, as with the previous section, would create an initial cost savings for the Children's Division, but because it requires parental permission before any information could be gathered unless it is directly related to a criminal investigation, the Children's Division's ability to respond to reports that do not rise to the level of a criminal investigation would be significantly hindered, if not halted. These reports would include, but not be limited to, family assessments and newborn crisis assessments. This provision would prevent Children's Division workers from gathering any information about the child and/or family, even from other sources, in an effort to accurately evaluate allegations that do not rise to the level of a criminal investigation, thus preventing the Children's Division from being able to offer or provide protective services.

In section 36.3, the constitution would be amended to allow parents the rights to decide the educational setting which will best prepare their children to meet the obligations of responsible adulthood, including public, private, parochial or to educate them at home.

This section would eliminate the Children's Division's ability and obligation to investigate reports of educational neglect made to the Child Abuse and Neglect hotline.

In section 36.4, the constitution would be amended to ensure the government interference in parental rights is only justified if, 1) the interference is temporary and limited to the duration necessary to protect a child from a "clear, immediate, and substantial threat of

physical injury; 2) a court of law has already made a finding by clear and convincing evidence that a parent has knowingly exposed a child to neglect, abandonment, reckless endangerment, or physical abuse, as each of those terms are defined by state statute; 3) a court of law has found by clear and convincing evidence that a parent is mentally incompetent as defined by state statute; 4) a court of law has ruled that minor child is emancipated in accordance with state statutes; 5) a court of law has assumed jurisdiction of a minor charged with violating or found beyond a reasonable doubt to have violated a criminal statute; 6) or a court of law has assigned parental rights to one parent or someone other than a biological parent as a result of adoption or marital dissolution. If, after considering evidence, a judge has first determined that a government entity has probable cause to believe that a parent has subjected their child to criminal physical abuse, neglect, or endangerment, it shall not be considered interference with parental rights acknowledged in this section for the government entity to question the parent or the child about the alleged crime, or for police to obtain a warrant to search the parent's home for evidence of the suspected crime.

This section would significantly hinder the Children's Division's ability to respond to allegations of child abuse and neglect in a timely or practical manner. In conjunction with prior sections of this petition, the Children's Division would be prohibited from conducting the investigative work necessary for the court to consider whether or not clear and convincing evidence exists that there is a "clear, immediate, and substantial threat of physical injury" to the child. The Children's Division would not only be unable to investigate, assess, or gather the necessary information to justify its actions, but it would not be able to investigate, assess, or gather the information necessary to determine whether or not allegations of child abuse and neglect have any merit or whether or not a child is safe. Like previous sections, this section would create a reduction in responsibilities for the Children's Division and result in initial cost savings, but would also jeopardize child safety.

In section 36.5, the constitution would be amended to allow parents who believe their rights have been violated or adversely affected by any governmental agency or by any statute, regulation, ordinance or policy to file a lawsuit challenging the constitutionality as such and seek damages. In addition, in consideration of such lawsuits, the courts must evaluate the constitutionality of the statutes, regulations, etc. based upon competent evidence and award damages a reasonable attorney's fees for any infringement of the constitutional rights.

This section would create a fiscal impact to the Children's Division as it would assume the legal costs of defending its actions in response to all lawsuits filed as a result of this section or the proceeding sections of this proposal to amend the constitution.

In section 36.6, the constitution would be amended to include a child's legal guardian in the definition of "parent".

This section would have the same impact as stated previously related to all sections of this proposal related to parental rights.

In addition, the Division of Legal Services represents the Children's Division in juvenile court cases and receives funding from the federal IV-E program in order to provide such representation. If this constitutional initiative is approved by the voters, it is expected to provide a legal argument to challenge the constitutionality of current law governing juvenile courts. The department expects that this will result in significant litigation involving the Department of Social Services, Juvenile Offices and the Attorney General's office. At the present time the juvenile courts have placed approximately 13,000 children in foster care with the Children's Division. In the event that every parent's attorney filed a motion contesting jurisdiction in each of the 13,000 children's cases, the Children's Division would require legal representation by the Division of Legal Services in each of these 13,000 cases. The American Bar Association standards for agency representation in juvenile court indicates that a case load for a state agency cases is about 40 cases, with 60 cases being considered unmanageable. This would mean that the department would need approximately 60- 200 additional attorneys to handle the cases. It is also possible that the need for additional attorneys would be needed to handle litigation over how the law should be applied. Once the Missouri Supreme Court establishes clear precedent on how the law is to be applied then the need for additional attorneys may decrease. However, it is cannot be predicted at the present time how many motions would be filed. It is also unknown how the Courts will rule on how the language may impact current statutes governing juvenile court process. If the courts should determine that this constitutional initiative does not impact current statutory requirements then there would be no current fiscal impact upon the Division of Legal Services. If the courts determine that current laws governing the removal of children are unconstitutional there could be a significant drop in the number of children being brought into care in the first place, thereby reducing the need for additional attorneys. With so much uncertainty on how the proposed amendment would be interpreted and applied the current fiscal impact upon the Division of Legal Services is unknown.

Additional Comments:

This proposed constitutional amendment significantly affects the Missouri Children's Division by proposing a constitutional amendment which would prohibit governmental interference with parental rights. Approval of this initiative petition request would seriously restrict the ability of the Missouri Children's Division to perform many of its statutorily required duties and to receive federal reimbursement for conducting child abuse and neglect investigations and for operating its foster care program. The proposed amendment will call into question the constitutionality of Missouri's child protection system. The current statutory definitions of child abuse and child neglect, for example, would be inconsistent with this proposed constitutional amendment. Child neglect that does not threaten "clear, immediate, and substantial physical injury" to a minor child would no longer be considered neglect. Sexual abuse would no longer be considered to be a form of child abuse. The amendment can reasonably be expected to generate significant litigation in the courts and would require a review and probably rewrite of Missouri's child protection statutes.

The ability of the Children's Division to investigate child abuse and neglect, to ensure children's safety, and to provide services to children and families would be significantly hindered. This would lead to a violation of the state plan required by the Child Abuse and Prevention Act (CAPTA) as currently set out in 42 USC§5106 et seq. Passage of this initiative would immediately subject the Children's Division to risk for losing its federal funding under CAPTA.

Section 36.1 provides that every parent has a fundamental right to exercise exclusive control over all aspects of their minor children's lives without governmental interference, including, but not limited to, decisions regarding their minor children's custody, upbringing, education, religious instruction, discipline, physical and mental health care, and place of habitation; provided, this fundamental right shall not extend to any decision or action by a parent that threatens clear, immediate, and substantial physical injury to the minor child, nor shall it permit a parent to compel a minor child to have an abortion. This section significantly raises and changes the current legal standard by which a parent's right to custody may be abridged. For instance, under this section a parent may neglect the welfare of a child or sexually abuse a minor child without having an effect on the parent's right to custody.

This section would prevent the Children's Division from conducting investigations or assessments in the manner currently authorized by law. this is because the proposed amendment would require evidence of a threat of "clear, immediate, and substantial physical injury to the minor child" before any form of governmental interference could take place. This provision could significantly jeopardize the Children's Division ability to ensure a child's safety. The proposed amendment does not include sexual abuse as a threat that would authorize governmental interference. It also does not include other known, significant threats to child welfare and safety such as drug abuse. Finally, in many cases of child abuse or neglect are emergencies based upon incomplete information. Increasing the standard of proof will make it impossible for child protection authorities to take prompt action in cases where there is less than clear and convincing evidence.

Section 36.2 requires a governmental agency to obtain parental permission before gathering or sharing information about a child or the child's family for purposes not directly related to a criminal investigation. Because child abuse and neglect investigations are not criminal investigations, the Children's Division would need to obtain parental permission prior to gathering any information about a child. In essence, the Children's Division would need a parent's permission to conduct a hotline investigation or assessment. This section provides that a parent or a child cannot be punished or penalized if the parent refuses such permission. As a result, the Children's Division will be able to conduct child abuse and neglect investigations and assessments under Section 210.145 RSMo only when a parent gives permission to conduct the investigation or assessment. This section does not address the question about what should occur when only one parent grants permission for gathering or sharing information about a child and whether the consent of both parents is required. Accordingly, the ability of the Children's Division to conduct investigations and family assessments under Section 210.145 RSMo would be

significantly hampered. Because the Children's Division would be unable to provide protective services in many circumstances, the safety of many children will be in jeopardy.

Section 36.3 allows a parent the right to decide the educational setting for his or her children, including public schooling, private schooling, parochial schooling or home schooling. This would prevent the Children's Division from conducting investigations or assessments based upon educational neglect. This would also result in a new interpretation of neglect under Section 210.110 RSMo by excluding "education as required by law" from the definition.

Section 36.4 provides that governmental interference in parental rights is only justified if, 1) the interference is temporary and limited to the duration necessary to protect a child from a "clear, immediate, and substantial threat of physical injury; 2) a court of law has already made a finding by clear and convincing evidence that a parent has knowingly exposed a child to neglect, abandonment, reckless endangerment, or physical abuse, as each of those terms are defined by state statute; 3) a court of law has found by clear and convincing evidence that a parent is mentally incompetent as defined by state statute; 4) a court of law has ruled that minor child is emancipated in accordance with state statutes; 5) a court of law has assumed jurisdiction of a minor charged with violating or found beyond a reasonable doubt to have violated a criminal statute; 6) or a court of law has assigned parental rights to one parent or someone other than a biological parent as a result of adoption or marital dissolution. This section significantly impacts the ability of a juvenile court to assume custody of a minor child. It substantially changes the manner in which juvenile court petitions are filed and the manner in which children are removed from a parent's custody. It may also render unconstitutional some portions of the probate code relating to minor guardianships. It is particularly important to note that this subsection does not include sexual abuse as one of the factors that authorizes a court to authorize governmental action. This will severely limit the ability of courts and juvenile authorities to protect children in cases of known or suspected sexual abuse.

Missouri Supreme Court Rule 123.01 authorizes a juvenile to be taken into judicial custody pursuant to an order of court or by a law enforcement officer or physician who has reasonable cause to believe that the juvenile is in imminent danger of suffering serious physical harm or a threat to life as a result of abuse or neglect. The comment to this rule cites the case of Heartland v. Waddle, 427 F.3d 525 (8th Cir. 2005) as a reference for when a juvenile may be taken into judicial custody. Section 36.4 changes this well-established standard and would subsequently prevent the operation of Missouri Supreme Court Rules 123.03 and 123.04 relating to temporary protective custody. Section 36.4 raises the standard for continued removal of a child from the probable cause standard to believe that juvenile jurisdiction exists under Section 211.031 RSMo to a standard requiring a finding by clear and convincing evidence. As a result, this section discourages the taking of any child into either judicial custody or temporary protective custody unless there is also a court adjudication by clear and convincing evidence. In conjunction with the inability of the Children's Division to conduct child abuse and neglect investigations and assessments, this section will have a profound effect upon the

juvenile court system as a whole. It may be essentially impossible for a juvenile officer to present a case to a juvenile court that would result in clear and convincing evidence of child abuse or neglect without first being having been given the ability or opportunity to gather evidence necessary for the court to consider.

Section 36.5 provides a parent who believes his or her rights to have been violated or adversely affected by any governmental agency or by any statute, regulation, ordinance or policy to file a lawsuit challenging the constitutionality of such and to seek damages. This section would have a considerable chilling effect upon any person or governmental agency participating in the juvenile court process and the investigation of reports of child abuse and neglect. Child abuse investigators will be faced with the impossible choice of taking reasonable steps to protect a child from sexual abuse, physical abuse or neglect and risking personal liability for damages in court. The department can reasonably expect that this will result in fewer qualified individuals entering the field of child protection. The imposition of civil liability for damages will open the door for many lawsuits. The defense of these lawsuits will be expensive. It is simply not possible to give an accurate estimate of the potential liability, but it could easily exceed a million dollars per year. This section would create an impact upon state legal defense fund and the Office of the Attorney General which defends the fund.

The Children's Division receives appropriations from the legislature each year for funds in excess of $100 million so that the Children's Division may conduct a foster care program. The foster care program is substantially supported by money provided through the federal IV-E program. Section 36 will inevitably lead to violations of the state plan for foster children and it is probable that this will result in the loss of federal dollars that support the state's foster care program.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

This initiative petition amends Article I, of the Missouri Constitution by adding Section 36. The addition to the Bill of Rights states that parents have the right to exercise exclusive control over all aspects of their minor children's lives without governmental interference. However, the government can intervene in certain circumstance when the child is in danger of physical injury or when the parent is declared mentally incompetent. The new provision would also prevent the government from collecting or sharing information about children unless it is directly related to a criminal investigation. Any

parent may file a lawsuit if they feel their rights have been adversely affected by any statute, regulation, ordinance, policy or other act of governmental authority.

To the extent a court awards damages and attorney's fees for infringement of this constitutional right payable by the state, this proposal could have a fiscal impact to their office through additional Legal Expense Fund payments.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on the operations of their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and the Secretary of State's Office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, the Secretary of State's office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, the Secretary of State's office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, our office reserves the right to request funding to meet the cost of its publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office.

Officials from the **State Treasurer's office** indicated no impact to their office.

Officials from **Jasper County** indicated no significant effect on budget of their county.

Officials from the **City of Kansas City** indicated:

Section 1 could be construed such that unvaccinated children could no longer be excluded from school in the event of an outbreak. This would seriously impact public health and have a negative fiscal impact on cities.

Sections 2 and 5 have an exception for criminal matters. However, traffic code violations and other ordinance violations are quasi-criminal in nature. These sections could be construed to prohibit police officers from obtaining drivers' license/permit information from 15, 16 and 17-year olds, writing them traffic tickets, and then prosecuting them in municipal courts. The same applies to disturbing the peace, loitering, and other ordinance violations. If city ordinances can't be enforced against minors without the parent's consent because they are quasi-criminal and not criminal, there will be a tremendous financial impact if cities are unable to preserve public peace and public safety.

These costs cannot be estimated.

Officials from the **City of St. Joseph** indicated there is no obvious cost savings or fiscal impact on the city unless frivolous lawsuits arise from the authority provided in section 5.

Officials from **Metropolitan Community College** indicated this has no financial impact on their college.

The State Auditor's office did not receive a response from the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, University of Missouri,** and **St. Louis Community College.**

**Fiscal Note Summary**

Any potential costs or savings from this proposal to state and local governmental entities is unknown. However, the proposal's passage will likely lead to increased litigation-related costs and impact the ability of state and local governments to provide certain health and welfare services.

16-021

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

February 9, 2015

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Jill Carter regarding a proposed constitutional amendment to Article I, version 1 (2016-021)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Jill Carter on February 6, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

RECEIVED
FEB 09 2015
STATE AUDITOR'S OFFICE

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County .....

Page No. .....

16-021

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and ..... County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and ..... County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot title.)

RECEIVED
2015 FEB -6 PM 4:56
SECRETARY OF STATE

## CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF .....

I, ....., being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | 1. |
| 2. | | | | | 2. |
| 3. | | | | | 3. |
| 4. | | | | | 4. |
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| 8. | | | | | 8. |
| 9. | | | | | 9. |
| 10. | | | | | 10. |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and .....County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do..... do not ..... (check one) expect to be paid for circulating this petition. If paid, list the payer: .....

.....
Signature of Affiant
(Person obtaining signatures)

.....
(Printed Name of Affiant)

.....
Address of Affiant

Subscribed and sworn to before me this ..... day of ....., A.D. .....

.....
Signature of Notary

Address of Notary

Notary Public (Seal)
**My commission expires** .....

# Article I – Bill of Rights

16-021

*Be it resolved by the people of the State of Missouri that the Constitution be amended:*

Article I, Constitution of Missouri, is amended by adding one new section, to be known as section 36, to read as follows:

*In order to assert our rights, acknowledge our duties, and proclaim the principles on which our government is founded, we declare:*

Section 36. 1. That every parent has a fundamental right to exercise exclusive control over all aspects of their minor children's lives without governmental interference, including, but not limited to, decisions regarding their minor children's custody, upbringing, education, religious instruction, discipline, physical and mental health care, and place of habitation; provided, this fundamental right shall not extend to any decision or action by a parent that threatens clear, immediate, and substantial physical injury to their minor child, nor shall it permit a parent to compel a minor child to have an abortion.

2. That every parent also has the right to require government entities to obtain the parent's explicit permission before gathering or sharing information or data about their child or the child's family members for purposes not directly related to a criminal investigation or, if enrolled in a public school, the child's knowledge of academic subjects; neither the parent nor child shall in any way be punished or penalized if the parent refuses such permission.

3. That every parent has the right to decide what educational setting will best prepare their children to meet the obligations of responsible adulthood, and therefore parents may choose to have their children educated in public, private, or parochial schools or to educate their children at home as an alternative to enrolling the children in any school; provided, nothing in this section shall require or prohibit any state or local government to fund or subsidize education in a non-public school setting or, unless otherwise required by law, require a public school to enroll or educate a child who does not live in that public school's district.

4. That a government entity in this state shall only be justified in interfering with the parental rights acknowledged in this section if (1) the interference is temporary and limited to only the degree and duration necessary to protect a child from a clear, immediate and substantial threat of physical injury; (2) a court of law has found by clear and convincing evidence that a parent has knowingly exposed a child to neglect, abandonment, reckless endangerment, or physical abuse, as each of those terms are defined by state statute; (3) a court of law has found by clear and convincing evidence that a parent is mentally incompetent as that term is defined by state statute; (4) a court of law has ruled that minor child is emancipated in accordance with state statutes; (5) a court of law has assumed jurisdiction over a minor child charged with violating or found beyond a reasonable doubt to have violated a criminal statute; or (6) a court of law has assigned parental rights to one parent or someone other than a biological parent as a result of adoption or marital dissolution. If, after considering evidence, a judge has first determined that a government entity has probable cause to believe that a parent has subjected their child to criminal physical abuse, neglect, or endangerment, it shall not be considered an interference with the parental rights acknowledged in this section for the government entity to question the parent or the child about the alleged crime, or for police to obtain a warrant to search the parent's home for evidence of the suspected crime.

5. That any parent whose rights under this section have been adversely affected by any statute, regulation, ordinance, policy, or other act of government authority shall be permitted to file a lawsuit challenging the constitutionality of the statute, regulation, ordinance, policy, or other act of government authority, and seeking damages against the government entity responsible for the violation of the parent's rights. In considering such a lawsuit, courts may not presume the constitutionality of the statute, regulation, ordinance, policy, or other act of government authority being challenged, may not defer to claims made by a government entity that the statute, regulation, ordinance, policy, or other act of government authority is justified unless the government entity supports all such claims with competent evidence, and shall award damages and reasonable attorney's fees for any infringement of this constitutional right that is not justified in accordance with subsection 4 of this section.

6. For the purposes of this section the term "parent" includes a child's legal guardian.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-021)**

## Subject

Initiative petition from Jill Carter regarding a proposed constitutional amendment to Article I. (Received February 9, 2015)

## Date

March 2, 2015

## Description

This proposal would amend Article I of the Missouri Constitution.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and the **St. Louis Community College.**

### Assumptions

Officials from the **Attorney General's office** (AGO) indicated this proposal allows any parent whose rights have been adversely affected by governmental action to file suit

challenging the constitutionality of the governmental action and to seek damages against the governmental entity responsible for the violation of the parent's rights. The AGO is under a legal obligation to represent various state departments and agencies. Therefore, the AGO assumes that any potential costs arising from this proposal can be absorbed with existing resources but may seek additional appropriations if the proposal results in a significant increase in cases.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated there will be unknown costs incurred by local school districts to obtain parents' explicit permission.

Officials from the **Department of Higher Education** indicated they have determined it would not have a direct fiscal impact on their department. However, subsection 2 of section 36 states, in part, that "neither the parent nor child shall in any way be punished or penalized if the parent refuses such permission." The Department of Higher Education administers several state funded student aid programs that require the submission of information about the student and, in some instances, their family in order to determine their eligibility to receive funds through those programs. A parent's refusal to provide such information makes it impossible for the department to determine the eligibility of the student and, therefore, to provide the student with an award under such a program. It is not clear if this could be interpreted as penalizing the student as would be prohibited by this provision of the petition.

Officials from the **Department of Health and Senior Services** (DHSS) indicated this proposal will have an unknown fiscal impact on state and federal funds, and no impact on local funds.

This proposal will have an unknown economic impact on small businesses. DHSS works with numerous small businesses to carry out its public health functions and does not know what impact the proposed may have to these entities.

Section 36.2 would prohibit DHSS from collecting or sharing any information or data about a child without the explicit consent of the parent. There are many public health functions authorized by current law that involve the collection or sharing of data which do not require the explicit consent of the parent. These functions have been legislated by federal and state statutes and implemented over the years because the timely and complete collection and/or sharing of data are critical to preventing the loss of life, minimize the consequences of a congenital anomaly or condition, stopping the spread of dangerous and costly communicable diseases, and supplying data to improve the overall

population health of Missourians. This proposal would supersede these federal and state laws resulting in a destruction of the essential functions of public health.

Section 36.2 of the proposed constitutional amendment would result in an unknown negative fiscal impact for the Division of Community and Public Health.

First, there would be costs to establish partnerships and processes to acquire explicit consent. Requiring explicit consent would require the assistance of many stakeholders to the public health system, such as hospitals, direct care providers, laboratories, schools, etc. These entities are the primary providers of services and acquire the data initially. Collecting the explicit consent will also require the establishment of forms, modifications to existing electronic information systems, new information systems, and additional staff to collect and track the consents. These stakeholders may also request funding in order to assist the department in obtaining the explicit consent.

Secondly, there would be treatment costs and societal costs associated with the time delays in collecting and reporting of critical data should explicit consent be required. For example, elevated blood lead levels in children would not be automatically reported to DHSS. A healthcare provider would first need to obtain the parent's consent in order to report the result to the department. The time lost to this process results in a delay of the department initiating an environmental health risk assessment and working with the local public health agency to initiate nursing case management in order to reduce the blood lead level. The most devastating scenario would be the consequences (loss of life) if a parent refused to give this consent. Timely treatment of elevated blood lead levels is essential to minimizing medical intervention and cognitive impairments. Another example would be the reporting of tuberculosis infection. If reported timely, the treatment may be outpatient and of less program cost to the department than an infection that needs intensive inpatient care. A third example would be that the potential lack of reporting just one incident of a reportable communicable disease spirals into an outbreak jeopardizing the health of an unquantifiable number of Missourians. There are endless examples of how timely intervention through the department programs results in the increased likelihood of positive health outcomes and reduced societal and medical costs.

Thirdly, this amendment would likely result in the loss of quality data and diminish the data surveillance activities of the department. The ability to collect comprehensive sets of data will remove the department's greatest tool in identifying disease trends that guide targeted health outreach and prevention activities. Common health indicators regarding births, fetal deaths, abortions, teen pregnancy, and smoking rates are examples of some of the data that may no longer be available. The inability to work on improving health outcomes will lead to higher medical, societal and program costs in the future. It is also likely that Missouri would see a loss in federal grant funds for activities that fund disease prevention and require frequent and complete data reports. It is also likely that Missouri could miss new federal funding opportunities because of the lack of data to prove Missouri's need compared to national and other state's data.

A listing of current public health activities that would have direct impact from this amendment include:

- birth certificate registration
- newborn blood spot screening
- newborn hearing screening
- critical congenital heart disease screening
- childhood lead prevention and environmental risk assessment/nursing case management for elevated blood lead levels
- data collection and evaluation from patient abstract data reported by hospitals and ambulatory surgery centers
- infectious and communicable disease surveillance and investigation
- healthcare associated infection surveillance
- state immunization registry

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated their department would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact.

Officials from the **Department of Revenue** indicated this initiative petition will not have an impact on their department.

Officials from the **Department of Public Safety** indicated there is no fiscal impact for their department.

Officials from the **Department of Social Services** indicated this proposal will have an unknown fiscal impact on state, federal, and local funds.

This proposed amendment could have significant impact on small businesses who work with children in the state. The impact is unknown.

The long range implications of this proposal to amend the constitution are significant both fiscally and programmatically.

Should the constitution be amended in accordance with this proposal, the Children's Division would expect significant cost savings initially, due to necessary programmatic changes to come into compliance with the provisions of this proposed petition.

The Children's Division's ability to conduct child abuse and neglect investigations and assessments, provide protective services and ensure children's safety would be significantly reduced.

The cost savings experienced initially by the Children's Division will likely result in a failure to protect children, ensure safety, and otherwise provide the necessary services to offer the best chance for abused and neglected children to become independent, responsible, self-sufficient adults free from the future need of government intervention.

A study by Prevent Child Abuse America cites the indirect costs that result as a consequence of child abuse such as:

- Special Education and Early Intervention Services – Many children who have suffered abuse require special education services and early intervention services to manage developmental delays. The rate of special education services is 6% higher than the national average for children who have been maltreated.
- Emergency/Transitional Housing - Children who experience abuse are more likely to experience homelessness as adults. Of children who experience childhood physical abuse, 27.8% experience homelessness as adults.
- Mental Health and Health Care - The average annual cost of physical and mental health care is $591 higher for women who experienced physical or sexual abuse as children.
- Juvenile Delinquency – 27% of children who have experienced maltreatment will engage in acts of juvenile delinquency.
- Adult Criminal Justice – 13% of all violent crime can be attributed to early childhood maltreatment.

https://www.preventchildabusenc.org/assets/preventchildabusenc/files/$cms$/100/1299.pdf

The department believes the societal costs of not doing child abuse and neglect investigations would exceed any potential cost savings experienced.

This petition request proposes a constitutional amendment related to governmental interference with parental rights.

If the constitution were to be amended in accordance with the language in this petition, the Children's Division would be impacted fiscally and programmatically. The Children's Division's ability to investigate child abuse and neglect, ensure children's safety, and provide protective services to children and families would be significantly impacted.

In section 36.1, the constitution would be amended to state that every parent has a fundamental right to exercise exclusive control over all aspects of their minor children's

lives without governmental interference, including, but not limited to, decisions regarding their minor children's custody, upbringing, education, religious instruction, discipline, physical and mental health care, and place of habitation; provided, this fundamental right shall not extend to any decision or action by a parent that threatens clear, immediate, and substantial physical injury to the minor child, nor shall it permit a parent to compel a minor child to have an abortion.

Because this section specifically requires the threat of "clear, immediate, and substantial physical injury to the minor child" for the government to intervene, the Children's Division would not be able to conduct any investigations, including sexual abuse allegations, in the same manner as currently allowed by law, that do not have the elements which include "the threat of clear, immediate, and substantial physical injury." In addition, the Children's Division would not be able to conduct any family assessments or newborn crisis assessments or respond to any other reports made to the Child Abuse and Neglect hotline that do not involve a threat of clear, immediate, substantial physical injury. This section would create an initial cost savings to the Children's Division. This provision would significantly jeopardize the Children's Division ability to ensure child safety.

In section 36.2, the constitution would be amended to require the government to obtain parental permission before gathering or sharing information about their child or the child's family for purposes not directly related to a criminal investigation, or if enrolled in a public school, the child's knowledge of academic subjects. Neither the parent nor the child could be penalized for refusing such permission.

This section, as with the previous section, would create an initial cost savings for the Children's Division, but because it requires parental permission before any information could be gathered unless it is directly related to a criminal investigation, the Children's Division's ability to respond to reports that do not rise to the level of a criminal investigation would be significantly hindered, if not halted. These reports would include, but not be limited to, family assessments and newborn crisis assessments. This provision would prevent Children's Division workers from gathering any information about the child and/or family, even from other sources, in an effort to accurately evaluate allegations that do not rise to the level of a criminal investigation, thus preventing the Children's Division from being able to offer or provide protective services.

In section 36.3, the constitution would be amended to allow parents the rights to decide the educational setting which will best prepare their children to meet the obligations of responsible adulthood, including public, private, parochial or to educate them at home.

This section would eliminate the Children's Division's ability and obligation to investigate reports of educational neglect made to the Child Abuse and Neglect hotline.

In section 36.4, the constitution would be amended to ensure the government interference in parental rights is only justified if, 1) the interference is temporary and limited to the duration necessary to protect a child from a "clear, immediate, and substantial threat of

physical injury; 2) a court of law has already made a finding by clear and convincing evidence that a parent has knowingly exposed a child to neglect, abandonment, reckless endangerment, or physical abuse, as each of those terms are defined by state statute; 3) a court of law has found by clear and convincing evidence that a parent is mentally incompetent as defined by state statute; 4) a court of law has ruled that minor child is emancipated in accordance with state statutes; 5) a court of law has assumed jurisdiction of a minor charged with violating or found beyond a reasonable doubt to have violated a criminal statute; 6) or a court of law has assigned parental rights to one parent or someone other than a biological parent as a result of adoption or marital dissolution. If, after considering evidence, a judge has first determined that a government entity has probable cause to believe that a parent has subjected their child to criminal physical abuse, neglect, or endangerment, it shall not be considered interference with parental rights acknowledged in this section for the government entity to question the parent or the child about the alleged crime, or for police to obtain a warrant to search the parent's home for evidence of the suspected crime.

This section would significantly hinder the Children's Division's ability to respond to allegations of child abuse and neglect in a timely or practical manner. In conjunction with prior sections of this petition, the Children's Division would be prohibited from conducting the investigative work necessary for the court to consider whether or not clear and convincing evidence exists that there is a "clear, immediate, and substantial threat of physical injury" to the child. The Children's Division would not only be unable to investigate, assess, or gather the necessary information to justify its actions, but it would not be able to investigate, assess, or gather the information necessary to determine whether or not allegations of child abuse and neglect have any merit or whether or not a child is safe. Like previous sections, this section would create a reduction in responsibilities for the Children's Division and result in initial cost savings, but would also jeopardize child safety.

In section 36.5, the constitution would be amended to allow parents who believe their rights have been violated or adversely affected by any governmental agency or by any statute, regulation, ordinance or policy to file a lawsuit challenging the constitutionality as such and seek damages. In addition, in consideration of such lawsuits, the courts must evaluate the constitutionality of the statutes, regulations, etc. based upon competent evidence and award damages a reasonable attorney's fees for any infringement of the constitutional rights.

This section would create a fiscal impact to the Children's Division as it would assume the legal costs of defending its actions in response to all lawsuits filed as a result of this section or the proceeding sections of this proposal to amend the constitution.

In section 36.6, the constitution would be amended to include a child's legal guardian in the definition of "parent".

This section would have the same impact as stated previously related to all sections of this proposal related to parental rights.

In addition, the Division of Legal Services represents the Children's Division in juvenile court cases and receives funding from the federal IV-E program in order to provide such representation. If this constitutional initiative is approved by the voters, it is expected to provide a legal argument to challenge the constitutionality of current law governing juvenile courts. The department expects that this will result in significant litigation involving the Department of Social Services, Juvenile Offices and the Attorney General's office. At the present time the juvenile courts have placed approximately 13,000 children in foster care with the Children's Division. In the event that every parent's attorney filed a motion contesting jurisdiction in each of the 13,000 children's cases, the Children's Division would require legal representation by the Division of Legal Services in each of these 13,000 cases. The American Bar Association standards for agency representation in juvenile court indicates that a case load for a state agency cases is about 40 cases, with 60 cases being considered unmanageable. This would mean that the department would need approximately 60- 200 additional attorneys to handle the cases. It is also possible that the need for additional attorneys would be needed to handle litigation over how the law should be applied. Once the Missouri Supreme Court establishes clear precedent on how the law is to be applied then the need for additional attorneys may decrease. However, it is cannot be predicted at the present time how many motions would be filed. It is also unknown how the Courts will rule on how the language may impact current statutes governing juvenile court process. If the courts should determine that this constitutional initiative does not impact current statutory requirements then there would be no current fiscal impact upon the Division of Legal Services. If the courts determine that current laws governing the removal of children are unconstitutional there could be a significant drop in the number of children being brought into care in the first place, thereby reducing the need for additional attorneys. With so much uncertainty on how the proposed amendment would be interpreted and applied the current fiscal impact upon the Division of Legal Services is unknown.

Additional Comments:

This proposed constitutional amendment significantly affects the Missouri Children's Division by proposing a constitutional amendment which would prohibit governmental interference with parental rights. Approval of this initiative petition request would seriously restrict the ability of the Missouri Children's Division to perform many of its statutorily required duties and to receive federal reimbursement for conducting child abuse and neglect investigations and for operating its foster care program. The proposed amendment will call into question the constitutionality of Missouri's child protection system. The current statutory definitions of child abuse and child neglect, for example, would be inconsistent with this proposed constitutional amendment. Child neglect that does not threaten "clear, immediate, and substantial physical injury" to a minor child would no longer be considered neglect. Sexual abuse would no longer be considered to be a form of child abuse. The amendment can reasonably be expected to generate significant litigation in the courts and would require a review and probably rewrite of Missouri's child protection statutes.

The ability of the Children's Division to investigate child abuse and neglect, to ensure children's safety, and to provide services to children and families would be significantly hindered. This would lead to a violation of the state plan required by the Child Abuse and Prevention Act (CAPTA) as currently set out in 42 USC§5106 et seq. Passage of this initiative would immediately subject the Children's Division to risk for losing its federal funding under CAPTA.

Section 36.1 provides that every parent has a fundamental right to exercise exclusive control over all aspects of their minor children's lives without governmental interference, including, but not limited to, decisions regarding their minor children's custody, upbringing, education, religious instruction, discipline, physical and mental health care, and place of habitation; provided, this fundamental right shall not extend to any decision or action by a parent that threatens clear, immediate, and substantial physical injury to the minor child, nor shall it permit a parent to compel a minor child to have an abortion. This section significantly raises and changes the current legal standard by which a parent's right to custody may be abridged. For instance, under this section a parent may neglect the welfare of a child or sexually abuse a minor child without having an effect on the parent's right to custody.

This section would prevent the Children's Division from conducting investigations or assessments in the manner currently authorized by law. this is because the proposed amendment would require evidence of a threat of "clear, immediate, and substantial physical injury to the minor child" before any form of governmental interference could take place. This provision could significantly jeopardize the Children's Division ability to ensure a child's safety. The proposed amendment does not include sexual abuse as a threat that would authorize governmental interference. It also does not include other known, significant threats to child welfare and safety such as drug abuse. Finally, in many cases of child abuse or neglect are emergencies based upon incomplete information. Increasing the standard of proof will make it impossible for child protection authorities to take prompt action in cases where there is less than clear and convincing evidence.

Section 36.2 requires a governmental agency to obtain parental permission before gathering or sharing information about a child or the child's family for purposes not directly related to a criminal investigation. Because child abuse and neglect investigations are not criminal investigations, the Children's Division would need to obtain parental permission prior to gathering any information about a child. In essence, the Children's Division would need a parent's permission to conduct a hotline investigation or assessment. This section provides that a parent or a child cannot be punished or penalized if the parent refuses such permission. As a result, the Children's Division will be able to conduct child abuse and neglect investigations and assessments under Section 210.145 RSMo only when a parent gives permission to conduct the investigation or assessment. This section does not address the question about what should occur when only one parent grants permission for gathering or sharing information about a child and whether the consent of both parents is required. Accordingly, the ability of the Children's Division to conduct investigations and family assessments under Section 210.145 RSMo would be

significantly hampered. Because the Children's Division would be unable to provide protective services in many circumstances, the safety of many children will be in jeopardy.

Section 36.3 allows a parent the right to decide the educational setting for his or her children, including public schooling, private schooling, parochial schooling or home schooling. This would prevent the Children's Division from conducting investigations or assessments based upon educational neglect. This would also result in a new interpretation of neglect under Section 210.110 RSMo by excluding "education as required by law" from the definition.

Section 36.4 provides that governmental interference in parental rights is only justified if, 1) the interference is temporary and limited to the duration necessary to protect a child from a "clear, immediate, and substantial threat of physical injury; 2) a court of law has already made a finding by clear and convincing evidence that a parent has knowingly exposed a child to neglect, abandonment, reckless endangerment, or physical abuse, as each of those terms are defined by state statute; 3) a court of law has found by clear and convincing evidence that a parent is mentally incompetent as defined by state statute; 4) a court of law has ruled that minor child is emancipated in accordance with state statutes; 5) a court of law has assumed jurisdiction of a minor charged with violating or found beyond a reasonable doubt to have violated a criminal statute; 6) or a court of law has assigned parental rights to one parent or someone other than a biological parent as a result of adoption or marital dissolution. This section significantly impacts the ability of a juvenile court to assume custody of a minor child. It substantially changes the manner in which juvenile court petitions are filed and the manner in which children are removed from a parent's custody. It may also render unconstitutional some portions of the probate code relating to minor guardianships. It is particularly important to note that this subsection does not include sexual abuse as one of the factors that authorizes a court to authorize governmental action. This will severely limit the ability of courts and juvenile authorities to protect children in cases of known or suspected sexual abuse.

Missouri Supreme Court Rule 123.01 authorizes a juvenile to be taken into judicial custody pursuant to an order of court or by a law enforcement officer or physician who has reasonable cause to believe that the juvenile is in imminent danger of suffering serious physical harm or a threat to life as a result of abuse or neglect. The comment to this rule cites the case of Heartland v. Waddle, 427 F.3d 525 (8th Cir. 2005) as a reference for when a juvenile may be taken into judicial custody. Section 36.4 changes this well-established standard and would subsequently prevent the operation of Missouri Supreme Court Rules 123.03 and 123.04 relating to temporary protective custody. Section 36.4 raises the standard for continued removal of a child from the probable cause standard to believe that juvenile jurisdiction exists under Section 211.031 RSMo to a standard requiring a finding by clear and convincing evidence. As a result, this section discourages the taking of any child into either judicial custody or temporary protective custody unless there is also a court adjudication by clear and convincing evidence. In conjunction with the inability of the Children's Division to conduct child abuse and neglect investigations and assessments, this section will have a profound effect upon the

juvenile court system as a whole. It may be essentially impossible for a juvenile officer to present a case to a juvenile court that would result in clear and convincing evidence of child abuse or neglect without first being having been given the ability or opportunity to gather evidence necessary for the court to consider.

Section 36.5 provides a parent who believes his or her rights to have been violated or adversely affected by any governmental agency or by any statute, regulation, ordinance or policy to file a lawsuit challenging the constitutionality of such and to seek damages. This section would have a considerable chilling effect upon any person or governmental agency participating in the juvenile court process and the investigation of reports of child abuse and neglect. Child abuse investigators will be faced with the impossible choice of taking reasonable steps to protect a child from sexual abuse, physical abuse or neglect and risking personal liability for damages in court. The department can reasonably expect that this will result in fewer qualified individuals entering the field of child protection. The imposition of civil liability for damages will open the door for many lawsuits. The defense of these lawsuits will be expensive. It is simply not possible to give an accurate estimate of the potential liability, but it could easily exceed a million dollars per year. This section would create an impact upon state legal defense fund and the Office of the Attorney General which defends the fund.

The Children's Division receives appropriations from the legislature each year for funds in excess of $100 million so that the Children's Division may conduct a foster care program. The foster care program is substantially supported by money provided through the federal IV-E program. Section 36 will inevitably lead to violations of the state plan for foster children and it is probable that this will result in the loss of federal dollars that support the state's foster care program.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

This initiative petition amends Article I, of the Missouri Constitution by adding Section 36. The addition to the Bill of Rights states that parents have the right to exercise exclusive control over all aspects of their minor children's lives without governmental interference. However, the government can intervene in certain circumstance when the child is in danger of physical injury or when the parent is declared mentally incompetent. The new provision would also prevent the government from collecting or sharing information about children unless it is directly related to a criminal investigation. Any

parent may file a lawsuit if they feel their rights have been adversely affected by any statute, regulation, ordinance, policy or other act of governmental authority.

To the extent a court awards damages and attorney's fees for infringement of this constitutional right payable by the state, this proposal could have a fiscal impact to their office through additional Legal Expense Fund payments.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on the operations of their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and the Secretary of State's Office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, the Secretary of State's office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, the Secretary of State's office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, our office reserves the right to request funding to meet the cost of its publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office.

Officials from the **State Treasurer's office** indicated no impact to their office.

Officials from **Jasper County** indicated no significant additional costs to their county government.

Officials from the **City of Kansas City** indicated:

Section 1 could be construed such that unvaccinated children could no longer be excluded from school in the event of an outbreak. This would seriously impact public health and have a negative fiscal impact on cities.

Sections 2 and 5 have an exception for criminal matters. However, traffic code violations and other ordinance violations are quasi-criminal in nature. These sections could be construed to prohibit police officers from obtaining drivers' license/permit information from 15, 16 and 17-year olds, writing them traffic tickets, and then prosecuting them in municipal courts. The same applies to disturbing the peace, loitering, and other ordinance violations. If city ordinances can't be enforced against minors without the parent's consent because they are quasi-criminal and not criminal, there will be a tremendous financial impact if cities are unable to preserve public peace and public safety.

These costs cannot be estimated.

Officials from the **City of St. Joseph** indicated there is no obvious cost savings or fiscal impact on the city unless frivolous lawsuits arise from the authority provided in section 5.

Officials from **Metropolitan Community College** indicated this has no financial impact on their college.

The State Auditor's office did not receive a response from the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, University of Missouri,** and **St. Louis Community College.**

**Fiscal Note Summary**

Any potential costs or savings from this proposal to state and local governmental entities is unknown. However, the proposal's passage will likely lead to increased litigation-related costs and impact the ability of state and local governments to provide certain health and welfare services.

16-020

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 28, 2015

RECEIVED
JAN 28 2015
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Jill Carter regarding a proposed constitutional amendment to Article I (2016-020)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Jill Carter on January 27, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-080

**County** _____
(County signers are registered to vote in.)

Page No.

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: **I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.**

(Official Ballot title goes here.)

RECEIVED
2015 JAN 27 PM 4:47
SOS SEC. OF STATE

## CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____
(County in which notary witnessed ciculator's signature.)

I, _____, being first duly sworn, say (print or type names of signers)

| REGISTERED VOTING NAME (Printed or Typed) | DATE SIGNED | REGISTERED VOTING ADDRESS | ZIP CODE | CD | NAME (Signature) |
|---|---|---|---|---|---|
| 1. | / 20 | | | | 1. |
| 2. | / 20 | | | | 2. |
| 3. | / 20 | | | | 3. |
| 4. | / 20 | | | | 4. |
| 5. | / 20 | | | | 5. |
| 6. | / 20 | | | | 6. |
| 7. | / 20 | | | | 7. |
| 8. | / 20 | | | | 8. |
| 9. | / 20 | | | | 9. |
| 10. | / 20 | | | | 10. |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.
(County signers are registered to vote in.)

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ___ (check one) expect to be paid for circulating this petition.

If paid, list the payer: _____

**Signature of Affiant:** _____
(Person obtaining signatures)

_____

_____

_____
(Printed Name and Address of Affiant)

Subscribed and sworn to before me this

_____ day of _____, A.D._____

**Signature of Notary:** _____

_____

_____
(Address of Notary)

Notary Public (Seal)
My commission expires _____

*Be it resolved by the people of the State of Missouri that the Constitution be amended:*

16-020

Article I, Constitution of Missouri, is amended by adding one new section, to be known as section 36, to read as follows:

## Article I – Bill of Rights

*In order to assert our rights, acknowledge our duties, and proclaim the principles on which our government is founded, we declare:*

**Section 36. 1. That every parent has a fundamental right to exercise exclusive control over all aspects of their minor children's lives without governmental interference, including, but not limited to, decisions regarding their minor children's custody, upbringing, education, religious instruction, discipline, physical and mental health care, and place of habitation; provided, this fundamental right shall not extend to any decision or action by a parent that threatens clear, immediate, and substantial physical injury to their minor child, nor shall it permit a parent to compel a minor child to have an abortion.**

**2. That every parent also has the right to require government entities to obtain the parent's explicit permission before gathering or sharing information or data about their child or the child's family members for purposes not directly related to a criminal investigation or, if enrolled in a public school, the child's knowledge of academic subjects; neither the parent nor child shall in any way be punished or penalized if the parent refuses such permission.**

**3. That every parent has the right to decide what educational setting will best prepare their children to meet the obligations of responsible adulthood, and therefore parents may choose to have their children educated in public, private, or parochial schools or to educate their children at home as an alternative to enrolling the children in any school; provided, nothing in this section shall require or prohibit any state or local government to fund or subsidize education in a non-public school setting or, unless otherwise required by law, require a public school to enroll or educate a child who does not live in that public school's district.**

**4. That a government entity in this state shall only be justified in interfering with the parental rights acknowledged in this section if (1) the interference is temporary and limited to only the degree and duration necessary to protect a child from a clear, immediate and substantial threat of physical injury; (2) a court of law has found by clear and convincing evidence that a parent has knowingly exposed a child to neglect, abandonment, reckless endangerment, or physical abuse, as each of those terms are defined by state statute; (3) a court of law has found by clear and convincing evidence that a parent is mentally incompetent as that term is defined by state statute; (4) a court of law has ruled that minor child is emancipated in accordance with state statutes; (5) a court of law has assumed jurisdiction over a minor child charged with violating or found beyond a reasonable doubt to have violated a criminal statute; or (6) a court of law has assigned parental rights to one parent or someone other than a biological parent as a result of adoption or marital dissolution. If, after considering evidence, a judge has first determined that a government entity has probable cause to believe that a parent has subjected their child to criminal physical abuse, neglect, or endangerment, it shall not be considered an interference with the parental rights acknowledged in this section for the government entity to question the parent or the child about the alleged crime, or for police to obtain a warrant to search the parent's home for evidence of the suspected crime.**

**5. That any parent whose rights under this section have been adversely affected by any statute, regulation, ordinance, policy, or other act of government authority shall be permitted to file a lawsuit challenging the constitutionality of the statute, regulation, ordinance, policy, or other act of government authority, and seeking damages against the government entity responsible for the violation of the parent's rights. In considering such a lawsuit, courts may not presume the constitutionality of the statute, regulation, ordinance, policy, or other act of government authority being challenged, may not defer to claims made by a government entity that the statute, regulation, ordinance, policy, or other act of government authority is justified unless the government entity supports all such claims with competent evidence, and shall award damages and reasonable attorney's fees for any infringement of this constitutional right that is not justified in accordance with subsection 4 of this section.**

**6. For the purposes of this section the term "parent" includes a child's legal guardian.**

###

16-019

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 28, 2015

RECEIVED
JAN 28 2015
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Stacy Shore regarding a proposed constitutional amendment to Article IX (2016-019)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Stacy Shore on January 27, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-019

**County** _____
(County signers are registered to vote in.)

Page No.

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: **I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.**

(Official Ballot title goes here.)

RECEIVED
2015 JAN 27 PM 4:44
SEC. OF STATE

## CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____
(County in which notary witnessed ciculator's signature.)

I, _____, being first duly sworn, say (print or type names of signers)

| REGISTERED VOTING NAME (Printed or Typed) | DATE SIGNED | REGISTERED VOTING ADDRESS | ZIP CODE | CD | NAME (Signature) |
|---|---|---|---|---|---|
| 1. | / / 20__ | | | | 1. |
| 2. | / / 20__ | | | | 2. |
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| 7. | / / 20__ | | | | 7. |
| 8. | / / 20__ | | | | 8. |
| 9. | / / 20__ | | | | 9. |
| 10. | / / 20__ | | | | 10. |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.
(County signers are registered to vote in.)

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ___ (check one) expect to be paid for circulating this petition.

If paid, list the payer: _____

**Signature of Affiant:** _____
(Person obtaining signatures)

_____

_____

_____
(Printed Name and Address of Affiant)

Subscribed and sworn to before me this

_____ day of _____, A.D._____

**Signature of Notary:** _____

_____

_____
(Address of Notary)

Notary Public (Seal)
My commission expires _____

16-019

*Be it resolved by the people of the State of Missouri that the Constitution be amended:*

Section 2 of Article IX of the Constitution of Missouri is amended by modifying sections 2(b) and adding section 2(c). The existing sections 2(b) is set forth hereinafter with the new matter underlined and deleted matter in brackets, [thus].

## Article IX – Education

Article IX, Section 2(b). **1.** The **state** board **of education** shall select and appoint a commissioner of education as its chief administrative officer, who shall be a citizen and resident of the state, and removable at its discretion. The board shall prescribe his duties and fix his compensation, and upon his recommendation shall appoint the professional staff and fix their compensation. [The board shall succeed the state board of education heretofore established, with all its powers and duties, and shall have such other powers and duties as may be prescribed by law.]

**2. The state board of education and the commissioner of education shall only have the authority (1) to research and offer opinions on the most efficient and effective ways to educate students, (2) to assess and publicly report on the quality and performance of the public schools in this state, and (3) to offer recommendations and training designed to help the public schools in this state improve their performance. Neither the board nor the commissioner may compel any school or school district to take any action, administer any test, or implement any policy. The General Assembly may limit the funding available to the board and commissioner for the performance of the duties enumerated herein, but the General Assembly may neither direct the manner in which the board and commissioner fulfill their duties under this article, nor expand the scope of those duties beyond what is established in this subsection.**

**Section 2(c). 1. Each public school district in this state shall be independent from state control and shall be governed by school board members elected by and accountable to voters residing in each public school district; provided, the General Assembly shall be authorized to pass general laws establishing procedures through which citizens may establish a school district and elect the board to govern that district.**

**2. Each public school district shall be exclusively responsible for (1) deciding the qualifications required of the public school teachers and administrators in that district; (2) setting the curriculum to be taught at the public schools in that district and the level of mastery students must demonstrate to advance from one grade to the next and to receive a diploma from its public schools; and (3) selecting, purchasing, developing, and disposing of property, books, buildings, and materials for use by the public schools and students of that district.**

**3. Nothing in this provision shall relieve the General Assembly of its obligation to provide funding for all public schools in this state in accordance with section 1(a) of this article; neither the General Assembly nor any other government entity shall in any way penalize or withhold funds from a public school district based on the public school district's exercise of the authority established in subsection 2 of this section.**

###

16-018

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 27, 2015

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Aundrea Riffle regarding a proposed statutory amendment to Chapter 195 (2016-018)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Aundrea Riffle on January 27, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

RECEIVED
JAN 27 2015
STATE AUDITOR'S OFFICE

16-018

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law (or amendment to the constitution) shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot title)

RECEIVED
2015 JAN 27 AM 10:13
SECRETARY OF STATE

CIRCULATOR'S AFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME ( Printed or Typed) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street, (City, Town or Village) | ZIP CODE | CONGR DIST. | NAME (Signature) |
|---|---|---|---|---|---|
| 1. | / /20 | | | | 1. |
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| 9 | / /20 | | | | 9 |
| 10. | / /20 | | | | 10. |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and_____County (or city of St. Louis).

FUTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___do not___ *(check one)* expect to be paid for circulating this petition. If paid, list the payer

_____

_____ Signature of Affiant (Person obtaining signatures)

_____ Address of Affiant

_____ Printed Name of Affiant

Subscribed and sworn to before me this ___ day of_____,A.D. 20

_____ My Commission Expires:

_____ Signature of Notary

_____ Address of Notary

_____ Notary Public *(seal)*

16-018

Initiative Petition

"Be it enacted by the people of the state of Missouri:"

Sections 195.291 and 195.295 of the Revised Missouri Statutes is repealed and three new sections enacted in place thereof to be known as

Sections 195.291, 195.295 and 195.297 to read as follows:

Explanation: The existing sections 195.291 and 195.295 is set forth hereinafter with the new matter underlined, and deleted matter in brackets: [thus]

Section 195.291

1. Any person who has pleaded guilty to or been found guilty of violation of section 195.211, when punishable as a class B felony, shall be sentenced to the authorized term of imprisonment for a class A felony if the court finds the defendant is a prior drug offender.
2. Any person who has pleaded guilty to or been found guilty of a violation of section 195.211, when punishable as a class B felony, shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served [without probation or parole] in accordance with the provisions of section 195.297 if the court finds the defendant is a persistent drug offender.

Section 195.295

1. Any person who has pleaded guilty to or been found guilty of violation of subdivision (1) of subsection 1 of section 195.223, subdivision (1) of subsection 2 of section 195.223, subdivision (1) of subsection 3 of section 195.223, subdivision (1) of subsection 4 of section 195.223, subdivision (1) of subsection 5 of section 195.223, subdivision (1) of subsection 6 195.223, or subdivision (1) of subsection 7 of section 195 .223 shall be sentenced to the authorized term of imprisonment for a class A felony if the court finds the defendant is a prior drug offender.
2. Any person who has pleaded guilty to or been found guilty of a violation of subdivision (1) of subsection 1 of section 195.223, subdivision (1) of subsection 2 of section 195.223, subdivision (1) of subsection 3 of section 195.223, subdivision (1) of subsection 4 of section 195.223, subdivision (1) of subsection 5 of section 195.223, subdivision (1) of subsection 6 of section 195.223, or subdivision (1) of subsection 7 of section 195.223, or subdivision (1) of subsection 9 of section 195.223 shall be sentenced to the authorized term of imprisonment for a class A felony, which term shall be [without probation or parole] served in accordance with the provisions of section 195.297 if the court finds the defendant is a persistent drug offender.
3. Any person who has pleaded guilty to or been found guilty of a violation of subdivision (2) of subsection 1 of section 195.223, subdivision (2) of subsection (2) of section 195.223, subdivision (2) of subsection 3 of section 195.223, subdivision (2) of subsection 4 of section 195.223, subdivision (2) of subsection 5 of section 195.223, subdivision (2) of subsection 6 of section 195.223, or subdivision (2) of subsection 7 of section 195.223, or subsection 8 of section 195.223, or subdivision (2) of subsection 9 of section 195.223 shall be sentenced to the authorized term of imprisonment for a class A felony, which term shall be served in accordance with the provisions of section 195.297 [without probation or parole] if the court finds the defendant is a prior drug offender.

Section 195.297

1. Section 195.297 shall be known and may be cited as the "Smarter Non-Violent, Prior and Persistent Drug Offenders Act."
2. The provisions of subsections 1 to 3 of this section shall be applicable to a nonviolent offender serving without probation or parole sentences for drug felonies. For the purposes of this section, "previous conviction(s)" means any prior pleading to or being found guilty of a drug related felony. Other provisions of the law to the contrary notwithstanding, any offender who has pleaded guilty to or has been found guilty of a Class A felony under 195.291 (subsection 2) or 195.295 (subsection 2 and 3) and is committed to the department of corrections shall be required to serve the following minimum prison terms:
    (1) If the offender has one previous conviction for a non-violent drug felony unrelated to the present offense, the minimum prison term which the offender must serve shall be forty percent of his or her sentence or until the offender attains seventy years of age and has served at least thirty percent of the sentence imposed, whichever occurs first.
    (2) If the offender has two previous convictions for non-violent drug felonies unrelated to the present offense, the minimum prison term which the offender must serve shall be fifty percent of his or her sentence or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.
    (3) If the offender has three or more previous convictions for non-violent drug felonies unrelated to the present offense, the minimum prison term which the offender must serve shall be seventy percent of his or her sentence or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.
    (4) This new enactment shall not apply to any offender that has pleaded guilty to or has been convicted of a dangerous felony, in any relation to the relevant drug conviction.

16-08

3. For purposes of this section, the term "minimum prison term" shall mean time required to be served by the offender before he or she is eligible for parole, conditional release or other early release by the department of corrections.
4. Courts shall retain discretion to lower an offender's sentence, if they have been sentenced to a without probation or parole sentence, and order restorative justice methods, when applicable.
   (1) As alternative sentences, the Court may impose, prison work programs, work release, home-based incarceration, treatment programs outside of prison, probation and parole options, and any other programs.
   (2) The office of the state courts administrator, the department of public safety, and the department of corrections shall cooperate with the circuit courts of this state by providing information or access to information needed by the Court pertaining to an offender.
5. If the imposition or execution of a sentence is suspended, the court may order any or all of the following restorative justice methods, or any other method that the court finds just or appropriate:
   (1) Restitution to any victim or a statutorily created fund for costs incurred as a result of the offender's actions.
   (2) Offender treatment programs.
   (3) Mandatory community service.
   (4) Work release programs in local facilities.
   (5) Community-based residential and nonresidential programs.
   (6) Payment to the "Saving Families and Students Fund," ranging from $100.00 up to $500.00
6. The provisions of this section shall apply only to offenses occurring on or after August 3, 1993.
7. Pursuant to subdivision (1) of subsection 5 of this section, the court may order the assessment and payment of a designated amount of restitution to a county law enforcement restitution fund established by the county commission pursuant to section 50.565. Such contribution shall not exceed ten thousand dollars. Any restitution moneys deposited into the county law enforcement restitution fund pursuant to this section shall only be expended pursuant to the provisions of section 50.565.
8. A judge may order payment to a restitution fund only if such fund had been created by ordinance or resolution of a county of the State of Missouri prior to sentencing. A judge shall not have any direct supervisory authority or administrative control over any fund to which the judge is ordering a defendant to make payment.
9. A defendant who fails to make a payment to a county law enforcement restitution fund may not have his or her parole or probation revoked solely for failing to make such payment unless the judge, after evidentiary hearing, makes a finding supported by a preponderance of the evidence that the defendant either willfully refused to make the payment or that the defendant willfully, intentionally, and purposefully failed to make sufficient bona fide efforts to acquire the resources to pay.
10. Nothing in this section shall be construed to prevent circuit courts of the state from entertaining cases that are no longer pending and have become final.
11. All state laws and sentencing practices, which are inconsistent with the subsection (2) of section 195.297 shall no longer be in force and effect insofar as they are inconsistent with this section. As the sole purpose of the enactment, is to, "annul and repeal without probation or parole for non-violent drug offenders sentenced under Section 195.291 or 195.295." To include and replace any prior provisions, language and terminology of sections 195.291 and 195.295, and become consistent with repealing without probation or parole.
12. This measure mandates, that any offender currently serving a no parolable sentence for drugs sentenced under 195.291Subsection (2) or 195.295 Subsections (2 or 3), to immediately be considered by the Missouri Board of Probation and Parole: for parole consideration, in compliance with this measure.
13. Under this measure, a "Life sentence" shall be calculated as 30 years.
14. This measure requires that the annual savings to the state created thereby, of this measure, as estimated by the Governor's administration, be annually transferred from the General Fund into a new state fund; the Saving Families and Students Fund. Under this measure, monies in the fund would be divided as follows:
    (1) 25 percent to grants aimed at reducing truancy and drop-outs among K-12 students in Missouri Public Schools. (State Department of Education)
    (2) 10 percent for victims services grants. (Missouri Restorative Justice)
    (3) 50 percent to support mental health and drug abuse treatment services that are designed to help keep individuals out of prison and jail. (Missouri Department of Mental Health, Missouri Department of Corrections/Probation and Parole)
    (4) 15 percent to create and maintain employment training for convicted felons, aimed at lowering recidivism. (Missouri Department of Corrections, Missouri Office of Probation and Parole)

16-017

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 20, 2015

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Aundrea Riffle regarding a proposed statutory amendment to Chapter 195 (2016-017)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Aundrea Riffle on January 20, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

RECEIVED
JAN 20 2015
STATE AUDITORS OFFICE

16-017

County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo., to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the State of _____ Missouri and County (or city of St. Louis), respectfully order that the following proposed law (or amendment to the constitution), shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis) my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot title) _____

RECEIVED
2015 JAN 20 AM 9:20
SECRETARY OF STATE

CIRCULATOR'S AFIDAVIT

STATE OF MISSOURI, COUNTY OF_____
I _____being first duly sworn, say (print or type names of signers)

| NAME ( Printed or Typed) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street), (City, Town or Village) | ZIP CODE | CONGR DIST. | NAME (Signature) |
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| 10. | / /20 | | | | 10. |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and_____County (or city of St. Louis).

FUTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___do not___ (*check one*) expect to be paid for circulating this petition. If paid, list the payer

_____

_____
Signature of Affiant

_____
Printed Name of Affiant

_____
Address of Affiant

Subscribed and sworn to before me this___day of_____AD. 20

_____
Signature of Notary

My Commission Expires:_____

_____
Printed Name of Notary

_____
Address of Notary

_____
Notary Public (seal)

Initiative Petition

Be it enacted by the people of the State of Missouri

Sections 195.291 and 195.295 of the Revised Missouri Statutes is repealed and three new sections enacted in place thereof to be known as

Sections 195.291, 195.295 and 195.297 to read as follows:

Explanation: The existing sections 195.291 and 195.295 is set forth hereinafter with the new matter underlined, and deleted matter in brackets; [thus]

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2. Any person who has pleaded guilty to or been found guilty of a violation of section 195.211, when punishable as a class B felony, shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served [without probation or parole] in accordance with the provisions of section 195.297 if the court finds the defendant is a persistent drug offender.

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2. Any person who has pleaded guilty to or been found guilty of a violation of subdivision (1) of subsection 1 of section 195.223, subdivision (1) of subsection 2 of section 195.223, subdivision (1) of subsection 3 of section 195.223, subdivision (1) of subsection 4 of section 195.223, subdivision (1) of subsection 5 of section 195.223, subdivision (1) of subsection 6 of section 195.223, or subdivision (1) of subsection 7 of section 195.223, or subdivision (1) of subsection 9 of section 195.223 shall be sentenced to the authorized term of imprisonment for a class A felony, which term shall be [without probation or parole] served in accordance with the provisions of section 195.297 if the court finds the defendant is a persistent drug offender.
3. Any person who has pleaded guilty to or been found guilty of a violation of subdivision (2) of subsection 1 of section 195.223, subdivision (2) of subsection (2) of section 195.223, subdivision (2) of subsection 3 of section 195.223, subdivision (2) of subsection 4 of section 195.223, subdivision (2) of subsection 5 of section 195.223, subdivision (2) of subsection 6 of section 195.223, or subdivision (2) of subsection 7 of section 195.223, or subsection 8 of section 195.223, or subdivision (2) of subsection 9 of section 195.223 shall be sentenced to the authorized term of imprisonment for a class A felony, which term shall be served in accordance with the provisions of section 195.297 [without probation or parole] if the court finds the defendant is a prior drug offender.

Section 195.297

1. Section 195.297 shall be known and may be cited as the "Smarter Non-Violent, Prior and Persistent Drug Offenders Act."
2. The provisions of subsections 1 to 3 of this section shall be applicable to a nonviolent offender serving without probation or parole sentences for drug felonies. For the purposes of this section, "previous conviction(s)" means any prior pleading to or being found guilty of a drug related felony. Other provisions of the law to the contrary notwithstanding, any offender who has pleaded guilty to or has been found guilty of a Class A felony under 195.291 (subsection 2) or 195.295 (subsection 2 and 3) and is committed to the department of corrections shall be required to serve the following minimum prison terms:
    (1) If the offender has one previous conviction for a non-violent drug felony unrelated to the present offense, the minimum prison term which the offender must serve shall be forty percent of his or her sentence or until the offender attains seventy years of age and has served at least thirty percent of the sentence imposed, whichever occurs first.
    (2) If the offender has two previous convictions for non-violent drug felonies unrelated to the present offense, the minimum prison term which the offender must serve shall be fifty percent of his or her sentence or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.
    (3) If the offender has three or more previous convictions for non-violent drug felonies unrelated to the present offense, the minimum prison term which the offender must serve shall be seventy percent of his or her sentence or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.
    (4) This new enactment shall not apply to any offender that has pleaded guilty to or has been convicted of a dangerous felony, in any relation to the relevant drug conviction.

16-017

3. For purposes of this section, the term "minimum prison term" shall mean time required to be served by the offender before he or she is eligible for parole, conditional release or other early release by the department of corrections.
4. Courts shall retain discretion to lower an offender's sentence, if they have been sentenced to a without probation or parole sentence, and order restorative justice methods, when applicable.
   (1) As alternative sentences, the Court may impose, prison work programs, work release, home-based incarceration, treatment programs outside of prison, probation and parole options, and any other programs.
   (2) The office of the state courts administrator, the department of public safety, and the department of corrections shall cooperate with the circuit courts of this state by providing information or access to information needed by the Court pertaining to an offender.
5. If the imposition or execution of a sentence is suspended, the court may order any or all of the following restorative justice methods, or any other method that the court finds just or appropriate:
   (1) Restitution to any victim or a statutorily created fund for costs incurred as a result of the offender's actions.
   (2) Offender treatment programs.
   (3) Mandatory community service.
   (4) Work release programs in local facilities.
   (5) Community-based residential and nonresidential programs.
   (6) Payment to the "Saving Families and Students Fund," ranging from $100.00 up to $500.00
6. The provisions of this section shall apply only to offenses occurring on or after August 3, 1993.
7. Pursuant to subdivision (1) of subsection 5 of this section, the court may order the assessment and payment of a designated amount of restitution to a county law enforcement restitution fund established by the county commission pursuant to section 50.565. Such contribution shall not exceed ten thousand dollars. Any restitution moneys deposited into the county law enforcement restitution fund pursuant to this section shall only be expended pursuant to the provisions of section 50.565.
8. A judge may order payment to a restitution fund only if such fund had been created by ordinance or resolution of a county of the State of Missouri prior to sentencing. A judge shall not have any direct supervisory authority or administrative control over any fund to which the judge is ordering a defendant to make payment.
9. A defendant who fails to make a payment to a county law enforcement restitution fund may not have his or her parole or probation revoked solely for failing to make such payment unless the judge, after evidentiary hearing, makes a finding supported by a preponderance of the evidence that the defendant either willfully refused to make the payment or that the defendant willfully, intentionally, and purposefully failed to make sufficient bona fide efforts to acquire the resources to pay.
10. Nothing in this section shall be construed to prevent circuit courts of the state from entertaining cases that are no longer pending and have become final.
11. All state laws and sentencing practices, which are inconsistent with the subsection (2) of section 195.297 shall no longer be in force and effect insofar as they are inconsistent with this section. As the sole purpose of the enactment, is to. "annul and repeal without probation or parole for non-violent drug offenders sentenced under Section 195.291 or 195.295." To include and replace any prior provisions, language and terminology of sections 195.291 and 195.295, and become consistent with repealing without probation or parole.
12. This measure mandates, that any offender currently serving a no parolable sentence for drugs sentenced under 195.291Subsection (2) or 195.295 Subsections (2 or 3), to immediately be considered by the Missouri Board of Probation and Parole: for parole consideration, in compliance with this measure.
13. Under this measure, a "Life sentence" shall be calculated as 30 years.
14. This measure requires that the annual savings to the state created thereby, of this measure, as estimated by the Governor's administration, be annually transferred from the General Fund into a new state fund; the Saving Families and Students Fund. Under this measure, monies in the fund would be divided as follows:
   (1) 25 percent to grants aimed at reducing truancy and drop-outs among K-12 students in Missouri Public Schools. (State Department of Education)
   (2) 10 percent for victims services grants. (Missouri Restorative Justice)
   (3) 50 percent to support mental health and drug abuse treatment services that are designed to help keep individuals out of prison and jail. (Missouri Department of Mental Health, Missouri Department of Corrections/Probation and Parole)
   (4) 15 percent to create and maintain employment training for convicted felons, aimed at lowering recidivism. (Missouri Department of Corrections, Missouri Office of Probation and Parole)

16-016

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 8, 2015

RECEIVED
JAN 08 2015
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Angela Daniels regarding a proposed constitutional amendment to Article VIII, version 2 (2016-016)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Angela Daniels on January 8, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-016

**County** _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Janson Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot title)

RECEIVED
2015 JAN -8 A 9:20
SEC. OF STATE

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS | ZIP CODE | CONGR DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | __/__/20__ | | | | 1. |
| 2. | __/__/20__ | | | | 2. |
| 3. | __/__/20__ | | | | 3. |
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| 5. | __/__/20__ | | | | 5. |
| 6. | __/__/20__ | | | | 6. |
| 7. | __/__/20__ | | | | 7. |
| 8. | __/__/20__ | | | | 8. |
| 9. | __/__/20__ | | | | 9. |
| 10. | __/__/20__ | | | | 10. |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do .... do not .... (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant

_____
Printed Name of Affiant

_____

_____
Address of Affiant

_____
Notary Signature

_____
Printed Name of Notary Public

_____

_____
Address of Notary

Subscribed and sworn to before me this _____ day of _____, 20____.

_____
Notary Public Seal

My commission expires: _____

16-016

**THE PROPOSED CONSTITUTIONAL AMENDMENT**

**Section A:** Article VIII, Section 2, of the Constitution of Missouri is hereby repealed and replaced by one new section to be known as Article VIII, Section 2, and to be read as follows:

*Be it resolved by* the *people of the state of Missouri that the Constitution be amended:*

**Section 2. Qualification of voters-disqualification.**-All citizens of the United States, including occupants of soldiers' and sailors' homes, **and persons under sentence for felony not related to the right of suffrage,** over the age of eighteen who are residents of this state and of the political subdivision in which they offer to vote are entitled to vote at all elections by the people, if the election is one for which registration is required if they are registered within the time prescribed by law, or if the election is one for which registration is not required, if they have been residents of the political subdivision in which they offer to vote for thirty days next preceding the election for which they offer to vote: Provided however, no person who has a guardian of his or her estate or person by reason of mental incapacity, appointed by a court of competent jurisdiction and no person who is voluntarily confined in a mental institution pursuant to an adjudication of a court of competent jurisdiction shall be entitled to vote, and persons convicted of **[felony, or]** crime connected with the exercise of the right of suffrage may be excluded by law from voting.

**SECTIONS OP EXISTING LAW WHICH WOULD BE REPEALED**

**Section A:** Article VIII, Section 2, of the Constitution of Missouri is hereby repealed and replaced by one new section to be known as Article VIII, Section 2, and to be read as follows:

*Be it resolved by* the *people of the state of Missouri that the Constitution be amended:*

**115.133. Qualifications of voters.**

1. Except as provided in subsection 2 of this section, any citizen of the United States who is a resident of the State of Missouri and seventeen years and six months of age shall be entitled to register and vote in any election which is held on or after his eighteenth birthday.

**[2. No person who is adjudged incapacitated shall be entitled register to vote. No person shall be entitled to vote]:**

**[(1) While confined under a sentence of imprisonment];**
**[(2) While on probation or parole after conviction of felony, until finally discharged from such probation or parole; or]**

**(3) After conviction of a felony or misdemeanor connected with the right of suffrage.]**

**2. No person who is adjudged incapacitated shall be entitled to register or vote. No person shall be entitled to vote after conviction of a felony or misdemeanor connected with the right of suffrage.**

3. Except as provided in federal law or federal elections and in section 115.277, no person shall be entitled to vote if the person has not registered to vote in the jurisdiction of his or her residence prior to the deadline to register to vote.

**115.158. Centralized voter registration system--authorized uses--use for commercial purposes, punishment--rules and regulations authorized, required rules-advisory committee**

1. The secretary of state shall implement a centralized, interactive computerized statewide voter registration list. This computerized list shall be known as the "Missouri Voter Registration System". The system shall be implemented by January 1, 2004, unless a waiver is obtained pursuant to the Help America Vote Act of 2002. If a waiver is obtained, the system shall be implemented by January 1, 2006. The system shall be maintained and administered by the secretary of state and contain the name and registration information of every legally registered voter in Missouri. In addition, the system shall:

(1) Assign a unique identifier to each legally registered voter in Missouri;
(2) Serve as the single system for storing and managing the official list of registered voters throughout Missouri;
(3) Be coordinated with other agency databases in Missouri;

(4) Allow any election official in Missouri, including local election authorities, immediate electronic access to the information contained in the system;

(5) Allow all voter registration information obtained by any local election official In Missouri to be electronically entered into the system on an expedited basis at the time the information is provided to the local official. The secretary of state, as the chief state election official, shall provide such support as may be required so that local election officials are able to enter the registration information; and

(6) Serve as the official voter registration list for the conduct of all elections in Missouri.

2 The secretary of state and local election authorities shall perform system maintenance on a regular basis, which shall include:

16-016

(1) Removing names in accordance with the provisions and procedures of the National Voter Registration Act of 1993 and coordinating system maintenance activities with state agency records on death **[and felony status];**

(2) Requiring the name of each registered voter to appear in the system;

(3) Removing only voters who are not registered or who are not eligible to vote; and

(4) Eliminating duplicate names from the system.

3. The secretary of state shall provide adequate technological security measures to prevent the unauthorized access to the system established pursuant to this section.

4. The secretary of state shall develop procedures to ensure that voter registration records within the system are accurate and updated regularly. At a minimum, the procedures shall include;

(1) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote. Consistent with the National Voter Registration Act of 1993, registrants who have not responded to a notice and who have not voted in two consecutive general elections for federal office shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote; and

(2) Safeguards to ensure that eligible voters are not removed in error.

5. Voter registration information shall be verified in accordance with the Help America vote Act of 2002.

(1) Except as provided in subdivision (2) of this subsection, an application for voter registration may not be accepted or processed unless the application includes:

(a) In the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or

(b) In the case of any other applicant, other than an applicant to whom subdivision (2) applies, the last four digits of the applicant's Social Security number.

(2) If an applicant for voter registration has not been issued a current and valid driver's license or a Social Security number, the applicant shall be assigned a number which will serve to identify the applicant for voter registration purposes. The number assigned under this subdivision shall be used as the unique identifying number within the system.

(3) The secretary of state and the director of the department of revenue shall enter into an agreement to match information in the database of the voter registration system with information in the database of the motor vehicle system to enable the secretary to verify the accuracy of information provided on applications for voter registration.

(4) The director of the department of revenue shall enter into an agreement with the commissioner of Social Security and comply with the Help America Vote Act of 2002.

6. In addition to using the system for voter registration, the election authorities and secretary of state may use the system for the collection and dissemination of election results and other pertinent information. Any information contained in any state or local voter registration system, limited to the master voter registration list or any other list generated from the information. subject to chapter 610, shall not be used for commercial purposes; provided, however, that the information may be used for elections, for candidates, or for ballot measures, furnished at a reasonable fee. Violation of this section shall be a class B misdemeanor. For purposes of this section, **"commercial purposes"** means the use of a public record for the purpose of sale or resale or for the purpose of producing a document containing all or part of the copy, printout, or photograph for sale or the obtaining of names and addresses from public records for the purpose of solicitation or the sale of names and addresses to another for the purpose of solicitation or for any purpose in which the purchaser can reasonably anticipate the receipt of monetary gain from the direct or indirect use of the public record.

7. The secretary of state shall establish an advisory committee to assist in the establishment and maintenance or the Missouri voter registration system.

8. The secretary of state may promulgate rules to execute this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536.

9. Election authorities and any agency required under the National Voter Registration Act of 1993 to accept voter registration applications shall forward registration and other data in a manner prescribed by the secretary of state to assist with administering and maintaining the Missouri voter registration system in accordance with the Help America Vote Act of 2002.

**561.026. Disqualification from voting and jury service.**-Notwithstanding any other provision of law, a person who is convicted:

**[(1) Of any crime shall be disqualified from registering and voting in any election under the laws of this state while confined under a sentence of imprisonment;]**

**(1) Of any crime, except as provided in subsection (2) of this section, shall have the right to register and vote by absentee ballot, or in person, pursuant to the provisions of Article VIII,** Sections 6 and **7 of the Constitution of Missouri, despite ongoing confinement** under a **sentence of imprisonment;**

(2) Of a felony or misdemeanor connected with the exercise of the right of suffrage shall be forever disqualified from registering and voting;

(3)Of any felony shall be forever disqualified from serving as a juror.

16-015

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 8, 2015

RECEIVED
JAN 08 2015
STATE AUDITORS OFFICE

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Angela Daniels regarding a proposed constitutional amendment to Article VIII, version 1 (2016-015)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Angela Daniels on January 8, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-015

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Janson Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot title)

RECEIVED
2015 JAN -8 AM 9:19
SEC OF STATE

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS | ZIP CODE | CONGR DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | __/__/20__ | | | | 1. |
| 2. | __/__/20__ | | | | 2. |
| 3. | __/__/20__ | | | | 3. |
| 4. | __/__/20__ | | | | 4. |
| 5. | __/__/20__ | | | | 5. |
| 6. | __/__/20__ | | | | 6. |
| 7. | __/__/20__ | | | | 7. |
| 8. | __/__/20__ | | | | 8. |
| 9. | __/__/20__ | | | | 9. |
| 10. | __/__/20__ | | | | 10. |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do .... do not .... (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant

_____
Printed Name of Affiant

_____

_____
Address of Affiant

_____
Notary Signature

_____
Printed Name of Notary Public

_____

_____
Address of Notary

Subscribed and sworn to before me this _____ day of _____, 20____.

_____
Notary Public Seal

My commission expires: _____

16-015

**THE PROPOSED CONSTITUTIONAL AMENDMENT**

**Section A:** Article VIII, Section 2, of the Constitution of Missouri is hereby repealed and replaced by one new section to be known as Article VIII, Section 2, and to be read as follows:

*Be it resolved by* the *people of the state of Missouri that the Constitution be amended:*

**Section 2. Qualification of voters-disqualification.**-All citizens of the United States, including occupants of soldiers' and sailors' homes, **and persons under sentence for felony not related to the right of suffrage,** over the age of eighteen who are residents of this state and of the political subdivision in which they offer to vote are entitled to vote at all elections by the people, if the election is one for which registration is required if they are registered within the time prescribed by law, or if the election is one for which registration is not required, if they have been residents of the political subdivision in which they offer to vote for thirty days next preceding the election for which they offer to vote: Provided however, no person who has a guardian of his or her estate or person by reason of mental incapacity, appointed by a court of competent jurisdiction and no person who is voluntarily confined in a mental institution pursuant to an adjudication of a court of competent jurisdiction shall be entitled to vote, and persons convicted of **[felony, or]** crime connected with the exercise of the right of suffrage may be excluded by law from voting.

16-014

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 6, 2015

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Aundrea Riffle regarding a proposed statutory amendment to Chapter 195 (2016-014)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Aundrea Riffle on January 6, 2015.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

RECEIVED
JAN 06 2015
STATE AUDITORS OFFICE

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

160-04

County _____
Page No _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo., to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the State of Missouri and _____ County (or city of St. Louis) respectfully order that the following proposed law shall be submitted the voters of the State of Missouri for their approval or rejection, at the general election to be held on the 8th day of November 2016 and each for himself/herself says: I have personally signed this petition, I am a registered voter of the State of Missouri and _____ County (or city of St. Louis) my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot title)

RECEIVED
2015 JAN -6 AM 10:08
SECRETARY OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____
I _____, being first duly sworn, say (print or type names of signers)

| NAME (SIGNATURE) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street), (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | / /20 | | | | 1. |
| 2. | / /20 | | | | 2. |
| 3. | / /20 | | | | 3. |
| 4. | / /20 | | | | 4. |
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| 7. | / /20 | | | | 7. |
| 8. | / /20 | | | | 8. |
| 9. | / /20 | | | | 9. |
| 10. | / /20 | | | | 10. |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the State of Missouri and _____ County (or city of St. Louis).

FUTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do .... do not .... (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant

_____
Printed Name of Affiant

_____

_____
Address of Affiant

_____
Notary Signature

_____
Printed Name of Notary Public

_____

_____
Address of Notary

Subscribed and sworn to before me this _____ day of _____, AD, 20____.

_____
Notary Public (seal)

My Commission Expires: _____

Initiative Petition

Be it enacted by the people of the State of Missouri

16-04

Sections 195.291 and 195.295 of the Revised Missouri Statutes is repealed and three new sections enacted in place thereof to be known as Sections 195.291, 195.295 and 195.297 to read as follows:

Explanation: The existing sections 195.291 and 195.295 is set forth hereinafter with the new matter underlined, and deleted matter in brackets; [thus]

§ Section 195.291 Prior and persistent offenders imprisonment for distribution, delivery, manufacture or production. —

1. Any person who has pleaded guilty to or been found guilty of violation of section 195.211, when punishable as a class B felony, shall be sentenced to the authorized term of imprisonment for a class A felony if the court finds the defendant is a prior drug offender.

2. Any person who has pleaded guilty to or been found guilty of a violation of section 195.211, when punishable as a class B felony, shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served [without probation or parole] in accordance with the provisions of section 195.297 if the court finds the defendant is a persistent drug offender.

§ Section 195.295 Prior and persistent offenders—trafficking drugs, second degree, imprisonment for. —

1. Any person who has pleaded guilty to or been found guilty of violation of subdivision (1) of subsection 1 of section 195.223, subdivision (1) of subsection 2 of section 195.223, subdivision (1) of subsection 3 of section 195.223, subdivision (1) of subsection 4 of section 195.223, subdivision (1) of subsection 5 of section 195.223, subdivision (1) of subsection 6 195.223, or subdivision (1) of subsection 7 of section 195.223 shall be sentenced to the authorized term of imprisonment for a class A felony if the court finds the defendant is a prior drug offender.

2. Any person who has pleaded guilty to or been found guilty of a violation of subdivision (1) of subsection 1 of section 195.223, subdivision (1) of subsection 2 of section 195.223, subdivision (1) of subsection 3 of section 195.223, subdivision (1) of subsection 4 of section 195.223, subdivision (1) of subsection 5 of section 195.223, subdivision (1) of subsection 6 of section 195.223, or subdivision (1) of subsection 7 of section 195.223, or subdivision (1) of subsection 9 of section 195.223 shall be sentenced to the authorized term of imprisonment for a class A felony, which term shall be [without probation or parole] served in accordance with the provisions of section 195.297 if the court finds the defendant is a persistent drug offender.

3. Any person who has pleaded guilty to or been found guilty of a violation of subdivision (2) of subsection 1 of section 195.223, subdivision (2) of subsection (2) of section 195.223, subdivision (2) of subsection 3 of section 195.223, subdivision (2), of subsection 4 of section 195.223, subdivision (2) of subsection 5 of section 195.223, subdivision (2) of subsection 6 of section 195.223, or subdivision (2) of subsection 7 of section 195.223 or subsection 8 of section 195.223, or subdivision (2) of subsection 9 of section 195.223 shall be sentenced to the authorized term of imprisonment for a class A felony, which term shall be served in accordance with the provisions of section 195.297 [without probation or parole] if the court finds the defendant is a prior drug offender.

§ Section 195.297. 1. Section 195.297 shall be known and may be cited as the "Smarter Non-Violent, Prior and Persistent Drug Offenders Act."

2. The provisions of subsections 1 to 3 of this section shall be applicable to a nonviolent offender serving without probation or parole sentences for drug felonies. For the purposes of this section, "previous conviction(s)" means any prior pleading to or being found guilty of a drug related felony. Other provisions of the law to the contrary notwithstanding, any offender who has pleaded guilty to or has been found guilty of a Class A felony under 195.291 (subsection 2) or 195.295 (subsection 2 and 3) and is committed to the department of corrections shall be required to serve the following minimum prison terms:

(1) If the offender has one previous conviction for a non-violent drug felony unrelated to the present offense, the minimum prison term which the offender must serve shall be forty percent of his or her sentence or until the offender attains seventy years of age and has served at least thirty percent of the sentence imposed, whichever occurs first:

(2) If the offender has two previous convictions for non-violent drug felonies unrelated to the present offense, the minimum prison term which the offender must serve shall be fifty percent of his or her sentence or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first;

(3) If the offender has three or more previous convictions for non-violent drug felonies unrelated to the present offense, the minimum prison term which the offender must serve shall be seventy percent of his or her sentence or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.

(4) This new enactment shall not apply to any offender that has pleaded guilty to or has been convicted of a dangerous felony, in any relation to the relevant drug conviction.

3. For purposes of this section, the term "minimum prison term" shall mean time required to be served by the offender before he or she is eligible for parole, conditional release or other early release by the department of corrections.

4. (1) Courts shall retain discretion to lower a person sentence that has been sentenced to a without probation or parole sentence and order restorative justice methods, when applicable.

(2) As alternative sentences, the Court may impose, prison work programs, work release, home-based incarceration, treatment programs outside of prison, probation and parole options, and any other programs.

(3) The office of the state courts administrator, the department of public safety, and the department of corrections shall cooperate with the circuit courts of this state by providing information or access to information needed by the Court pertaining to an offender.

5. If the imposition or execution of a sentence is suspended, the court may order any or all of the following restorative justice methods, or any other method that the court finds just or appropriate:

(1) Restitution to any victim or a statutorily created fund for costs incurred as a result of the offender's actions;

(2) Offender treatment programs;

(3) Mandatory community service;

(4) Work release programs in local facilities; and

(5) Community-based residential and nonresidential programs.

(6) Payment to the "Saving Families and Students Fund," ranging from $100.00 up to $500.00

6. The provisions of this section shall apply only to offenses occurring on or after August 3, 1993.

7. Pursuant to subdivision (1) of subsection 5 of this section, the court may order the assessment and payment of a designated amount of restitution to a county law enforcement restitution fund established by the county commission pursuant to section 50.565. Such contribution shall not exceed ten thousand dollars. Any restitution moneys deposited into the county law enforcement restitution fund pursuant to this section shall only be expended pursuant to the provisions of section 50.565.

160-04

8. A judge may order payment to a restitution fund only if such fund had been created by ordinance or resolution of a county of the State of Missouri prior to sentencing. A judge shall not have any direct supervisory authority or administrative control over any fund to which the judge is ordering a defendant to make payment.

9. A defendant who fails to make a payment to a county law enforcement restitution fund may not have his or her parole or probation revoked solely for failing to make such payment unless the judge, after evidentiary hearing, makes a finding supported by a preponderance of the evidence that the defendant either willfully refused to make the payment or that the defendant willfully, intentionally, and purposefully failed to make sufficient bona fide efforts to acquire the resources to pay.

10. Nothing in this section shall be construed to prevent circuit courts of the state from entertaining cases that are no longer pending and have become final.

11. All state laws and sentencing practices, which are inconsistent with the subsection (2) of section 195.297 shall no longer be in force and effect insofar as they are inconsistent with this section. As the sole purpose of the enactment, is to, "annul and repeal without probation or parole for non-violent drug offenders sentenced under Section 195.291 or 195.295." To include and replace any prior provisions, language and terminology of sections 195.291 and 195.295, and become consistent with repealing without probation or parole.

12. This measure mandates, that any offender currently serving a non-parolable sentence for drugs sentenced under 195.291 (Subsection 2) or 195.295 (Subsections 2 or 3), to immediately be considered by the Missouri Board of Probation and Parole, for parole consideration, in compliance with this measure.

13. Under this measure, a "Life sentence" shall be calculated as 30 years.

14. This measure requires that the annual savings to the state created thereby, of this measure, as estimated by the Governor's administration, be annually transferred from the General Fund into a new state fund, the Saving Families and Students Fund. Under this measure, monies in the fund would be divided as follows:

- 25 percent for grants aimed at reducing truancy and drop-outs among K-12 students in Missouri Public Schools. (State Department of Education)
- 10 percent for victims services grants. (Missouri Restorative Justice)
- 50 percent to support mental health and drug abuse treatment services that are designed to help keep individuals out of prison and jail. (Missouri Department of Mental Health, Missouri Department of Corrections/Probation and Parole)
- 15 percent to create and maintain employment training for convicted felons, aimed at lowering recidivism. (Missouri Department of Corrections, Missouri Office of Probation and Parole)

16-013

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 26, 2014

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Nicholas Raines regarding a proposed constitutional amendment to Article IV (2016-013)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Nicholas Raines on December 24, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

RECEIVED
DEC 26 2014
STATE AUDITORS OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-03

County _____
Page No._____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

**To the Honorable Jason Kander, Secretary of State for the state of Missouri:**

We, the undersigned, registered voters of the state of Missouri and _____County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

RECEIVED
2014 DEC 24 PM 12:53
MO SEC. OF STATE

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong. Dist. | NAME (Print or Typed) |
|---|---|---|---|---|---|---|
| 1. | | | | | | |
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| 15. | | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age, I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Address of Affiant

Subscribed and sworn to before me, this _____ day of _____, A.D. _____ .

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My commission expires _____

16-013

This measure amends the Missouri Constitution by adding Section 54 to Article IV. This amendment implicitly repeals, in part or in whole, and amends various statutes and subsections including but not necessarily limited to RSMo 105.1105, 105.1108, 105.1112, 195.010.(10)(b)c, 195.010.(10)(d), 195.010.(17)(m)(b), 195.010.(17)(g), 195.010.(17)(l), 195.010(24), 195.015.4, 195.017.2(4)(r), 195.017.2(4)(z), 195.017.2(4)(ii), 195.140.2(2), 195.202.2, 195.202.3, 195.211.2, 195.211.3, 195.211.4, 195.222.7, 195.223.7, 195.223.8, 263.250.1.

*Be it resolved by the people of the state of Missouri that the Constitution be amended*:

One new section is adopted to be known as Article IV, Section 54 and to read as follows:

1. Cannabis shall immediately be removed from the Missouri Revised Statutes list of controlled substances and shall no longer be listed among Missouri's drug schedules.

2. Definition of terms, as used in this Act:
(a) "cannabis" and "cannabis hemp" refer to the cannabis, marihuana, marijuana, cannabis sativa, cannabis indica, cannabis ruderalis, or any variety of cannabis, including any derivative, concentrate, extract, flower, leaf, particle, preparation, resin, root, salt, seed, stalk, stem, or any product thereof.
(b) "Medical cannabis" refers to the medical use of cannabis.
(c) "Personal use" refers to the non-medical consumption of cannabis.
(d) "Cannabis accessories" means any equipment, products, or materials of any kind that are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, or containing cannabis, or for ingesting, inhaling, vaporizing, smoking or otherwise introducing cannabis into and/or onto the human body.
(e) "Establishment" refers to a cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a retail store, cannabis store or other entity that cultivates, prepares, manufactures, packages, transports or sells cannabis, cannabis products and/or cannabis accessories.

3. The following acts are not unlawful and shall not be an offense under Missouri law:
(a) Possession of cannabis for personal or medical use.
(b) Cultivating cannabis for personal or medical use, in an area sufficient to produce the quantity necessary to address one's personal or medical needs.
(c) Cultivation, harvesting, processing, manufacturing, packaging, distributing, transferring, displaying or possessing cannabis, cannabis accessories, and cannabis products for commercial purposes, provided the person has current applicable licensing to operate a commercial establishment. No special licensing will be required beyond that which is applicable for the cultivation, harvest, processing, manufacturing, packaging, distribution, transferal, display or possessing of any non-toxic food or food product.
(d) Providing cannabis, cannabis accessories, and cannabis products for sale to consumers.
(e) Leasing or otherwise allowing the use of property owned, occupied or controlled by any person, corporation or other entity for any of the activities conducted lawfully in accordance with paragraphs (a) through (d) of this subsection.
(f) The use and/or possession of cannabis shall not be grounds for issuing a "Driving under the influence" (DUI) charge, arrest or fines when operating a motor vehicle.

4. Medical cannabis shall be available to patients without taxation who have a physician's recommendation for its use.
(a) All patients engaged in cannabis therapy shall be afforded the same rights and privileges afforded to any patient treated through conventional therapeutic means.
(b) Licensed physicians shall not be penalized for, nor restricted from recommending cannabis for medical purposes to any person under their care.
(c) Veterinarians shall not be penalized nor restricted from recommending cannabis for medical purposes for any creature under their care.
(d) Opinions pertaining to, and willingness to recommend medical cannabis therapy shall not be a criteria for the licensure of physicians; no physician shall be subject to any professional licensing review or hearing as a result of recommending or approving medical cannabis therapy.
(e) Any individual who is a cannabis patient in another state shall be granted the same rights and privileges as a legal Missouri cannabis patient.
(f) Medical care, including organ transplants, shall not be restricted in any way based on a person's use of cannabis.

5. The dictates of this Initiative shall be implemented no later than January 31st,, following the election that placed this initiative before the people.

6. Upon the passage of this Act, all persons incarcerated or under supervision of the Missouri Board of Probation and Parole for non-violent, cannabis-only offenses which are no longer illegal in the State of Missouri under this Act shall be immediately released.
(a) The Court shall order the immediate expungement of civil and criminal records pertaining to all non-violent cannabis only offenses which are no longer illegal in the State of Missouri under this Act.
(b) Within 60 days of the passage of this Act, the Attorney General shall develop and make available to the public a legal document ordering the immediate destruction of all cannabis-related non-violent civil and criminal records in Missouri and for any offense covered by this amendment which is no longer illegal in the State of Missouri under this Act. This document shall be distributed to all Circuit Court clerks within the State.

7. No Missouri law enforcement personnel or state funds shall be used to assist or aid in the enforcement of federal cannabis laws involving acts which are no longer illegal in the State of Missouri under this amendment.

8. Any person who willfully impedes the lawful exercise of these provisions is guilty of a Class A misdemeanor.

9. Cannabis farmers, manufacturers, processors, and distributors shall not be subject to any special zoning requirement, licensing fee that is excessive, discriminatory, prohibitive, or in any way contrary to that which is relative to any other commercial or agricultural farmer, manufacturer, processor or distributor.

10. Pursuant to the Ninth and Tenth Amendments to the Constitution of the United States, the people of Missouri hereby repudiate and challenge federal cannabis prohibitions that conflict with this Act.

11. If any rival or conflicting initiative regulating any matter addressed by this act receives the higher affirmative vote, then all non-conflicting parts shall become operative.

12. All provisions of this section are self-executing and severable, and, except where otherwise indicated in the text of this document, shall supersede conflicting city, county, state or federal statutory, local charter, ordinance, or resolution.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-013)**

## Subject

Initiative petition from Nicholas Raines regarding a proposed constitutional amendment to Article IV of the Constitution of Missouri. (Received December 26, 2014)

## Date

January 15, 2015

## Description

This proposal would amend Article IV of the Constitution of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College, Kansas City Board of Police Commissioners,** and **St. Louis Board of Police Commissioners.**

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated this proposal does not impact their department or local schools.

Officials from the **Department of Higher Education** indicated they have determined this initiative petition would not have a direct fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated the total estimated costs for salaries, fringe benefits, and expense and equipment will be $52,433 for fiscal year 2016, $79,536 for fiscal year 2017, and $80,530 for fiscal year 2018.

Rental space would be needed for one new FTE located in Jefferson City: 1 FTE x 200 sq ft/FTE x $16.75/sq. ft. = $3,350.

The proposed language could create new classes of small businesses (marijuana manufacturers and retailers).

Proposed Article IV, Section 54.2.(a) defines cannabis and includes any derivative, concentrate, and extract. While not explicitly stated, for fiscal note purposes the Department of Health and Senior Services (DHSS) assumes these could be added to food products. Sections 196.010 through 196.298, RSMo gives the DHSS responsibility for the regulation of food to include such duties as ensuring food safety, sanitation, and proper labeling, etc. DHSS would have additional responsibility to assure that facilities manufacturing foods containing marijuana and marijuana products are regulated the same as other food manufacturers.

DHSS assumes that manufacturers will have “one stop shops” that will include the retail portion on the same grounds as the manufacturing plant where marijuana products will be manufactured. DHSS estimates that there may be as many as 150 manufacturing/retail facilities throughout the state. Since the local public health agencies assume responsibility for inspecting retail food establishments, DHSS would not have to incur additional costs for these inspections. DHSS would have to inspect the manufacturing portion of the facility. DHSS would require one field inspector to inspect the manufacturing plants (Environmental Public Health Specialist IV, A27, Step G, $43,056).

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact. However, the impact on the demand for substance use disorder treatment is unknown. Their department sees the legalization of marijuana as a broader public health issue, especially for children.

Officials from the **Department of Natural Resources** indicated their department would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated:

The petition proposes to legalize the production, trafficking, sale, distribution and consumption of marijuana and the expungement of all criminal records for convictions related to marijuana as a controlled substance. The petition is similar to petition 16-009 except that there is no exemption for offenders or purchasers who are 21 and under.

The response to 16-009 is modified to include offenders who were 21 or younger at the time of the offense. Approximately 20% of offenders received by the Department of Corrections for marijuana only drug offenses were 21 or younger.

The legalization of marijuana will impact the department in three ways:

1. It will discharge offenders with convictions for marijuana from incarceration or field supervision if the marijuana convictions are the only convictions the offenders are serving.
2. It will reduce the number of offenders being sentenced and received by the Department of Corrections (DOC) for prison or probation sentences.
3. It will require administrative actions by DOC staff to re-calculate sentences, risk assessments, parole release dates and custody levels for those offenders who have had marijuana convictions expunged.

The estimate of the number of offenders who will be impacted by the legalization of marijuana can be calculated from the sentencing records maintained by the DOC but with a significant proviso. Most offenders sentenced for drug offenses in Missouri are sentenced for the production, trafficking, sale, distribution or possession of a controlled substance and the drug type is not part of the offense. In some cases the drug type is known because the drug type is included in the NCIC code or is included in the offense description. Although the time served calculations of the bill is based upon those cases where the drug type is known the impact has to include an estimate of the drug offenders where the drug type is not known. As only 32% of drug offenses include the drug type the expansion factor is significant (3.17).

**1. The discharge of offenders with only a conviction for marijuana**

On December 5, 2014 there were:

a) 143 incarcerated offenders and after applying the expansion factor of 3.17 it is estimated that 451 offenders will be eligible to be discharged immediately.

b) 1,319 offenders on probation or parole and after applying the expansion factor of 3.17 it is estimated that 4,180 offenders will be discharged from field supervision.

There may be other offenders who, after the expungement of the marijuana offenses, may be eligible for immediate discharge or have their release date advanced but no estimate has been for these offenders. The reduction in time served would be significant if the marijuana drug offense was being served consecutively but most drug offenses are served consecutively and are eligible for parole. Drug offenders do not serve minimum prison terms for prior incarcerations with the DOC.

**2. The reduction of new admissions and new probation cases**

In FY14 there were:

a) 110 offenders admitted to prison to serve a marijuana drug offense and had no other offense. After the expansion factor of 3.17 it is estimated that 348 offenders were admitted in FY14. Using time served statistics from offenders released in FY14 for marijuana only offenses it is estimated that the average time served was 0.81 years. The annual reduction in the institutional population is estimated at 282 (348* 0.81 years) and the reduction will begin in the first year following enactment of the bill.

b) 501 offenders were placed on probation for only a marijuana drug offense. After applying the expansion factor it is estimated that there were 1,589 offenders placed on probation for a marijuana drug offense.

**3. Administrative Actions**

Administrative actions are required to account for the expungement of marijuana convictions and the re-calculation of release dates and risk assessments. No estimate is made for these actions but it could be substantial because marijuana only convictions are not readily available in the DOC offender database. The petition states that the Attorney General would publish a list of records to be expunged. Also note that this petition does not call for automatic expungement. The offender has to petition the court which will complicate the process and calculation of expungement cost.

**Impact Summary**

In the year following the enactment of the bill there will be offenders discharged and fewer offenders received by the DOC. Because of the average stay is less than one year both impacts will occur in the first year. After the first year the prison and probation populations will stabilize at a new lower level and will continue through the 10 years of the budget forecast.

**Impact based upon the assumption of equal distribution for drug offenses when the drug type is not known**

| | Prison | | | Field | | |
|---|---|---|---|---|---|---|
| | Discharged | Fewer Admissions | Total | Discharged | Fewer Probations | Total |
| FY16 | 451 | 348 | 799 | 4,180 | 1,589 | 5,769 |

The estimates are based upon the assumption that the distribution of drugs offenses when drug is known is similar to the distribution of drugs when the drug type is not known. A minimum impact of the legalization of marijuana is based upon only the convictions that are known to be for marijuana and no account is taken of the drug offenses for which the drug type is not known. The reduction in the population from fewer admissions is admissions (110) multiplied by the average stay (0.81 years) = 89.

**Minimum Impact-excluding drug offenses when the drug type is not known**

| | Prison | | | Field | | |
|---|---|---|---|---|---|---|
| | Discharged | Fewer Admissions | Total | Discharged | Fewer Probations | Total |
| FY16 | 143 | 89 | 232 | 1,319 | 501 | 1,820 |

These are the DOC direct offender costs for either incarceration (FY14 average of $16.725 per offender, per day, or an annual cost of $6,105 per inmate) or for supervision provided by the Board of Probation and Parole (FY14 average of $6.72 per offender, per day or an annual cost of $2,453 per offender). It is assumed that the least amount of individuals affected would be 232 incarcerated offenders and 1,820 field supervised offenders and at most it would affect 799 incarcerated offenders and 5,769 filed supervised offenders for an estimated cost avoidance of $5,880,820 to $19,029,252 in FY16. However, this does not necessarily mean there will be a net reduction in the DOC budget. The prison population has been steadily increasing over the past few years due to many other factors not related to marijuana offenses.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety - Office of the Director** indicated they see no fiscal impact.

Division of Alcohol and Tobacco Control (ATC) indicated this initiative petition does not have a licensing aspect, nor does the division have any enforcement duties as a result of this petition, therefore there is no fiscal impact to ATC.

Missouri State Highway Patrol (MSHP) indicated the total estimated costs for salaries, fringe benefits, and expense and equipment will be $861,969 for fiscal year 2016, $1,044,925 for fiscal year 2017, and $1,055,592 for fiscal year 2018.

In 1924, the United States Justice Department FBI began building a national system of criminal records for the protection of citizens through the detection and apprehension of criminals. The Omnibus Crime Control and Safe Streets Act of 1968 established minimum requirements for the management of criminal record systems. The Kennedy Amendment in the Crime Control Act of 1973 requires all criminal history information collected, maintained and/or disseminated by state and local agencies to be complete, secure and available for review and challenged by record subjects. It further stipulates that information must be used only for law enforcement and other specifically authorized purposes. The Anti-Drug Abuse Act of 1988 requires a system for the immediate and accurate identification of felons who attempt to purchase firearms. The Brady Handgun Violence Prevention Act of 1993, the National Child Prevention Act of 1993, the National Stalker and Domestic Violence Reduction Program of the Violence Against Women Act, the National Instant Criminal Background Check System/Crime Identification Technology Act of 1998, the NICS Improvement Amendment Act, the Jacob Wetterling Crimes Against Children Act, and the Sexually Violent Offender Registration Act (Megan's Law). These supporting bills are all programs that are dependent upon a complete, accurate and timely criminal history database in the state.

This proposed legislation would also impact the determination of qualified individuals relating to positions of public trust (i.e., persons caring for children, the elderly or the disabled). It would adversely impact the criminal justice system and the ability for the criminal justice system to adequately protect the citizens of Missouri from convicted criminals.

Article IV, Section 54. 6. (b) states that within 60 days of the passage of this Act, the Attorney General shall develop and make available to the public a legal document ordering the immediate destruction of all cannabis-related non-violent civil and criminal records in Missouri and for any offense covered by this amendment which is no longer illegal in the state of Missouri under this Act. This document shall be distributed to all Circuit Court clerks within the state.

Article IV, Section 54. 6. (b) conflicts with the expungement process in Chapter 61. Section 610.122 and 610.123 address the requirements and processes for expungements. This proposed amendment does not address these state statutes and would conflict with these laws. Currently, no record can be expunged if the individual of the arrest has prior or subsequent misdemeanor or felony convictions, the subject received a suspended imposition of sentence for the arrest, or the subject received a conviction.

Additionally, certain misdemeanor and municipal offenses (i.e., drug offenses under Chapter 195) can be enhanced if it is a second or third offense. It would be difficult to enhance the offense per 558.016 if previous convictions were expunged.

The language in this initiative petition requiring courts to order the immediate expungement of civil and criminal records pertaining to all non-violent cannabis only offenses as well as the Missouri Attorney General to develop and make available to the public a legal document ordering the immediate destruction of all cannabis-related non-violent civil and criminal records in Missouri appears to be ambiguous. If passage of this constitutional amendment were to occur based on this initiative petition, are Missouri courts immediately mandated to order the immediate expungement of records noted in the petition, or are individuals required to petition courts utilizing the document created by the Missouri Attorney General? Furthermore, is the language pertaining to the immediate destruction of records intended for agencies to blindly expunge records without any review whatsoever? The meaning of the term “non-violent” and “cannabis only offenses” is unclear. What is a “non-violent” offense and does possession of drug paraphernalia fall within the realm of a “cannabis only offense”? Definitions for terms “immediate, non-violent, and cannabis only offense” would be helpful.

The following language is proposed to provide for the collection of a fee to offset the costs of the expungement:

43.530. 1. For each request requiring the payment of a fee received by the central repository, the requesting entity shall pay a fee of not more than nine dollars per request for criminal history record information not based on a fingerprint search. In each year beginning on or after January 1, 2010, the superintendent may increase the fee paid by requesting entities by an amount not to exceed one dollar per year, however, under no circumstance shall the fee paid by requesting entities exceed fifteen dollars per request.

2. For each request requiring the payment of a fee received by the central repository, the requesting entity shall pay a fee of not more than twenty dollars per request for criminal history record information based on a fingerprint search, unless the request is required under the provisions of subdivision (6) of section 210.481, section 210.487, or section 571.101, in which case the fee shall be fourteen dollars.

3. A request made under subsections 1 and 2 of this section shall be limited to check and search on one individual. Each request shall be accompanied by a check, warrant, voucher, money order, or electronic payment payable to the state of Missouri-criminal record system or payment shall be made in a manner approved by the highway patrol. The highway patrol may establish procedures for receiving requests for criminal history record information for classification and search for fingerprints, from courts and other entities, and for the payment of such requests. There is hereby established by the treasurer of the state of Missouri a fund to be entitled as the "Criminal Record System Fund". Notwithstanding the provisions of section 33.080 to the contrary, if the moneys collected and deposited into this fund are not totally expended annually for the purposes set forth in sections 43.500 to 43.543, the unexpended moneys in such fund shall remain in the fund and the balance shall be kept in the fund to accumulate from year to year.

4. For all petitions for expungement under the provisions of Chapter 610, Section 577.054, or any other created expungement requirement under statute, excluding Section

610.122, the applicant shall pay a fee of seventy-fifty dollars per arrest date listed on the petition. Each petition shall be accompanied by a check, warrant, voucher, money order, or electronic payment payable to the state of Missouri-criminal record system or payment shall be made in a manner approved by the highway patrol. For expungements that require removal from the Traffic Arrest System twenty dollars of the seventy-five dollar fee will be deposited in the Highway Patrol Traffic Records Fund.

This proposal will affect the Attorney General's Office and all state courts.

The proposed legislation would add one new section to the state of Missouri Constitution to be known as Article IV, Section 54 which would require cannabis to be immediately removed from the Missouri Revised Statutes list of controlled substances and no longer listed among Missouri's drug schedules. The petition calls for Missouri courts to order the immediate expungement of civil and criminal records pertaining to all non-violent cannabis-only offenses.

The Criminal Justice Information Services Division (CJIS) states that there are currently 315,063 arrest charges in the Central Repository that qualify for expungement under this Initiative Petition to amend Article IV, Section 54 of the Constitution. With no specific statutory reference into how these expungements would be handled or the process by which they would be expunged, it is difficult, at best, to estimate the amount of FTE's required by the CJIS Division to carry out the expungements. The current expungement process, pursuant to Chapter 610, takes approximately 90 minutes to process. One FTE can handle 1,237 expungements per year. Conservatively, at least five FTE's would be required to initially handle the expungments created by this amendment based on no clear expungement process. Clearly, if a large number of these expungements were to be granted with even 5 FTE's, the backlog would compound greatly to the point it may take several years to catch up.

1 FTE = 1,856 hours (average work hours per year) x 60 minutes per hour = 111,360 minutes per year.

The current average time per petition to log, process, research, review, create related correspondences, and to expunge the information when the order is received is 90 minutes. Therefore, one FTE can handle 1,237 expungements per year = 111,360 / 90.

These FTE's (CJIS Technicians) would be necessary to process all expungement requests, review criminal history records, contact any agency associated with the arrests or convictions, and collect the necessary data for the court orders.

Based on the average yearly salary and benefit rate per FTE at $53,702 and the ability of that employee to process 1,237 expungements per year, the cost alone per expungement is $53,702 \ 1,237 = $43.41. It is suggested that a fee, similar to the criminal history background check fee, be implemented for the cost of researching and reviewing the criminal histories, as well as contacting of the various agencies associated with the arrests. In researching other states with similar expungement requirements, they all

charge a fee to offset the cost of the time required to process the expungements. Their fees ranged from $50 to $450 per petition per arrest date.

These FTE's will most likely be 2nd and 3rd shift employees so they would not require any equipment. However, there would be recurring costs of $650 per year per FTE for office supplies and phone charges. If any FTE were placed on the 1st shift, standard equipment would be required at a one-time cost of $6,094 per FTE.

| | |
|---|---|
| 5 CJIS Technicians ($1,196.50 x 24) | $143,580 |
| Office Equipment/HW/SW | $6,094 |

| | |
|---|---|
| RECURRING COSTS | |
| Phone Charges per FTE | $350 |
| Office Supplies per FTE | $300 |

The calculations below include expungement of records pertaining to arrests completed by the Highway Patrol for violation of offenses under Chapter 195, RSMo, and Missouri Charge Codes with NCIC modifiers 60-64. These modifiers pertain to marijuana-related offenses.

The Patrol Records Division (PRD) estimates there are currently 85,439 arrests in the Patrol's Traffic Arrest System (TAS) that would be eligible for expungement. Considering this initiative petition calls for the courts to order the immediate expungment of civil and criminal records pertaining to all non-violent cannabis-only offenses and there is no language requiring individuals to petition Missouri courts for the expungement of these records, it is assumed a majority of the 85,439 records would require immediate expungement. The Highway Patrol would follow the current record expungement protocol noted below versus blindly expunging records.

1 FTE = 1,856 hours (average work hours per year) x 60 minutes per hour = 111,360 minutes per year.

The current average time per petition to log, process, research, review, create related correspondences, and to expunge the information when the order is received is 45 minutes. Therefore, one FTE can handle 2,475 expungements per year = 111,360 / 45.

With the current estimated potential of 85,439 petitions for expungement upon enactment of this legislation, the following percentages of persons actually requesting an expungement will directly relate to the number of FTE's required:

10% = 85,439 x .10 = 8,844 / 2,475 = 3.45 FTE's
20% = 85,439 x .20 = 17,088 / 2,475 = 6.9 FTE's
50% = 85,439 x .50 = 42,718 / 2,475 = 17.26 FTE's
100% = 85,439 / 2,475 = 34.52 FTE's

It is realistic to assume a significant number of these individuals will file a petition to expunge these records. It would be reasonable to add 17 FTE's and address any backlog that may occur. This FTE's (Quality Control Clerks) would be necessary to process all expungement requests, review records, contact agencies, and collect the necessary data for the court orders.

Based on the average yearly salary and benefit rate per FTE of $44,209 and the ability of that employee to process 2,475 expungements per year, the cost per expungement is $44,209 \ 2,475 = $17.86. It is suggested that a fee, similar to the criminal history background check fee, be implemented for the cost of researching and reviewing the criminal histories.

PRD would have to initiate the use of work shifts (sharing work stations) in order to physically accommodate 17 FTE's needed to process 50% of the possible expungements. The division currently has workspace for 39 employees, not including supervisors. Employees sharing cubicles would not require additional equipment; however, there would be recurring costs of $650 per year per FTE for office supplies and phone charges.

| | |
|---|---|
| 17 Quality Control Clerk ($985 x 24) | $401,880 |

| | |
|---|---|
| RECURRING COSTS | |
| Phone Charges | $350 |
| Office Supplies | $300 |

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's Office** indicated there should be no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

This petition:

- Requires the state to remove cannabis from the statutory list of controlled substances and prohibits it from being listed among Missouri drug schedules.
- States that the following shall not be an offense under Missouri law:
  - Possession for personal or medical use
  - Cultivating for personal or medical use
  - Cultivating, harvesting, processing, manufacturing, packaging, distributing, transferring, displaying or possession cannabis,

cannabis accessories, and cannabis products for commercial purposes provided the person has a current, applicable license to operate the commercial facility.
    - Selling cannabis, cannabis accessories, and cannabis products.
    - Leasing or otherwise allowing the use of property for cultivating, processing, manufacturing, packaging, distributing, transferring and selling cannabis.
    - Using or possessing cannabis cannot be grounds for "driving under the influence"
- Exempts medical cannabis from taxation provided the patient has a physician's recommendation for its use.
- Physicians and veterinarians cannot be penalized or restricted for recommending cannabis for medical purposes to a person or creature under their care.
- Licensed physicians may not be subject to any professional licensing review or hearing as a result of recommending or approving medical cannabis therapy.
- Medical care, including organ transplants, shall not be restricted based on a person's use of cannabis.
- Upon passage all persons incarcerated for non-violent cannabis-only offenses shall be released and the civil and criminal records must be purged.
- No Missouri law enforcement personnel or state funds shall be used to enforce federal cannabis laws involving acts which are no longer illegal under this amendment. Further, the Amendment states that the people of Missouri repudiate and challenge federal cannabis prohibitions that conflict with this Act.
- The penalty for impeding the lawful exercise of these provisions is guilty of a Class A misdemeanor.
- Cannabis farmers, manufacturers, processors, and distributes shall not be treated any differently relating to zoning, licensing or any way contrary to that which is relative to any other commercial or agricultural farmer, manufacturer, processor or distributor.
- Provisions of this amendment are severable and self-executing and shall supersede conflicting city, county, state or federal statutory, local charter, ordinance or resolution.
- The effective date is January 31st after the election.

Summary of Fiscal Impact

The Department of Corrections would have savings (unknown amount) due to fewer people incarcerated and under the supervision of Probation and Parole. The Department of Corrections and the Office of the Court Administrator would incur costs (amount unknown) due to the expungement of records and release of offenders' provisions in the act. The Department of Revenue could also see increased costs resulting from the collection of excise and sales taxes and compliance with those taxes.

Budget and Planning (B&P) assumes that the retail sale of cannabis, cannabis accessories, and cannabis products would be subject to state sales tax, therefore increasing the collections to the state's general revenue fund, the School District Trust Fund, the Conservation Commission Fund, the State Park Sales Tax Fund, and the Soil and Water Sales Tax Fund. B&P does not have the data available to provide an estimate.

Total State Revenue could be impacted to the extent the fines collected are deposited in the state treasury.

Officials from the **Office of State Courts Administrator** indicated:

The proposed Initiative Petitions, 16-013, would create a new section of the Missouri Constitution to be known as Article IV, Section 54. This section would allow citizens over the age of twenty-one years to have the right to engage in the production, sale, distribution and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state pursuant to this section.

During the past five years (2009 – 2013) there has been an average of 3,100 Associate Circuit Division marijuana related charges disposed statewide by guilty outcome and 8,256 Circuit Division charges disposed by guilty outcome. The office is unable to determine what number of these charges were for someone over the age of twenty-one.

The following Criminal Court Costs would be affected by this petition:

| **Criminal Court Costs** | | |
|---|---|---|
| | | |
| **Felony Case Costs** | **Amount of Cost** | **Disburse to State/County** |
| | | |
| Basic Civil Legal Services Fund surcharge | $10.00 | State of Missouri - Basic Civil Legal Services Fund |
| Clerk Fee | $45.00 | State of Missouri - General Revenue $36, County $9 |
| County Fee | $75.00 | County |
| Court Automation Fund Fee | $7.00 | State of Missouri -Statewide Court Automation Fund |
| Court Reporter fee (All Circuit Division Cases) | $15.00 | State of Missouri - General Revenue |

| | | |
|---|---|---|
| Crime Victims' Compensation Fund surcharge | $7.50 | State of Missouri - Crime Victims' Compensation Fund |
| DNA Profiling Analysis Fund surcharge | $30.00 | State of Missouri - DNA Profiling Analysis Fund |
| Brain Injury Fund surcharge | $2.00 | State of Missouri - Head Injury Fund |
| Independent Living Center Fund surcharge | $1.00 | State of Missouri - Independent Living Center Fund |
| Motorcycle Safety Trust Fund surcharge | $1.00 | State of Missouri - Motorcycle Safety Trust Fund |
| Peace Officer Standards & Training (POST) Commission surcharge | $1.00 | State of Missouri - Peace Officer Standards & Training Fund |
| Prosecuting Attorney and Circuit Attorneys' Retirement Fund | $4.00 | Pros. Attorney Retirement Fund |
| Prosecuting Attorney Training Fund surcharge | $1.00 | State of Missouri - Prosecuting Attorney Training Fund |
| Sheriffs' Fee | $75.00 | County |
| Sheriffs' Retirement Fund surcharge (except 21st Circuit) | $3.00 | Sheriffs' Retirement Fund |
| Spinal Cord Injury Fund surcharge | $2.00 | State of Missouri - Spinal Cord Injury Fund |
| | | |
| **Total** | **$279.50** | |
| | | |
| **Misdemeanor Case Costs** | | |
| | | |
| Basic Civil Legal Services Fund surcharge | $8.00 | State of Missouri - Basic Civil Legal Services Fund |
| Clerk Fee | $15.00 | $12 State of Missouri / $3 County |
| County Fee | $25.00 | County |
| Court Automation Fund Fee | $7.00 | State of Missouri - Court Automation Fund |
| Crime Victims' Compensation Fund surcharge | $7.50 | State of Missouri - Crime Victims' Compensation Fund |
| DNA Profiling Analysis Fund surcharge | $15.00 | State of Missouri - DNA Profiling Analysis Fund |
| Brain Injury Fund surcharge | $2.00 | State of Missouri - Brain Injury Fund |
| Independent Living Center Fund surcharge | $1.00 | State of Missouri - Independent Living Center Fund |
| Motorcycle Safety Trust Fund surcharge | $1.00 | State of Missouri - Motorcycle Safety Trust Fund |

| | | |
|---|---|---|
| Peace Officer Standards and Training (POST) Commission surcharge | $1.00 | State of Missouri - Peace Officer Standards & Training Fund |
| Prosecuting Attorney and Circuit Attorneys' Retirement Fund | $4.00 | Pros. Attorney Retirement Fund |
| Prosecuting Attorney Training Fund surcharge | $1.00 | $0.50 State of Missouri / $0.50 County |
| Sheriffs' fee | $10.00 | County |
| Sheriffs' Retirement Fund surcharge (except 21st Circuit) | $3.00 | Sheriffs' Retirement fund |
| Spinal Cord Injury Fund Surcharge | $2.00 | State of Missouri - Spinal Cord Injury Fund |
| | | |
| **Total** | **$102.50** | |
| | | |
| **Municipal Case (Filed in Associate Division) Costs** | | |
| | | |
| Clerk Fee | $15.00 | $12 State of Missouri / $3 County |
| Court Automation Fund Fee | $7.00 | State of Missouri - Court Automation Fund |
| Crime Victims' Compensation Fund surcharge | $7.50 | State of Missouri - Crime Victims' Compensation Fund |
| Peace Officer Standards and Training (POST) Commission surcharge | $1.00 | State of Missouri - Peace Officer Standards & Training Fund |
| Sheriffs' Retirement Fund surcharge | $3.00 | Sheriffs' Retirement Fund |
| | | |
| **Total** | **$33.50** | |
| | | |
| **Criminal Costs Not Included Above** | | |
| | | |
| Drug Testing by a State Lab | $150.00 | State of Missouri |
| Drug Testing by a Private Lab | Actual Costs | County Reimbursement |
| Law Enforcement Arrest Costs: | | |
| Highway Patrol | | Amt. Approved by the Court |
| Local (County) | | Amt. Approved by the Court |
| Municipal | | Amt. Approved by the Court |

The decrease in the court fees, depending on the number of cases, will result in an unknown loss to the courts.

The office also assumes there will be an unknown decrease in caseload for the courts because the courts will no longer process these cases; however, at this time the office is unable to calculate the decrease.

Any significant increase or decrease will be reflected in future budget requests.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and the Secretary of State's Office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, the Secretary of State's office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, the Secretary of State's office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated:

Initiative Petition 16-013 regarding the legalization of marijuana will have substantial impact on the State Public Defender System.

If passed, this constitutional amendment would have a positive impact on the workload of the Missouri State Public Defender (MSPD), since for persons 21 years of age or older it generally would make legal the production, sale, distribution, and consumption of marijuana, offenses that the Public Defender currently uses resources to defend and no longer would need to.

The exact positive impact is difficult to predict because the MSPD tracks cases by statutory offense and most drug offenses are not limited to marijuana;

However, this is known in terms of relevant adult cases opened for FY2014:

-- Misdemeanor Possession of Marijuana, Section 195.202 RSMo: **1,153** misdemeanor cases.

-- Other drug offenses that might involve marijuana: 195.202 (felonies), 195.211, 195.214, 195.218, 195.222, 195.223, 195.226, 195.233, 195.235, 195.241, and 195.242: 10,630 cases (2,741 A/B felonies, 7,186 C/D felonies, 703 misdemeanors). As mentioned, the MSPD does not track these cases by type of drug. However, if one were to assume that 25% of them are marijuana, then that would be 2,658 cases (685 A/B felonies, 1,797 C/D felonies, 176 misdemeanors). And as mentioned, the MSPD does not have readily available how many of these involved clients 21 years of age or older. However, if one were to assume that 75% of those 2,658 cases involved such clients, then that would be **1,993 cases (514 A/B felonies, 1,347 C/D felonies, 132 misdemeanors).**

**1,153** misdemeanor cases plus **1,993** cases (514 A/B felonies, 1,347 C/D felonies, 132 misdemeanors) totals **3,146 cases (514 A/B felonies, 1,347 C/D felonies, 1285 misdemeanor cases).**

In *The Missouri Project: A Study of the Missouri Public Defender System and Attorney Workload Standards*, prepared by RubinBrown on behalf of the American Bar Association's Standing Committee on Legal Aid and Indigent Defendants, the relevant workload standards are: A/B felonies, 47.6 hours per case; C/D felonies, 25.0 hours per case; and misdemeanors, 11.7 hours per case. (The workload standards include only case related tasks over which an attorney has some control (they exclude, for example, in court and travel time) and thereby reflect a conservative estimate.)
Applying those workload standards to the **3,146** cases, those cases require 73,175.50 attorney hours. With 2,080 hours per attorney available each year, that represents the work of 35.18 attorneys.

In addition, probation violation caseload would be reduced. In FY2014, MSPD opened 53,187 new adult offenses plus 17,226 probation violations, i.e., 1 probation violation for approximately every 0.3238 new offenses. Applying that same percentage to marijuana cases, then in reducing marijuana caseload by 3,146 new cases, the MSPD also would reduce probation violation caseload by 1,018 cases.

In *The Missouri Project*, the workload standard for probation violations is 9.8 hours per case. Thus the reduction in probation violations by 1,018 cases would represent a savings of 9,976 attorney hours. With 2,080 hours per attorney available each year, that represents the work of another 4.80 attorneys.

35.18 attorneys plus 4.80 attorneys totals **39.98 attorneys**.

While in theory the MSPD might also handle fewer appeals of guilty verdicts after trial, the fact is that only a very small percentage of MSPD cases proceed to trial and it's likely that only a small percentage of those cases are appeals from marijuana convictions. Therefore this minimal positive impact is not being taken into account in this estimate.

The savings of the workload of 40 attorneys would be offset some in that the constitutional amendment would allow regulatory laws, including licensing, and presumably violation of those regulatory laws would be made to be criminal offenses eligible for Public Defender representation. However, for this fiscal estimate, because it is impossible at this juncture to predict how many cases this would add to the Public Defender caseload, that offset will be ignored.

In summary, though the exact positive impact is difficult to predict because the MSPD tracks cases by statutory offense and most drug offenses are not limited to marijuana, if the above assumptions are made then this constitutional amendment would save the Public Defender the work of approximately 40 attorneys.

However, the Missouri State Public Defender already is significantly understaffed by 291 attorneys under the workload standards developed in *The Missouri Project.* (The 291 attorneys is a conservative estimate of the under-staffing in that it assumes the MSPD contract all conflicts to private attorneys, which the MSPD is not able to do for budgetary reasons).

Therefore, despite the positive impact on the workload of the Missouri State Public Defender, because the office is already understaffed that savings in attorney time would not allow the Public Defender to reduce its workforce and therefore would not translate into an actual cost savings. However it does reduce by the cost of 40 attorneys how much money needs to be added to the MSPD budget in order to meet *The Missouri Project*'s workload standards.

Officials from the **State Treasurer's office** indicated no impact to their office.

Officials from the **City of Columbia** indicated while hard to determine, there could be some local administrative costs associated with researching, expunging or destroying cannabis-related records.

Officials from the **City of St. Joseph** indicated the city may gain some minor revenue from any applicable business licenses. Otherwise the form of this initiative would mean little impact to revenues or expenditures.

Officials from the **Cape Girardeau 63 School District** indicated they are unaware of any cost or savings due to this measure.

Officials from **Metropolitan Community College** indicated this would have a positive impact on their revenue as it provides additional funding for education.

Officials from **University of Missouri** indicated this initiative petition would not have a significant fiscal impact on their university.

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Missouri House of Representatives,** the **Department of Transportation,** the **Missouri Senate, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Hannibal 60 School District, State Technical College of Missouri, St. Louis Community College, Kansas City Board of Police Commissioners,** and **St. Louis Board of Police Commissioners**.

**Fiscal Note Summary**

State government expects annual operating costs starting at $900,000 and an unknown increase in public health costs, possibly offset by unknown savings in the criminal justice system. Possible increased sales tax revenue is unknown. The fiscal impact to local governments is unknown.

16-012

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 22, 2014

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Angela Daniels regarding a proposed constitutional amendment to Article VIII, version 2 (2016-012)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Angela Daniels on December 22, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

RECEIVED
DEC 22 2014
STATE AUDITORS OFFICE

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-012

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Janson Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot title)

RECEIVED
2014 DEC 22 AM 9:32
MO SEC. OF STATE

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS | ZIP CODE | CONGR DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1 | _/_/20_ | | | | 1 |
| 2 | _/_/20_ | | | | 2 |
| 3 | _/_/20_ | | | | 3 |
| 4 | _/_/20_ | | | | 4 |
| 5 | _/_/20_ | | | | 5 |
| 6 | _/_/20_ | | | | 6 |
| 7 | _/_/20_ | | | | 7 |
| 8 | _/_/20_ | | | | 8 |
| 9 | _/_/20_ | | | | 9 |
| 10 | _/_/20_ | | | | 10 |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do .... do not .... (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant

_____
Printed Name of Affiant

_____

_____
Address of Affiant

_____
Notary Signature

_____
Printed Name of Notary Public

_____

_____
Address of Notary

Subscribed and sworn to before me this _____ day of _____, 20_____.

_____
Notary Public Seal

My commission expires: _____

16-012

**THE PROPOSED CONSTITUTIONAL AMENDMENT**

*Be it resolved by the people of the state of Missouri that the Constitution be amended as follows:*

**Section A:** Article VIII, Section 2, of the Constitution of Missouri is hereby repealed and replaced by one new section to be known as Article VIII. Section 2, and to be read as follows:

**EXPLANATION:** The existing Article VIII, Section 2 is set forth hereinafter with the new matter underlined and deleted matter in brackets, **[thus]**.

**Section 2. Qualification of voters-disqualification.**-All citizens of the United States, including occupants of soldiers' and sailors' homes, **and persons under sentence for felony not related to the right of suffrage,** over the age of eighteen who are residents of this state and of the political subdivision in which they offer to vote are entitled to vote at all elections by the people, if the election is one for which registration is required if they are registered within the time prescribed by law, or if the election is one for which registration is not required, if they have been residents of the political subdivision in which they offer to vote for thirty days next preceding the election for which they offer to vote: Provided however, no person who has a guardian of his or her estate or person by reason of mental incapacity, appointed by a court of competent jurisdiction and no person who is voluntarily confined in a mental institution pursuant to an adjudication of a court of competent jurisdiction shall be entitled to vote, and persons convicted of **[felony, or]** crime connected with the exercise of the right of suffrage may be excluded by law from voting.

**SECTIONS OP EXISTING LAW WHICH WOULD BE REPEALED**

*Be it enacted by the people of the State of Missouri as follows:*

**Section B**: The above repeal and revision of Article VIII, Section 2 of the Constitution of Missouri would repeal Sections 115.133, 115.158 and 561.026 of Revised Statutes of Missouri, and replace those sections with three new sections enacted in place thereof to be known as sections 115.133, 115.158 and 561.026, to read as follows:

**EXPLANATION:** The existing sections 115.133, 115.158 and 561.026 are set forth hereinafter with new matter underlined and deleted matter in brackets, **[thus]**.

**115.133. Qualifications of voters.**

1. Except as provided in subsection 2 of this section, any citizen of the United States who is a resident of the State of Missouri and seventeen years and six months of age shall be entitled to register and vote in any election which is held on or after his eighteenth birthday.

**[2. No person who is adjudged incapacitated shall be entitled register to vote. No person shall be entitled to vote]:**

**[(1) While confined under a sentence of imprisonment];**
**[(2) While on probation or parole after conviction of felony, until finally discharged from such probation or parole; or]**

**(3) After conviction of a felony or misdemeanor connected with the right of suffrage.]**

**2. No person who is adjudged incapacitated shall be entitled to register or vote. No person shall be entitled to vote after conviction of a felony or misdemeanor connected with the right of suffrage.**

3. Except as provided in federal law or federal elections and in section 115.277, no person shall be entitled to vote if the person has not registered to vote in the jurisdiction of his or her residence prior to the deadline to register to vote.

**115.158. Centralized voter registration system--authorized uses--use for commercial purposes, punishment--rules and regulations authorized, required rules-advisory committee**

1. The secretary of state shall implement a centralized, interactive computerized statewide voter registration list. This computerized list shall be known as the "Missouri Voter Registration System". The system shall be implemented by January 1, 2004, unless a waiver is obtained pursuant to the Help America Vote Act of 2002. If a waiver is obtained, the system shall be implemented by January 1, 2006. The system shall be maintained and administered by the secretary of state and contain the name and registration information of every legally registered voter in Missouri. In addition, the system shall:

(1) Assign a unique identifier to each legally registered voter in Missouri;
(2) Serve as the single system for storing and managing the official list of registered voters throughout Missouri;
(3) Be coordinated with other agency databases in Missouri;

(4) Allow any election official in Missouri, including local election authorities, immediate electronic access to the information contained in the system;

(5) Allow all voter registration information obtained by any local election official In Missouri to be electronically entered into the system on an expedited basis at the time the information is provided to the local official. The secretary of state, as the chief state election official, shall provide such support as may be required so that local election officials are able to enter the registration information; and

(6) Serve as the official voter registration list for the conduct of all elections in Missouri.

2 The secretary of state and local election authorities shall perform system maintenance on a regular basis, which shall include:

16-02

(1) Removing names in accordance with the provisions and procedures of the National Voter Registration Act of 1993 and coordinating system maintenance activities with state agency records on death **[and felony status];**

(2) Requiring the name of each registered voter to appear in the system;

(3) Removing only voters who are not registered or who are not eligible to vote; and

(4) Eliminating duplicate names from the system.

3. The secretary of state shall provide adequate technological security measures to prevent the unauthorized access to the system established pursuant to this section.

4. The secretary of state shall develop procedures to ensure that voter registration records within the system are accurate and updated regularly. At a minimum, the procedures shall include;

(1) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote. Consistent with the National Voter Registration Act of 1993, registrants who have not responded to a notice and who have not voted in two consecutive general elections for federal office shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote; and

(2) Safeguards to ensure that eligible voters are not removed in error.

5. Voter registration information shall be verified in accordance with the Help America vote Act of 2002.

(1) Except as provided in subdivision (2) of this subsection, an application for voter registration may not be accepted or processed unless the application includes:

(a) In the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or

(b) In the case of any other applicant, other than an applicant to whom subdivision (2) applies, the last four digits of the applicant's Social Security number.

(2) If an applicant for voter registration has not been issued a current and valid driver's license or a Social Security number, the applicant shall be assigned a number which will serve to identify the applicant for voter registration purposes. The number assigned under this subdivision shall be used as the unique identifying number within the system.

(3) The secretary of state and the director of the department of revenue shall enter into an agreement to match information in the database of the voter registration system with information in the database of the motor vehicle system to enable the secretary to verify the accuracy of information provided on applications for voter registration.

(4) The director of the department of revenue shall enter into an agreement with the commissioner of Social Security and comply with the Help America Vote Act of 2002.

6. In addition to using the system for voter registration, the election authorities and secretary of state may use the system for the collection and dissemination of election results and other pertinent information. Any information contained in any state or local voter registration system, limited to the master voter registration list or any other list generated from the information. subject to chapter 610, shall not be used for commercial purposes; provided, however, that the information may be used for elections, for candidates, or for ballot measures, furnished at a reasonable fee. Violation of this section shall be a class B misdemeanor. For purposes of this section, **"commercial purposes"** means the use of a public record for the purpose of sale or resale or for the purpose of producing a document containing all or part of the copy, printout, or photograph for sale or the obtaining of names and addresses from public records for the purpose of solicitation or the sale of names and addresses to another for the purpose of solicitation or for any purpose in which the purchaser can reasonably anticipate the receipt of monetary gain from the direct or indirect use of the public record.

7. The secretary of state shall establish an advisory committee to assist in the establishment and maintenance or the Missouri voter registration system.

8. The secretary of state may promulgate rules to execute this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536.

9. Election authorities and any agency required under the National Voter Registration Act of 1993 to accept voter registration applications shall forward registration and other data in a manner prescribed by the secretary of state to assist with administering and maintaining the Missouri voter registration system in accordance with the Help America Vote Act of 2002.

**561.026. Disqualification from voting and jury service.**-Notwithstanding any other provision of law, a person who is convicted:

**[(1) Of any crime shall be disqualified from registering and voting in any election under the laws of this state while confined under a sentence of imprisonment;]**

**(1) Of any crime, except as provided in subsection (2) of this section, shall have the right to register and vote by absentee ballot, or in person, pursuant to the provisions of Article VIII,** Sections 6 and **7 of the Constitution of Missouri, despite ongoing confinement** under a **sentence of imprisonment;**

(2) Of a felony or misdemeanor connected with the exercise of the right of suffrage shall be forever disqualified from registering and voting;

(3)Of any felony shall be forever disqualified from serving as a juror.

16-011

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 22, 2014

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Angela Daniels regarding a proposed constitutional amendment to Article VIII, version 1 (2016-011)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Angela Daniels on December 22, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

RECEIVED
DEC 22 2014
STATE AUDITORS OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-01.1

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable Janson Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot title)

RECEIVED
2014 DEC 22 AM 9:32
SEC. OF STATE

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF _____

I _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS | ZIP CODE | CONGR DIST. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1 | __/__/20__ | | | | 1 |
| 2 | __/__/20__ | | | | 2 |
| 3 | __/__/20__ | | | | 3 |
| 4 | __/__/20__ | | | | 4 |
| 5 | __/__/20__ | | | | 5 |
| 6 | __/__/20__ | | | | 6 |
| 7 | __/__/20__ | | | | 7 |
| 8 | __/__/20__ | | | | 8 |
| 9 | __/__/20__ | | | | 9 |
| 10 | __/__/20__ | | | | 10 |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do .... do not .... (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant

_____
Printed Name of Affiant

_____

_____
Address of Affiant

_____
Notary Signature

_____
Printed Name of Notary Public

_____

_____
Address of Notary

Subscribed and sworn to before me this _____ day of _____, 20____.

_____
Notary Public Seal

My commission expires: _____

16-011

**THE PROPOSED CONSTITUTIONAL AMENDMENT**

*Be it resolved by* the *people of the state of Missouri that the Constitution be amended as follows:*

**Section A:** Article VIII, Section 2, of the Constitution of Missouri is hereby repealed and replaced by one new section to be known as Article VIII. Section 2, and to be read as follows:

**EXPLANATION:** The existing Article VIII, Section 2 is set forth hereinafter with the new matter underlined and deleted matter in brackets, **[thus]**.

**Section 2. Qualification of voters-disqualification.**-All citizens of the United States, including occupants of soldiers' and sailors' homes, **and persons under sentence for felony not related to the right of suffrage,** over the age of eighteen who are residents of this state and of the political subdivision in which they offer to vote are entitled to vote at all elections by the people, if the election is one for which registration is required if they are registered within the time prescribed by law, or if the election is one for which registration is not required, if they have been residents of the political subdivision in which they offer to vote for thirty days next preceding the election for which they offer to vote: Provided however, no person who has a guardian of his or her estate or person by reason of mental incapacity, appointed by a court of competent jurisdiction and no person who is voluntarily confined in a mental institution pursuant to an adjudication of a court of competent jurisdiction shall be entitled to vote, and persons convicted of **[felony, or]** crime connected with the exercise of the right of suffrage may be excluded by law from voting.

16-010

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

RECEIVED
2014 DEC -3 PM 3:53

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong. Dist. | NAME (Printed or Typed) |
|---|---|---|---|---|---|---|
| 1. | / / | | | | | |
| 2. | / / | | | | | |
| 3. | / / | | | | | |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant
(Person obtaining signature)

_____

_____

_____

One new section is adopted to be known as Article I. Section 36 and to read as follows:

16-010

36(a) 1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for substance abuse and underage drug use prevention programs, for veterans' services, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Expungeable marijuana offense" means:

(a) The manufacture, production, possession, or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia; or

(b) The delivery, possession with intent to deliver, or trafficking of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to one or more individuals if such individuals were twenty-one years of age or older at the time of the offense.

(7) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(8) "Household exemption limits" means, at any given time:

(a) Six marijuana plants and twelve ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Twenty ounces of marijuana products in liquid form

(15) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(16) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(17) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(18) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(19) "Person" includes any individual or entity.

(20) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(21) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(22) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(23) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(24) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(25) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate of twenty-five percent of the purchase price.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2017, the division shall promulgate rules and regulations that control and regulate the purchase, sale, labeling, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in subdivision (7) of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

THC contained therein.

(8) Regulate the amount of THC in a marijuana product or marijuana extract.

16-010

8. No state law or combination of state laws shall:

(1) Except for the tax provided in subdivision (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Six marijuana plants and twelve ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Twenty ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per every 10,000 inhabitants, or any portion thereof, in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating: (i) any non-discretionary expungeable marijuana offense in subdivision (1) or (2) of subsection (14) of this section; or (ii) any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with subdivision (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under subdivision (12) of this subsection may not exceed a misdemeanor, punishable by a fine of not more than one thousand dollars, or by imprisonment in the county jail for a term not exceeding one year, or by both such fine and jail sentence; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2017, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent

(3) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense that is not expungeable under subdivisions (1) or (2) of this subsection may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that an expungement is in the interests of justice, the court may enter an order of expungement. An individual may be entitled to one or more expungements pursuant to this subdivision (3).

(4) The effect of an order of expungement shall be to restore the applicable individual to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. A person imprisoned solely as a result of one or more expungeable marijuana offenses that are expunged shall be released from prison immediately upon the issuance of the applicable order or orders of expungement. No individual as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever.

15. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

16. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

17. If any subsections, subdivisions, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, subdivisions, phrases, and words of this section shall not be affected. To that end, the subsections, subdivisions, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, subdivision, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, subdivisions, phrases, or words of this section is held unconstitutional, void, or illegal.

18. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 of this section and subdivisions (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2017. The provisions of subsections 1 and 8 of this section and subdivisions (3) and (4) of subsection 5 of this section shall become effective on June 1, 2017. All state laws that are inconsistent with any provision of subdivision (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2017. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or subdivision (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2017. All of the provisions of this section shall be self-enforcing.

16-009

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 4, 2014

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I (2016-009)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Dan Viets on December 3, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

RECEIVED
DEC 04 2014
STATE AUDITORS OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-009

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

RECEIVED
2014 DEC -3 PM 3:52
SEC. OF STATE

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____
I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong. Dist. | NAME (Printed or Typed) |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant
(Person obtaining signature)

_____
Printed Name of Affiant

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____
_____

Notary Public (Seal)

My commission expires _____

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

16009

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

One new section is adopted to be known as Article I, Section 36 and to read as follows:

36(a) 1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for substance abuse and underage drug use prevention programs, for veterans' services, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Expungeable marijuana offense" means:

(a) The manufacture, production, possession, or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia; or

(b) The delivery, possession with intent to deliver, or trafficking of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to one or more individuals if such individuals were twenty-one years of age or older at the time of the offense.

(7) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(8) "Household exemption limits" means, at any given time:

(a) Six marijuana plants and twelve ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Twenty ounces of marijuana products in liquid form.

(9) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(10) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(11) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

16-009

(12) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(13) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

(14) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(15) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(16) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(17) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(18) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(19) "Person" includes any individual or entity.

(20) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(21) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(22) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(23) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(24) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(25) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate of twenty-five percent of the purchase price.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2017, the division shall promulgate rules and regulations that control and regulate the purchase, sale, labeling, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in subdivision (7) of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty percent; (ii) for public institutions of elementary and secondary education, twenty percent; (iii) for substance abuse programs and prevention of underage drug use, twenty percent; (iv) for services to Missouri military

veterans, fifteen percent; (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and (vi) for cities and counties, ten percent and

(c) All moneys appropriated by the general assembly from the excise taxes authorized in subdivision 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation.

(7) Require accurate labeling of marijuana, marijuana products, or marijuana extracts, disclosing the amount of THC contained therein.

(8) Regulate the amount of THC in a marijuana product or marijuana extract.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in subdivision (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Six marijuana plants and twelve ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Twenty ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per every 10,000 inhabitants, or any portion thereof, in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating: (i) any non-discretionary expungeable marijuana offense in subdivision (1) or (2) of subsection (14) of this section; or (ii) any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with subdivision (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under subdivision (12) of this subsection may not exceed a misdemeanor, punishable by a fine of not more than one thousand dollars, or by imprisonment in the county jail for a term not exceeding one year, or by both such fine and jail sentence; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2017, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

12. The department is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp.

14. Convictions of marijuana offenses shall be expungeable as follows:

(1) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense, and who was twenty-one years of age or older at the time of the offense, may apply to the court in which he or she was

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sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has plead guilty to or has been convicted of an expungeable marijuana offense, the court shall enter an order of expungement. An individual shall be entitled to one or more expungements pursuant to this subdivision (1).

(2) After a period of not less than one year, an individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense for the first time, and who was under twenty-one years of age at the time of the offense, and who since such conviction has not been convicted of any other marijuana-related offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. If the court determines, upon review, that such individual has not been convicted of any other marijuana-related offense at the time of the application for expungement, the court shall enter an order of expungement.

(3) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense that is not expungeable under subdivisions (1) or (2) of this subsection may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that an expungement is in the interests of justice, the court may enter an order of expungement. An individual may be entitled to one or more expungements pursuant to this subdivision (3).

(4) The effect of an order of expungement shall be to restore the applicable individual to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. A person imprisoned solely as a result of one or more expungeable marijuana offenses that are expunged shall be released from prison immediately upon the issuance of the applicable order or orders of expungement. No individual as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever.

15. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

16. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

17. If any subsections, subdivisions, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, subdivisions, phrases, and words of this section shall not be affected. To that end, the subsections, subdivisions, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, subdivision, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, subdivisions, phrases, or words of this section is held unconstitutional, void, or illegal.

18. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 of this section and subdivisions (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2017. The provisions of subsections 1 and 8 of this section and subdivisions (3) and (4) of subsection 5 of this section shall become effective on June 1, 2017. All state laws that are inconsistent with any provision of subdivision (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2017. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or subdivision (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2017. All of the provisions of this section shall be self-enforcing.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-009)**

## Subject

Initiative petition from Dan Viets regarding a proposed constitutional amendment to Article I of the Constitution of Missouri. (Received December 4, 2014)

## Date

December 23, 2014

## Description

This proposal would amend Article I of the Constitution of Missouri.

The amendment is to be voted on in November 2016.

## Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College, Kansas City Board of Police Commissioners,** and **St. Louis Board of Police Commissioners.**

**ACT Missouri** provided information as an opponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated this proposal has the potential to significantly impact the revenue stream of state and local governments; however, their department has no means to calculate such impact.

Officials from the **Department of Higher Education** indicated they have determined it would have no fiscal impact on their department. While the related tax could potentially increase the funds available for public higher education institutions and state scholarships, the total impact, if any, would be determined through the appropriation process.

Officials from the **Department of Health and Senior Services** indicated total costs for salaries, fringe benefits, equipment and expenses will be $0 for fiscal year 2016, $12,953 for fiscal year 2017, and $80,049 for fiscal year 2018.

Rental space would be needed for one new FTE located in Jefferson City: 1 FTE x 200 sq ft/FTE x $16.75/sq. ft. = $3,350.

The proposed language could create new classes of small businesses (marijuana manufacturers and retailers).

Section 36(a)6(7) if enacted would create a new tax of 25 percent on the first market sale of marijuana.

Sections 196.010 through 196.298, RSMo gives the Department of Health and Senior Services (DHSS) responsibility for the regulation of food to include such duties as ensuring food safety, sanitation, and proper labeling, etc. DHSS could have additional responsibility to assure that facilities manufacturing foods containing marijuana and marijuana products are regulated the same as other food manufacturers.

DHSS assumes that manufacturers will have “one stop shops” that will include the retail portion on the same grounds as the manufacturing plant where marijuana products will be manufactured. DHSS estimates that there may be as many as 150 manufacturing/retail facilities throughout the state. Since the local public health agencies assume responsibility for inspecting retail food establishments, DHSS would not have to incur additional costs for these inspections. DHSS would have to inspect the manufacturing

portion of the facility. DHSS would require one field inspector to inspect the manufacturing plants (Environmental Public Health Specialist IV A27, Step G, $43,056).

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact. However, the impact on the demand for substance use disorder treatment is unknown. Their department sees the legalization of marijuana as a broader public health issue, especially for children.

Officials from the **Department of Corrections** indicated:

The petition proposes to legalize the production, sale, distribution and consumption of marijuana by persons over the age of 21. Selling marijuana to persons 21 or younger will remain an offense as will possession of marijuana by persons 21 or younger.

The legalization of marijuana for adults over 21 will impact their department in three ways:

1. It will discharge offenders with convictions for marijuana from incarceration or field supervision if the marijuana convictions are the only convictions the offenders are serving.
2. It will reduce the number of offenders being sentenced and received by the department of corrections (DOC).
3. It will require administrative actions by DOC staff to re-calculate sentences, risk assessments, parole release dates and custody levels for those offenders who have had marijuana convictions expunged.

The estimate of the number of offenders who will be impacted by the legalization of marijuana can be calculated from the sentencing records maintained by the DOC but with a significant proviso. Most offenders sentenced for drug offenses in Missouri are sentenced for the production, sale, distribution or possession of a controlled substance and the drug type is not part of the offense. In some cases the drug type is known because the drug type is included in the NCIC code or is included in the offense description. Although the impact of the bill is based upon those cases where the drug type is known the impact has to include an estimate of the drug offenders where the drug type is not known. As only 32% of drug offenses include the drug type the expansion factor is significant (3.17).

**1. The discharge of offenders with only a conviction for marijuana for offenders over 21 on the offense date**

On December 5, 2014 there were:

a) 114 incarcerated offenders and after applying the expansion factor of 3.17 it is estimated that 361 offenders will be eligible to be released.

b) 1,055 offenders on probation or parole and after applying the expansion factor of 3.17 it is estimated that 3,344 offenders will be released from field supervision.

There may be other offenders who, after the expungement of the marijuana offenses, may be eligible for immediate discharge or have their release date advanced but no estimate has been for these offenders.

**2. The reduction of new admissions or new probation cases for offenders over 21 on the offense date**

In FY14 there were:

a) 88 offenders admitted to prison to serve a marijuana offense and had no other offense. After the expansion factor of 3.17 it is estimated that 279 offenders were admitted in FY14. Using time served statistics from offenders released in FY14 for marijuana only offenses it is estimated that the average time served was 0.81 years. The annual reduction in the institutional population is estimated at 226 (279* 0.81 years) and the reduction will begin in the first year following enactment of the bill.

b) 401 offenders were placed on probation for only a marijuana offense. After applying the expansion factor it is estimated that there were 1,271 offenders placed on probation for a marijuana offense.

**3. Administrative Actions**

Administrative actions are required to account for the expungement of marijuana convictions. No estimate is made but it could be substantial because marijuana convictions are not readily available in the DOC offender database. The DOC would have to work with the Department of Public Safety and the Office of the State Courts Administrator to obtain the necessary records. Also note that this petition does not call for automatic expungement. The offender has to petition the court which will complicate the process and calculation of expungement cost.

**Impact Summary**

In the year following the enactment of the bill there will be offenders discharged and fewer offenders received by the DOC. Because of the average stay is less than one year both impacts will occur in the first year. After the first year the prison and probation populations will stabilize at a new lower level.

**Impact based upon the assumption of equal distribution for drug offenses where the drug type is not known**

| | Prison | | | Field | | |
|---|---|---|---|---|---|---|
| | Discharge | Fewer Admissions | Total | Discharge | Fewer Cases | Total |
| FY16 | 361 | 226 | 587 | 3,344 | 1,271 | 4,615 |

The estimates are based upon the assumption that the distribution of drugs offenses when drug is known is similar to the distribution of drugs when the drug type is not known. A minimum impact of the legalization of marijuana is based upon only the convictions that are known to be for marijuana and no account is taken of the drug offenses for which the drug type is not known. The reduction in the population from fewer admissions is admissions (88) multiplied by the average stay (0.81 years) = 71.

**Minimum Impact-excluding drug offenses with the drug type is not known**

| | Prison | | | Field | | |
|---|---|---|---|---|---|---|
| | Discharge | Fewer Admissions | Total | Discharge | Fewer Cases | Total |
| FY16 | 114 | 71 | 185 | 1,055 | 401 | 1,456 |

These are the DOC direct offender costs for either incarceration (FY14 average of $16.725 per offender, per day, or an annual cost of $6,105 per inmate) or for supervision provided by the Board of Probation and Parole (FY14 average of $6.72 per offender, per day or an annual cost of $2,453 per offender). It is assumed that the least amount of individuals affected would be 185 incarcerated offenders and 1,456 field supervised offenders and at most it would affect 587 incarcerated offenders and 4,615 filed supervised offenders for an estimated cost avoidance of $4,700,993 to $14,904,230 in FY16. However, this does not necessarily mean there will be a net reduction in the DOC budget. The prison population has been steadily increasing over the past few years due to many other factors not related to marijuana offenses.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact for their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated:

Division of Alcohol and Tobacco Control (ATC)

Costs would increase by $5,543,943 in fiscal year 2016, $4,718,729 in fiscal year 2017, and $4,778,049 in fiscal year 2018. Excise tax and licensing fees could be $199,500,000 in fiscal years 2017 and 2018.

The following state agencies and/or political subdivisions will be affected by this proposal: Department of Mental Health and Substance Abuse, Department of Health and Senior Services, and State and Local Law Enforcement and Firefighter Pensions and Retirement Plans, Public Institutions of Elementary and Secondary Education, Substance Abuse Programs and Prevention of Underage Drug Use, for Services to Military Veterans, Public Institutions of Higher Education or Scholarships to such Institutions and Cities and Counties.

ATC will need to provide office spaces across the state for four District Offices in St. Louis, Kansas City, Springfield and Cape Girardeau. The existing ATC office in Jefferson City can absorb the additional staff within the existing location.

It is very likely that many small businesses will become licensed as a result of marijuana legalization and the potential to increase small business profits is huge based on information received from the State of Colorado, which just legalized recreational marijuana.

Information technology (IT) will need to provide IT support to the additional staff employed. It is estimated that each new FTE will require laptops (or desktop PC's) and printing equipment. In addition, based on Colorado's estimation, ATC will need large marijuana tracking computer system to facilitate the tracking and excise tax collections which is estimated to cost $1,000,000 in the first two years.

ATC will begin licensing marijuana growers, producers, distributors, and retailers. It is estimated it will have a large positive impact on Total State Revenue. Although the language indicates that the excise taxes will not be considered a part of total state revenue or expense of state government. ATC estimates that excise taxes collected will be based on Missouri marijuana sales of between $750 million and $1 billion annually, resulting in possibly $187,500,000 in excise tax collections if tax rates are 25% of first purchase price. ATC also estimates that if the minimum number of retail licenses allowed (1 license per 10,000 people, 6.022 million Missouri population) 600 will obtain licenses, plus possibly 600 producers or distributors, there will be approximately 1,200 licensees. ATC proposes a fee of $10,000 per license which would result in approximately $12 million in license fees. This license fee is in line with the range of fees paid by Colorado licensees.

Section 36(a) 1, allows for citizens who are 21 years of age or older to engage in the production, sale, distribution and consumption of marijuana. It also legalizes the manufacturers of products from Industrial Hemp.

Section 36(a) 2, sets out the purpose of this section to regulate the marijuana industry, raise revenue from licensing and excise taxes on marijuana, prevent criminal activity as a result of black market marijuana sales, prevent underage consumption of marijuana, eliminate illegal marijuana growth on public lands, and to allow for medical marijuana consumption. It also legalizes Industrial Hemp.

Section 36(a) 3, determines the goals of legalizing marijuana as preventing the distribution to those under age 21, preventing the revenue from going to criminal enterprises, preventing violence and the use of firearms in the cultivation and distribution of marijuana. It also prevents marijuana advertising to those under age 21.

Section 36(a) 4, provides definitions of terms used in this section. It also sets out household exemption limits of 6 marijuana plants and 12 ounces of usable marijuana, 16 ounces of marijuana products in solid form, 20 ounces of marijuana products in liquid form.

Section 36(a) 5, prohibits the state from making it illegal to possess or use marijuana by 21 year olds or older, to deliver or travel with marijuana, to purchase, sale or manufacture marijuana products and paraphernalia. It prevents seizures or forfeitures as a result of marijuana purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana products.

Section 36(a) 6, allows state laws that address prohibiting import and export into and from within this state; the purchase, sale, manufacture, distribution, or delivery of marijuana within 1,000 feet of a school attended primarily by individuals under 21 years of age; prohibit the operation of a vehicle while using or under the influence; prohibit usage of marijuana in a public place; prohibit purchase, sale, manufacturing, production, processing transportation, delivery or possession by a person not in compliance with the law; classify the penalties, and impose an excise tax on the first fair market sale of 25% of the purchase price.

Section 36(a) 7, requires the Division of Alcohol and Tobacco Control (ATC) to promulgate rules and regulations that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, including requiring a marijuana license to purchase, sell, manufacture, produce, process, transport or deliver marijuana; provide for excise tax collections; and provide for the enforcement of marijuana laws and review of their records and premises. Also ATC will regulate the advertising. ATC must also receive and transfer all funds from excise taxes and license fees to a dedicated fund first to ATC. The collections in this dedicated fund shall: be appropriated from the General Assembly to carry out the obligations under this law, including a reserve to maintain a working cash balance; next to state and local law enforcement and firefighter pensions and retirement plans – 20%; public elementary and secondary education – 20%; mental health and substance abuse programs – 20%; for services to Missouri military veterans – 15%; for public higher education for scholarships to attend such institutions – 15%; and cities and counties – 10%.

Section 36(a) 8, provides that no state law shall: impose an extra tax on marijuana that is not generally imposed on other products; or make laws that make household limits for a person to have at any given time of less than 6 marijuana plants and 12 oz. of usable marijuana, 16 oz of marijuana in solid form, 20 oz. in liquid form, and one ounce of marijuana extracts at any given time. The state may limit the number of retail licenses

issued to no less than one marijuana retailer per 10,000 inhabitants in a county. The state cannot limit the number of licenses a person may be granted, or disallow a person from holding different types of licenses, or require them to be a Missouri resident. The state may not disallow a person from a license due to expugnable past marijuana offenses. The state may not require a consumer to purchase a license to buy marijuana, or to deliver marijuana without charge to another over 21 years of age provided that the marijuana was purchased from a licensed retailer or if the marijuana was home grown by the person delivering it. The state may not require a retailer to record information about the buyer. The state may not require a license for marijuana amounts that are less than the household exemption amounts. This subsection provides the guidelines for penalties for a manufacturer that grows more marijuana plants than the household exemption amounts. This subsection also restricts ATC from making regulations so burdensome that it makes it impractical to conduct business.

Section 36(a) 9, allows the Department of Health and Senior Services to promulgate rules and regulations to implement the medical marijuana provisions allowing Doctors to discuss marijuana usage in conjunction with a medical condition that would benefit from usage on or before June 1, 2017.

Section 36(a) 10, prevents a licensed doctor from being subjected to any criminal and civil penalties by any state licensing boards or commissions as a result of advising a person on medical marijuana usage.

Section 36(a) 11, directs and authorizes Alcohol and Tobacco Control to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 36(a) 12, directs and authorizes the Department of Health and Senior Services to enforce, administer and make rules and regulations that are not inconsistent with this section.

Section 36(a) 13, The General Assembly may make laws that control, regulate and tax the manufacture, production and delivery of industrial hemp.

Section 36(a) 14, sets out the provisions for expunging marijuana offenses.

Section 36(a) 15, clarifies that contracts relating to the manufacturing, producing, delivering, possessing or using marijuana are not unenforceable just because they are prohibited by federal law.

Section 36(a) 16, provides that the marijuana laws will have no effect on current state or federal laws pertaining to employment matters, landlord-tenant matters, real property contracts that prohibit marijuana manufacturing, production, distribution, possession or use on such real property.

Section 36(a) 17 provides that if any part of this section is invalidated, the remaining part shall not be affected.

Section 36(a) 18, provides for most of the provisions to become effective on January 1, 2017, except for the actual section that allows citizens over the age of 21 to engage in the production, sale, distribution, and consumption of marijuana and manufacturer of goods from hemp which will become effective on June 1, 2017.

If alcohol excise tax revenue is an indicator of the rate that revenues will increase each year, we would expect revenue to increase between 1% and 4% each year.

Their Division is requesting approximately $5.5 million in PS and E&E during the first year to respond to the tasks involved in marijuana legalization. Each year thereafter the cost would be from $4.7 to $4.8 million. ATC would be responsible for licensing, collecting excise taxes and regulatory compliance in a new marijuana industry in Missouri. ATC believes that the only way to track marijuana is through a computerized system using tax stamps. Colorado currently uses a system that cost $1 million over a 2 year period. This system would track the product from the production to the retail system. Because there are no prohibitions against one person having all different types of marijuana licenses, the only way to assure excise taxes are being paid is through the use of tax stamps and frequent inspections. ATC would utilize five district offices throughout the state with 1 District Supervisor, 1 Clerical person and various Special Agent/Auditors in each District. ATC would need 5 District Supervisors, 45 Special Agent/Auditors, 7 Senior Office Support Assistants, 1 Chief of Marijuana Enforcement and 1 Agricultural Expert to facilitate such a large undertaking. It should be noted that Colorado, with a population of almost a million less, has 56 FTE dedicated solely to the marijuana control program.

Additional Information: The state of Washington's marijuana initiative allows up to $5 million annually for the Washington State Liquor Control Board to implement and administer the recreational marijuana program. The Economic Revenue Forecast Council has not yet projected revenues but we suspect it will be in the 0-$300 million range in the first full year of operation. No Washington marijuana licenses have been issued yet but the applications are approaching 3,000 as of December 19, 2013.

ATC is waiting on newer information from Colorado and Washington, but at this time it is unavailable.

Missouri State Highway Patrol (MSHP)

Costs would increase by $349,311 in fiscal year 2016, $410,478 in fiscal year 2017, and $414,662 in fiscal year 2018.

The Criminal Justice Information Services Division (CJIS) states that there are currently 315,063 arrest charges in the Central Repository that qualify for expungement under this amendment. With no specific statutory reference into how these expungements would be handled or the process by which they would be expunged, it is difficult, at best, to estimate the amount of FTE's required by the CJIS Division to carry out the expungements. The current expungement process, pursuant to Chapter 610, takes

approximately 90 minutes to process. One FTE can handle 1,237 expungements per year. Conservatively, at least five FTE's would be required to initially handle the expungments created by this amendment based on no clear expungement process. Clearly, if a large number of these expungements were to be granted with even 5 FTE's, the backlog would compound greatly to the point it may take several years to catch up.

1 FTE = 1,856 hours (average work hours per year) x 60 minutes per hour = 111,360 minutes per year.

The current average time per petition to log, process, research, review, create related correspondences, and to expunge the information when the order is received is 90 minutes. Therefore, one FTE can handle 1,237 expungements per year = 111,360 / 90.

These FTE's (CJIS Technicians) would be necessary to process all expungement requests, review criminal history records, contact any agency associated with the arrests or convictions, and collect the necessary data for the court orders.

Based on the average yearly salary and benefit rate per FTE at $53,702 and the ability of that employee to process 1,237 expungements per year, the cost alone per expungement is $53,702 \ 1,237 = $43.41. It is suggested that a fee, similar to the criminal history background check fee, be implemented for the cost of researching and reviewing the criminal histories, as well as contacting of the various agencies associated with the arrests. In researching other states with similar expungement requirements, they all charge a fee to offset the cost of the time required to process the expungements. Their fees ranged from $50 to $450 per petition per arrest date.

These FTE's will most likely be 2nd and 3rd shift employees so they would not require any equipment. However, there would be recurring costs of $650 per year per FTE for office supplies and phone charges. If any FTE were placed on the 1st shift, standard equipment would be required at a one-time cost of $3,566 per FTE.

| | |
|---|---|
| 5 CJIS Technicians ($1,196.50 x 24) | $143,580 |
| Office Equipment/HW/SW | $3,566 |
| | |
| RECURRING COSTS | |
| Phone Charges per FTE | $350 |
| Office Supplies per FTE | $300 |

The Patrol Records Division estimates an additional 71,733 arrests in the Patrol's Traffic Arrest System (TAS) would be eligible for expungement. The Patrol Records Division would need to employ 29 additional FTE's in order to expunge all eligible arrests within the first year. However, the Patrol could reasonably add three FTE's, which would allow the expungement of approximately 2,475 each year. This would create a backlog of expungements that would be processed when possible over a period of years.

1 FTE = 1,856 hours (average work hours per year) x 60 minutes per hour = 111,360 minutes per year.

The current average time per petition to log, process, research, review, create related correspondences, and to expunge the information when the order is received is 45 minutes. Therefore, one FTE can handle 2,475 expungements per year = 111,360 / 45.

With the current estimated potential of 71,733 petitions for expungement upon enactment of this legislation, the following percentages of persons actually requesting an expungement will directly relate to the number of FTE's required:

10% = 71,733 x .10 = 7,173 / 2,475 = 2.9 FTE's
20% = 71,733 x .20 = 14,346 / 2,475 = 5.8 FTE's
50% = 71,733 x .50 = 35,867 / 2,475 = 14.5 FTE's
100% = 71,733 / 2,475 = 29 FTE's

It is realistic to assume a significant number of these individuals will file a petition to expunge these records. It would be reasonable to add three FTE's and address any backlog that may occur. This FTE's (Quality Control Clerks) would be necessary to process all expungement requests, review records, contact agencies, and collect the necessary data for the court orders.

Based on the average yearly salary and benefit rate per FTE of $44,209 and the ability of that employee to process 2,475 expungements per year, the cost per expungement is $44,209 \ 2,475 = $17.86. It is suggested that a fee, similar to the criminal history background check fee, be implemented for the cost of researching and reviewing the criminal histories.

There would be recurring costs of $650 per year per FTE for office supplies and phone charges. Standard equipment would be required at a one-time cost of $3,566 per FTE.

| | |
|---|---|
| 3 Quality Control Clerk ($985 x 24) | $70,920 |
| Office Equipment/HW/SW | $3,566 |
| | |
| RECURRING COSTS | |
| Phone Charges | $350 |
| Office Supplies | $300 |

In 1924, the United States Justice Department FBI began building a national system of criminal records for the protection of citizens through the detection and apprehension of criminals. The Omnibus Crime Control and Safe Streets Act of 1968 established minimum requirements for the management of criminal record systems. The Kennedy Amendment in the Crime Control Act of 1973 requires all criminal history information collected, maintained and/or disseminated by state and local agencies to be complete, secure and available for review and challenged by record subjects. It further stipulates that information must be used only for law enforcement and other specifically authorized

purposes. The Anti-Drug Abuse Act of 1988 requires a system for the immediate and accurate identification of felons who attempt to purchase firearms. The Brady Handgun Violence Prevention Act of 1993, the National Child Prevention Act of 1993, the National Stalker and Domestic Violence Reduction Program of the Violence Against Women Act, the National Instant Criminal Background Check System/Crime Identification Technology Act of 1998, the NICS Improvement Amendment Act, the Jacob Wetterling Crimes Against Children Act, and the Sexually Violent Offender Registration Act (Megan's Law). These supporting bills are all programs that are dependent upon a complete, accurate and timely criminal history database in the state.

This proposed legislation would also impact the determination of qualified individuals relating to positions of public trust (i.e., persons caring for children, the elderly or the disabled). It would adversely impact the criminal justice system and the ability for the criminal justice system to adequately protect the citizens of Missouri from convicted criminals.

Additionally, RMSo 610.122 and 610.123 address the requirements and processes for expungements. This bill does not address these state statutes and would conflict with these laws. Currently, no record can be expunged if the individual of the arrest has prior or subsequent misdemeanor or felony convictions, the subject received a suspended imposition of sentence for the arrest, or the subject received a conviction.

Certain misdemeanor and municipal offenses (i.e., drug offenses under Chapter 195) can be enhanced if it is a second or third offense. It would be difficult to enhance the offense per 558.016 if previous convictions were expunged.

The following language is proposed to provide for the collection of a fee to offset the costs of the expungement:

43.530. 1. For each request requiring the payment of a fee received by the central repository, the requesting entity shall pay a fee of not more than nine dollars per request for criminal history record information not based on a fingerprint search. In each year beginning on or after January 1, 2010, the superintendent may increase the fee paid by requesting entities by an amount not to exceed one dollar per year, however, under no circumstance shall the fee paid by requesting entities exceed fifteen dollars per request.
2. For each request requiring the payment of a fee received by the central repository, the requesting entity shall pay a fee of not more than twenty dollars per request for criminal history record information based on a fingerprint search, unless the request is required under the provisions of subdivision (6) of section 210.481, section 210.487, or section 571.101, in which case the fee shall be fourteen dollars.
3. A request made under subsections 1 and 2 of this section shall be limited to check and search on one individual. Each request shall be accompanied by a check, warrant, voucher, money order, or electronic payment payable to the state of Missouri-criminal record system or payment shall be made in a manner approved by the highway patrol. The highway patrol may establish procedures for receiving requests for criminal history record information for classification and search for fingerprints, from courts and other

entities, and for the payment of such requests. There is hereby established by the treasurer of the state of Missouri a fund to be entitled as the "Criminal Record System Fund". Notwithstanding the provisions of section 33.080 to the contrary, if the moneys collected and deposited into this fund are not totally expended annually for the purposes set forth in sections 43.500 to 43.543, the unexpended moneys in such fund shall remain in the fund and the balance shall be kept in the fund to accumulate from year to year.
**4. For all petitions for expungement under the provisions of Chapter 610, Section 577.054, or any other created expungement requirement under statute, excluding Section 610.122, the applicant shall pay a fee of seventy-fifty dollars per arrest date listed on the petition. Each petition shall be accompanied by a check, warrant, voucher, money order, or electronic payment payable to the state of Missouri-criminal record system or payment shall be made in a manner approved by the highway patrol. For expungements that require removal from the Traffic Arrest System twenty dollars of the seventy-five dollar fee will be deposited in the Highway Patrol Traffic Records Fund.**

Article I, Section 36(a) 14 allows an individual who has pled guilty to or has been convicted of violating any expungeable marijuana offense, and who was twenty-one years of age or older at the time of the offense, may apply to the court in which he or she was sentenced for an order to expunge all official record of his or her arrest, plea, trial, and conviction. However, there is no statutory reference to Chapter 610 to provide a method by which the expungement process will occur.

In Article I, Section 36(a) 4. (6), it is suggested to add “an offense involving” at the end of the sentence so that the sentence reads, “Expungeable marijuana offense” means an offense involving:

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's Office** indicated there should be no fiscal impact to their office.

Officials from the **House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

This initiative petition creates Article I, Section 36(a) in the Missouri Constitution. This petition:

- Legalizes the production, sale, distribution, and consumption of marijuana and hemp.
- Legalizes the possession of marijuana, marijuana products, marijuana concentrates, marijuana paraphernalia, marijuana extracts, and industrial hemp for persons twenty-one years of age or older.

- Legalizes the cultivation of marijuana.
- Legalizes the retail sales of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp.
- Allows the General Assembly to enact an excise tax at a rate of twenty-five percent on the fair market sale of marijuana produced in the state.
- Requires the Division of Alcohol and Tobacco Control to adopt regulations necessary for implementation by June 1, 2017 including:
    - Licensing procedures
    - Excise tax collection
    - Enforcement and compliance of licensees
    - Advertisement regulation
- Requires the Department of Health and Senior Services to adopt regulations necessary for implementation by June 1, 2017 that will permit individuals with medical conditions to use marijuana, marijuana products, marijuana paraphernalia, and marijuana extracts for medical use.
- Permit records expungement of marijuana offenses no longer illegal under this act, and calls for the release of any offenders who offenses are no longer illegal under this act to be released from custody.
- Does not:
    - Allow the state to impose any additional taxes to transactions regarding marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp, other than what is imposed on other products generally.
    - Permit the state to add additional regulations related to licensees beyond the scope of the petition.
    - Forbid any individual or property owner from prohibiting marijuana on their property.
    - Require a person to violate or exempt them from enforcement of federal laws.
    - Permit operation of any means of transportation by anyone impaired by marijuana.
    - Permit the transfer or sale of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp to anyone under the age of twenty-one.

<u>Summary of Fiscal Impact</u>

The Department of Corrections and the Office of the Court Administrator would incur costs (amount unknown) due to the expungement of records and release of offenders' provisions in the act. The Department of Public Safety, Division of Alcohol and Tobacco Control and the Department of Health and Senior Services are given the authority to promulgate rules to implement this section. Those rules could result in a fiscal impact for those agencies. The Department of Revenue could also see increased costs resulting from the collection of excise and sales taxes and compliance with those taxes.

Budget and Planning (B&P) assumes the revenue generated from the excise tax and license fees would be deposited into the state's General Revenue Fund. The petition requires the General Assembly to appropriate the revenue as follows:

1. All funds the General Assembly deems necessary for the Division of Alcohol and Tobacco Control to carry out any duties created by the petition or laws operating under this section.
2. The remainder of all funds shall be appropriated within the following guidelines:
    a. 20% for state and local law enforcement and firefighter pensions
    b. 20% for public institutions of elementary and secondary education
    c. 20% for mental health and substance abuse programs
    d. 15% for services to military veterans
    e. 15% for public institutions of higher education or for scholarships to attend such institutions
    f. 10% for cities and counties

Further B&P assumes that the retail sale of marijuana, marijuana products, marijuana paraphernalia, marijuana extracts, and industrial hemp would be subject to state sales tax, therefore increasing the collections to the state's general revenue fund, the School District Trust Fund, the Conservation Commission Fund, the State Park Sales Tax Fund, and the Soil and Water Sales Tax Fund. B&P does not have the data available to provide an estimate.

Officials from the **Office of State Courts Administrator** indicated:

The proposed initiative petition would create a new section of the Missouri Constitution to be known as Article I, Section 35(a). This section would allow citizens over the age of twenty-one years to have the right to engage in the production, sale, distribution and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state pursuant to this section.

During the past five years (2009 – 2013) there has been an average of 3,100 Associate Circuit Division charges disposed statewide by guilty outcome and 8,256 Circuit Division charges disposed by guilty outcome. Their office is unable to determine what number of these charges were for someone over the age of twenty-one.

The following Criminal Court Costs would be affected by this petition:

| **Criminal Court Costs** | | |
|---|---|---|
| | | |
| **Felony Case Costs** | **Amount of Cost** | **Disburse to State/County** |
| | | |
| Basic Civil Legal Services Fund surcharge | $10.00 | State of Missouri - Basic Civil Legal Services Fund |
| Clerk Fee | $45.00 | State of Missouri - General Revenue |

| | | |
|---|---|---|
| | | $36, County $9 |
| County Fee | $75.00 | County |
| Court Automation Fund Fee | $7.00 | State of Missouri -Statewide Court Automation Fund |
| Court Reporter fee (All Circuit Division Cases) | $15.00 | State of Missouri - General Revenue |
| Crime Victims' Compensation Fund surcharge | $7.50 | State of Missouri - Crime Victims' Compensation Fund |
| DNA Profiling Analysis Fund surcharge | $30.00 | State of Missouri - DNA Profiling Analysis Fund |
| Brain Injury Fund surcharge | $2.00 | State of Missouri - Head Injury Fund |
| Independent Living Center Fund surcharge | $1.00 | State of Missouri - Independent Living Center Fund |
| Motorcycle Safety Trust Fund surcharge | $1.00 | State of Missouri - Motorcycle Safety Trust Fund |
| Peace Officer Standards & Training (POST) Commission surcharge | $1.00 | State of Missouri - Peace Officer Standards & Training Fund |
| Prosecuting Attorney and Circuit Attorneys' Retirement Fund | $4.00 | Pros. Attorney Retirement Fund |
| Prosecuting Attorney Training Fund surcharge | $1.00 | State of Missouri - Prosecuting Attorney Training Fund |
| Sheriffs' Fee | $75.00 | County |
| Sheriffs' Retirement Fund surcharge (except 21st Circuit) | $3.00 | Sheriffs' Retirement Fund |
| Spinal Cord Injury Fund surcharge | $2.00 | State of Missouri - Spinal Cord Injury Fund |
| | | |
| **Total** | **$279.50** | |
| | | |
| **Misdemeanor Case Costs** | | |
| | | |
| Basic Civil Legal Services Fund surcharge | $8.00 | State of Missouri - Basic Civil Legal Services Fund |
| Clerk Fee | $15.00 | $12 State of Missouri / $3 County |
| County Fee | $25.00 | County |
| Court Automation Fund Fee | $7.00 | State of Missouri - Court Automation Fund |
| Crime Victims' Compensation Fund surcharge | $7.50 | State of Missouri - Crime Victims' Compensation Fund |

| | | |
|---|---|---|
| DNA Profiling Analysis Fund surcharge | $15.00 | State of Missouri - DNA Profiling Analysis Fund |
| Brain Injury Fund surcharge | $2.00 | State of Missouri - Brain Injury Fund |
| Independent Living Center Fund surcharge | $1.00 | State of Missouri - Independent Living Center Fund |
| Motorcycle Safety Trust Fund surcharge | $1.00 | State of Missouri - Motorcycle Safety Trust Fund |
| Peace Officer Standards and Training (POST) Commission surcharge | $1.00 | State of Missouri - Peace Officer Standards & Training Fund |
| Prosecuting Attorney and Circuit Attorneys' Retirement Fund | $4.00 | Pros. Attorney Retirement Fund |
| Prosecuting Attorney Training Fund surcharge | $1.00 | $0.50 State of Missouri / $0.50 County |
| Sheriffs' fee | $10.00 | County |
| Sheriffs' Retirement Fund surcharge (except 21st Circuit) | $3.00 | Sheriffs' Retirement fund |
| Spinal Cord Injury Fund Surcharge | $2.00 | State of Missouri - Spinal Cord Injury Fund |
| | | |
| **Total** | **$102.50** | |
| | | |
| **Municipal Case (Filed in Associate Division) Costs** | | |
| | | |
| Clerk Fee | $15.00 | $12 State of Missouri / $3 County |
| Court Automation Fund Fee | $7.00 | State of Missouri - Court Automation Fund |
| Crime Victims' Compensation Fund surcharge | $7.50 | State of Missouri - Crime Victims' Compensation Fund |
| Peace Officer Standards and Training (POST) Commission surcharge | $1.00 | State of Missouri - Peace Officer Standards & Training Fund |
| Sheriffs' Retirement Fund surcharge | $3.00 | Sheriffs' Retirement Fund |
| | | |
| **Total** | **$33.50** | |
| | | |
| **Criminal Costs Not Included Above** | | |
| | | |

| | | |
|---|---|---|
| Drug Testing by a State Lab | $150.00 | State of Missouri |
| Drug Testing by a Private Lab | Actual Costs | County Reimbursement |
| Law Enforcement Arrest Costs: | | |
| Highway Patrol | | Amt. Approved by the Court |
| Local (County) | | Amt. Approved by the Court |
| Municipal | | Amt. Approved by the Court |

The decrease in the court fees, depending on the number of cases, will result in an unknown loss to the courts.

We also assume there will be an unknown decrease in caseload for the courts because the courts will no longer process these cases; however, at this time we are unable to calculate the decrease.

Any significant increase or decrease will be reflected in future budget requests.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and the Secretary of State's Office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, the Secretary of State's office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, the Secretary of State's office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated:

If passed, this constitutional amendment would have a positive impact on the workload of the Missouri State Public Defender, since for persons 21 years of age or older it generally would make legal the production, sale, distribution, and consumption of marijuana, offenses that the Public Defender currently uses resources to defend and no longer would need to.

The exact positive impact is difficult to predict because they track their cases by statutory offense and most drug offenses are not limited to marijuana; additionally they do not have readily available a count of offenses by age of the client.

However, this they know in terms of relevant adult cases we opened for FY2014:

-- Misdemeanor Possession of Marijuana, Section 195.202 RSMo: 1,153 misdemeanor cases. As mentioned, they do not have readily available how many of these involved clients 21 years of age or older. However if one were to assume that 75% of those involve such clients, then that would be **865 misdemeanor cases**.

-- Other drug offenses that might involve marijuana: 195.202 (felonies), 195.211, 195.214, 195.218, 195.222, 195.223, 195.226, 195.233, 195.235, 195.241, and 195.242: 10,630 cases (2,741 A/B felonies, 7,186 C/D felonies, 703 misdemeanors). As mentioned, they do not track these cases by type of drug. However, if one were to assume that 25% of them are marijuana, then that would be 2,658 cases (685 A/B felonies, 1,797 C/D felonies, 176 misdemeanors). And as mentioned, they do not have readily available how many of these involved clients 21 years of age or older. However, if one were to assume that 75% of those 2,658 cases involved such clients, then that would be **1,993 cases (514 A/B felonies, 1,347 C/D felonies, 132 misdemeanors).**

865 misdemeanor cases plus 1,993 cases (514 A/B felonies, 1,347 C/D felonies, 132 misdemeanors) totals **2,858 cases (514 A/B felonies, 1,347 C/D felonies, 997 misdemeanor cases).**

In *The Missouri Project: A Study of the Missouri Public Defender System and Attorney Workload Standards*, prepared by RubinBrown on behalf of the American Bar Association's Standing Committee on Legal Aid and Indigent Defendants, the relevant workload standards are: A/B felonies, 47.6 hours per case; C/D felonies, 25.0 hours per case; and misdemeanors, 11.7 hours per case). (The workload standards include only case related tasks over which an attorney has some control (they exclude, for example, in court and travel time) and thereby reflect a conservative estimate.)

Applying those workload standards to the 2,858 cases, those cases require 69,806 attorney hours. With 2,080 hours per attorney available each year, that represents the work of 33.56 attorneys.

In addition, their probation violation caseload would be reduced. In FY2014, MSPD opened 53,187 new adult offenses plus 17,226 probation violations, i.e., 1 probation violation for approximately every 0.3238 new offenses. Applying that same percentage to their marijuana cases, then in reducing their marijuana caseload by 2,858 new cases, they also would reduce their probation violation caseload by 926 cases.

In *The Missouri Project*, the workload standard for probation violations is 9.8 hours per case. Thus the reduction in probation violations by 926 cases would represent a savings of 9,075 attorney hours. With 2,080 hours per attorney available each year, that represents the work of another 4.36 attorneys.

33.56 attorneys plus 4.36 attorneys totals **37.92 attorneys**.

While in theory they might also handle fewer appeals of guilty verdicts after trial, the fact is that only a very small percentage of their cases proceed to trial and it's likely that only a small percentage of those cases are appeals from marijuana convictions. Therefore this minimal positive impact is not being taken into account in this estimate.

The savings of the workload of 38 attorneys would be offset some in that the constitutional amendment would allow regulatory laws, including licensing, and presumably violation of those regulatory laws would be made to be criminal offenses eligible for Public Defender representation. However, for this fiscal estimate, because it is impossible at this juncture to predict how many cases this would add to their Public Defender caseload, that offset will be ignored.

In summary, though the exact positive impact is difficult to predict because they track their cases by statutory offense and most drug offenses are not limited to marijuana and because they do not have readily available a count of offenses by age of the client, if the above assumptions are made then this constitutional amendment would save them the work of approximately 38 attorneys.

However, the Missouri State Public Defender already is significantly understaffed by 291 attorneys under the workload standards developed in *The Missouri Project*. (The 291 attorneys is a conservative estimate of the under-staffing in that it assumes they contract all conflicts to private attorneys, which they are not able to do for budgetary reasons).

Therefore, despite the positive impact on the workload of the Missouri State Public Defender, because they are already understaffed that savings in attorney time would not allow the Public Defender to reduce its workforce and therefore would not translate into an actual cost savings. However it does reduce by the cost of 38 attorneys how much money needs to be added to their budget in order to meet *The Missouri Project*'s workload standards.

Officials from the **State Treasurer's office** indicated no impact to their office.

Officials from **St. Louis County** indicated:

They have reviewed this initiative petition regarding the legalization and regulation of marijuana use in Missouri. The effective date is June 1, 2017, so there would be no fiscal impact during the next two calendar years.

The petition proposes to impose an excise tax on the fair market sales of all marijuana products at 25% of the purchase price. Those revenues would then be transferred to the State of Missouri and be divided first to the Division of Alcohol and Tobacco Control in an amount that the General Assembly deems necessary for the Division to carry out its obligations under the law and then second to a variety of government activities.

Among the activities listed which would be eligible for funding from the remaining monies are law enforcement retirement plans (20%) and cities and counties (10%).

However, there is indication of what formula would be used by the general assembly to determine which counties are eligible for receiving law enforcement monies or direct revenues to county governments. It is also impossible to predict how many marijuana retailers would materialize, what the cost of various marijuana products would be, or what the sales volume would be in future years.

For these reasons they make the following fiscal note findings:

**2015 – NO FISCAL IMPACT**
**2016 – NO FISCAL IMPACT**
**2017 – FISCAL IMPACT CANNOT BE DETERMINED**

Officials from the **City of Columbia** indicated it is hard to specify the net effect on city government. Positive fiscal impact could be outweighed by mandated police requirements with new provisions.

Officials from the **City of Kansas City** indicated they are unable to estimate the excise sales tax revenues their city would receive or the increase in costs that this initiative petition would generate. Their city would incur substantial administrative costs in expunging and destroying thousands of conviction records for marijuana-related offenses. Additionally, it is anticipated that their municipal court would be clogged significantly with applications for expungement. There would be no savings.

Officials from the **City of St. Joseph** indicated this petition could result in additional revenues for their city's police and fire pensions and for enforcement of laws pertaining to marijuana in general. It could also be a financial support to local mental health facilities, suffering from the cuts in federal and state assistance. It's not clear if the cost of enforcing the new proposed laws would offset any savings from no longer enforcing current laws on the matter.

Neither the amount of potential revenue from the proposed excise taxes and business licenses nor the level of increased (or decreased) expenses can be calculated.

Officials from **University of Missouri** indicated they could potentially see some positive benefits through scholarships to students that could be funded as a result of this initiative; however, the impact is not determinable.

**ACT Missouri** provided the following information as an opponent of this initiative petition.

428 East Capitol Ave. • 2nd Floor • Jefferson City, MO 65101
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www.actmissouri.org

The fiscal impact of marijuana legalization is far reaching. Other states that have legalized either medically or recreationally have provided a great deal of data for Missouri to utilize to determine the impact legalization will have here.

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The Rocky Mountain High Intensity Drug Trafficking Area (HIDTA) Report[1] provides a basis of study for the effects of the legalization of marijuana, including fiscal ramifications. The American Society of Addiction Medicine (ASAM) "asserts that the anticipated public health costs of marijuana legalization are significant…"[2] **It is important to note the various costs incurred with legalization, including regulation, enforcement, prevention, education, treatment, medical expenses, etc.** By utilizing the HIDTA Report, Missouri can predict the cost to the State. A summary of their findings follows:

Colorado tracked data from two waves of marijuana legalization.

- 2006-2008 is the "early medical marijuana era"
- 2013-Present is the "recreational marijuana era"

**Impaired Driving**

Statistics indicate that from 2007-2012, **traffic fatalities involving operators testing positive for marijuana increased 100%.** In 2007, traffic fatalities with marijuana impaired drivers represented 7.04% of total traffic fatalities. **By 2012, that number more than doubled to 16.53%.**

CO State Patrol DUID Program, initiated in 2014, showed that in the first 6 months of 2014:

- **77% of the DUIDs involved marijuana (349 out of 454)**
- 42% involved marijuana only (191 out of 454)

Average Marijuana Related Fatalities increased from 39.6% between 06-08 to 63.3% between 10-12, a total increase of 24%.

---

[1] *Rocky Mountain High Intensity Drug Trafficking Area*. "The Legalization of Marijuana in Colorado: The Impact". Volume 2, August 2014. http://www.rmhidta.org/html/August%202014%20Legalization%20of%20MJ%20in%20Colorado%20the%20Impact.pdf

[2] American Society of Addiction Medicine, *State-Level Proposals to Legalize Marijuana*, http://www.asam.org/advocacy/find-a-policy-statement/view-policy-statement/public-policy-statements/2012/07/30/state-level-proposals-to-legalize-marijuana, July 25, 2012

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**Operators involved in fatalities testing positive for marijuana more than doubled** as well:

- 2006 was 4.03%
- 2012 was 9.56%

**Effects on Youth**

From school years 2008-09 to 2012-13, **drug related suspensions/expulsions increased 32%.**

In 2008, 8.29% of students reported past month marijuana use. In 2012 that had increased 25% to 10.37%. use of marijuana was 8.29. National past month marijuana use in 2012 was 7.55%, Colorado's was 10.47%.

In 2006, total referrals to law enforcement were 23.4%. **By 2013, it had risen to 34.1%.**

**Emergency Room Visits Related to Marijuana**

2011-8,198
2012-9,982
2013-12,888
**From 2011-2013, there was a 57% increase.**

**The percent of all hospitalizations that were marijuana related increased 91%** from 2008 -2013. Marijuana related hospitalizations in 2000 were 2,541. In 2013, there were 8,078.

The national **average percent of children ages 0-5 reported for marijuana exposure** from 2010-2013 was 4.97%. **In Colorado it was 17.81%**

**From 2006-09, 19 exposures for children age 0-5 were reported, and it increased to 70 from 2010-2013.**

**Treatment Admissions for Marijuana**

Data from Colorado from 2005-2013 doesn't demonstrate a definitive trend and averages about 6,500 admissions a year….There may be a drop in treatment admissions for marijuana abuse among adults because of a reduction in criminal justice referrals through diversion and drug courts due to fewer people entering the system.

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The estimated tax and fee revenue in Colorado in February 2014 for Fiscal Year 2014-2015 was **$134 million.**[3] As of October 2014, actual revenue for Fiscal year 2014-2015 is **$36,546,372**[4].

There are several different amounts reported on the amount Colorado is spending on prevention. It ranges from **$17 million to $99 million** per fiscal year.[5] [6] [7] These funds are being used to discourage minors from using marijuana, substance abuse prevention, and other priorities. The money is supposed to come from the sales tax on recreational marijuana, however it is unclear where it will come from if the amount budgeted is not collected because sales are below the projected amount.

Other factors that are unknown, but that should be considered:

- The cost associated with researching and determining the level of impairment.
    - At this time, there is no scientific level of impairment with marijuana. In Colorado, the intoxication number is 5 ng of THC/deciliter of blood. Studies are now showing that that about should be about 2 ng of THC/deciliter of blood. This would have to be researched and determined in order to determine what is considered "drugged driving."
- Work place standards for THC metabolites will have to be determined.
    - Standards set in place for businesses with federal contracts requiring drug-free workplaces will have to be set.
- Testing equipment, methods, and training would have to be determined. Unlike with drunk driving, there is no breathalyzer test for marijuana intoxication.

---

[3] http://www.denverpost.com/news/ci_25185649/hickenlooper-expects-marijuana-tax-money-exceed-prior-expectations

[4] https://www.colorado.gov/pacific/sites/default/files/1014%20Marijuana%20Tax%2C%20License%2C%20and%20Fees%20Report.pdf

[5] http://www.nytimes.com/2014/08/03/opinion/sunday/high-time-the-great-colorado-weed-experiment.html?_r=0

[6] http://bigstory.ap.org/article/colorado-governor-reveals-pot-tax-spending-plan

[7] http://www.denverpost.com/marijuana/ci_25725179/colorado-pot-taxes-boomed-march

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These numbers are startling, and should highlight the additional cost that will have to be incurred by law enforcement, hospitals and medical providers, preventionists, regulators, schools, and mental health providers.

The **Office of the State Auditor** submitted the following comments:

The revenue estimate submitted by the Division of Alcohol and Tobacco Control (ATC) is the same estimate the ATC submitted a year ago in December 2013 in response to Initiative Petition 14-102 (Proposed Constitutional Amendment - Article I, version 26 (Viets) - Marijuana Legalization). The State of Colorado has been collecting taxes on legalized marijuana sales since January 2014. Colorado's rate of taxation is similar to the rate proposed in this initiative petition and in Initiative Petition 14-102.

The website, Colorado Department of Revenue - Colorado Marijuana Tax Data, indicates Colorado's marijuana tax and fee collections for the first 10 months of 2014 total approximately $60 million, and have recently averaged around $7 million to $8 million per month. This projects to approximately $75 million in revenues for the first full year. Another website source estimates Colorado's annual marijuana sales should range from $300 million to $700 million.

The State Auditor's office did not receive a response from the **Department of Natural Resources,** the **Department of Transportation,** the **Missouri Senate, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, St. Louis Community College, Kansas City Board of Police Commissioners,** and **St. Louis Board of Police Commissioners**.

**Fiscal Note Summary**

State government expects $1 million in startup costs and annual operating costs starting at $4.9 million, possibly offset by unknown savings in the criminal justice system. Legislative and agency actions will impact potential increased state revenue. The annual revenue increase is unknown but could exceed $75 million. The fiscal impact to local governments is unknown.

16-008

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 2, 2014

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Nicholas Raines regarding a proposed constitutional amendment to Article IV (2016-008)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Nicholas Raines on December 2, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

RECEIVED
DEC 02 2014
STATE AUDITORS OFFICE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**MISSOURI CANNABIS RESTORATION AND PROTECTION ACT** 16-008

**To the Honorable Jason Kander, Secretary of State for the state of Missouri:**
We, the undersigned, registered voters of the state of Missouri and _____County (or city of St. Louis), respectfully order that the following proposed amendment to the Constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

Shall the Missouri Constitution be amended to:

RECEIVED
2016 DEC -2 PM 1:54
SEC. OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____
I, _____, being first duly sworn, say (print or type name of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CON GR. DIST | FULL NAME (Printed or typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
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| 14. | | | | | |
| 15. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

_____
Signature of Affiant (Person obtaining signatures)

_____
Address of Affiant

Subscribed and sworn to before me, this _____ day of _____, A.D. _____

_____
Signature of Notary

_____
Address of Notary

Notary Public (Seal)
My commission expires: _____

This measure amends the Missouri Constitution by adding Section 54 to Article 4. This amendment implicitly repeals, in part or in whole, and amends various statutes and subsections including but not necessarily limited to RSMo 105.1105, 105.1108, 105.1112, 195.010.(10)(b)c, 195.010.(10)(d), 195.010.(17)(m)(b), 195.010.(17)(g), 195.010.(17)(l), 195.010(24), 195.015.4, 195.017.2(4)(r), 195.017.2(4)(z), 195.017.2(4)(ii), 195.140.2(2), 195.202.2, 195.202.3, 195.211.2, 195.211.3, 195.211.4, 195.222.7, 195.223.7, 195.223.8, 263.250.1.

16-008

## Be it resolved by the people of the state of Missouri that the Constitution be amended:

1. Cannabis shall immediately be removed from the Missouri Revised Statutes list of controlled substances and shall no longer be listed among Missouri's drug schedules.

2. Definition of terms, as used in this Act:
(a) "cannabis" and "cannabis hemp" refer to the cannabis, marihuana, marijuana, cannabis sativa, cannabis indica, cannabis ruderalis, or any variety of cannabis, including any derivative, concentrate, extract, flower, leaf, particle, preparation, resin, root, salt, seed, stalk, stem, or any product thereof.
(b) "medical cannabis" refers to the medical use of cannabis.
(c) "personal use" refers to the non-medical consumption of cannabis.
(d) "cannabis accessories" means any equipment, products, or materials of any kind that are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, or containing cannabis, or for ingesting, inhaling, vaporizing, smoking or otherwise introducing cannabis into and/or onto the human body.
(e) "establishment" refers to a cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a retail cannabis store or other entity that cultivates, prepares, manufactures, packages, transports or sells cannabis, cannabis products and/or cannabis accessories.

3. The following acts are not unlawful and shall not be an offense under Missouri law.
(a) Possession of cannabis for personal or medical use.
(b) Cultivating cannabis for personal use, or in an area sufficient to produce the quantity necessary to address a patient's needs.
(c) Cultivation, harvesting processing, manufacturing, packaging, distributing, transferring, displaying or possessing cannabis, cannabis accessories, and cannabis products for commercial purposes provided the person has current applicable licensing to operate a commercial establishment. No special licensing will be required beyond that which is applicable for the cultivation, harvest, processing, manufacturing, packaging, distribution, transferal, display or possessing of any non-toxic food or food product.
(d) Providing cannabis, cannabis accessories, and cannabis products for sale to consumers.
(e) Leasing or otherwise allowing the use of property owned, occupied or controlled by any person, corporation or other entity for any of the activities conducted lawfully in accordance with paragraphs (a) through (d) of this subsection.
(f) The use and/or possession of cannabis shall not be grounds for issuing a "Driving under the influence" (DUI) charge, arrest or fines when operating a motor vehicle.

4. Medical cannabis shall be available to patients without taxation who have a physician's recommendation for its use.
(a) All patients engaged in cannabis therapy shall be afforded the same rights and privileges afforded to any patient treated through conventional therapeutic means.
(b) Licensed physicians shall not be penalized for, nor restricted from recommending cannabis for medical purposes to any person under their care.
(c) Veterinarians shall not be penalized nor restricted from recommending cannabis for medical purposes for any creature under their care.
(d) Opinions pertaining to, and willingness to recommend medical cannabis therapy shall not be a criteria for the licensure of physicians; no physician shall be subject to any professional licensing review or hearing as a result of recommending or approving medical cannabis therapy.
(e) Any individual who is a cannabis patient in another state shall be granted the same rights and privileges as a legal Missouri cannabis patient.
(f) Medical care, including organ transplants, shall not be restricted in any way based on a person's use of cannabis.

5. The dictates of this Initiative shall be implemented no later than January 1, following the election that placed this Initiative before the people.

6. Upon the passage of this Act, all persons incarcerated or under supervision of the Missouri Board of Probation and Parole for non-violent, cannabis-only offenses which are no longer illegal in the State of Missouri under this Act shall be immediately released.
(a) The Court shall order the immediate expungement of civil and criminal records pertaining to all non-violent cannabis only offenses which are no longer illegal in the State of Missouri under this Act.
(b) Within 60 days of the passage of this Act, the Attorney General shall develop and make available to the public a legal document ordering the immediate destruction of all cannabis-related non-violent civil and criminal records in Missouri and for any offense covered by this amendment. This document shall be distributed to all Circuit Court clerks within the State.

7. No Missouri law enforcement personnel or state funds shall be used to assist or aid in the enforcement of federal cannabis laws involving acts which are no longer illegal in the State of Missouri under this amendment.

8. Any person who willfully impedes the lawful exercise of these provisions is guilty of a Class A misdemeanor.

9. Cannabis farmers, manufacturers, processors, and distributors shall not be subject to any special zoning requirement, licensing fee that is excessive, discriminatory, prohibitive, or in any way contrary to that which is relative to any other commercial or agricultural farmer, manufacturer, processor or distributor.

10. Pursuant to the Ninth and Tenth Amendments to the Constitution of the United States, the people of Missouri hereby repudiate and challenge federal cannabis prohibitions that conflict with this Act.

11. If any rival or conflicting initiative regulating any matter addressed by this act receives the higher affirmative vote, then all non-conflicting parts shall become operative.

12. All provisions of this section are self-executing and severable, and, except where otherwise indicated in the text of this document, shall supersede conflicting city, county, state or federal statutory, local charter, ordinance, or resolution.

written by Mark Pedersen, CPN Institute, July 5th, 2014. markpedersen.cpn@gmail.com.

16-007

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 2, 2014

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Todd Jones regarding a proposed constitutional amendment to Article VIII (2016-007)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Todd Jones on December 2, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

RECEIVED
DEC 02 2014
STATE AUDITORS OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

County_____
Page No._____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

16-007

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2014 DEC -2 PM 12:23
SECRETARY OF STATE

(OFFICIAL BALLOT TITLE)

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____
I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONG. DISTR. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
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| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLEAD GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not_____(check one) expect to be paid for circulating this petition. If paid, list the payer _____.

_____
Signature of Affiant (Person obtaining signatures)

_____
(Printed Name of Affiant)

_____
Address of Affiant

Subscribed and sworn to before me this ____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary:_____
_____

Notary Public (Seal)

My commission expires _____

# Missouri Constitution Article VIII 16-007

*BE IT RESOLVED by the people of the state of Missouri that the Constitution be amended:*

One new section is adopted by adding one new section to be known as section 23 of Article VIII to read as follows:

Section 23. 1. This section shall be known as the "Missouri Campaign Contribution Reform Initiative."

2. The people of the State of Missouri hereby find and declare that excessive campaign contributions to political candidates create the potential for corruption and the appearance of corruption; that large campaign contributions made to influence election outcomes allow wealthy individuals, corporations and special interest groups to exercise a disproportionate level of influence over the political process; that the rising costs of campaigning for political office prevent qualified citizens from running for political office; that political contributions from corporations and labor organizations are not necessarily an indication of popular support for the corporation's or labor organization's political ideas and can unfairly influence the outcome of Missouri elections; and that the interests of the public are best served by limiting campaign contributions, providing for full and timely disclosure of campaign contributions, and strong enforcement of campaign finance requirements.

3. (1) Except as provided in subdivisions (2), (3) and (4) of this subsection, the amount of contributions made by or accepted from any person other than the candidate in any one election shall not exceed the following:

(a) To elect an individual to the office of governor, lieutenant governor, secretary of state, state treasurer, state auditor, attorney general, office of state senator, office of state representative or any other state or judicial office, two thousand six hundred dollars.

(2) (a) No political party shall accept aggregate contributions from any person that exceed twenty-five thousand dollars per election at the state, county, municipal, district, ward, and township level combined.

(b) No political party shall accept aggregate contributions from any committee that exceed twenty-five thousand dollars per election at the state, county, municipal, district, ward, and township level combined.

(3) (a) It shall be unlawful for a corporation or labor organization to make contributions to a campaign committee, candidate committee, exploratory committee, political party committee or a political party; except that a corporation or labor organization may establish a continuing committee which may accept contributions or dues from members, officers, directors, employees or security holders.

(b) The prohibition contained in subdivision (a) of this subsection shall not apply to a corporation that:

(i) Is formed for the purpose of promoting political ideas and cannot engage in business activities; and

(ii) Has no security holders or other persons with a claim on its assets or income; and

(iii) Was not established by and does not accept contributions from business corporations or labor organizations.

(4) No candidate's candidate committee shall accept contributions from, or make contributions to, another candidate committee, including any candidate committee, or equivalent entity, established under federal law.

(5) Notwithstanding any other subdivision of this subsection to the contrary, a candidate's candidate committee may receive a loan from a financial institution organized under state or federal law if the loan bears the usual and customary interest rate, is made on a basis that assures repayments, is evidenced by a written instrument, and is subject to a due date or amortization schedule. The contribution limits described in this subsection shall not apply to a loan as described in this subdivision.

(6) No campaign committee, candidate committee, continuing committee, exploratory committee, political party committee, and political party shall accept a contribution in cash exceeding one hundred dollars per election.

(7) No contribution shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to conceal the identity of the actual source of the contribution or the actual recipient. Any person who receives contributions for a

committee shall disclose to that committee's treasurer, deputy treasurer or candidate the recipient's own name and address and the name and address of the actual source of each contribution such person has received for that committee.

16-007

(8) No anonymous contribution of more than twenty-five dollars shall be made by any person, and no anonymous contribution of more than twenty-five dollars shall be accepted by any candidate or committee. If any anonymous contribution of more than twenty-five dollars is received, it shall be returned immediately to the contributor, if the contributor's identity can be ascertained, and if the contributor's identity cannot be ascertained, the candidate, committee treasurer or deputy treasurer shall immediately transmit that portion of the contribution which exceeds twenty-five dollars to the state treasurer and it shall escheat to the state.

(9) The maximum aggregate amount of anonymous contributions which shall be accepted per election by any committee shall be the greater of five hundred dollars or one percent of the aggregate amount of all contributions received by that committee in the same election. If any anonymous contribution is received which causes the aggregate total of anonymous contributions to exceed the foregoing limitation, it shall be returned immediately to the contributor, if the contributor's identity can be ascertained, and, if the contributor's identity cannot be ascertained, the committee treasurer, deputy treasurer or candidate shall immediately transmit the anonymous contribution to the state treasurer to escheat to the state.

(10) Notwithstanding the provisions of subdivision (9) of this subsection, contributions from individuals whose names and addresses cannot be ascertained which are received from a fund-raising activity or event, such as defined in section 130.011, RSMo, as amended from time to time, shall not be deemed anonymous contributions, provided the following conditions are met:

(a) There are twenty-five or more contributing participants in the activity or event;

(b) The candidate, committee treasurer, deputy treasurer or the person responsible for conducting the activity or event makes an announcement that it is illegal for anyone to make or receive a contribution in excess of one hundred dollars unless the contribution is accompanied by the name and address of the contributor;

(c) The person responsible for conducting the activity or event does not knowingly accept payment from any single person of more than one hundred dollars unless the name and address of the person making such payment is obtained and recorded pursuant to the record-keeping requirements of section 130.036, RSMo, as amended from time to time;

(d) A statement describing the event shall be prepared by the candidate or the treasurer of the committee for whom the funds were raised or by the person responsible for conducting the activity or event and attached to the disclosure report of contributions and expenditures required by section 130.041, RSMo, as amended from time to time. The following information to be listed in the statement is in addition to, not in lieu of, the requirements elsewhere in this chapter relating to the recording and reporting of contributions and expenditures:

(i) The name and mailing address of the person or persons responsible for conducting the event or activity and the name and address of the candidate or committee for whom the funds were raised;

(ii) The date on which the event occurred;

(iii) The name and address of the location where the event occurred and the approximate number of participants in the event;

(iv) A brief description of the type of event and the fund-raising methods used;

(v) The gross receipts from the event and a listing of the expenditures incident to the event;

(vi) The total dollar amount of contributions received from the event from participants whose names and addresses were not obtained with such contributions and an explanation of why it was not possible to obtain the names and addresses of such participants;

(vii) The total dollar amount of contributions received from contributing participants in the event who are identified by name and address in the records required to be maintained pursuant to section 130.036, RSMo, as amended from time to time.

(11) No candidate or committee in this state shall accept contributions from any out-of-state committee unless the out-of-state committee from whom the contributions are received has filed a statement of organization pursuant to section 130.021, RSMo, as amended from time to time, or has

filed the reports required by sections 130.049 and 130.050, RSMo, as amended from time to time, whichever is applicable to that committee.

16-007

(12) Political action committees shall only receive contributions from individuals; unions; federal political action committees; and corporations, associations, and partnerships formed under chapters 347 to 360, RSMo, as amended from time to time, and shall be prohibited from receiving contributions from other political action committees, candidate committees, political party committees, campaign committees, exploratory committees, or debt service committees. However, candidate committees, political party committees, campaign committees, exploratory committees, and debt service committees shall be allowed to return contributions to a donor political action committee that is the origin of the contribution.

(13) The prohibited committee transfers described in subdivision (12) of this subsection shall not apply to the following committees:

(a) The state house committee per political party designated by the respective majority or minority floor leader of the house of representatives or the chair of the state party if the party does not have majority or minority party status;

(b) The state senate committee per political party designated by the respective majority or minority floor leader of the senate or the chair of the state party if the party does not have majority or minority party status.

(14) No person shall transfer anything of value to any committee with the intent to conceal, from the Missouri ethics commission, the identity of the actual source. Any violation of this subdivision shall be punishable as follows:

(a) For the first violation, the Missouri ethics commission shall notify such person that the transfer to the committee is prohibited under this section within five days of determining that the transfer is prohibited, and that such person shall notify the committee to which the funds were transferred that the funds must be returned within ten days of such notification;

(b) For the second violation, the person transferring the funds shall be guilty of a class C misdemeanor;

(c) For the third and subsequent violations, the person transferring the funds shall be guilty of a class D felony.

(15) No person shall make a contribution to a campaign committee, candidate committee, continuing committee, exploratory committee, political party committee, and political party with the expectation that some or all of the amounts of such contribution will be reimbursed by another person. No person shall be reimbursed for a contribution made to any campaign committee, candidate committee, continuing committee, exploratory committee, political party committee, and political party, nor shall any person make such reimbursement expect as provided in subdivision (5) of this subsection.

(16) No campaign committee, candidate committee, continuing committee, exploratory committee, political party committee, and political party shall knowingly accept contributions from:

(a) Any natural person who is not a citizen of the United States;

(b) A foreign government; or

(c) Any foreign corporation that does not have the authority to transact business in this state pursuant to Chapter 347, RSMo, as amended from time to time.

(17) Contributions from persons under fourteen years of age shall be considered made by the parents or guardians of such person and shall be attributed toward any contribution limits prescribed in this chapter. Where the contributor under fourteen years of age has two custodial parents or guardians, fifty percent of the contribution shall be attributed to each parent or guardian, and where such contributor has one custodial parent or guardian, all such contributors shall be attributed to the custodial parent or guardian.

(18) Each limit on contributions described in subdivisions (1), (2)(a), and (2)(b) of this subsection shall be adjusted by an amount based upon the average of the percentage change over a four year period in the United States Bureau of Labor Statistics Consumer Price Index for Kansas City, all items, all consumers, or its successor index, rounded to the nearest lowest twenty-five dollars and the percentage change over a four year period in the United States Bureau of Labor Statistics Consumer Price Index for St. Louis, all items, all consumers, or its successor index, rounded to the nearest lowest twenty-five dollars. The first adjustment shall be done in the first quarter of 2019, and then every four

years thereafter. The secretary of state shall calculate such an adjustment in each limit and specify the limits in rules promulgated in accordance with Chapter 536, RSMo, as amended from time to time.

4. (1) Notwithstanding the provisions of subsection 3 of section 105.957, RSMo, as amended from time to time, any natural person may file a complaint with the Missouri ethics commission alleging a violation of the provisions of section 3 of this Article by any candidate for elective office, within sixty days prior to the primary election at which such candidate is running for office, until after the general election. Any such complaint shall be in writing, shall state all facts known by the complainant which have given rise to the complaint, and shall be sworn to, under penalty of perjury, by the complainant.

(2) Within the first business day after receipt of a complaint pursuant to this section, the executive director shall supply a copy of the complaint to the person or entity named in the complaint. The executive director of the Missouri ethics commission shall notify the complainant and the person or entity named in the complaint of the date and time at which the commission shall audit and investigate the allegations contained in the complaint pursuant to subdivision (3) of this subsection.

(3) Within fifteen business days of receipt of a complaint pursuant to this section, the commission shall audit and investigate the allegations contained in the complaint and shall determine by a vote of at least four members of the commission that there are reasonable grounds to believe that a violation of law has occurred within the jurisdiction of the commission. The respondent may reply in writing or in person to the allegations contained in the complaint and may state justifications to dismiss the complaint. The complainant may also present evidence in support of the allegations contained in the complaint, but such evidence shall be limited in scope to the allegations contained in the original complaint, and such complaint may not be supplemented or otherwise enlarged in scope.

(4) If, after audit and investigation of the complaint and upon a vote of at least four members of the commission, the commission determines that there are reasonable grounds to believe that a violation of law has occurred within the jurisdiction of the commission, the commission shall proceed with such complaint as provided by sections 105.957 to 105.963, RSMo, as amended from time to time. If the commission does not determine that there are reasonable grounds to believe that such a violation of law has occurred, the complaint shall be dismissed. If a complaint is dismissed, the fact that such complaint was dismissed, with a statement of the nature of the complaint, shall be made public within twenty-four hours of the commission's action.

(5) Any complaint made pursuant to this section, and all proceedings and actions concerning such a complaint, shall be subject to the provisions of subsection 15 of section 105.961, RSMo, as amended from time to time.

(6) No complaint shall be accepted by the commission within fifteen days prior to the primary or general election at which such candidate is running for office.

5. Any person who knowingly and willfully accepts or makes a contribution in violation of any provision of section 3 of this Article or who knowingly and willfully conceals a contribution by filing a false or incomplete report or by not filing a required report under Chapter 130, RSMo, as amended from time to time, shall be held liable to the state in civil penalties in an amount of at least double and up to five times the amount of any such contribution.

6. (1) Any person who purposely violates the provisions of section 3 of this Article is guilty of a class A misdemeanor.

(2) Notwithstanding any other provision of law which bars prosecutions for any offenses other than a felony unless commenced within one year after the commission of the offense, any offense under the provisions of this section may be prosecuted if the indictment be found or prosecution be instituted within three years after the commission of the alleged offense.

(3) Any prohibition to the contrary notwithstanding, no person shall be deprived of the rights, guarantees, protections or privileges accorded by sections 130.011 to 130.026, 130.031 to 130.068, 130.072, and 130.081, RSMO, as amended from time to time, by any person, corporation, entity or political subdivision.

7. As used in this section, the following terms have the following meanings:

(1) "Appropriate officer" or "appropriate officers", the person or persons designated in section 130.026, or any successor section, to receive certain required statements and reports;

(2) "Candidate", an individual who seeks nomination or election to public office. The term "candidate" includes an elected officeholder who is the subject of a recall election, an individual who seeks nomination by the individual's political party for election to public office, an individual standing for retention in an election to an office to which the individual was previously appointed, an individual

who seeks nomination or election whether or not the specific elective public office to be sought has been finally determined by such individual at the time the individual meets the conditions described in paragraph (a) or (b) of this subdivision, and an individual who is a write-in candidate as defined in subdivision (26) of this section. A candidate shall be deemed to seek nomination or election when the person first:

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(a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote the person's candidacy for office; or

(b) Knows or has reason to know that contributions are being received or expenditures are being made or space or facilities are being reserved with the intent to promote the person's candidacy for office; except that, such individual shall not be deemed a candidate if the person files a statement with the appropriate officer within five days after learning of the receipt of contributions, the making of expenditures, or the reservation of space or facilities disavowing the candidacy and stating that the person will not accept nomination or take office if elected; provided that, if the election at which such individual is supported as a candidate is to take place within five days after the person's learning of the above-specified activities, the individual shall file the statement disavowing the candidacy within one day; or

(c) Announces or files a declaration of candidacy for office.

(3) "Cash", currency, coin, United States postage stamps, or any negotiable instrument which can be transferred from one person to another person without the signature or endorsement of the transferor.

(4) "Committee", a person or any combination of persons, who accepts contributions or makes expenditures for the primary or incidental purpose of influencing or attempting to influence the action of voters for or against the nomination or election to public office of one or more candidates or the qualification, passage or defeat of any ballot measure or for the purpose of paying a previously incurred campaign debt or obligation of a candidate or the debts or obligations of a committee or for the purpose of contributing funds to another committee.

(5) "Committee", does not include:

(a) A person or combination of persons, if neither the aggregate of expenditures made nor the aggregate of contributions received during a calendar year exceeds five hundred dollars and if no single contributor has contributed more than two hundred fifty dollars of such aggregate contributions;

(b) An individual, other than a candidate, who accepts no contributions and who deals only with the individual's own funds or property;

(c) A corporation, cooperative association, partnership, proprietorship, or joint venture organized or operated for a primary or principal purpose other than that of influencing or attempting to influence the action of voters for or against the nomination or election to public office of one or more candidates or the qualification, passage or defeat of any ballot measure, and it accepts no contributions, and all expenditures it makes are from its own funds or property obtained in the usual course of business or in any commercial or other transaction and which are not contributions as defined by subdivision (7) of this section;

(d) A labor organization organized or operated for a primary or principal purpose other than that of influencing or attempting to influence the action of voters for or against the nomination or election to public office of one or more candidates, or the qualification, passage, or defeat of any ballot measure, and it accepts no contributions, and expenditures made by the organization are from its own funds or property received from membership dues or membership fees which were given or solicited for the purpose of supporting the normal and usual activities and functions of the organization and which are not contributions as defined by subdivision (7) of this section;

(e) A person who acts as an authorized agent for a committee in soliciting or receiving contributions or in making expenditures or incurring indebtedness on behalf of the committee if such person renders to the committee treasurer or deputy treasurer or candidate, if applicable, an accurate account of each receipt or other transaction in the detail required by the treasurer to comply with all record-keeping and reporting requirements; or

(f) Any department, agency, board, institution or other entity of the state or any of its subdivisions or any officer or employee thereof, acting in the person's official capacity.

(6) The term "committee" includes, but is not limited to, each of the following committees: campaign committee, candidate committee, continuing committee and political party committee;

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(a) "Campaign committee", a committee, other than a candidate committee, which shall be formed by an individual or group of individuals to receive contributions or make expenditures and whose sole purpose is to support or oppose the qualification and passage of one or more particular ballot measures in an election or the retention of judges under the nonpartisan court plan, such committee shall be formed no later than thirty days prior to the election for which the committee receives contributions or makes expenditures, and which shall terminate the later of either thirty days after the general election or upon the satisfaction of all committee debt after the general election, except that no committee retiring debt shall engage in any other activities in support of a measure for which the committee was formed;

(b) "Candidate committee", a committee which shall be formed by a candidate to receive contributions or make expenditures in behalf of the person's candidacy and which shall continue in existence for use by an elected candidate or which shall terminate the later of either thirty days after the general election for a candidate who was not elected or upon the satisfaction of all committee debt after the election, except that no committee retiring debt shall engage in any other activities in support of the candidate for which the committee was formed. Any candidate for elective office shall have only one candidate committee for the elective office sought, which is controlled directly by the candidate for the purpose of making expenditures. A candidate committee is presumed to be under the control and direction of the candidate unless the candidate files an affidavit with the appropriate officer stating that the committee is acting without control or direction on the candidate's part;

(c) "Continuing committee", a committee of continuing existence which is not formed, controlled or directed by a candidate, and is a committee other than a candidate committee or campaign committee, whose primary or incidental purpose is to receive contributions or make expenditures to influence or attempt to influence the action of voters whether or not a particular candidate or candidates or a particular ballot measure or measures to be supported or opposed has been determined at the time the committee is required to file any statement or report pursuant to the provisions of this chapter. "Continuing committee" includes, but is not limited to, any committee organized or sponsored by a business entity, a labor organization, a professional association, a trade or business association, a club or other organization and whose primary purpose is to solicit, accept and use contributions from the members, employees or stockholders of such entity and any individual or group of individuals who accept and use contributions to influence or attempt to influence the action of voters. Such committee shall be formed no later than sixty days prior to the election for which the committee receives contributions or makes expenditures; and

(d) "Connected organization", any organization such as a corporation, a labor organization, a membership organization, a cooperative, or trade or professional association which expends funds or provides services or facilities to establish, administer or maintain a committee or to solicit contributions to a committee from its members, officers, directors, employees or security holders. An organization shall be deemed to be the connected organization if more than fifty percent of the persons making contributions to the committee during the current calendar year are members, officers, directors, employees or security holders of such organization or their spouses.

(7) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value for the purpose of supporting or opposing the nomination or election of any candidate for public office or the qualification, passage or defeat of any ballot measure, or for the support of any committee supporting or opposing candidates or ballot measures or for paying debts or obligations of any candidate or committee previously incurred for the above purposes. A contribution of anything of value shall be deemed to have a money value equivalent to the fair market value. "Contribution" includes, but is not limited to:

(a) A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

(b) Payment by any person, other than a candidate or committee, to compensate another person for services rendered to that candidate or committee;

(c) Receipts from the sale of goods and services, including the sale of advertising space in a brochure, booklet, program or pamphlet of a candidate or committee and the sale of tickets or political merchandise;

(d) Receipts from fund-raising events including testimonial affairs;

(e) Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in an election campaign or used or intended for the payment of such debts or obligations of a candidate or committee previously incurred, or which was made or received by a committee;

(f) Funds received by a committee which are transferred to such committee from another committee or other source, except funds received by a candidate committee as a transfer of funds from another candidate committee controlled by the same candidate but such transfer shall be included in the disclosure reports;

(g) Facilities, office space or equipment supplied by any person to a candidate or committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or committees, on an equal basis for similar purposes on the same conditions; and

(h) The direct or indirect payment by any person, other than a connected organization, of the costs of establishing, administering, or maintaining a committee, including legal, accounting and computer services, fund raising and solicitation of contributions for a committee.

(8) "Contribution" does not include:

(a) Ordinary home hospitality or services provided without compensation by individuals volunteering their time in support of or in opposition to a candidate, committee or ballot measure, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

(b) An offer or tender of a contribution which is expressly and unconditionally rejected and returned to the donor within ten business days after receipt or transmitted to the state treasurer;

(c) Interest earned on deposit of committee funds; or

(d) The costs incurred by any connected organization listed pursuant to subdivision (4) of subsection 5 of section 130.021, RSMo, as amended from time to time, for establishing, administering or maintaining a committee, or for the solicitation of contributions to a committee which solicitation is solely directed or related to the members, officers, directors, employees or security holders of the connected organization.

(9) "County", any one of the several counties of this state or the city of St. Louis.

(10) "Disclosure report", an itemized report of receipts, expenditures and incurred indebtedness which is prepared on forms approved by the Missouri ethics commission and filed at the times and places prescribed.

(11) "Election", any primary, general or special election held to nominate or elect an individual to public office, to retain or recall an elected officeholder or to submit a ballot measure to the voters, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(12) "Expenditure", a payment, advance, conveyance, deposit, donation or contribution of money or anything of value for the purpose of supporting or opposing the nomination or election of any candidate for public office or the qualification or passage of any ballot measure or for the support of any committee which in turn supports or opposes any candidate or ballot measure or for the purpose of paying a previously incurred campaign debt or obligation of a candidate or the debts or obligations of a committee; a payment, or an agreement or promise to pay, money or anything of value, including a candidate's own money or property, for the purchase of goods, services, property, facilities or anything of value for the purpose of supporting or opposing the nomination or election of any candidate for public office or the qualification or passage of any ballot measure or for the support of any committee which in turn supports or opposes any candidate or ballot measure or for the purpose of paying a previously incurred campaign debt or obligation of a candidate or the debts or obligations of a committee. An expenditure of anything of value shall be deemed to have a money value equivalent to the fair market value. "Expenditure" includes, but is not limited to:

(a) Payment by anyone other than a committee for services of another person rendered to such committee;

(b) The purchase of tickets, goods, services or political merchandise in connection with any testimonial affair or fund-raising event of or for candidates or committees, or the purchase of advertising in a brochure, booklet, program or pamphlet of a candidate or committee;

(c) The transfer of funds by one committee to another committee; and

(d) The direct or indirect payment by any person, other than a connected organization for a committee, of the costs of establishing, administering or maintaining a committee, including legal, accounting and computer services, fund raising and solicitation of contributions for a committee.

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(13) "Expenditure" does not include:

(a) Any news story, commentary or editorial which is broadcast or published by any broadcasting station, newspaper, magazine or other periodical without charge to the candidate or to any person supporting or opposing a candidate or ballot measure;

(b) The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders, provided that the cost incurred is reported pursuant to subsection 2 of section 130.051, RSMo, as amended from time to time;

(c) Repayment of a loan, but such repayment shall be indicated in required reports;

(d) The rendering of voluntary personal services by an individual of the sort commonly performed by volunteer campaign workers and the payment by such individual of the individual's necessary and ordinary personal expenses incidental to such volunteer activity, provided no compensation is, directly or indirectly, asked or given;

(e) The costs incurred by any connected organization listed pursuant to subdivision (4) of subsection 5 of section 130.021, RSMo, as amended from time to time, for establishing, administering or maintaining a committee, or for the solicitation of contributions to a committee which solicitation is solely directed or related to the members, officers, directors, employees or security holders of the connected organization; or

(f) The use of a candidate's own money or property for expense of the candidate's personal food, lodging, travel, and payment of any fee necessary to the filing for public office, if such expense is not reimbursed to the candidate from any source.

(14) "Exploratory committees", a committee which shall be formed by an individual to receive contributions and make expenditures on behalf of this individual in determining whether or not the individual seeks elective office. Such committee shall terminate no later than December thirty-first of the year prior to the general election for the possible office.

(15) "Fund-raising event", an event such as a dinner, luncheon, reception, coffee, testimonial, rally, auction or similar affair through which contributions are solicited or received by such means as the purchase of tickets, payment of attendance fees, donations for prizes or through the purchase of goods, services or political merchandise.

(16) "In-kind contribution" or "in-kind expenditure", a contribution or expenditure in a form other than money.

(17) "Labor organization", any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(18) "Loan", a transfer of money, property or anything of ascertainable monetary value in exchange for an obligation, conditional or not, to repay in whole or in part and which was contracted, used, or intended for use in an election campaign, or which was made or received by a committee or which was contracted, used, or intended to pay previously incurred campaign debts or obligations of a candidate or the debts or obligations of a committee.

(19) "Person", an individual, group of individuals, corporation, partnership, committee, proprietorship, joint venture, any department, agency, board, institution or other entity of the state or any of its political subdivisions, union, labor organization, trade or professional or business association, association, political party or any executive committee thereof, or any other club or organization however constituted or any officer or employee of such entity acting in the person's official capacity.

(20) "Political action committee", a committee of continuing existence which is not formed, controlled or directed by a candidate, and is a committee other than a candidate committee, political party committee, campaign committee, exploratory committee, or debt service committee, whose primary or incidental purpose is to receive contributions or make expenditures to influence or attempt to influence the action of voters whether or not a particular candidate or candidates or a particular ballot measure or measures to be supported or opposed has been determined at the time the committee is required to file

any statement or report pursuant to the provisions of this chapter. Such a committee includes, but is not limited to, any committee organized or sponsored by a business entity, a labor organization, a professional association, a trade or business association, a club or other organization and whose primary purpose is to solicit, accept and use contributions from the members, employees or stockholders of such entity and any individual or group of individuals who accept and use contributions to influence or attempt to influence the action of voters. Such committee shall be formed no later than sixty days prior to the election for which the committee receives contributions or makes expenditures.

(21) "Political merchandise", goods such as bumper stickers, pins, hats, ties, jewelry, literature, or other items sold or distributed at a fund-raising event or to the general public for publicity or for the purpose of raising funds to be used in supporting or opposing a candidate for nomination or election or in supporting or opposing the qualification, passage or defeat of a ballot measure.

(22) "Political party", a political party which has the right under law to have the names of its candidates listed on the ballot in a general election.

(23) "Political party committee", a state, district, county, city, or area committee of a political party, as defined in section 115.603, RSMo, as amended from time to time, which may be organized as a not-for-profit corporation under Missouri law, and which committee is of continuing existence, and has the primary or incidental purpose of receiving contributions and making expenditures to influence or attempt to influence the action of voters on behalf of the political party.

(24) "Public office" or "office", any state, judicial, county, municipal, school or other district, ward, township, or other political subdivision office or any political party office which is filled by a vote of registered voters.

(25) "Write-in candidate", an individual whose name is not printed on the ballot but who otherwise meets the definition of candidate in subdivision (2) of this section.

8. The provisions of this section are self-executing. All of the provisions of this section are severable. If any provision of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this section shall be and remain valid.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-007)**

**Subject**

Initiative petition from Todd Jones regarding a proposed constitutional amendment to Article VIII. (Received December 2, 2014)

**Date**

December 22, 2014

**Description**

This proposal would amend Article VIII of the Missouri Constitution.

The amendment is to be voted on in November, 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

**Marc H. Ellinger** provided information as an opponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources, but should significant litigation result, may seek future additional appropriation.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated this proposal does not impact their department or local schools.

Officials from the **Department of Higher Education** indicated this initiative petition does not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated:

The petition to amend Article VIII of the Missouri Constitution to restrict excessive campaign contributions should not have an impact on the institutional population because of the penalty clauses. The penalties listed in the petition are a misdemeanor C for the second violation and a class D felony for three or more violations. Their department would not supervise the misdemeanor and the sentence for the third violation would be expected to be probation unless the amount of unauthorized contributions was very large. The maximum prison sentence for a class D felony is 4 years.

> Their department assumes the narrow scope of the crime will not encompass a large number of offenders.

> The low felony status of the crime enhances the possibility of plea-bargaining or imposition of a probation sentence.

> The probability exists that offenders would be charged with a similar, but more serious offense or that sentences may run concurrent to one another.

> It is unknown how many, if any, offenders would be sentenced under this new legislation. Of offenders sentenced for a class D felony, approximately 70% receive probation and 30% are incarcerated. The FY (fiscal year) 14 average cost of probation supervision is $6.72 per offender per day or an annual cost of $2,453 per offender. The FY14 average cost of incarceration is $16.725 per day per offender or $6,105 annually per offender. Their department assumes the minimal costs as an average of the two rates, which for one offender is in the range of $0 to $3,549 (($2,453 x .70) plus ($6,105 x .30)). Any additional offenders would incur annual costs at this rate.

In summary, supervision by their department would likely result in additional costs of probation or incarceration for each additional offender sentenced under this legislation.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated there is no fiscal impact for their department.

Officials from the **Department of Social Services** indicated there is no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office. There should be no impact on general revenue, but the proposal could impact total state revenues depending upon the disposition of any fines imposed.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year’s legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in

odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office.

Officials from the **State Treasurer's office** indicated no impact to their office.

Officials from the **City of Columbia** indicated the proposed amendment does not appear to affect their city.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **City of St. Joseph** indicated this initiative petition would have no fiscal impact on their city.

Officials from **Metropolitan Community College** indicated this initiative petition would have no significant impact on their college.

Officials from the **University of Missouri** indicated this initiative petition would not have a significant fiscal impact on their university.

Officials from the **Missouri Ethics Commission** (MEC) indicated total costs for salaries, fringe benefits, equipment and expenses will be $118,152 for FY 2016, $121,113 for FY 2017, and $122,339 for FY 2018.

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The petition refers to both continuing committees and political action committees interchangeably. Both committees have the same definition in the petition. Senate Bill 844 had changed the name of continuing committee to political action committee, but the definition remained the same. After SB844 was struck down by the Missouri Supreme Court, the committees continued as continuing committees. For example, Subsection 3 (12) attempts to restrict contributions of political action committees (but does not mention continuing committees).

In addition Subsection 3 (12) contains restriction committee to committee transfers challenged as unconstitutional in SB844 due to the restrictions on corporations not included in the designated chapters. The State did not dispute that constitutional issue. Subsection 3(16)c also restricts contributions from foreign corporations.

Sections 4(1) and 5 reference violations of Section 3 of the Article. It is unclear whether the drafter intended to reference Section 23.

Implementing the statutory requirements regarding contributions between campaign finance committees, would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo., about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in campaign finance committee adherence to the transfer of funds, including reviewing, auditing, and performing cross checks, as established in Section 105.955.14 (2), (3), RSMo. Currently about 11,000 campaign finance reports are filed annually with the Commission (quarterly and other disclosure reports) from 2,200 different campaign finance committees.
- Investigate written complaints and conduct investigations, as established in Section 105.955.14, RSMo. Investigative work requires identifying necessary documentation and records to request and/or subpoena, identifying witnesses and interviewing witnesses, reviewing all relevant documentation, performing complex and detailed analysis of data and information and witness interviews, communicating with Commission management and legal staff; reviewing Missouri statutes and constitution; drafting investigative report; presenting report to Commission.
- Perform legal actions related to investigations conducted in addition to conducting legal proceedings before the Commission in the event a violation is found. Conducting legal actions during the investigation and hearing stage ensures fairness throughout Commission proceedings. Legal actions include reviewing all complaints received for statutory authority, reviewing case correspondence including legal memoranda and responses to investigators; providing legal oversight for all investigations (complaints and other investigations); this includes communicating with and reviewing all investigative work, work papers, and reports; conducting legal analysis of alleged statutory violations;

drafting and issuing all legal documents including subpoenas, affidavits, pleadings, legal petitions for a hearing before the Commission, attorney correspondence, correspondence and communication with/to respondents, joint stipulations, findings of facts and conclusions of law, and Commission orders; preparation of hearing exhibits; interviews of hearing witnesses; preparation for and conducting hearings; oversight and review of appeal pleadings in the event of an appeal.

Implementing campaign finance limits would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo. about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any surcharges, related to the previously established limits, due to resource constraints.
- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
- Respond to written complaints, as established in Section 105.955.14, RSMo., through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

- $15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.
- 2 Business Analysts to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

• If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for FTE, equipment, and expenses.

**Marc H. Ellinger** provided the following information as an opponent of this initiative petition.

# Proposed Statement of Fiscal Impact for Initiative Petition for a constitutional amendment related to Article VIII, (2016-007)

Submitted by:

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I submit the following proposed statement of fiscal impact for the Initiative Petition that was filed by Todd Jones on December 2, 2014. The initiative petition has been labeled by the Secretary of State as 2016-007. This initiative petition is virtually identical to the initiative petition filed by Mr. Jones in the 2014 election cycle labeled 2014-032.

In 2012, the State Auditor's Office issued a Fiscal Note (11-35) for a similar initiative petition. In that fiscal note, both the Department of Revenue and the Missouri Ethics Commission indicated there would be additional costs to their departments. The Auditor's Office issued the following Fiscal Note Summary:

> It is estimated this proposal will increase state government costs by at least $127,000 annually and result in one-time costs of about $28,000. Any potential impact to state government revenue could not be determined. It is estimated this proposal will have no costs or savings to local governments.

This fiscal note summary vastly underestimates the costs to state and local governments as a result of the proposed measure. We urge you to adopt a different fiscal note for this proposed measure on the basis of the data you will find herein. Not only will there be direct costs to state agencies as indicated in Fiscal Note 11-35 but there will be widespread effects on the Missouri economy. Each election cycle, candidates spend millions and millions of dollars in Missouri. Limiting the total amount of contributions will limit the total amount of money candidates will raise, and therefore will decrease the amount of campaign spending in Missouri. Currently candidates spend millions of dollars on payroll for campaign workers, thousands of dollars in payroll and income taxes paid directly to the State of Missouri, they spend money for lodging and food at local Missouri businesses, their media purchases support Missouri media companies, and they purchase of printing, supplies, utilities, and more in Missouri. Not only do many of these expenditures directly yield state and local tax revenues, but through the multiplier effect,

these dollars are spent and re-spent within our state and local economies. Limiting campaign contributions would significantly reduce campaign spending in Missouri and have a serious negative fiscal impact to both the state and local governments.

**Economic Impact of Campaign Spending**

To date, there has not been a comprehensive study regarding the fiscal impact of state elections on Missouri state and local governments. However, there is research on the fiscal impact of election spending. One such study sought to determine how campaign spending affects earnings in service sectors.[1] More specifically, the study sought to determine how income growth is affected by the presence of a primary.

The study concluded that the presence of the primary not only increases overall income, but also income in service-related sectors. The authors found a 41% increase in quarterly income growth rate in quarters where there is primary spending.

The authors point out that states with primaries tend to see between $500,000 and $19 million spending during an election cycle, which is enough to "modestly boost local income growth." Primary spending increases total income growth by 0.53 percentage points. The effect is higher in the services sector, where growth is increased by 0.76.

The study also points out that there would be a "multiplier effect" which the authors explain as follows:

> For example, if a waitress receives a greater amount of tips than usual, she may be more inclined to make additional purchases, or even tip her hairdressers more. This money will continue to circulate in the state's economy.

[1] See Lessem, Rebbeca & Carly Urban, "*Local Economic Growth from Primary Election Spending,*" Working Paper, Carnegie Mellon University, 2012, attached hereto as Appendix A.

In addition, the study finds that Missouri is one of the five states with the highest amount of money spent on campaign expenditures, compared to the total contributions by state residents. The study shows that there is more than twice as much campaign spending in Missouri as is contributed by state residents. This study finds that primary campaign spending increases income growth in a state. "[W]hen individuals are greeted with a political campaign, they should relish in the stimulus this provides (and the transfers from individuals in other states that allow this to occur)." (emphasis added).

While the Lessem & Urban study does not directly quantify the amount by which Missouri state election campaign spending stimulates the Missouri economy and the economies of Missouri local governments, it does demonstrate that there is significant fiscal impact of such spending.

There is no authority to suggest that the dollars spent at a local print shop, hotel, or restaurant by a presidential primary campaign operate differently in the Missouri economy than if spent by a campaign for a Governor, a State Senator or State Representative. And while increased election spending has a positive effect on a state's economy, drastically reducing election spending will have a correlated negative effect on the economy. We can examine data from the Missouri Ethics Commission to see the true impact of limiting campaign contributions.

**A Case Study: Nixon 2012**

In 2012, Jay Nixon ran a successful re-election campaign for Governor. While his campaign spent money in the years leading up to 2012, we have limited our analysis to a single year. First, we will examine contributions. In 2012, alone, Nixon's candidate committee received donations ranging from eleven cents to $500,000.00. More than 40% of the contributions to Nixon's campaign came from out of state.

| Nixon 2012 | |
|---|---|
| Contributions from in-state | $4,703,437.39 |
| Contributions from out-of-state | $3,348,067.98 |
| Percentage Total Contributions from Out-of-State | 41.58% |

Under the proposed initiative, candidate committees would only be allowed to accept 2,600 from any individual or entity. In 2012, Nixon's candidate committee received a total of $8,051,505.37 in contributions. If you limit each contributor to the maximum ($2,600.00) under Section 23.3(1)(a), IP, and eliminate any contributions from other candidate committees pursuant to 23.3(4), IP, the amount of contributions is significantly less -- $2,207,976.00. That is a decrease in contributions of more than $5.8 million dollars. Only 27.42% of Nixon's contributions in 2012 would have been lawful if this proposed measure were in place.

| Nixon 2012 | |
|---|---|
| | |
| Total Contributions | $8,051,505.37 |
| Contributions from Candidate Committees | $42,650.00 |
| Contributions in excess of $2,600 | $5,800,879.37 |
| | |
| Total Lawful Contributions under IP | $2,207,976.00 |
| Total spending contributions prohibited under IP | $5,843,529.37 |
| | |
| Percent of lawful contributions of total contributions | 27.42% |

The next step is to look at where these campaign dollars were being spent. According to the Missouri Ethics Commission, in 2012, Nixon's campaign spent more than $12 million dollars.[2] The expenditures are broken down by categories in the table below.

| Nixon 2012 | | |
|---|---|---|
| | Spending (Dollars) | Percentage of Total Spending |
| Payroll & Field Work | $745,023.80 | 6.09 |
| Missouri Taxes | $63,404.72 | 0.52 |
| Federal Taxes | $330,642.56 | 2.70 |
| Media | $9,181,550.00 | 75.10 |
| Other Missouri Expenditures | $866,243.68 | 7.09 |
| Out of State Expenditures | $1,039,072.50 | 8.50 |
| | $12,225,937.26 | 100.00 |

Nixon spent approximately $750,000 on payroll or paying field workers. All of this amount would be subject to Missouri State income tax. The amount of taxes the Nixon campaign paid directly to the State of Missouri is in excess of $60,000. In addition, the Nixon campaign paid more than $300,000 in federal taxes. The cities of Kansas City & St. Louis presumably collected a 1% earnings tax from a portion of that amount. The $750,000 paid to employees would have a significant impact on the economy due to the multiplier effect. Much of that money would be spent on retail sales, generating sales tax for the state and local governments. If all of the people who normally work political campaigns no longer could be employed by campaigns, there would be significant belt tightening by these individuals which would result in additional lost sales tax revenue.

Nixon also spent more than $9 million dollars on "media." All of that money went to an out-of-state media company. Still, traditionally that company coordinates all the media

[2] Nixon had raised significant contributions prior to 2012 for the 2012 election cycle. If the proposed IP had been in effect, the loss of economic activity would be even greater.

purchases, which presumably were with in-state media providers, as Nixon was running for Governor of Missouri. While some of the $9 million dollars could be attributable to media production, the majority of it was likely for paid radio, television, and print advertising in Missouri. The loss of $9 million dollars in the Missouri media market in a single year is significant.

Nixon also paid more than $850,000 to other Missouri individuals or companies. Many of these expenditures were in the services and accommodations sectors. This money supports Missouri businesses and helps fund their payroll.

We have already seen that the proposed measure would have reduced Nixon's total campaign contributions by 72.58%. Assuming the proposed measure would decrease spending by the same amount, we can project what Nixon's spending would have looked like with contribution limits in place.

| Nixon 2012 | | |
|---|---|---|
| | Spending (Dollars) | Projected Spending with Contr. Limits |
| Payroll & Field Work | $745,023.80 | $204,285.53 |
| Missouri Taxes | $63,404.72 | $17,385.57 |
| Federal Taxes | $330,642.56 | $90,662.19 |
| Media | $9,181,550.00 | $2,517,581.01 |
| Other Missouri Expenditures | $866,243.68 | $237,524.02 |
| Out of State Expenditures | $1,039,072.50 | $284,913.68 |
| | $12,225,937.26 | $3,352,352.00 |

The proposed measure would have translated into a spending decrease of $8.87 million dollars. Again, for just one campaign for just one year. Even if you assume only 75% of the "media" expenditures affect Missouri's economy, approximately 70% of Nixon's total campaign expenditures affect the Missouri economy. In total, just one year of one campaign resulted in

approximately $8.5 million dollars of expenditures in or affecting Missouri's economy. This estimate does not include the multiplier effect of such expenditures.

**The Effect on the State of Missouri**

According to the Missouri Ethics Commission, total expenditures by candidates that would be affected by the proposed measure were approximately $49.5 million dollars in 2012. Reducing that number by the percentage of allowable contributions we saw with the Nixon campaign (27.42%) translates to a loss of almost $36 million dollars due to the initiative petition.

| Statewide 2012 | | | |
|---|---|---|---|
| | Spending (Dollars) | Projected Spending with Contr. Limits | Lost Dollars due to IP |
| Payroll & Field Work | $3,016,429.52 | $827,104.98 | $2,189,324.55 |
| Missouri Taxes | $256,711.09 | $70,390.18 | $186,320.91 |
| Federal Taxes | $1,338,695.46 | $367,070.30 | $971,625.17 |
| Media | $37,173,978.19 | $10,193,104.82 | $26,980,873.37 |
| Other Missouri Expenditures | $3,507,220.86 | $961,679.96 | $2,545,540.90 |
| Out of State Expenditures | $4,206,964.89 | $1,153,549.77 | $3,053,415.11 |
| | $49,500,000.00 | $13,572,900.00 | $35,927,100.00 |

The loss of these payroll amounts impacts state revenues in two ways: (1) the loss of state income taxes on these amounts and (2) the loss of state sales taxes forgone. First, the amount of state income taxes can be estimated taking the total payroll figure, applying the multiplier, and multiplying by the tax rate of .06%. Here, lost income tax revenue would total $656,767.36. In estimating lost sales tax amount, the multiplier must be applied. Previous research has suggested using a local fiscal multiplier of 5.[3] Assuming 35% of the payroll income is taxable

[3] A multiplier helps estimate the direct impact, indirect impact and induced impacts. Direct impact includes the payroll dollars being paid. Indirect impact represents the impact of routine consumer spending by those individuals.

spending, the total lost sales tax revenue would be more than $186,000 (2,189,324.55*5*.04225).

With respect to the media spending, assuming only 75% of that translates to Missouri corporate income, and applying the corporate tax rate translates into a loss of $1,264,728.44 (26,980,873.37 *.75 *.0625). Also assuming that half of the media spending is paid out to employees in salaries, there would be lost income taxes and sales taxes on that amount. There would be approximately $4,047,131.01 (26,980,873.37*.50*5*.06) in lost income tax. There would be a corresponding loss of state sales tax revenue from this loss of salary in the amount of $997,449.16 (26,980,873.37*.50*5*.035*.04225). Finally, there would be sales tax lost on the "other Missouri expenditures." Even assuming only half of such expenditures were taxable, applying the multiplier and the sales tax rate, the state would lose $268,872.76 of sales tax revenue. The total loss to Missouri state government (based on only one year of one election cycle) is at least $7.39 million dollars.

| 2016-007 Impact on the State | |
|---|---|
| Lost State Income Tax due to lost campaign payroll | $656,767.36 |
| Lost State Income Tax due to lost media payroll | $4,047,131.01 |
| Lost State Sales Tax due to lost campaign payroll | $161,873.18 |
| Lost State Sales Tax due to lost media payroll | $997,449.16 |
| Lost State Sales Tax on "Other Missouri Expenditures" | $268,872.76 |
| Lost Corporate Income Tax on media companies income | $1,264,728.44 |
| TOTAL | $7,396,821.91 |

Induced effects are those changes in spending due to additional (or lost) employment generated by the direct and indirect effects. "Expenditure Multiplier" attached as Appendix B.

**The Effect on Local Government**

In addition, the proposed measure would have a significant effect on local government revenue. In St. Louis and Kansas City, a 1% earnings tax is collected on income. There would be losses associated with both the lost campaign payroll and lost media payroll, in the amounts of $14,228.42 and $87,674.35 respectively.[4] In addition, the average local sales tax rate is 3.45% in Missouri. This rate was applied to the same tax bases as described above, resulting in total lost sales tax revenue of over $1.1 million. The total loss to local governments as a result of the proposed measure exceeds $1.2 million.

| 2016-007 Impact on Local Governments | |
|---|---|
| Lost Earnings Tax due to lost campaign payroll | $14,228.42 |
| Lost Earnings Tax due to lost media payroll | $87,674.35 |
| Lost Local Sales Tax due to lost campaign payroll | $132,180.47 |
| Lost Local Sales Tax due to lost media payroll | $814,485.11 |
| Lost Local Sales Tax on "Other Missouri Expenditures" | $219,522.90 |
| TOTAL | $1,268,091.25 |

**Senate Bill 844**

In 2010, the Missouri legislature passed Senate Bill 844. Legends Bank filed a lawsuit asserting three arguments (1) SB 844 violated the single subject requirement of article III, section 23 of the Missouri Constitution, (2) SB 844 violated the original purpose requirement of article III, section 21, and (3) SB 844 violated the First Amendment because it bars political

[4] In 2011, the population of St. Louis and Kansas City as a percentage of total state population was 12.998% according to the U.S. census bureau. Applying this percentage to the total payroll statewide generates an estimate of payroll that would be subject to the earnings and income tax. This estimate will likely underestimate the actual fiscal impact because the earnings tax is collected from all city residents and all non-city residents who work within the city limits.

action committees from receiving money from Missouri state-chartered banks but allows political action committees to receive money from other entities and individuals. *Legends Bank v. State*, 361 S.W.3d 383, 385-386 (Mo. banc 2012). The trial court found that SB 844 violated the single subject requirement and that section 130.031.13 violated the First Amendment. *Id.* at 386. The Supreme Court did not reach the First Amendment issue because the finding that SB 844 violated the original purpose requirement of the Missouri Constitution was dispositive. *Id.* at 387.

The proposed initiative petition contains a provision identical to the provision that was the subject of the First Amendment challenge in Senate Bill 844 (IP, Section 23.3(12)). It is highly likely this proposed measure will be challenged in court and the state will be forced to expend significant resources in defending the suit. This figure should be added to the one-time costs for the state.

There is no evidence of any type or manner that there are any savings or cost reductions to the state or local governments. Additionally, there is no evidence that there can be any increased revenues to the state or any local government as a result of the proposed measure.

**Conclusion**

The proposed measure would have a significant negative economic impact on both the state and local governments in Missouri. In just one year, election spending amounted to almost $50 million in Missouri. The proposed measure would drastically reduce election spending. State and local governments would lose income and earnings tax revenue and sales tax revenue, not just on the amount of decreased election spending, but much more, due to the multiplier effect. Any estimate of fiscal impact of the proposed measure must include these significant losses in order to adequately inform potential signors and voters. The use of the phrase

"unknown" suggests an ambiguity regarding costs or savings – that such costs or savings could be positive or negative. Since there is no evidence to support (1) any reduction in costs (2) any savings, or (3) any increased revenues, such ambiguity cannot be included in the fiscal note summary. We submit the following proposed statement of fiscal impact:

> Annual state government revenue will decrease by at least $7.39 million per year. It is estimated this proposal will also increase state government costs by at least $127,000 annually and result in one-time costs of about $50,000. Annual local government revenue will decrease by at least $1.2 million per year.

# Local Economic Growth from Primary Election Spending*

Rebecca Lessem†

Carly Urban‡

December 4, 2012

**Abstract**

This paper asks how government and private consumption spending affect earnings in service sectors. To do this, we exploit a natural experiment, using an exogenous form of consumption spending–the money spent while campaigning for a party's Presidential primary nomination. To answer these questions, we create a novel dataset combining the date each state held its primary from 1976-2008, the date in each election cycle in which only one candidate remained, and quarterly state income by sector. Hosting a primary election increases total income, particularly in the accommodations sector. These results remain consistent when using data on primary campaign expenditures across states in the 2004 and 2008 elections.

**JEL codes:** D72, H30

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## Appendix A

# 1 Introduction

Government expenditures have been found to increase employment and income.[1] However, this literature restricts itself to studying investment expenditures in the form of education, health, military, and infrastructure spending, leaving the question, "How does added consumption spending affect income?" unanswered.[2] This paper uses a natural experiment to estimate the relationship between consumption spending and short-run income growth by exploiting exogenous variation in the duration and ordering of Presidential primary campaigns.

In 2008 alone, these campaigns spent $348 million across states on hotels, meals, rental cars, and other campaign expenditures.[3] This figure does not include the amount spent by media covering the race, personal in-state expenses of staffers, or additional funds individuals outlay when coming out to witness the spectacle of a primary race. We use this exogenous spending to determine the short-run income growth when money enters a state economy.

Primary elections are held sequentially by state and each election cycle varies in duration due to changes in the competitiveness of elections. In some years, there is no primary in many states, as the nomination is determined long before each state has its turn to vote for a nominee.[4] For example, in 2004 Senator Kerry clinched the Democratic nomination in March, whereas in 2008 President Obama did not win the nomination until June. In

[1] See for example, Wilson (2011), Shoag (2010), Serrato and Wingender (2010), Chodorow-Reich et al. (2011), Ramey (2011), and Ramey (2011a).

[2] To a certain degree, this question has been addressed in the literature on the economic impact of mega-events such as the Superbowl, Presidential Nomination conventions, and the Olympics, (See Matheson (2006) and citations therein). However, it differs in certain respects, most importantly in that we have a stronger identification stratedy. In primary elections, there is ex-ante uncertainty as to whether or not a state will be reached by primary campaigns, whereas mega-events are planned far in advance. Mega-events allow an area to anticipate additional consumption expenditures and internalize the benefits by increasing up front costs. However, the value of consumption spending in a primary is unanticipated ex-ante and the variance in spending between hosting and not hosting a primary is high, deterring businesses from internalizing the benefits prior to the event. Second, candidates campaign in areas to reach the maximum number of pivotal voters not in the most desirable tourist locations, so it is unlikely that crowd out of the local tourist sector occurs in this setting as in the prior vein of literature.

[3] Authors' calculation based on CRP (2011).

[4] We consider the nomination determined once there is only one candidate remaining in the contest.

particularly long primary elections, local businesses in states that are not normally exposed to primary campaigns receive an exogenous increase in revenue. In addition, many states change their position on the primary calendar between election cycles.

This paper first establishes the exogeneity of campaign spending and economic indicators. Next, we exploit the variation in whether or not a state receives campaign spending in each year to test how this increased spending affects local economies. Specifically, we study how income growth is affected by the presence of a primary in a given state and quarter.[5]

To conduct this analysis, we create a novel dataset of primary and caucus dates from 1976-2008, where we determine if a state held a primary based on the scheduled primary date and the date in which only one candidate remained in each party's election. We pair this primary elections data with quarterly state-level and sector-specific information on personal income levels from the Bureau of Economic Analysis (BEA).

We find that the presence of a primary increases overall income, as well as income in service-related sectors. From 1976-2008, income growth increased by 0.53 percentage points in states with primaries, compared to an average income growth of 1.3 percentage points per quarter. This implies about a 41% increase in the quarterly income growth rate in quarters when there is primary spending. Our results are robust to controlling for factors related to the amount of spending as well as to including state fixed effects. We verify these results using data on campaign expenditures for 2004 and 2008 from the Center for Responsive Politics.[6] In this setting, we find that doubling campaign expenditures increases overall income growth by about 0.05 percentage points (or hosting a primary results in a 35% increase in quarterly income growth rates), and this effect is particularly pronounced in the accommodations sector.

[5]The idea that election outcomes could affect the economy is not new. Snowberg et al. (2007) use prediction market analysis of elections from 1880-2004 to show that electing a Republican President raises equity valuations by 23%. Knight (2006) shows that policy platforms in the 2008 Presidential general election were capitalized into equity prices. No one has previously asked how the act of campaigning can affect the economy.

[6]Data on campaign expenditures are only available for these two years.

We appeal to two distinct literatures in this paper. First, the existence of primary elections provides a new environment in which to study local economic development, through exogenous shocks to consumption expenditures. Recently, scholars and policymakers have expressed interest in the American Recovery and Reinvestment Act (ARRA) spending. Wilson (2011) and Chodorow-Reich et al. (2011) use instrumental variable strategies and find that one new job created costs $125,000 and $26,300 per year, respectively.[7] Asking a similar question Serrato and Wingender (2010) find that an additional job costs $30,000 per year, using an instrumental variables strategy and data on federal investment spending. Similarly, Shoag (2010) uses the idiosyncratic component of state-managed defined benefit pensions to predict government spending. He finds that $35,000 of spending generates one additional job.

In comparison to the papers just mentioned, we avoid the natural endogeneity concern that spending is often allocated to states in the most need of growth.[8] Candidates campaign as to maximize their chances of winning the election, which generally means following the primary calendar. Candidates campaign in states sequentially, and tend to not visit a state until the primary is upcoming. One reason for this is that individual victories create momentum to propel a candidate to his next contest.[9] In addition, candidates also have a disincentive to over-spend in the primary, as they want to save any potential funds for the general election battle, conditional on winning the nomination. For these reasons, the optimal strategy for candidates is to campaign sequentially, meaning that the allocation of funds will depend on the primary schedule and will be exogenous to local economic conditions.

In addition, our paper studies the effect of spending on a different set of sectors than is normally assessed. Most of the ARRA funds were centered around Medicaid and

[7]Chodorow-Reich et al. (2011) find that the jobs resulting from Medicaid spending are concentrated in the state and local government, health, and education sectors.

[8]This is particularly true in the cases of the ARRA spending, though Knight (2002) shows that this can also be true in the transportation sector.

[9]See Abramowitz (1989), Abramson et al. (1992), Mutz (1998), Adkins and Dowdle (2001), Callander (2007), Strumpf (2002), and Klumpp and Polborn (2006) for more on the necessity of momentum in primary contests.

education, and other federal spending initiatives focused on infrastructure investment, energy efficiency, unemployment assistance, and state and local government stabilization (111th Congress 2009). On the other hand, primary spending likely benefits the local economy in the service-related sectors. Another unique feature of our work is that transfers do not entirely come from the federal government, allowing us to study how increases in consumption expenditures in the form of transfers can affect income growth. Primary campaigns are sometimes funded through federal matching, but candidates vying for their party's presidential nomination rely on money from individual donors and from Political Action Committees.[10]

Second, while we establish that the duration of a primary and the time in which states changed their primary dates are uncorrelated with economic indicators, our paper adds to the literature investigating the incentives for states to hold early primaries.[11] States early in the primary process are presumed to have a disproportionate effect on candidate selection by building candidate viability, attracting donors and volunteers, and creating momentum (Abramowitz 1989; Abramson et al. 1992; Mutz 1998). Some work examines the policy benefits of early contests. Taylor (2010) finds no effect, while Knight and Schiff (2010) find that early contests had a 20% greater influence over candidate selection than later contests in 2004.[12] Similarly, Malhotra and Snowberg (2011) find that the order mattered less than pivotal, or competitive, primary contests in 2008. Theoretical work demonstrates that voters can use early contests as cues in determining their vote choices.[13] This paper is the first to investigate the potential economic benefits of having an early

[10]See Section 6 for more on federal funding percentages.

[11]States have a demonstrated interest in holding early primaries. For example, in 2008 Michigan and Florida moved their primaries to January, and this was rejected by the DNC. Democratic candidates agreed to refrain from campaigning in these states, and the delegates were not counted in the candidates' totals. This did not deter Florida from moving its primary up in the order again in 2012, which was this time rejected by the RNC, costing the state half of its delegates (Grice 2012). Thus, moving a primary contest too early can be costly, yet states are still attempting to change their primary dates.

[12]Taylor (2010) uses state procurement data from 1984 to 2004 to show that primary order matters only in competitive nominations when the victorious candidate won that states contest. Knight and Schiff (2010) use changes in prediction markets over the election to identify influence.

[13]See Morton and Williams (2001), Callander (2007), Serra (2011), and Ali and Kartik (2006).

nomination contest.[14]

The remainder of the paper is organized as follows. Section 2 describes the construction of the dataset. Section 3 provides descriptive statistics and motivates our identification strategy. Section 4 explains our empirical strategies and presents our findings. Section 5 discusses the source of campaign funds, and Section 6 provides concluding remarks.

# 2 Data

We combine institutional details of primary races dating back to 1976 with state-level personal income data from the Bureau of Economic Analysis (BEA), creating a comprehensive Presidential primary and local economic database. In the next 3 sub-sections, we explain how we collected these data. For more information on the specifics of the variables created, including summary statistics, the source of each variable and the calculation of each variable, see Tables 8-10 in Appendix A.

## 2.1 Primary Information

We hand-collect a thorough database of the dates of each primary or caucus in each state starting from 1976, which is the first year the Democratic National Committee (DNC) and Republic National Committee (RNC) held conventions in their current forms, and ending in 2008.[15] We obtain this information from the Green Papers (for primaries), as well as Frontloading HQ (for caucuses), and confirm these with state election boards when the two are not consistent. When a state's delegates are determined by only state party officials (and not in caucuses or primaries with individual voters), we count this as

[14]A parallel literature looks at the effects of the primary structure on general election outcomes. The primary process may constrain candidates from converging to the position of the median voter, as they will take on more extreme positions to satisfy primary voters who are less moderate than the general population (Geer 1988; Norrander 1989). Malhotra and Snowberg (2011) study the effects of early contests more broadly, including candidates' difficulties of returning to the center in the general after trying to attract primary voters.

[15]This means that individual voters, not party elites, began selecting candidates in each state. The candidate with the most delegates earned the nomination at a national convention.

a case where the state did not have a "primary." In cases where states hold a "beauty contest" nomination, where individual voters choose their favorite candidate but there are no delegates at stake, we count this as having a "primary," as some candidates find it important to win a symbolic victory in these states to gain momentum.[16,17]

Next, we collect information on the date at which the nomination was clinched for each party in each year. We award a candidate the nomination when he is the only candidate left in the contest, meaning that the primary campaigning has ended. This sometimes occurs months before the convention date. Table 1 contains the dates at which candidates clinched the nominations over time. In cases where the incumbent was not challenged in the primary, such as 1984 for Ronald Reagan, we code the primary for that party as "no primary."[18]

Additionally, in certain situations there could be spending for the primary and the general election at the same time. For example, in 2004, when President George W. Bush was the incumbent, he immediately began campaigning for the general election because he had no competition in the primary. During this same time period, Democrats were competing for their party's nomination. Likewise, in 2008 Senator McCain started to campaign for the general election once he clinched the nomination in March, whereas the Democratic primary continued for three additional months. We want to be sure that we are measuring the effect of primary election, not general election, spending. Thus, we collect data on the battleground states for each election cycle, asserting the conventional wisdom that candidates only campaign in battleground states in Presidential general elections (Stromberg 2008; Ashworth and Clinton 2007; Huber and Arceneaux 2007).[19]

[16]States holding these "beauty contests" usually choose their candidate based on conventions and state party officials' decisions. After 2000, there are some instances where there were no delegates at stake, after a state had moved up in the primary process and one of the national committees considered this unconstitutional , i.e. Michigan and Florida in 2008. These two states still had campaigning from the Republicans, so we include them in this context alone.

[17]The primary dates by party for each state and year combination from 1976 to 2008 are available upon request.

[18]All incumbents do not have the luxury of having no opposition in the primary election. For example, President Carter's low approval ratings gave the DNC justification to push other candidates, including Edward Kennedy, to challenge him in the primary contest.

[19]See Section 2.3 for more on spending.

We label a state as a battleground state if the difference in the likelihood the Democratic candidate wins and the Republican candidate wins is ever within 10 percentage points in Intrade prediction markets or polling data (specifically, pollster.com and David Leip's polling report). In earlier elections when polls are more sparsely available (i.e., 1976-1992), we instead look at the races where the candidates' end vote shares were within 10 percentage points of one another.[20] Finally, a state can only be labeled as a battleground state if 1) the election cycle has started and 2) the primary contest in at least one party has been completed (i.e., only one candidate is remaining).[21]

## 2.2 Income

The BEA reports total personal income in each quarter and state, for each sector of the economy. For the purpose of this paper, we refer to total earnings (excluding government transfers) as total income. We transform this into per-capita values using population data from the US census. In addition to total income per capita, we focus on the sectors where we would expect large effects from primary spending, which are mostly service related sectors. Accommodations and retail are two sectors we focus on, in that the visiting campaign staff and media will need to stay in hotels and make purchases during the campaigns. The accommodations and retail sector accounted for about 5% and 9% of total income in 2008, respectively.

The BEA data is divided into 2 periods: 1974-2001, and 1990-2009, and the sector definitions changed across the two periods. We focus our analysis on the services sector, particularly food and accommodations, because that is where we expect to see the largest effect. In the data from 1974-2001, the BEA only reports total income in the services sector. However, in the 1990-2009 data, they divide services into different groups, including food and accommodations, which we focus on. We therefore do the analysis separately

[20] A list of each state and the years in which the state was a battleground in competitive in the general election is shown in Appendix B.

[21] Conditional on hosting a primary in a given quarter, the probability that a given state is labeled a battleground state in the same quarter is less than 39 percent.

for each period due to these data limitations.[22]

## 2.3 Campaign Expenditures

We obtain campaign expenditures data for the 2004 and 2008 primary election cycles from the Center for Responsive Politics (CRP), which collects and compiles data from the Federal Election Commission.[23] These data contain information on each expenditure made in House and Presidential races by campaigns, Political Action Committees (PACs), and state parties, where each expense contains a date, location (down to zip code), and information on what the expense entailed (i.e. hotel). We narrow this dataset to include only expenses made in pursuit of the primary nomination by the Presidential candidate's official campaign, i.e. "Barack Obama for President, 2008." We do not include PAC spending as it is difficult to understand for which campaign the PAC is spending its funds (i.e. Presidential or House) in the data.

These data also include information on the division of the campaign in which the expense was made. We create two different measures of expenditures. Campaign expenditures consist of all money spent by the candidate and his direct staff on travel, hotel rooms, and meals, as well as local polling, Get-out-the-Vote campaigns (GOTV), and campaign events. In addition, campaign expenditures include what the campaign calls "administrative expenditures," which includes all money spent on the offices within a state and its staffers. This mostly consists of spending on catering for meetings, rent, utilities, cable, and internet in campaign offices, administrative supplies (associated largely with IT costs), and staffer travels (rental cars, housing, flights, etc.). Total expenditures include all expenses listed under our campaign expenditures measure, as well as money spent on broadcast, radio, and print advertising, along with other media-related costs (i.e., media consultants, production costs of advertisements, and miscellaneous costs related to getting

[22]We attempted to aggregate the 1990-2009 data to get a total measure of income in the services sector. Since the years 1990-2001 are included in both datasets, we can compare to see how similar the two measures are. They are very different, which is why we could not use this aggregated services income in the same analysis as the 1974-2001 services data.

[23]See CRP (2011) for more information on the dataset.

out the message).

The total expenditures are likely to include some expenses that do not directly affect a state's local economy at the time of a primary, though they are expenses made for the primary campaign. For example, the production of an advertisement run in Iowa could be done in California, and thus included in this measure. The production could also be done in Iowa, however, and it is not feasible, given the data, to distinguish the two. Thus, for the remainder of the paper, we choose to focus on the campaign spending measure in favor of the total expenditures measure.

We expect that campaign expenditures are a good proxy for the candidate's travel and the campaign's direct expenses. However, the administrative portion of the campaign expenditures are likely a lower bound for the amount of money staffers spend in each state during the campaign. For example, if campaign staff goes to a restaurant in the evening, this will not be covered as a campaign expense, especially if the meal includes alcohol. This spending amount is a lower bound for total exogenous spending in the area, since national news and media crews also tend to follow and cover the primary schedule state by state. Even with this lower bound, states with primaries tend to see between one half a million and 19 million dollars in spending over an election cycle. Comparing this to the median total income in the retail and accommodations sectors, 7.14 and 3.3 billion respectively, this is still enough money to modestly boost local income growth.[24]

# 3 Descriptive Statistics

In this section, we first argue that the timing and existence of a primary campaign is exogenous to local economic growth. We next look at the campaign expenditures data from 2004 and 2008 to establish that there is more spending during primary campaigns.

[24]If we instead use total expenditures instead of campaign and administration expenditures in the analysis that follows, our results are slightly smaller in magnitude, though they remain substantively similar to the estimates provided. These results are available upon request.

## 3.1 Exogeneity of Primary Campaigns

The identification strategy in this paper comes from the orthogonality of primary campaign spending in a given state and the state's local economy, where the nature of primary contests gives candidates an incentive to campaign sequentially. Since this money is not targeted to states with the most need, the shock to consumption expenditures generated from primary campaign spending is exogenous to income levels. Iowa's primary is always first in the election cycle, so the state should expect the millions of dollars spent in local businesses by the Presidential campaigns, media crews, and the ceremony of the primary election. Since the natural experiment fails in this case, we drop all states that have a primary in every year in our analysis. Other states, however, experience more variation in regards to (1) whether or not any money will be spent in primary campaigns and (2) how much money will be spent. This variation comes from two main channels.

First, the duration of any primary campaign is unknown ex ante. While some primary campaigns leave only one candidate in each party after only a few months (i.e. in 2004 when Senatory Kerry clinched in March), other election cycles (i.e. 2008) carry on until June, reaching every state. Figure 1 shows the variation, by party, of the number of states reached by campaigns in each election cycle. This shows significant fluctuations in the number of states that have primary elections each year, particularly in Republican primaries. Alternatively, Figure 2 plots the duration of primary campaigns over time, where the duration is defined as the number of days from the first primary until only one candidate remained in the contest.[25] In general, the early contests from 1976-1992 took longer to determine each party's candidate.

Figure 2 additionally plots the average real GDP per capita in the US over time, reassuring us that the duration of primaries is uncorrelated with the state of the economy.[26] To provide a specific example of the changes in primary campaigning between years, we

[25]Since there are potentially 2 primaries in each state and year, there is a duration for each contest. We plot the length of the longer primary in each year.

[26]When regressing real GDP per capita on the duration of primaries, we find no statistically significant relationship between the two variables.

show the changes in primary status by states between the 2004 and 2008 elections. Figure 4 shows which states switched primary status between 2004 and 2008. Comparing just these 2 election cycles, we see that there are many states that had primaries in 2008 but not 2004, due to both the fact that there was no Republican primary in 2004 and the length and competitiveness of the 2008 Democratic primary.

Second, the ordering of primaries across states has changed drastically from 1976 through the present day. Although national parties have some influence on the timing of primaries, the decisions are ultimately made by each state. There has been significant movement in the primary calendar over time. The change in ordering also allows for some states to experience campaign spending in some election cycles and not others. In addition, if a state's primary moves to a day in which many other states hold their contests, this may lead to a reduction in campaign spending in that state. This gives us variation in both the existence of and amount of spending by primary campaigns.

The argument in our paper implies that states should have an incentive to move their primaries earlier in the calendar in order to gain economic benefits. If this were true, then we could no longer argue that primaries are exogenous. However, we do not believe that this is the case, due to the lengthy process involved in changing primary dates. In order for a state to be able to change its Presidential primary date, the state legislature must propose a bill, which in most states is an extremely lengthy process, where less than 5-10% of bills are passed.[27] The lengthy process creates difficulty for states to change their date in a timely fashion, making it unlikely that the primary date will be switched (and reached) when the state's economy is at its worst. In addition, the state and national party officials must approve the change in date for the state's delegates to count in the nomination process.

Furthermore, even though this change of date is under the authorization of state

[27]Most states have dates like the following from Montana's Constitution: 13-1-107. Times for holding primary elections. (1) On the first Tuesday after the first Monday in June preceding the general election provided for in 13-1-104(1), a primary election shall be held throughout the state (The Constitution of the State of Montana, 2011).

elected officials who have an interest in state policy, a state's change in ordering is seemingly uncorrelated with a change in economic indicators. To demonstrate this, in each year we split the states into two groups: those who changed their primary date from the previous election, and those that did not.[28] Figure 3 plots the average GDP growth in both groups over time.[29] The graph also shows the number of states that changed their primary date in each year. This figure shows no systematic difference between the GDP growth in both groups over time.[30] We also see that there are a large number of states that change their primary dates each year, showing that this provides an important source of variation.

An additional literature on vote-buying suggests that politicians can adjust funds on a state-by-state basis (See e.g., Levitt and Snyder (1995); Fleck (2008)). If government funds are correlated with campaign spending, this could additionally confound our effect. However, the ability of politicians to adjust the allocation of government funds quickly on a state-by-state basis is limited. For example, Senator Kerry would have trouble providing a voting record that appeased each state he visited in his Presidential primary campaign surrounding the time of that state's election. This makes the approach taken in this paper more compelling than studies that focus on differences in policy spending over time as exogenous variation.

## 3.2 Primary Spending

In this paper, we study whether the existence of a primary increases local income. For there to be an effect, there has to be more campaign spending in states with primaries. To verify that this is true, we use data on campaign expenditures from the 2004 and 2008 primary elections. Table 2 shows the distribution of spending for primaries by quarter,

[28]We label a state as having changed their primary date if the date of the primary made a substantial change (i.e. more than 2 weeks) such that it took an initiative within the state's Board of Elections and changed the ordering of the primary schedule.

[29]The average GDP growth takes percentage growth of GDP between two years of each state (in each group) and takes the average of those observations by year.

[30]A t-test shows that the difference in the means is not statistically different than 0.

where states with primaries in the current or next period have higher spending than areas without primaries. We see that spending increases not only increased during the quarter of the primary, but also in the quarter before the primary. Early spending could occur because candidates campaign in some states for an extended period of time, especially when the race is on the cusp of two quarters.

Next, we look at the changes in spending in states as they change primary status over the years, to ensure that having a primary leads to increased spending. In general, we see that states that did not have a primary in 2004 and did have one in 2008 tended to have more spending in 2008. Figure 4 shows the states that held a primary in 2008 and not in 2004, and Figure 5 shows the percentage change in expenditures between the two election cycles. States such as Pennsylvania and Utah, which were reached in the lengthy Democratic campaign in 2008, had over 20 percent more primary spending in this election cycle than they did in 2004, when the process culminated before the state was reached. There is also an increase in spending from 2004 to 2008 in early states like Iowa, South Carolina, and New Hampshire, where the increased number of candidates and the fact that both parties held primaries increased the spending in those states. Conversely, the state election boards in Michigan and Florida moved their Presidential primary contests up, and set the elections in January 2008. The DNC challenged these moves, and in turn, Democratic candidates opted to not campaign in these states. Thus, spending in these states actually decreased from their later primary day in 2004.[31] Overall, these figures show variation in spending in states, depending on whether or not there is a primary in that year. This supports our argument that there will be more spending in states with primaries.

Using the spending data and the primary dummies in 2004 and 2008, we estimate the

[31]There are cases where state boundaries provide a neighboring state with additional spending when there is not a primary in that state. For example, New Jersey benefited from New York's early primary on a day independent of all other primary contests in 2004. This is because candidates spent money renting cars, purchasing hotel rooms, and eating some meals in New Jersey, though they were officially campaigning in NY. When compared to 2008, even though NJ held its own primary, it did this on a day when many other states also held primaries, as did NY. This made spending higher in the previous election cycle.

relationship between the existence of a primary and spending growth, while controlling for the same factors we take into account in our later analysis. We first construct a set of control variables we expect to be correlated with the intensity of spending. The structure of the primary calendar is such that there is often one day with many of the elections, typically called "Super Tuesday." We control for whether or not an election in a state is on this day each year.[32] Another possibility is that in states with late primaries, early spending for the general election when one party's nominee has been determined and the other has not could falsely lead to higher levels of income growth, especially in battleground states. To account for this, we control for whether or not a state is a battleground state in periods after one party's candidate has been chosen.[33]

The first column in Table 3 shows that the existence of a primary more than doubles spending growth in that quarter, when compared to states without primaries. Primary spending growth is lower in "Super Tuesday" states when compared to states with primaries on other days, as "Super Tuesday" elections make it hard for time-constrained politicians to campaign everywhere. In addition, battleground states tend to have significantly lower spending growth than non-battleground states. This result is not surprising since our dependent variable is only primary spending growth, and does not include money earmarked for the general election.[34] In addition, competitive states are always labeled as "battleground" in the third quarter of the election year, or the height of the general election. This is the time in which primary growth is most likely to be negative, or lower than the previous period. If we add state level fixed effects to this model, as in Column (2), we see that primary campaigning still more than doubles spending growth when com-

[32]Our "Super Tuesday" control is defined as the day each year that has the most primary elections in a given state. The list of states with primaries on "Super Tuesday" in each year is shown in Appendix B. "Super Tuesday" is always reached, so it is an interaction term between the primary dummy and having an election on the given date.

[33]We could include a control for whether or not a state held a competitive primary. For example, in President Bush's home state of Texas, he may have already been a favorite and not needed to campaign. However, enough states have a proportional share of electoral votes, so candidates still receive votes towards the final count if they do not win a majority in a given state.

[34]The probability of being in a battleground state in a given quarter conditional on having a primary in the same state, quarter is less than 36% in this sample.

pared to a period when the state did not have a primary. Hosting a primary on "Super Tuesday" lowers this substantially, as does being in a battleground state.

# 4 Empirical Analysis

In this section, we estimate the effect of primary spending on local economic development. We first test how the existence of a primary before the nomination has been determined affects changes in income growth from 1976-2008. We then verify these results using data on campaign expenditures across states in the 2004 and 2008 elections.

## 4.1 Existence of a Primary

We assume that a state's income in a given quarter depends on whether or not there is a primary in a given time period, a set of control variables, and state and year fixed effects. Let $P_{it}$ be a dummy variable indicating whether or not there is a primary in state $i$ at time $t$. Denote the log average per capita income in sector $s$ in state $i$ at time (year) $t$ as $y_{ist}$, state fixed effects as $\mu_{is}$, time fixed effects as $\gamma_{st}$, control variables as $X_{it}$, and the error term as $\epsilon_{ist}$. Then we can write

$$y_{ist} = \beta_{0s} + \beta_{1s}P_{it} + \beta_{2s}X_{it} + \mu_{is} + \gamma_{st} + \epsilon_{ist} \tag{1}$$

Taking first differences of Equation (1), the state and year fixed effects drop out:[35]

$$\Delta y_{ist} = \beta_{1s}\Delta P_{it} + \beta_{2s}\Delta X_{it} + \hat{\epsilon}_{ist} \ , \tag{2}$$

where $\hat{\epsilon}_{ist} = \Delta\epsilon_{ist}$.

We estimate equation (2) and look at how changes in the primary dummy variable

[35]The year fixed effects do not drop out in every period. Since we are using quarterly data, as we go from the 4th quarter of one year to the first quarter of the next, the year fixed effects technically will not difference out. However, since they would only be identified off of one quarter per year, we chose to drop these year fixed effects.

affect income growth in different sectors. Identification in this specification comes from comparing states with primaries to those that do not have primaries. We define a state as having primary spending if there is a primary in the current quarter or in the next quarter, acknowledging that candidates sometimes spend an extended amount of time campaigning in a state.

We drop states that have primaries in every election year, as it is hard to argue that the existence of a primary is exogenous in states that anticipate primary spending each cycle. Perfect foresight of primary spending may allow individuals to internalize more upfront costs, where business that normally would not be open in a given season may change their behavior since they know primary campaigns will spend there with certainty each cycle. These states invalidate the natural experiment present, where it is necessary to maintain uncertainty in the timing and duration of primary elections. Dropping these traditionally early states leaves us with a sample of states for which there is variation in whether or not there is a primary, so each election cycle contains uncertainty as to whether or not they will receive primary spending.

We present the unconditional effects of hosting a primary. Since the existence of primary campaigns are exogenous to the state of the economy, the unconditional effects of campaign spending will be unbiased. In this specification, we still include quarter fixed effects to control for seasonal fluctuations in income. We control for variables that may affect the volume of spending, such as having a primary on "Super Tuesday" and whether or not the state was a battleground in the given period.

In Table 4, we show results for total earned income, as well as in sectors where we would expect the largest effect from primaries: accommodations, services, and retail trade. We expect accommodations to be particularly affected; however, this measure is not available for the early data, so we instead use the services sector for the first time period. The data from the later time period shows that accommodations is the service sector most affected by primary spending. We expect that primary campaign spending will directly affect the accommodations sector, as increased revenues from hotel room, catering, food services,

and additional expenses the campaigns incur flow straight into this sector. The definition of retail trade changed slightly between the two periods provided. However, since we are looking at growth, we pool the observations from the two time periods. To account for this difference, we include a dummy variable in the estimation to account for which time period the data is from.

The first three columns of Table 4 show that primary spending increases total income growth by approximately 0.53 percentage points, where the average state income growth reported in Table 8 in Appendix A is 1.3%. Primary spending increases income in the services and accommodations sectors by 0.76 and 0.47 percentage points, respectively (where the mean growth rates are 2.1% and 1.1%, respectively). For retail trade, we see a positive effect of primary spending on income levels, though this is not statistically different from zero.

Table 4 also shows that having a primary on Super Tuesday decreases the overall effect in Columns (1)-(5), so much so that they negate any positive effect of hosting a primary. This is expected because candidates devote less resources to each state if there are multiple primaries on the same day, as shown in Table 3. We do not find a statistically significant effect of being a battleground state. The timing is set such that states count as a battleground starting, in the calendar year of the election, when one candidate in either party has clinched the nomination. When an incumbent is not challenged in a primary, a state that is competitive in the general election is classified as a battleground state starting in the first quarter of the election year. However, the most intense campaigning occurs during the 3rd quarter of each election year. When we only allow states to be classified as battleground states in the third quarter, the battleground dummy variable is positive and statistically significant. This implies that income growth increases in battleground states later in the election cycle, possibly due to spending for the general election.

In an alternate specification, we also include state fixed effects when estimating Equation (2). In the initial setting, the state fixed effects dropped out of the regressions because we study income growth. In this next specification, we allow for state fixed ef-

fects in growth rates. This changes the identification of the dummy variable for primary elections. Without state fixed effects, the coefficient on the primary election variable was identified by comparing the income growth in states with and without primaries. By including state fixed effects, the coefficient is identified by comparing income growth in a given state when the primary variable changes values. The results with state fixed effects are in Table 5. This does not substantively change the results.

This increased income could come through increased labor force participation, or an increase in hours worked (as well as overtime pay) for current workers. Using data from the Bureau of Labor Statistics on the number of workers in each sector on a monthly basis, we find no effect of primary elections statistically different from zero. This implies that our results are due to increased hours worked for current workers in the sector.[36]

## 4.2 Expenditures

Next, we verify the results in the previous section with data on the amount spent by campaigns in each state during the 2004 and 2008 primary elections. This setup allows for an extra source of variation resulting from differences in expenditures across states and time.

Denote logged spending in a state as $e_{it}$, and $y_{ist}$ is defined identical to Equation (1).[37] Then

$$y_{ist} = \beta_{0s} + \beta_{1s} e_{it} + \beta_{2s} X_{it} + \mu_{is} + \gamma_{st} + \epsilon_{ist}$$

Taking differences,[38]

$$\Delta y_{ist} = \beta_{1s} \Delta e_{it} + \beta_{2s} \Delta X_{it} + \hat{\epsilon}_{ist} \tag{3}$$

[36] In these results, we use the same specification as above. These results are available upon request.

[37] If we instead use per capita spending, our results are almost synonymous. This is because there is little change in state population between quarters. These results are in Table 13 in Appendix C.

[38] The year fixed effects will not difference out as we go from the last quarter of each year to the first quarter of the following year. However, since they would only be identified off of one quarter per year, we choose to drop the year fixed effects.

The parameter $\beta_{1s}$ tells us how changes in spending growth affect income growth in each sector. This provides a more precise estimate of the effect of spending growth on income growth since we also have variation in spending in each state and quarter. Our identification largely comes from states that were reached in the 2008 election but not in 2004. However, we argue that the amount spent is orthogonal to a state's economic growth, as even if a state is consistently reached (and is reached in both 2004 and 2008), there is still uncertainty about the degree of spending in each year. For example, some years provide competition between candidates in both parties, while others have competition from only one. In addition, there is large variation in the number of entrants within each party between years. At times, favored candidates do not win the early states, turning the tide of the election, thereby increasing the competitiveness. Changes in primary dates affected the spending in some states as well. For example, New York moved its primary in 2008 to an election day with other states, causing a decrease in its expenditures between the two cycles. Thus, our variation comes from states that had both increased and decreased expenditures over the two election years. Finally, we exploit variation in spending over the course of the primary election cycle, where earlier contests with more competitors tend to exhibit more spending. As in the previous section, we drop the states with early primaries (Iowa, New Hampshire, and South Carolina), which have primary elections in every year.[39]

We use quarterly data on campaign expenditures in a given state to estimate Equation (3), and are interested in the coefficient on the growth rate in expenditures, $\beta_{1s}$. In this analysis, we use data from 2003-2004 and 2007-2008. We continue to control for battleground status of the state, though we no longer control for different attributes of the primary, as the spending amounts will capture the existence of a "Super Tuesday."[40]

Table 6 reports the coefficient and standard errors for $\beta_{1s}$ in Equation (3), which is

[39]If we restrict the sample further to include only the states that change primary status between the two election cycles (or only estimating the extensive margin), our results remain substantively similar, though our standard errors become slightly larger.

[40]If we additionally control for lagged spending growth or the "Super Tuesday" dummy variable, $\beta_{1s}$ is not statistically different from the specification shown in Table 6.

the coefficient on the growth rate in expenditures. In order to generate results that are comparable to those found in Tables 4-5, we estimate what the increased economic growth from having a primary. To do this, we use the results from Table 3, which show that having a primary more than doubles campaign spending in a state (or over 100%). We find that campaign spending modestly increases quarterly growth, where doubling campaign expenditures between quarters results in a 0.054 percentage point increase in a state's total income from the previous quarter, adjusting for seasonal increases in income. We see the largest effects in the accommodations and retail trade sectors, where doubling expenditures results in a 0.13 and 0.061 percentage point increase in income, respectively. We find larger effects in the accommodations sector than we do for total income. Comparing these to the mean income growth rates for the time period in Table 8 in Appendix A, we find that these results are about a 35% increase in total income, making these results consistent with the previous analysis.

The results for the retail trade sector are slightly different from the previous results using a primary dummy variable, as they are now statistically different from zero. While this sector has smaller growth rates on average when compared to the other two sectors, the increased growth in the later period may in part be influenced by the many technological and startup needs of the campaign offices' expenses that happened from 2004-2008 moreso than in previous periods. In addition, given a larger effort of grass roots campaigning from 2004-2008, staffers likely spent more time in less populated areas, allowing them to promote local economies more than in the longer time period. The battleground dummies again appear to slightly decrease income growth.

Similar to the previous section, we also include state fixed effects, where the comparison now comes from changes in spending growth within the same state. This is shown in Table 14, and does not substantially change the results. In addition, we replicate the results using the primary dummy variables from the previous subsection on this subsample. These results, in Table 15 in Appendix C, are consistent with the results in Tables 4-5.

Theoretically, these expenditure results can be used to calculate a multiplier, which

would give the effect of additional spending on income levels. We expect that a multiplier effect will exist if service sector employees are receiving higher wages and exuding higher levels of spending. For example, if a waitress receives a greater amount of tips than usual, she may be more inclined to make additional purchases, or even tip her hairdresser more. This money will continue to circulate in the state's economy. Calculating this multiplier would provide a comparison to the traditional literature on fiscal stimulus multipliers, given that this multiplier would reflect previously unstudied sectors. However, we do not have a complete measure of the amount spent during primary campaigns. Our measure of spending is a lower bound on the actual amount of additional spending brought forth by a Presidential primary campaign, and does not include spending by the media, individual spending by staffers, or the additional expenditures put forth by a state's residents in order to engage in campaign events. For simplicity, we will refer to these additional expenses as "media spending" for the remainder of the discussion. This mis-measurement of total spending makes it hard to calculate accurate multipliers.

We assume that media spending and our expenditure values are highly correlated,[41] which implies that our estimate of $\beta_{1s}$ will not be biased. However, this makes it difficult to estimate the multiplier. The multiplier tells us how much total income would grow with an additional \$1 of spending. In our setup, an additional \$1 of primary spending does not just account for a \$1 increase in spending, as it would also be associated with an increase in media spending. Because we do not have an accurate measure of media spending, we are uncertain of the degree to which media spending would increase, and therefore cannot calculate an accurate multiplier. This argument implies that multipliers would be (and are) unreasonably large (just over 10). When we instead run simulations varying the amount of media spending, between 50% and 100% of our expenditure values, our estimates of $\beta_{1s}$ remain statistically equivalent to the previous estimates. This simulation also produces lower and reasonable multiplier estimates within ranges of media spending

[41]We think this is a valid assumption since a race with greater primary spending may have more electoral votes and garner more media attention. Also, like candidates, networks are constrained if many contests occur on the same day and have to spend less covering each given state.

between 50% and 100% of total campaign spending (between 2 and 3.5). The biggest difference between our work and the traditional public finance literature looking at local multipliers is the lack of public investment spending in this paper.

# 5 Where is the Money Coming from?

A discussion of the economic benefit of primaries would be incomplete without considering the sources of these funds. In particular, concern may arise that campaign contributions from individuals within a state are approximately equal to campaign spending in that same state. If, for example, Iowa residents are contributing at a higher rate than the rest of the country (especially at the time of the primary), funds may simply be moving amongst Iowa citizens.

Campaign spending differs from traditional government spending because campaigns are financed through three sources: individual level contributions, federal matching funds, and Political Action Committee (PAC) contributions. Individual level contributions in presidential races are generally considered consumption goods, where an individual donates to a campaign if it increases his/her utility (Ansolabehere et al. 2003). Thus, individuals who enjoy following politics, as well as those with more resources, tend to contribute more money to candidates and do this more frequently (Brady et al. 1995). While we do not precisely know the counterfactual, we postulate that this money would not be spent in the absence of primaries, as those who contribute in primaries tend to be more high-income individuals whose budgets allow for some flexibility in spending. However, we cannot fully assess the value of individuals' participation in the process, where they give their time, or small dollar donations to the campaign. These resources would likely be reallocated in the absence of the race. An additional source of "individual" funds, which are less frequently utilized in primary races, is a candidate's personal expenditures, which likely would not be spent to the same extent in the absence of a race and are a direct transfer to individuals in the service sector of states with a high degree

of campaigning.

Second, partial public funding is available to Presidential primary candidates in the form of matching payments of up to $250 per individual contribution.[42] To obtain these funds, candidates must become eligible and limit themselves to spending caps.[43] Again, these funds differ from the traditional federal spending in that they are not targeted at aiming an impoverished area, but instead are entrusted to viable Presidential candidates with intentions of getting out their messages to help voters make an informed decision. There has been little variation in the total federal funds allocated for Presidential primary contests over our full sample period (1976-2008), and this money can be seen as a transfer from all taxpayers to those receiving campaigning.

Third, candidates receive money from PACs. While PAC contributions have increased significantly since 1976 (FEC 2010),[44] candidates still receive most of their money during the primary from individuals and matching funds. This is because partisan PACs generally wait until a candidate has clinched the nomination to stand behind him. In 2008, candidates raised a total of $534 million from individuals, $63 million from PACs, and $21 million from federal matching funds. Similarly, in 2004, candidates raised $130 million from individual contributors, $10 million from PACs, and $27 from federal funds.[45]

Recognizing that the majority of campaign spending comes from individuals, we analyze the geographic sources of the donations in Figures 6 - 7 for 2004 and 2008, respectively. We construct a measure, entitled Campaign Ratio, by dividing total campaign-related expenses (i.e., money spent specifically on the travel-related activities for campaigning, not on ads, media, consultants, etc.) in a given state by that state's total individual-level campaign contributions. Thus, the greater the measure, the more relative money that is coming from out of state than being spent in state.

[42]Variation in total federal funding will come via the number of contributions as well as the number of candidates raising the threshold amount to begin collecting federal dollars within each primary cycle.

[43]See `www.fec.gov` for more on these rules.

[44]Also, see the CRP `http://www.opensecrets.org/pres08/totals.php?cycle=2008` for more trends on giving and expenditures.

[45]Calculations based on Federal Election Commission data on Presidential candidates' primary fundraising.

In Figure 6, we see that in early states like Iowa, New Hampshire, South Carolina, Missouri, Arkansas, and Virginia, there is the greatest ratio of spending to contributions. States like Texas, Washington, and California had some of the lowest ratios in 2004, meaning that residents were contributing more money than was being spent in the state on campaigns. Similarly, Figure 7 shows that Iowa, New Hampshire, Wisconsin, Missouri and Iowa have the highest amount of money spent on primary campaign expenditures, compared to he total contributions by state residents. However, South Carolina and Kansas still saw more money spent in their states than what their residents contributed. In general, what we see is a transfer of funds from individuals in some states with many contributors to states early in the primary process, or on days with their own contest. These figures imply that the money being spent during primaries is mostly coming from outside the state.[46]

# 6 Conclusion

This paper takes a traditional public finance and macroeconomics question, asking how government spending affects local economies, and looks at primary campaign spending as an exogenous shock to previously unstudied sectors of a state's economy. We find that this money modestly increases income growth in a state. Specifically, the service sectors see the largest effects, where the accommodations sector seems to be the main source of this finding.

While other papers have investigated the ability of early primaries to influence policy, as candidate's attempt to appease early state's preferences in order to clench the nomination early (Malhotra and Snowberg 2011), our paper is the first to show the economic value of hosting a primary race. We also find that when there are few candidates in the race, it is more valuable to have a primary race that occurs independently of other states, making a Super Tuesday primary less valuable in terms of spending and economic

[46]Again, we do not look at small donations or within-state volunteering as inputs.

growth. This paper provides additional incentives for states to move their primaries up in the ordering, though to do so strategically.

Additionally, this paper provides a new insight on fiscal stimulus. While previous work has established a link between government spending and increases in employment, earnings, and income, this paper asserts that additional spending in states' service sectors provide short-run increases to personal earnings on the intensive margin. Thus, when individuals are greeted with a political campaign, they should relish in the stimulus this provides (and the transfers from individuals in other states that allow this to occur). A federal re-ordering of the primary calendar may best be structured to help states with struggling service sectors.

As policymakers continue to reform campaign finance legislation, they should consider the potential positive effects, though short-run and sector-specific, that can ensue from campaign spending in states.

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# Figures

Figure 1: Number of primaries over time

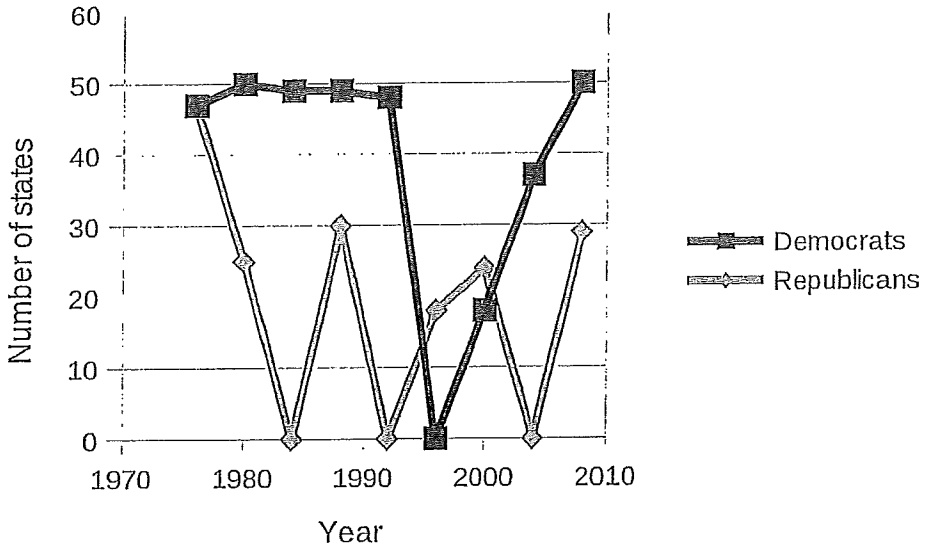


Figure 2: Primary Length and GDP

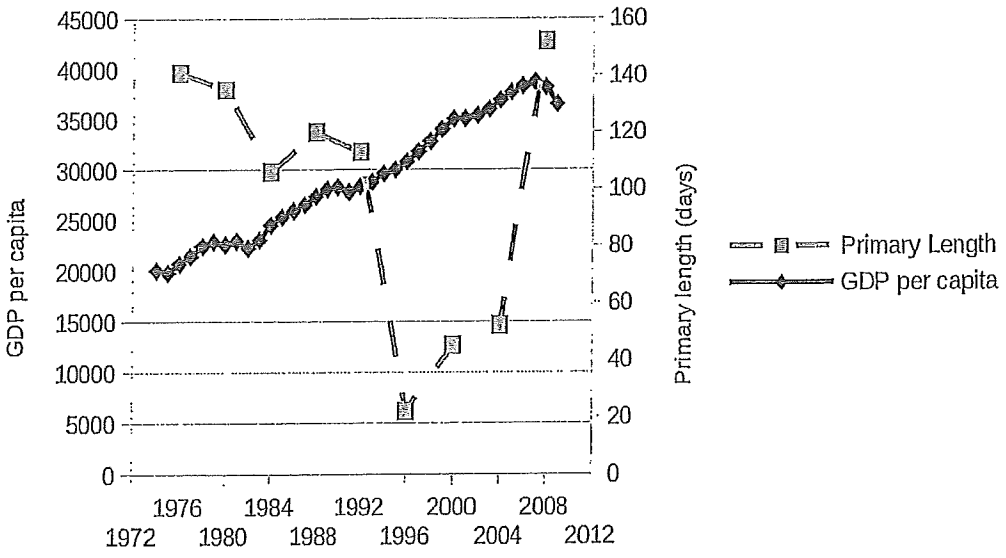



Figure 3: States that switch primary dates and GDP

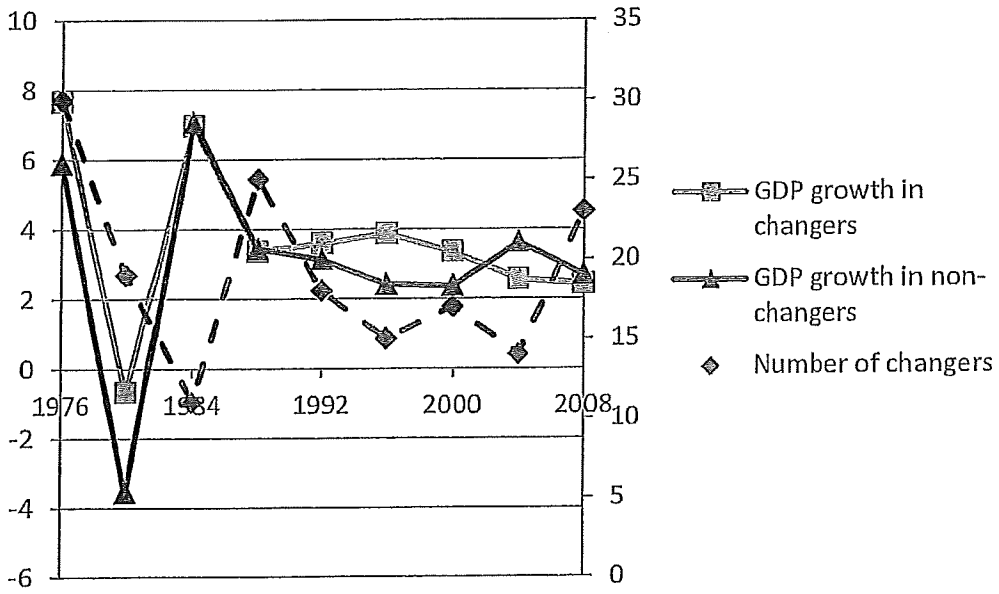


Figure 4: Primary Status Between 2004 and 2008

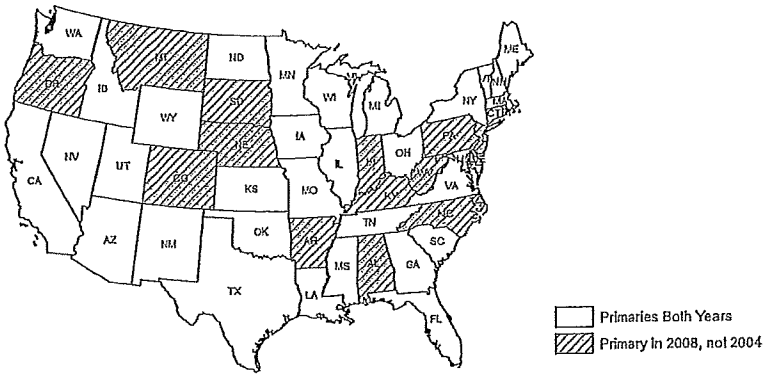



Figure 5: Changes in Expenditures from 2004-2008

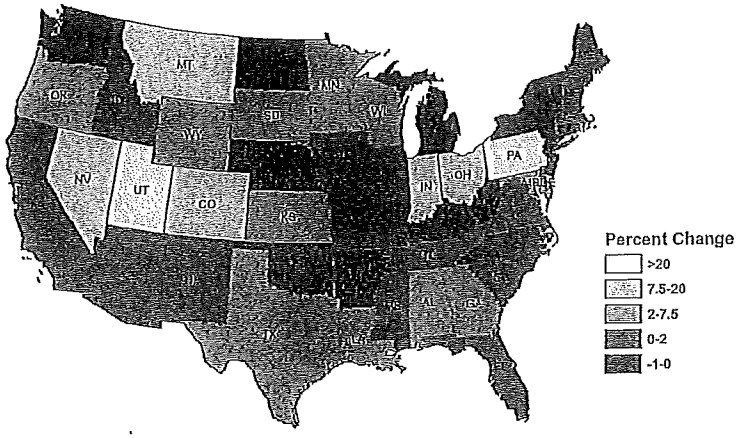


Figure 6: Campaign Expenditures and Contributions in 2004

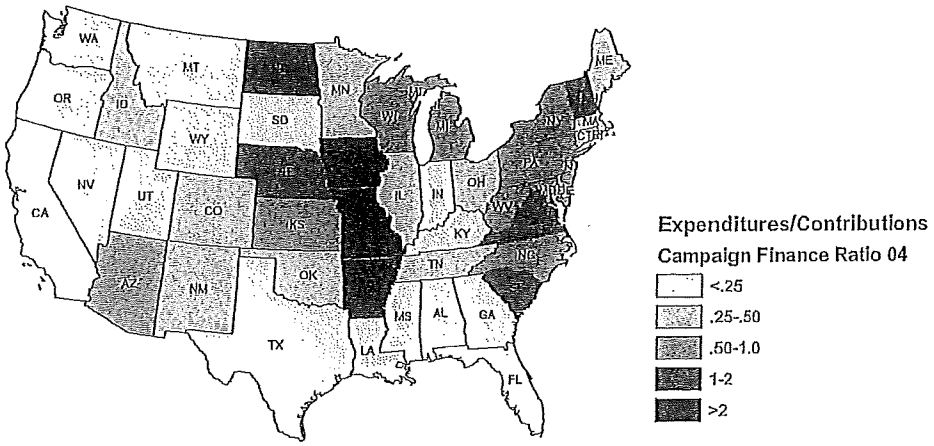
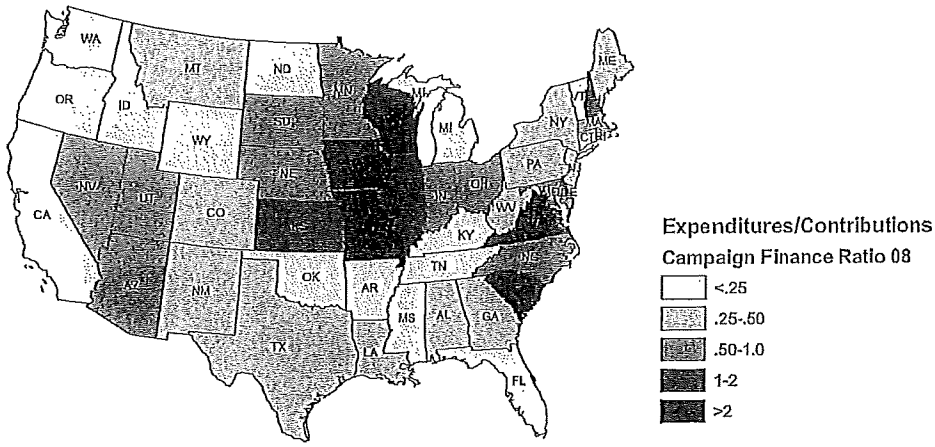



Figure 7: Campaign Expenditures and Contributions in 2008



# Tables

Table 1: Dates when only one candidate remains by party

| | Republicans | | Democrats | |
|---|---|---|---|---|
| | Date Clinched | Nominee | Date Clinched | Nominee |
| 1976 | 8 June | Gerald Ford | 8 June | Jimmy Carter |
| 1980 | 1 May | Ronald Reagan | 4 June | Jimmy Carter |
| 1984 | No Contest | Ronald Reagan | 5 June | Walter Mondale |
| 1988 | 15 March | George H.W. Bush | 7 June | Michael Dukakis |
| 1992 | No Contest | George H.W. Bush | 2 June | Bill Clinton |
| 1996 | 5 March | Bob Dole | No Contest | Bill Clinton |
| 2000 | 9 March | George W. Bush | 9 March | Al Gore |
| 2004 | No Contest | George W. Bush | 11 March | John Kerry |
| 2008 | 4 March | John McCain | 3 June | Barack Obama |

Notes: President Carter had a very low approval rating and was forced by the DNC to run in the primary in 1980. No Contest means that there were no contenders against the incumbent president.

Table 2: Spending by Primary Existence

| Primary Status | Total Spending | Campaign Spending |
|---|---|---|
| Primary in current quarter | | |
| Average | 1,507,529 | 703,237 |
| Median | 423,584 | 222,641 |
| 25th Percentile | 86,755 | 55,653 |
| 75th Percentile | 1,487,526 | 721,901 |
| Observations | 89 | 89 |
| Primary in next quarter | | |
| Average | 1,733,553 | 638,328 |
| Median | 276,206 | 138,157 |
| 25th Percentile | 33,115 | 27,522 |
| 75th Percentile | 1,336,009 | 679,948 |
| Observations | 89 | 89 |
| No primary | | |
| Average | 861,762 | 372,993 |
| Median | 99,962 | 35,286 |
| 25th Percentile | 16,191 | 4,207 |
| 75th Percentile | 533,750 | 255,636 |
| Observations | 624 | 624 |

Total Spending includes all money spent by campaigns (in $s).
Campaign Spending removes ad and media expenditures from Total Spending.
Compares quarter/states with and without primary elections
in 2003-2004, 2007-2008.

Table 3: Primary Existence Predicts Primary Campaign Expenditures

| Dependent Variable=Spending Growth | | |
|---|---|---|
| | (1) | (2) |
| Primary | 1.128*** | 1.218*** |
| | (0.281) | (0.335) |
| Primary on Super Tuesday | -0.481 | -0.693* |
| | (0.341) | (0.392) |
| Battleground State | -1.500*** | -1.688*** |
| | (0.222) | (0.229) |
| Observations | 658 | 658 |

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies. Column (2) includes state fixed effects.
Primary is a dummy for whether or not there is a primary campaign in the given state and given quarter or following quarter.

Table 4: Primary Elections Increase Income Growth

| Dependent Variable=Per Capita Income Growth | | | | |
|---|---|---|---|---|
| | (1) | (2) | (3) | (4) |
| | Income | Services | Accommodations | Retail Trade |
| | 1974-2009 | 1974-2001 | 1990-2009 | 1974-2009 |
| Primary | 0.00525*** | 0.00761*** | 0.00473** | 0.000798 |
| | (0.000678) | (0.000958) | (0.00227) | (0.000970) |
| Primary on Super Tuesday | -0.00399** | -0.0140*** | -0.0146*** | -0.00746** |
| | (0.00188) | (0.00316) | (0.00486) | (0.00294) |
| Battleground state | 0.000202 | -0.000194 | -0.00214* | 0.000474 |
| | (0.000576) | (0.000842) | (0.00125) | (0.000736) |
| Observations | 5586 | 4370 | 2997 | 5586 |

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies. State-quarter observations.
Drops IA, NH, SC.
Primary is a dummy for whether or not there is a primary campaign in the given state and given quarter or following quarter.

Table 5: Primary Elections Increase Income Growth (state fixed effects)

| Dependent Variable = Per Capita Income Growth | | | | |
|---|---|---|---|---|
| | (1) | (2) | (3) | (4) |
| | Income | Services | Accommodations | Retail Trade |
| | 1974-2009 | 1974-2001 | 1990-2009 | 1974-2009 |
| Primary | 0.00528*** | 0.00764*** | 0.00497** | 0.000833 |
| | (0.000492) | (0.000635) | (0.00215) | (0.000679) |
| Primary on Super Tuesday | -0.00401* | -0.0137*** | -0.0153*** | -0.00771** |
| | (0.00210) | (0.00295) | (0.00400) | (0.00303) |
| Battleground state | 0.000378 | -0.000154 | -0.00188* | 0.000531 |
| | (0.000509) | (0.000849) | (0.00107) | (0.000642) |
| Observations | 5586 | 4370 | 2997 | 5586 |

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies and state fixed effects. State-quarter observations.
Drops IA, NH, SC.
Primary is a dummy for whether or not there is a primary campaign in the given state and given quarter or following quarter.

Table 6: Campaign Expenditures Modestly Increase Income Growth

| Dependent Variable= Per Capita Income Growth | | | |
|---|---|---|---|
| | (1) | (2) | (3) |
| | Income | Accom. | Retail |
| Spending Growth | 0.000541*** | 0.00134*** | 0.000606*** |
| | (0.000155) | (0.000259) | (0.000215) |
| Battleground | 0.000768 | -0.00938*** | -0.00333** |
| | (0.00125) | (0.00187) | (0.00153) |
| Observations | 658 | 658 | 658 |

Robust standard errors in parentheses.
* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies. State-quarter observations.
Drops IA, NH, SC.

Table 7: Campaign Expenditures Modestly Increase Income Growth (state fixed effects)

| Dependent Variable= Per Capita Income Growth | | | |
|---|---|---|---|
| | (1) | (2) | (3) |
| | Income | Accom. | Retail |
| Spending Growth | 0.000520*** | 0.00128*** | 0.000586*** |
| | (0.000134) | (0.000267) | (0.000207) |
| Battleground | 0.000222 | -0.0125*** | -0.00430** |
| | (0.00120) | (0.00221) | (0.00165) |
| Observations | 658 | 658 | 658 |

Robust standard errors in parentheses.

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Includes quarter dummies and state fixed effects.

State-quarter observations. Drops IA, NH, SC.

# Appendix A: Data Appendix

Table 8: Summary Statistics

| | Mean | Standard deviation | Minimum | Maximum |
|---|---|---|---|---|
| **Full Sample** | | | | |
| Income growth | 0.0128 | 0.0147 | -0.1020 | 0.1833 |
| Services income growth | 0.0209 | 0.0171 | -0.2070 | 0.3299 |
| Accommodations income growth | 0.0107 | 0.0237 | -0.4903 | 0.3630 |
| Retail trade income growth | 0.0110 | 0.0173 | -0.2736 | 0.2800 |
| Primary dummy | 0.1011 | 0.3015 | 0 | 1 |
| Super Tuesday dummy | 0.0146 | 0.1200 | 0 | 1 |
| Battleground dummy | 0.0984 | 0.2978 | 0 | 1 |
| Only for election years | | | | |
| Primary dummy | 0.4156 | 0.4930 | 0 | 1 |
| Super Tuesday dummy | 0.0600 | 0.2376 | 0 | 1 |
| Battleground dummy | 0.4044 | 0.4909 | 0 | 1 |
| **2004-2008 Sample Only** | | | | |
| Income growth | 0.0143 | 0.0284 | -0.0443 | 0.2404 |
| Accommodations income growth | 0.0110 | 0.0294 | -0.0752 | 0.2158 |
| Retail trade income growth | 0.0031 | 0.0222 | -0.0857 | 0.1458 |
| Campaign spending growth | -0.4350 | 3.0736 | -12.0499 | 9.3338 |
| Campaign spending growth* | 0.4401 | 1.7784 | -8.8538 | 8.8708 |
| Campaign spending growth** | -0.7289 | 3.3502 | -12.0499 | 9.3338 |
| Battleground Dummy | 0.2475 | 0.4318 | 0 | 1 |
| Super Tuesday dummy | 0.0437 | 0.2047 | 0 | 1 |
| Only for election years | | | | |
| Battleground dummy | 0.4950 | 0.5006 | 0 | 1 |
| Super Tuesday dummy | 0.0875 | 0.2829 | 0 | 1 |

* Includes only periods with primaries.

** Includes only periods without primaries.

Table 9: Variables Collected

| Variable | Measured | Years | Source |
|---|---|---|---|
| Primary Dates | Date each Presidential primary was held, by state and party | 1976-2008 | Green Papers (for primaries)<br>Frontloading HQ (for caucuses) |
| Clinch Dates | Date Presidential candidate was last<br>remaining in contest for party nomination | 1976-2008 | Various sources |
| Battleground States | Competitive States in election based on polls<br>(< 10 perecentage points between winner and loser) | 1996-2008 | Intrade Prediction markets,<br>David Leip's Polling Report |
| | Competitive states in election based on ex-post results<br>(< 10 perecentage points between winner and loser) | 1976-1992 | David Leip's Election Results |
| Income | Quarterly state earnings | 1974-2008 | Bureau of Economic Analysis<br>(BEA) |
| Services Income | Quarterly state earnings in the "service" sector | 1974-2001 | BEA |
| Accommodations Income | Quarterly state earnings in the accommodations sector | 1990-2008 | BEA |
| Retail Income | Quarterly state earnings in the retail sector | 1990-2008 | BEA |
| Population | Annual state population interpolated by quarter | 1974-2008 | Census |
| GDP | Annual state GDP | 1974-2008 | BEA |
| Unemployment | Annual state unemployment rate | 1974-2008 | BLS |
| Campaign expenditures | All expenses by Presidential primary candidates<br>spent in pursuit of the primary race<br>Includes: administrative and campain expenses, i.e.<br>hotel rooms, meals, local polling, Get-out-the-Vote,<br>campaign events, money spent by staffers for catering<br>meetings, rent, utilities, cable, internet, administrative<br>supplies, staffer travel. Does not include advertisements | 2004-2008 | Center for Responsive Politics |

Table 10: Variables Measured

| Variable | Measured |
|---|---|
| Primary Dummy | Dummy Variable = 1 if there was a primary in state $i$ in quarter $t$ or $t+1$ based on state primary dates and clinch dates |
| Battleground States | Dummy Variable=1 if state $i$ was competitive in election year, and primary nomination clinched for at least one party at time $t$ |
| Primary on Super Tuesday | Dummy Variable=1 if state $i$ had primary at time $t$ and that day had the highest number of primary elections during that cycle |
| Per Capita Income Growth | $log\left(\frac{\text{Income}_t}{\text{Population}_t}\right) - \log\left(\frac{\text{Income}_{t-1}}{\text{Population}_{t-1}}\right)$ |
| Per Capita Services Income Growth | Same as income, but only for 1974-2001 |
| Per Capita Accommodations Income Growth | Same as income, but only for 1990-2008 |
| Per Capita Retail Income Growth | Same as income, but only for 1990-2008 |
| Population | Annual population data, by state (interpolated by quarter) |
| Spending Growth | $log(\text{Spending}_t) - \log(\text{Spending}_{t-1})$ |
| Per Capita Spending Growth | $log\left(\frac{\text{Spending}_t}{\text{Population}_t}\right) - \log\left(\frac{\text{Spending}_{t-1}}{\text{Population}_{t-1}}\right)$ |

# Appendix B: Election Information

Table 11: Battleground states by year

| | |
|---|---|
| Alabama | 1980, 1992, 1996 |
| Alaska | 1992 |
| Arizona | 1992, 1996, 2000, 2008 |
| Arkansas | 1980, 2000, 2004 |
| California | 1976, 1988 |
| Colorado | 1968, 1988, 1992, 1996, 2000, 2004, 2008 |
| Connecticut | 1980, 1992, 1996, 2008 |
| Delaware | 1976, 1980, 1992, 2004 |
| Florida | 1976, 1992, 1996, 2000, 2004, 2008 |
| Georgia | 1992, 1996, 2008 |
| Hawaii | 1976, 1980, 1988, 2004 |
| Illinois | 1976, 1980, 1988 |
| Indiana | 1976, 1992, 1996, 2008 |
| Iowa | 1984, 1992, 2000, 2004, 2008 |
| Kansas | 1976, 1992 |
| Kentucky | 1976, 1980, 1992, 1996 |
| Louisiana | 1976, 1980, 1992, 2000 |
| Maine | 1980, 1992, 2000, 2004 |
| Maryland | 1976, 1980, 1984, 1988 |
| Massachusetts | 1980, 1984, 1988 |
| Michigan | 1976, 1980, 1988, 1992, 2000, 2004 |
| Minnesota | 1980, 1984, 1988, 2000, 2004 |
| Mississippi | 1976, 1980, 1992, 1996 |
| Missouri | 1968, 1976, 1980, 1988, 1996, 2000, 2004, 2008 |
| Montana | 1980, 1988, 1992, 1996, 2008 |
| Nevada | 1976, 1992, 1996, 2000, 2004 |
| New Hampshire | 1992, 1996, 2000, 2004, 2008 |
| New Jersey | 1976, 1992, 2004 |
| New Mexico | 1976, 1988, 1992, 1996, 2000, 2004 |
| New York | 1976, 1980, 1984, 1988 |
| North Carolina | 1980, 1992, 1996, 2008 |
| North Dakota | 1976, 1996, 2008 |
| Ohio | 1968, 1976, 1992, 1996, 2000, 2004, 2008 |
| Oklahoma | 1976, 1992, 1996 |
| Oregon | 1968, 1976, 1980, 1988, 1992, 1996, 2000, 2004 |
| Pennsylvania | 1968, 1976, 1980, 1984, 1988, 1992, 2000 |
| Rhode Island | 1984 |
| South Carolina | 1980, 1992, 1996, 2008 |
| South Dakota | 1976, 1988, 1992, 1996, 2008 |
| Tennessee | 1980, 1992, 1996, 2000 |
| Texas | 1976, 1992, 1996 |
| Vermont | 1980, 1988, 2000 |
| Virginia | 1976, 1992, 1996, 2000, 2004, 2008 |
| Washington | 1976, 1988, 2000, 2004 |
| West Virginia | 1980, 1988, 2000 |
| Wisconsin | 1968, 1972, 1976, 1980, 1984, 1988, 1992, 2000 |
| Wyoming | 1992 |

Table 12: Super Tuesday states by year

| | |
|---|---|
| Alabama | 1980, 1984, 1988, 2008 |
| Alaska | 1980, 2008 |
| Arizona | 2008 |
| Arkansas | 1976, 1988, 2008 |
| California | 2000, 2004, 2008 |
| Colorado | 1996 |
| Connecticut | 1996, 2000, 2004, 2008 |
| Delaware | 1992, 2008 |
| Florida | 1980, 1984, 1988, 1992 |
| Georgia | 1980, 1984, 1988, 1996, 2000, 2004, 2008 |
| Hawaii | 1980, 1984, 1988, 2000 |
| Idaho | 1976, 2008 |
| Illinois | 2008 |
| Kansas | 1988, 2008 |
| Kentucky | 1976, 1988 |
| Louisiana | 1992 |
| Maine | 1996, 2000 |
| Maryland | 1988, 1996, 2000, 2004 |
| Massachusetts | 1984, 1988, 1996, 2000, 2004, 2008 |
| Minnesota | 1996, 2000, 2004, 2008 |
| Missouri | 1988, 1992, 1996, 2000, 2008 |
| Montana | 2008 |
| Nevada | 1976, 1984, 1988 |
| New Jersey | 2008 |
| New Mexico | 2008 |
| New York | 2000, 2004, 2008 |
| North Carolina | 1988 |
| North Dakota | 2000, 2004, 2008 |
| Ohio | 2000, 2004 |
| Oklahoma | 1980, 1984, 1988, 1992, 2008 |
| Oregon | 1976 |
| Rhode Island | 1984, 1988, 1992, 1996, 2000, 2004 |
| Tennessee | 1976, 1988, 1992, 2008 |
| Texas | 1988, 1992 |
| Utah | 2008 |
| Vermont | 1996, 2000, 2004 |
| Virginia | 1988 |
| Washington | 1980, 1984, 1988, 2004 |
| West Virginia | 2007 |

# Appendix C: Robustness

Table 13: Per Capita Campaign Expenditures Modestly Increase Income Growth

| Dependent Variable= Per Capita Income Growth | | | |
|---|---|---|---|
| | (1) | (2) | (3) |
| | Income | Accom. | Retail |
| Spending Growth | 0.000542*** | 0.00134*** | 0.000607*** |
| | (0.000155) | (0.000259) | (0.000215) |
| Battleground State | 0.000769 | -0.00938*** | -0.00333** |
| | (0.00125) | (0.00187) | (0.00153) |
| Observations | 658 | 658 | 658 |

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies. State-quarter observations.
Drops IA, NH, SC.

Table 14: Per Capita Campaign Expenditures Modestly Increase Income Growth (state fixed effects)

| Dependent Variable= Per Capita Income Growth | | | |
|---|---|---|---|
| | (1) | (2) | (3) |
| | Income | Accom. | Retail |
| Spending Growth | 0.000521*** | 0.00128*** | 0.000587*** |
| | (0.000134) | (0.000267) | (0.000207) |
| Battleground | 0.000223 | -0.0125*** | -0.00430** |
| | (0.00120) | (0.00221) | (0.00165) |
| Observations | 658 | 658 | 658 |

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies and state fixed effects.
State-quarter observations. Drops IA, NH, SC.

Table 15: Results are robust restricting sample to 2004 and 2008 expenditures sample

| | (1) Income | (2) Accom. | (3) Retail |
|---|---|---|---|
| Primary | 0.00734*** | 0.0131*** | 0.00680*** |
| | (0.00162) | (0.00273) | (0.00196) |
| Primary on Super Tuesday | -0.000656 | -0.00935** | -0.00731* |
| | (0.00301) | (0.00443) | (0.00438) |
| Battleground State | -0.000263 | -0.0114*** | -0.00411*** |
| | (0.00123) | (0.00188) | (0.00147) |
| Observations | 658 | 658 | 658 |

Robust standard errors in parentheses

Includes quarter dummies

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Primary is a dummy for whether or not there is a primary campaign in the given state and given quarter or following quarter.

# CHAPTER 23: EXPENDITURE MULTIPLIER

Consumption and Savings Function:

- Consumption is primarily a function of Yd (disposable income) or "after-tax" income. Although it is also influenced by the rate of interest, expectations about future Yd, wealth effects etc.
- if plot Consumption as a function of Yd it will have a positive vertical intercept ('autonomous consumption') and a positive slope but less than one (i.e, the slope of the consumption function is the coefficient on Yd in the Consumption equation and represents the Marginal Propensity to Consume (MPC). Therefore, $0<MPC<1$
- if plot the consumption function versus a 45 degree line (with the mathematical property that any point on the 45 degree line has the same vertical coordinate as horizontal coordinate, or $x = y$) then where Consumption intersects the 45 degree line is referred to as "breakeven level of Yd".
- at $Yd < Yd$ breakeven, then $C > Yd$ (the individual is 'dissaving' as savings $<0$)
- at $Yd > Yd$ breakeven, then $C < Yd$ and the individual is "saving", Savings $>0$.
- the Savings function is derived from the consumption function (if the consumption function changes then so does the savings function). For example, if

  $C = a + b(Y - T)$ where $a>0$, $0<b<1$ and $Yd= Y-T$

  then the implied savings function is:

  $S = -a + (1-b)(Y - T)$ where $(1-b) = MPS$ (marginal propensity to save)

Note: $MPC + MPS = 1$

- Mathematical example:

  if $C = 1000 + 0.80(Y - T)$ then the implied savings function is:

  $S = -1000 + 0.20(Y - T)$

where $MPC = 0.80$ and $MPS = 0.20$. See the graphs pg. 529

Effects of other variables on Consumption function:

- if the interest rate falls or expected future disposable income increases, then the consumption function shifts upwards and the implied savings function shifts downwards (see pg. 531)

Other Components of Aggregate Expenditure (AE):

i) Investment function:

- depends on interest rate, expected future profits. Not related to current GDP or Yd. Therefore, if we plot the investment function in diagram with Investment expenditures on the vertical axis and real GDP on the horizontal axis, the Investment (I) line is horizontal at $I_0$. That is, we assume that:

  $I = I_0$.

ii) Government expenditures:

- changes in government expenditures (G) or taxes (T) represents a "fiscal policy" decision of the federal government. Therefore, a change in G is a policy choice and does not respond automatically to the level of GDP (Y). So in a diagram, G is also assumed to be autonomous,

  $G = G_0$.

iii) Exports:

- exports represent Canadian goods sold abroad. The level of exports will depend primarily on the Canadian price level (P), foreign price level (Pf), the exchange rate (E) and foreign GDP (Yf). Therefore, once again, X does not respond to the level of Canadian GDP so exports are

autonomous.

$X = X_0$.

iv) Imports:

n depends on relative prices (Canadian and foreign prices), the exchange rate (E), and Canadian GDP (Y). As GDP (Y) increases, we buy more goods and services and some of these will be imported from the rest of the world. Therefore,

Imports (M) = m Y where $0<m<1$ and m=MPM (marginal propensity to import)

**Aggregate Expenditure function (AE):**

n will have a positive intercept (see graph pg. 534)
n the slope of the AE function is given by:
  n slope of AE = MPC (1-t) - MPM where $0<t<1$
    and t represents the tax **rate**
n Note if we have lump sum taxes, T = To ( a constant) then t=0 and the slope of the AE function is just = MPC - MPM

n Numerical Example:
  If MPC = 0.80, MPM = 0.10 and t = 0.25 then the slope of the AE function is:
  slope of AE = 0.80 (1 - 0.25) - 0.10
  slope of AE = 0.50

Equilibrium GDP (Y):

n when AE = Y (planned spending = production) we have an equilibrium
n graphically this occurs anywhere along the 45 degree line with AE on the vertical axis and real GDP (Y) on the horizontal axis. Specifically, the equilibrium is where the given AE function intersects the 45 degree line. (see pg. 536)

Calculation of Equilibrium GDP (Y):

n Suppose you are given the following equations:

$C = 1000 + 0.80 (Y- T)$
$I = 180$
$G = 100$
$X = 200$
$M = 0.20 Y$
$T = 100$

n To find equilibrium GDP, follow these steps:
n **Step 1**: Calculate the AE equation by adding C, I G, X and M together and substitute the T value into the consumption equation

$AE = C + I + G + X - M$
so $AE = 1000 + 0.80(Y -100) + 180 + 100 + 200 - 0.20 Y$
or $AE = 1400 + 0.60 Y$

-**Step 2:** Impose the equilibrium condition, AE = Y
so $1400 + 0.60 Y = Y$

and since the equilibrium condition has been imposed, the value of Y solved for is then equilibrium Y.

- **Step 3:** Solve for equilibrium GDP

  $0.40\ Y = 1400$

  so $Y = 3500$

**The Multiplier:**

- the definition of the multiplier is: $\text{multiplier} = \frac{\text{change in equilibrium Y}}{\text{change in autonomous spending}}$

- the formula for the expenditure multiplier is: $\text{multiplier} = \frac{1}{1 - \text{slope of AE function}}$

Example: If the MPC = 0.80, t = 0, and MPM = 0.05 then
the slope of the AE function is = 0.75 and the multiplier is = 4
Therefore, for everyone $1 increase in spending (whether it be from C, I, G, X) it will generate a $4 increase in equilibrium GDP.

- continuing the example from above where equilibrium Y = 3500, if full employment GDP (Y*) = 4300 then in order to get to full employment GDP the government could increase its spending by 200 (once subject to the multiplier, the overall increase in GDP is going to be $800 bringing the new equilibrium GDP level to $4300 (=Y*)

**The Lump sum Tax multiplier:**

- if the government has a lump sum tax (so the tax rate, t = 0),then a $1 increase in taxes would reduce Consumption expenditures by the value of the MPC (eg 0.80). This reduction in expenditures is then subject to the multiplier. The end result is that when taxes (T) change, equilibrium GDP changes according to the value of the tax multiplier,
- definition of the tax multiplier: $\text{tax multiplier} = \frac{-\text{MPC}}{1 - \text{slope of the AE function}}$

Example:
If the MPC = 0.80, t = 0 and MPM = 0.05 then the tax multiplier is:

$$\text{tax multiplier} = \frac{-0.80}{1 - 0.75}$$

then the tax multiplier is -3.2
The tax multiplier is always a negative number because from the definition of the tax multiplier above, we know that if taxes increase (decrease), then real GDP will decrease (increase) so the tax multiplier is negative.

- you use the tax multiplier to determine the required change in taxes to bring about full employment GDP. Suppose again that Y (eq'l) = 3500 and Y* = 4300 and the tax multiplier is -3.2

then from the definition of the tax multiplier:

$$\text{tax multiplier} = \frac{\text{change in equilibrium GDP}}{\text{change in taxes (lump sum)}}$$

so if the tax multiplier is -3.2 and to get to full employment GDP we want the change in equilibrium GDP to be +$800, then the change in taxes should be = 800/-3.2 or = -$250

**The Multiplier and the Price Level:**

- n the price level (P) was held constant in deriving the AE function. Therefore, if the price level changes it will shift the AE curve (due to the wealth effect and the substitution effects, see page 543).
- n specifically, if the price level increases, AE shifts down (the increase in price reduces real wealth and encourages international and intertemporal substitution so consumption expenditures decrease and imports increase lowering equilibrium GDP). See graphs on page 544.

**Derivation of the AD curve:**

- n can derive the AD curve (from chapter 22) by changing the price level and tracing out what happens to equilibrium GDP following the shift in the AE curve. See page 544.
- n we can also trace out the effects of changes in other variables (eg changes in the interest rate or exchange rate etc) on the AD curve itself. See page 545. If the AE curve shifts upwards due to any effect but a change in price, then the AD curve will shift in response. See page 545.

Note: you should read over the Appendix to Chapter 23 (the mathematical note at the end of the chapter).

The State Auditor's office did not receive a response from the **Missouri House of Representatives,** the **Department of Transportation,** the **Missouri Senate, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri,** and **St. Louis Community College.**

**Fiscal Note Summary**

It is estimated this proposal will increase state government costs by at least $118,000 annually and have an unknown change in costs for local governmental entities. Any potential impact to revenues for state and local governmental entities is unknown.

16-006

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 21, 2014

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Aundrea Riffle regarding a proposed statutory amendment to Chapter 195 (2016-006)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Aundrea Riffle on November 21, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

RECEIVED
NOV 21 2014
STATE AUDITORS OFFICE

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-006

County of _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo., to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

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2014 NOV 21 AM 11:9
MO SEC OF STATE

## INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of the State of Missouri:

We, the undersigned, registered voters of the State of Missouri and _____ County (or St. Louis City) respectfully order that the following proposed law shall be submitted to voters of the State of Missouri for their approval or rejection, at the general election to be held on the 8th day of November 2016 and each for himself says: I have personally signed this petition; I am a registered voter of the State of Missouri and _____ County (or St. Louis City) my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

## CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI COUNTY OF

I _____, a Missouri registered voter and a resident of the State of Missouri, being first duly sworn say

| NAME (SIGN) | DATE SIGNED | REGISTERED VOTING ADDRESS (STREET, CITY, VILLAGE) | ZIP CODE | CONGR DIST. | NAME (PRINT TYPE) |
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16-006

County of _____
Page No. _____

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signed this page of the foregoing petition, and each of them signed his/her name thereto in my presence; I believe each has stated his/her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the State of Missouri and _____ County (or St. Louis City).

_____
Signature of Affiant (person obtaining signatures)

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____A.D.

Notary Public (seal)
My Commission Expires:

_____
Signature of Notary

Certified Official Ballot Title: **"Repeal without probation or parole sentence for non-violent drug offenders"**

Shall Missouri Law be amended to repeal the without probation or parole sentence for "non-violent drug offenders", and to provide that an offender with one previous conviction for non-violent drug felony unrelated to the present offense, the minimum prison term which the offender must serve shall be forty percent of his or her sentence; an offender with two previous convictions for non-violent drug felonies unrelated to the present offense, the minimum prison term which the offender must serve shall be fifty percent of his or her sentence; and offenders with three or more previous convictions for non-violent drug felonies unrelated to the present offense, the minimum prison term which the offender must serve shall be seventy percent of his or her sentence .

The net fiscal impact to the State or local governments resulting from this proposed measure would reduce the financial burden of housing non-violent drug offenders in costly prisons and allow for other forms of punishment that have proven to be effective.

16-006

County of: _____
Page No. _____

Initiative Petition
Be it enacted by the people of the State of Missouri

Section 195.295 of the Revised Missouri Statutes shall enact in lieu thereof new paragraphs.
The existing section 195.295 is set forth hereinafter with the new paragraphs underlined, and portions to be deleted enclosed in brackets:

§ Section 195.295

1. Any person who has pleaded guilty to or been found guilty of violation of subdivision (1) of subsection 1 of section 195.223, subdivision (1) of subsection 2 of section 195.223, subdivision (1) of subsection 3 of section 195.223, subdivision (1) of subsection 4 of section 195.223, subdivision (1) of subsection 5 of section 195.223, subdivision (1) of subsection 6 195.223, or subdivision (1) of subsection 7 of section 195.223 shall be sentenced to the authorized term of imprisonment for a class A felony if the court finds the defendant is a prior drug offender.

2. Any person who has pleaded guilty to or been found guilty of a violation of subdivision (1) of subsection 1 of section 195.223, subdivision (1) of subsection 2 of section 195.223, subdivision (1) of subsection 3 of section 195.223, subdivision (1) of subsection 4 of section 195.223, subdivision (1) of subsection 5 of section 195.223, subdivision (1) of subsection 6 of section 195.223, or subdivision (1) of subsection 7 of section 195.223, or subdivision (1) of subsection 9 of section 195.223 shall be sentenced to the authorized term of imprisonment for a class A felony, [which term shall be without probation or parole], if the court finds the defendant is a persistent drug offender.

3. Any person who has pleaded guilty to or been found guilty of a violation of subdivision (2) of subsection 1 of section 195.223, subdivision (2) of subsection (2) of section 195.223, subdivision (2) of subsection 3 of section 195.223, subdivision (2), of subsection 4 of section 195.223, subdivision (2). of subsection 5 of section 195.223, subdivision (2) of subsection 6 of section 195.223, or subdivision (2) of subsection 7 of section 195.223 or subsection 8 of section 195.223, or subdivision (2) of subsection 9 of section 195.223 shall be sentenced to the authorized term of imprisonment for a class A felony, [which term shall be served without probation or parole], if the court finds the defendant is a prior drug offender.

4. The provisions of subsections 1 to 3 of this section shall be applicable to nonviolent offender serving without probation or parole sentences for drug felonies. For the purposes of this section, "previous conviction(s)" means any prior pleading to or being found guilty of a drug related felony. Other provisions of the law to the contrary notwithstanding, any offender who has pleaded guilty to or has been found guilty of Class A Drug Trafficking under 195.295 and is committed to the department of corrections shall be required to serve the following minimum prison terms:

(1) If the offender has one previous conviction for a non-violent drug felony offense, the minimum prison term which the offender must serve shall be forty percent of his or her sentence or until the offender attains seventy years of age and has served at least thirty percent of the sentence imposed, whichever occurs first:

(2) If the offender has two previous convictions for non-violent drug felonies unrelated to the present offense, the minimum prison term which the offender must serve shall be fifty percent of his or her sentence or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first;

(3) If the offender has three or more previous convictions for non-violent drug felonies unrelated to the present offense, the minimum prison term which the offender must serve shall be seventy percent of his or her sentence or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.

(4) This new enactment shall not apply to any offender that has pleaded guilty to or has been convicted of a dangerous felony.

5. For purposes of this section, the term "minimum prison term" shall mean time required to be served by the offender before he or she is eligible for parole, conditional release or other early release by the department of corrections.

6. (1) Courts shall retain discretion to lower a person sentence that has been sentence to a without probation or parole sentence and order restorative justice methods, when applicable.

(2) As alternative sentences, the Court may impose, prison work programs, work release, home-based incarceration, treatment programs outside of prison, probation and parole options, and any other programs.

(3) The office of the state courts administrator, the department of public safety, and the department of corrections shall cooperate with the circuit courts of this state by providing information or access to information needed by the Court pertaining to an offender.

7. If the imposition or execution of a sentence is suspended, the court may order any or all of the following restorative justice methods, or any other method that the court finds just or appropriate:

(1) Restitution to any victim or a statutorily created fund for costs incurred as a result of the offender's actions;

(2) Offender treatment programs;

(3) Mandatory community service;

(4) Work release programs in local facilities; and

(5) Community-based residential and nonresidential programs.

8. The provisions of this section shall apply only to offenses occurring on or after August 3, 1993.

9. Pursuant to subdivision (1) of subsection 7 of this section, the court may order the assessment and payment of a designated amount of restitution to a county law enforcement restitution fund established by the county commission pursuant to section 50.565. Such contribution shall not exceed ten thousand dollars. Any restitution moneys deposited into the county law enforcement restitution fund pursuant to this section shall only be expended pursuant to the provisions of section 50.565.

10. A judge may order payment to a restitution fund only if such fund had been created by ordinance or resolution of a county of the State of Missouri prior to sentencing. A judge shall not have any direct supervisory authority or administrative control over any fund to which the judge is ordering a defendant to make payment.

11. A defendant who fails to make a payment to a county law enforcement restitution fund may not have his or her parole or probation revoked solely for failing to make such payment unless the judge, after evidentiary hearing, makes a finding supported by a preponderance of the evidence that the defendant either willfully refused to make the payment or that the defendant willfully, intentionally, and purposefully failed to make sufficient bona fide efforts to acquire the resources to pay.

12. Nothing in this section shall be construed to prevent circuit courts of the state from entertaining cases that are no longer pending and have become final.

13. All state laws and sentencing practices, which are inconsistent with the subsection (4) of section 195.295 shall no longer be in force and effect insofar as they are inconsistent with this section. As the sole purpose of the enactment, is to, "annul and repeal without probation or parole for non-violent drug offenders." To include and replace any prior provisions, language and terminology of section 195.295, and become consistent with repealing without probation or parole.

16-005

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 14, 2014

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article III, version 3 (2016-005)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Bradley Ketcher on November 14, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

RECEIVED
NOV 14 2014
STATE AUDITORS OFFICE

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

16-005

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

RECEIVED
2014 NOV 14 PM 12:06
SEC. OF STATE

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong. Dist. | NAME (Printed or Typed) |
|---|---|---|---|---|---|---|
| 1. | / / | | | | | |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer

_____

_____
Signature of Affiant
(Person obtaining signatures)

_____
(Printed Name of Affiant)

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____
_____

Notary Public (Seal)

My commission expires _____

*Be it resolved by the people of the state of Missouri that the Constitution be amended:* 16-005

Section A. Article III of the Constitution is revised by amending Sections 12, 19 and 39 and adopting 3 new sections to be known as Article III Sections 16(a), 19(a), and 19(b), to read as follows:

Section 12. 1. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This subsection shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

2. No senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist until the expiration of two calendar years after the conclusion of the session of the general assembly in which the member or employee last served. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any knowing violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

3. No senator or representative or their employees or any entity controlled by a senator or representative or their employees shall act or serve as a paid employee or consultant to a candidate or issue campaign or solicit prospective employers or clients as a paid employee or consultant to a candidate or issue campaign. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any knowing violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

Section 16(a). No senator or representative or their employees or staff shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value in excess of five dollars from any lobbyist or lobbyist principal. Senators or representatives, their employees and staff may accept informational material relevant to the general assembly's official functions and items that are available or distributed free of charge to members of the general public. Candidates for senator or representative or offices within the senate or house, including candidates for reelection, may accept campaign contributions consistent with section 19(a) of this article. Any knowing violation of this section shall be punishable by a term of imprisonment of up to six months and the imposition of a fine of up to five hundred dollars or both.

Section 19. 1. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place.

2. Legislative records shall be public records and subject to generally applicable state laws governing public access to public records. Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member, their employees and staff. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate respectively.

16-005

Section 19(a). 1. The amount of contributions, including cash and in-kind contributions, to a candidate for state senate, state representative or any office within the senate or house made by or accepted from any natural person or independent entity other than the candidate in any one election shall not exceed the following:

(a) To elect an individual to the office of state senator or an office within the senate, two thousand dollars;
(b) To elect an individual to the office of state representative or an office within the house, one thousand dollars;
(c) These contribution limits shall be recalculated on January 1 of even-numbered years by multiplying the original contribution limit by the cumulative consumer price index, as defined by law, for all years since January 1, 2017 and rounding to the nearest twenty-five dollars.

2. Unless the illegal contribution is refunded within ten business days, any person or entity making, accepting or retaining a contribution to a candidate for state senate, state representative or an office within the senate or house in excess of those allowed in subsection 1 shall be subject to:

(a) For the first violation, a civil fine of five thousand dollars plus an amount equal to the illegal contribution.
(b) For the second and subsequent violations, any person or entity knowingly making, accepting or retaining an illegal contribution shall be guilty of a crime and upon conviction be punished by a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars plus an amount equal to the illegal contribution or both.

3. The legislative contribution limits in subsection 1 shall not apply to a "truly independent expenditure." As used in this section, "truly independent expenditure" means one or more wholly independent expenditures that support the nomination, election, or defeat of a clearly identified candidate that is made without the cooperation or consent of, communication, coordination or consultation with, or the request or suggestion of the candidate, the candidate's committee, the candidate's campaign, the candidate's agents, consultants or advisors. In addition to other penalties of this section, any person or entity who knowingly violates the contribution limits of subsection 1 by making, accepting or facilitating an excessive expenditure that does not meet the requirements for a truly independent expenditure shall be guilty of a crime and upon conviction be punished by a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars plus an amount equal to the illegal expenditure or both.

4. The penalties in this section do not limit the power of either the house of representatives or the senate to discipline its own members. Nothing in this section shall restrict the general assembly or the People from passing campaign finance requirements that are more restrictive than those in this section.

Section 19(b). No political fund-raising activities or political fund-raising event, including the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party or political party committee, shall occur in or on any premises, property or building owned, leased or controlled by the house, senate or general assembly. Any knowing violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars plus an amount equal to the illegal contributions or both.

Section 39. The general assembly shall not have power:

(1) To give or lend or to authorize the giving or lending of the credit of the state in aid or to any person, association, municipal or other corporation;

(2) To pledge the credit of the state for the payment of the liabilities, present or prospective, of any individual, association, municipal or other corporation;

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(3) To grant or to authorize any county or municipal authority to grant any extra compensation, fee or allowance to a public officer, agent, servant or contractor after service has been rendered or a contract has been entered into and performed in whole or in part;

(4) To pay or to authorize the payment of any claim against the state or any county or municipal corporation of the state under any agreement or contract made without express authority of law;

(5) To release or extinguish or to authorize the releasing or extinguishing, in whole or in part, without consideration, the indebtedness, liability or obligation of any corporation or individual due this state or any county or municipal corporation;

(6) To make any appropriation of money for the payment, or on account of or in recognition of any claims audited or that may hereafter be audited by virtue of an act entitled "An Act to Audit and Adjust the War Debts of the State," approved March 19, 1874, or any act of a similar nature, until the claim so audited shall have been presented to and paid by the government of the United States to this state;

(7) To act, when convened in extra session by the governor, upon subjects other than those specially designated in the proclamation calling said session or recommended by special message to the general assembly after the convening of an extra session;

(8) To remove the seat of government from the City of Jefferson;

(9) Except as otherwise provided in section 39(b), section 39(c), section 39(e) or section 39(f) of this article, to authorize lotteries or gift enterprises for any purpose, and shall enact laws to prohibit the sale of lottery or gift enterprise tickets, or tickets in any scheme in the nature of a lottery; except that, nothing in this section shall be so construed as to prevent or prohibit citizens of this state from participating in games or contests of skill or chance where no consideration is required to be given for the privilege or opportunity of participating or for receiving the award or prize and the term "lottery or gift enterprise" shall mean only those games or contests whereby money or something of value is exchanged directly for the ticket or chance to participate in the game or contest. The general assembly may, by law, provide standards and conditions to regulate or guarantee the awarding of prizes provided for in such games or contests under the provision of this subdivision;

(10) To impose a use or sales tax upon the use, purchase or acquisition of property paid for out of the funds of any county or other political subdivision[.];

(11) To prohibit the counting of a genuine signature of a registered voter on a petition because of the signature means, manner, medium, form or format used by the registered voter, and no such law enacted by the general assembly shall be valid.

**MISSOURI STATE AUDITOR'S OFFICE**
**FISCAL NOTE (16-005)**

**Subject**

Initiative petition from Brad Ketcher regarding a proposed constitutional amendment to Article III. (Received November 14, 2014)

**Date**

December 3, 2014

**Description**

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Missouri Ethics Commission.**

**Marc Ellinger** provided information as an opponent of the proposal to the State Auditor's office.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Higher Education** indicated this initiative petition would not have a fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated:

Penalty provisions are the component of the bill to have potential fiscal impact for their department due to potential imprisonment. Currently, their department cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of their department due to the provisions of this legislation, their department will incur a corresponding increase of direct offender costs either through incarceration (FY13 average of $18.014 per offender, per day, or an annual cost of $6,575 per inmate) or through supervision provided by the Board of Probation and Parole (FY13 average of $5.07 per offender, per day or an annual cost of $1,851 per offender.)

In summary, supervision by their department through probation or incarceration would result in some additional costs, but it is assumed the impact would be $0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact for their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated there is no fiscal impact for their department.

Officials from the **Department of Social Services** indicated there is no fiscal impact to their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office. There should be no impact on general revenue, but the proposal could impact total state revenues depending upon the disposition of any fines imposed.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY (fiscal year) 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office.

Officials from **St. Louis County** indicated no fiscal impact.

Officials from the **City of Columbia** indicated this proposed amendment does not appear to have an effect on their city.

Officials from the **City of Kansas City** indicated this initiative petition has no impact on their city.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **City of St. Joseph** indicated there is no fiscal impact to their city with this initiative.

Officials from **Cape Girardeau 63 School District** indicated they are unaware of any cost or savings due to this petition.

Officials from the **Metropolitan Community College** indicated the proposed constitutional amendment would have no significant fiscal impact on their organization.

Officials from the **University of Missouri** indicated this initiative petition will have no fiscal impact on their university.

Officials from the **Missouri Ethics Commission** (MEC) indicated the costs related to the proposed legislation are not currently included in their budget.

They estimate increased operating expenses of $67,478 for FY 2015, $61,107 for FY 2016, and $61,734 for FY 2017.

Prohibiting a member of the general assembly from accepting or receiving compensation of any as a paid political consultant for another individual who is a candidate or holding the office of a state representative or state senator, or the candidate committee of such candidate or office holder as defined in Chapter 130

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific prohibition of receiving compensation as a political consultant from the entities outlined in 105.456, including reviewing campaign finance reports as established in Section 105.955.14 (2), (3), RSMo.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant

increase of complaints would require additional Commission resources, including investigative staff.

Prohibiting a member of the general assembly from acting, serving, or registering as a lobbyist for a specified period of time after leaving office would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight to ensure those individuals leaving the general assembly do not register as a lobbyist with the MEC for the specified period of time. This would entail reviewing lobbyist registrations, at the time of receipt by the MEC, and comparing them to those members of the general assembly who have left office within the specified period of time. For any individual submitting a registration and are not eligible to register or act as a lobbyist, create the necessary correspondence to the registrant and track the results of the correspondence.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Any significant increase of complaints would require additional Commission resources, including investigative staff.

Implementing prohibition for a member of general assembly to accept lobbyist/lobbyist principal gifts would require the following of the MEC:

- Provide information to public officials and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance.
- Provide oversight in adherence to the specific gift prohibition, including reviewing lobbyist reports as established in Section 105.959, RSMo. This oversight, it is assumed, would be primarily from receiving written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. It is assumed this prohibition would result in a minimal number of complaints; however, if this assumption is incorrect the Commission would require additional staff resources.

Implementing campaign finance limits would require the following of the MEC:

- Provide information to those committee officers and the public as specified in the Commission duties in Section 105.491, 105.955.14 (4), RSMo, about these limits; examples include providing education, developing informational materials, telephone and email assistance.
- Assess the specific monetary surcharge, as proposed; this includes identifying those committees failing to adhere to the campaign finance contribution limits, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Prior to the repeal of campaign finance limits in 2007, the Commission assessed limited, if any

surcharges, related to the previously established limits, due to resource constraints.

- Provide oversight in campaign finance committee adherence to the specific contribution limits, including reviewing, auditing, and performing cross checks of the reported contributions, as established in Section 105.955.14 (2), (3), RSMo. Prior to the campaign finance limit repeal in 2007, the Commission performed limited if any oversight to adherence to the previously established limits, due to resource constraints.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions.

If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The fiscal impact was calculated using the Office of Administration's pay grid and the Office of Administrations expense and equipment guidelines.

The proposed legislation would implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

•$15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

•1 Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analyst would review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently two Business Analysts assist 2,800 committees in filing campaign finance reports, prepare and disseminate 15,000 notices, and review 11,000 campaign finance reports.

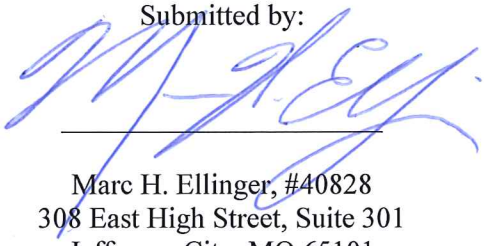
•If the Commission identifies significant violations during the process established in Section 105.955.14 (2), (3), RSMo, or complaints received increase significantly an Investigator would be required to provide the proper oversight.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for FTE, equipment, and expenses.

**Marc Ellinger** provided the following information as an opponent of this initiative petition.

# Proposed Statement of Fiscal Impact for Initiative Petition for a constitutional amendment related to Article III, (2016-005)

Submitted by:



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I submit the following proposed statement of fiscal impact for the Initiative Petition that was filed by Brad Ketcher on November 14, 2014.

In 2012, the State Auditor's Office issued a Fiscal Note (11-35) for an initiative that limited campaign contributions. In that fiscal note, both the Department of Revenue and the Missouri Ethics Commission indicated there would be additional costs to their departments. The Auditor's Office issued the following Fiscal Note Summary:

> It is estimated this proposal will increase state government costs by at least $127,000 annually and result in one-time costs of about $28,000. Any potential impact to state government revenue could not be determined. It is estimated this proposal will have no costs or savings to local governments.

This fiscal note summary vastly underestimates the costs to state and local governments as a result of the proposed measure. We urge you to adopt a different fiscal note for this proposed measure on the basis of the data you will find herein. Not only will there be direct costs to state agencies as indicated in Fiscal Note 11-35 but there will be widespread effects on the Missouri economy. Each election cycle, candidates spend millions of dollars in Missouri. Limiting the total amount of contributions will limit the total amount of money candidates will raise, and therefore will decrease the amount of campaign spending in Missouri. Currently candidates spend thousands of dollars on payroll for campaign workers, thousands of dollars in payroll and income taxes paid directly to the State of Missouri, they spend money for lodging and food at local Missouri businesses, their media purchases support Missouri media companies, and they purchase printing, supplies, utilities, and more in Missouri. Not only do many of these expenditures directly yield state and local tax revenues, but through the multiplier effect, these dollars are spent and re-spent within our state and local economies. Limiting campaign

contributions would significantly reduce campaign spending in Missouri and have a serious negative fiscal impact to both the state and local governments.

**Economic Impact of Campaign Spending**

To date, there has not been a comprehensive study regarding the fiscal impact of state elections on Missouri state and local governments. However, there is research on the fiscal impact of election spending. One such study sought to determine how campaign spending affects earnings in service sectors.[1] More specifically, the study sought to determine how income growth is affected by the presence of a primary.

The study concluded that the presence of the primary not only increases overall income, but also income in service-related sectors. The authors found a 41% increase in quarterly income growth rate in quarters where there is primary spending.

The authors point out that states with primaries tend to see between $500,000 and $19 million in spending during an election cycle, which is enough to "modestly boost local income growth." Primary spending increases total income growth by 0.53 percentage points. The effect is higher in the services sector, where growth is increased by 0.76.

The study also points out that there would be a "multiplier effect" which the authors explain as follows:

> For example, if a waitress receives a greater amount of tips than usual, she may be more inclined to make additional purchases, or even tip her hairdressers more. This money will continue to circulate in the state's economy.

In addition, the study finds that Missouri is one of the five states with the highest amount of money spent on campaign expenditures, compared to the total contributions by state residents.

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[1] See Lessem, Rebbeca & Carly Urban, "*Local Economic Growth from Primary Election Spending,*" Working Paper, Carnegie Mellon University, 2012, attached hereto as Appendix A.

The study shows that there is more than twice as much campaign spending in Missouri as is contributed by state residents. This study finds that primary campaign spending increases income growth in a state. "[W]hen individuals are greeted with a political campaign, they should relish in the stimulus this provides (and the transfers from individuals in other states that allow this to occur)." (emphasis added).

While the Lessem & Urban study does not directly quantify the amount by which Missouri state election campaign spending stimulates the Missouri economy and the economies of Missouri local governments, it does demonstrate that there is significant fiscal impact of such spending.

There is no authority to suggest that the dollars spent at a local print shop, hotel, or restaurant by a presidential primary campaign operate differently in the Missouri economy than if spent by a campaign for state senator or state representative. And while increased election spending has a positive effect on a state's economy, drastically reducing election spending will have a correlated negative effect on the economy. We can examine data from the Missouri Ethics Commission to see the true impact of limiting campaign contributions.

**2014-032's Effect on Nixon 2012**

In order to understand the effect of 2016-005, we can examine a previous measure's effect. 2014-032 would limit campaign contributions to statewide elected officials, state senators, and state representatives to $2,600. In 2012, Jay Nixon ran a successful re-election campaign for Governor. While his campaign spent money in the years leading up to 2012, we have limited our analysis to a single year. First, we will examine contributions. In 2012, alone, Nixon's candidate committee received donations ranging from eleven cents to $500,000.00. More than 40% of the contributions to Nixon's campaign came from out of state.

| Nixon 2012 | |
|---|---|
| Contributions from in-state | $4,703,437.39 |
| Contributions from out-of-state | $3,348,067.98 |
| Percentage Total Contributions from Out-of-State | 41.58% |

Under 2014-032 all candidate committees would be limited to contributions in the amount of $2,600 or less. With the proposed measure (2016-005), contributions to elect an individual to state senator would be limited to $2,000 and contributions to elect an individual to state representative would be limited to $1000. While the exact contribution limits may differ, the analysis related to 2014-032 is persuasive for this proposed measure as well.

In 2012, Nixon's candidate committee received a total of $8,051,505.37 in contributions. If you limit each contributor to a previously suggested maximum ($2,600.00), the amount of contributions is significantly less -- $2,207,976.00. That is a decrease in contributions of more than $5.8 million dollars. Only 27.42% of Nixon's contributions in 2012 would have been lawful under a proposed cap on contributions at $2,600.00.[2]

| Nixon 2012 | |
|---|---|
| | |
| Total Contributions | $8,051,505.37 |
| Contributions from Candidate Committees | $42,650.00 |
| Contributions in excess of $2,600 | $5,800,879.37 |
| | |
| Total Lawful Contributions under 2600 Cap IP | $2,207,976.00 |
| Total contributions prohibited under 2600 Cap IP | $5,843,529.37 |

[2] In looking at the 2012 campaign of Kurt Schaefer for State Senate, a similar percentage (approximately 31%) of his total contributions would have been lawful under the new $2,000 limit. In looking at the 2014 campaign of Jay Ashcroft, only 13% of his total contributions would have been lawful under the new $2,000 limit; and only 43% of the contributions to his opponent, Jill Schupp, would have been lawful.

| | |
|---|---|
| Percent of lawful contributions of total contributions | 27.42% |

The next step is to look at where these campaign dollars were being spent. According to the Missouri Ethics Commission, in 2012, Nixon's campaign spent more than $12 million dollars.[3] The expenditures are broken down by categories in the table below.

| Nixon 2012 | | |
|---|---|---|
| | Spending (Dollars) | Percentage of Total Spending |
| Payroll & Field Work | $745,023.80 | 6.09 |
| Missouri Taxes | $63,404.72 | 0.52 |
| Federal Taxes | $330,642.56 | 2.70 |
| Media | $9,181,550.00 | 75.10 |
| Other Missouri Expenditures | $866,243.68 | 7.09 |
| Out of State Expenditures | $1,039,072.50 | 8.50 |
| | $12,225,937.26 | 100.00 |

Nixon spent approximately $750,000 on payroll or paying field workers. All of this amount would be subject to Missouri state income tax. The amount of taxes the Nixon campaign paid directly to the State of Missouri is in excess of $60,000. In addition, the Nixon campaign paid more than $300,000 in federal taxes. The cities of Kansas City & St. Louis presumably collected a 1% earnings tax from a portion of that amount. The $750,000 paid to employees would have a significant impact on the economy due to the multiplier effect. Much of that money would be spent on retail sales, generating sales tax for the state and local governments. If all of the people who normally work political campaigns no longer could be employed by campaigns, there would be significant belt tightening by these individuals which would result in additional lost sales tax revenue.

[3] Nixon had raised significant contributions prior to 2012 for the 2012 election cycle. If the proposed IP had been in effect, the loss of economic activity would be even greater.

Nixon also spent more than $9 million dollars on "media." All of that money went to an out-of-state media company. Still, traditionally that company coordinates all the media purchases, which presumably were with in-state media providers, as Nixon was running for Governor of Missouri. While some of the $9 million dollars could be attributable to media production, the majority of it was likely for paid radio, television, and print advertising in Missouri. The loss of $9 million dollars in the Missouri media market in a single year is significant.

Nixon also paid more than $850,000 to other Missouri individuals or companies. Many of these expenditures were in the services and accommodations sectors. This money supports Missouri businesses and helps fund their payroll.

We have already seen that a similar proposed measure would have reduced Nixon's total campaign contributions by 72.58%. Assuming the proposed measure would decrease spending by the same amount, we can project what Nixon's spending would have looked like with a $2,600 contribution limit in place.

| Nixon 2012 | | |
|---|---|---|
| | Spending (Dollars) | Projected Spending with Contr. Limits |
| Payroll & Field Work | $745,023.80 | $204,285.53 |
| Missouri Taxes | $63,404.72 | $17,385.57 |
| Federal Taxes | $330,642.56 | $90,662.19 |
| Media | $9,181,550.00 | $2,517,581.01 |
| Other Missouri Expenditures | $866,243.68 | $237,524.02 |
| Out of State Expenditures | $1,039,072.50 | $284,913.68 |
| | $12,225,937.26 | $3,352,352.00 |

The proposed measure with the $2,600 cap would have translated into a spending decrease of $8.87 million dollars. Again, for just one campaign for just one year. Even if you

assume only 75% of the "media" expenditures affect Missouri's economy, approximately 70% of Nixon's total campaign expenditures affect the Missouri economy. In total, just one year of one campaign resulted in approximately $8.5 million dollars of expenditures in or affecting Missouri's economy. This estimate does not include the multiplier effect of such expenditures.

**2016-005**

Although, for this proposed measure, the campaign contribution limits would not apply to statewide elected officials, it does apply to state senators and state representatives. In addition, the limits are lower than 2014-032. Under 2016-005, the amount for allowable contributions for state representative would be less than half of what is allowed under 2014-032, and for state senator, almost a quarter less. If anything, the Nixon analysis overstates the amounts that would be allowable under 2016-005.

**The Effect on the State of Missouri**

According to the Missouri Ethics Commission, total expenditures by candidates that would be affected by the proposed measure were more than $20 million dollars in 2012. Reducing that number by the percentage of allowable contributions we saw with the Nixon campaign (27.42%) translates to a loss of more than $14.5 million dollars due to the initiative petition.

| Statewide 2012 | | | |
|---|---|---|---|
| | Spending (Dollars) | Projected Spending with Contr. Limits | Lost Dollars due to IP |
| Payroll & Field Work | $1,218,000 | $333,975.60 | $884,042.40 |
| Missouri Taxes | $104,000 | $28,516.80 | $75,483.20 |
| Federal Taxes | $540,000 | $148,068.00 | $391,932.00 |
| Media | $15,020,000 | $4,118,484.00 | $10,901,516.00 |
| Other Missouri Expenditures | $1,418,000 | $388,815.60 | $1,029,184.40 |
| Out of State Expenditures | $1,700,000 | $466,140.00 | $1,233,860.00 |

| | | | |
|---|---|---|---|
| Projected Effects | 20,000,000 | 5,484,000 | $14,516,000 |

The loss of these payroll amounts impacts state revenues in two ways: (1) the loss of state income taxes on these amounts and (2) the loss of state sales taxes forgone. First, the amount of state income taxes can be estimated taking the total payroll figure, applying the multiplier, and multiplying by the tax rate of .06%. Here, lost income tax revenue would total $265,207.32. In estimating lost sales tax amount, the multiplier must be applied. Previous research has suggested using a local fiscal multiplier of 5.[4] Assuming 35% of the payroll income is taxable spending, the total lost sales tax revenue would be more than $65,000.

With respect to the media spending, assuming only 75% of that translates to Missouri corporate income, and applying the corporate tax rate translates into a loss of approximately $511,000. Also assuming that half of the media spending is paid out to employees in salaries, there would be lost income taxes and sales taxes on that amount. There would be approximately $1,635,227.40 in lost income tax. There would be a corresponding loss of state sales tax revenue from this loss of salary in the amount of $337,048.48. Finally, there would be sales tax lost on the "other Missouri expenditures." Even assuming only half of such expenditures were taxable, applying the multiplier and the sales tax rate, the state would lose $130,326.46 of sales tax revenue. The number of "other Missouri expenditures" is also likely to be greater under the 2016-005 proposal because state senators and state representatives are not as likely to spend as

[4] A multiplier helps estimate the direct impact, indirect impact and induced impacts. Direct impact includes the payroll dollars being paid. Indirect impact represents the impact of routine consumer spending by those individuals. Induced effects are those changes in spending due to additional (or lost) employment generated by the direct and indirect effects. "Expenditure Multiplier" attached as Appendix B.

much money out-of-state as are statewide candidates.[5] The total loss to Missouri state government (based on only one year of one election cycle) is at least $3 million dollars.

| 2016-005 Impact on the State | |
|---|---|
| Lost State Income Tax due to lost campaign payroll | $265,207.32 |
| Lost State Income Tax due to lost media payroll | $1,635,227.40 |
| Lost State Sales Tax due to lost campaign payroll | $65,362.55 |
| Lost State Sales Tax due to lost media payroll | $403,015.42 |
| Lost State Sales Tax on "Other Missouri Expenditures" | $130,326.46 |
| Lost Corporate Income Tax on media companies income | $511,008.56 |
| TOTAL | $3,010,147.71 |

**The Effect on Local Government**

In addition, the proposed measure would have a significant effect on local government revenue. In St. Louis and Kansas City, a 1% earnings tax is collected on income. There would be losses associated with both the lost campaign payroll and lost media payroll, in the amounts of $5,745.27 and $35,424.48 respectively.[6] In addition, the average local sales tax rate is 3.45% in Missouri. This rate was applied to the same tax bases as described above, resulting in total lost sales tax revenue of over $450,000. The total loss to local governments as a result of the proposed measure exceeds $500,000.

| 2016-005 Impact on Local Governments | |
|---|---|
| Lost Earnings Tax due to lost campaign payroll | $5,745.27 |

[5] In looking at the 2012 campaign of Kurt Schaefer for State Senate, none of his expenditures were out-of-state.
[6] In 2011, the population of St. Louis and Kansas City as a percentage of total state population was 12.998% according to the U.S. census bureau. Applying this percentage to the total payroll statewide generates an estimate of payroll that would be subject to the earnings and income tax. This estimate will likely underestimate the actual fiscal impact because the earnings tax is collected from all city residents and all non-city residents who work within the city limits.

| | |
|---|---|
| Lost Earnings Tax due to lost media payroll | $35,424.48 |
| Lost Local Sales Tax due to lost campaign payroll | $53,372.97 |
| Lost Local Sales Tax due to lost media payroll | $329,089.51 |
| Lost Local Sales Tax on "Other Missouri Expenditures" | $88,767.15 |
| TOTAL | $512,399.38 |

**Limiting Lobbying Expenditures**

The proposed measure also significantly restricts lobbying expenditures. Restricting spending by Missouri lobbyists in Missouri would also affect Missouri's economy. Particularly, restricting lobbyist spending would have a negative economic effect on the City of Jefferson and Cole County, where lobbyists spend the majority of their time from January to May of each year. The Auditor is encouraged to contact both jurisdictions to clarify and quantify that impact.

In the last twenty-four months, lobbyist gifts totaled $1,803,482.00.[7] That number equates to more than $190,493 collected in state sales tax and more than $155,550 in local sales tax that would be lost *annually* as a result of the proposed measure.[8]

**Fiscal Note Summary for 2014-032**

The Fiscal Note summary for 2014-032, a similar measure, was as follows:

> It is estimated this proposal will increase state government costs by at least $118,000 annually and have an unknown change in costs for local governmental entities. Any potential impact to revenues for state and local governmental entities is unknown.

We urge you to adopt a different fiscal note. First, the phrase "unknown change in costs" is inaccurate because it suggests there could be an increase or decrease in costs. Only an increase in costs is a likely outcome and therefore the phrase should read "unknown increase in costs."

[7] See http://www.lobbyingmissouri.org/.
[8] These numbers are based on a state sales tax rate of 4.225, a local sales tax rate of 3.45, and a multiplier of 5.

Second, while the exact impact on state and local government entities may be unknown, two things are known: the impact will be negative and the impact has the potential to be significant. This information is important to give the people a fair understanding of the costs of the proposed measure.

**Conclusion**

The proposed measure would have a significant negative economic impact on both the state and local governments in Missouri.[9] In just one year, total election spending amounted to almost $50 million in Missouri. Election spending by candidates affected by this measure would amount to more than $20 million. The proposed measure would drastically reduce election spending. State and local governments would lose income and earnings tax revenue and sales tax revenue, not just on the amount of decreased election spending, but much more, due to the multiplier effect. Any estimate of fiscal impact of the proposed measure must include these significant losses in order to adequately inform potential signors and voters. We submit the following proposed statement of fiscal impact:

> It is estimated this proposal will increase state government costs by at least $118,000 annually and have an unknown increase in costs for local government entities. The potential negative impact to revenues for state and local governmental entities could be significant, but is unknown.

[9] To the extent the Auditor finds the numbers herein "speculative," we request that the Auditor specifically request an estimate from Office of Administration (Budget and Planning) on the negative effects of campaign contribution limitations.

# Local Economic Growth from Primary Election Spending*

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Carly Urban‡

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**Abstract**

This paper asks how government and private consumption spending affect earnings in service sectors. To do this, we exploit a natural experiment, using an exogenous form of consumption spending–the money spent while campaigning for a party's Presidential primary nomination. To answer these questions, we create a novel dataset combining the date each state held its primary from 1976-2008, the date in each election cycle in which only one candidate remained, and quarterly state income by sector. Hosting a primary election increases total income, particularly in the accommodations sector. These results remain consistent when using data on primary campaign expenditures across states in the 2004 and 2008 elections.

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## Appendix A

# 1 Introduction

Government expenditures have been found to increase employment and income.[1] However, this literature restricts itself to studying investment expenditures in the form of education, health, military, and infrastructure spending, leaving the question, "How does added consumption spending affect income?" unanswered.[2] This paper uses a natural experiment to estimate the relationship between consumption spending and short-run income growth by exploiting exogenous variation in the duration and ordering of Presidential primary campaigns.

In 2008 alone, these campaigns spent $348 million across states on hotels, meals, rental cars, and other campaign expenditures.[3] This figure does not include the amount spent by media covering the race, personal in-state expenses of staffers, or additional funds individuals outlay when coming out to witness the spectacle of a primary race. We use this exogenous spending to determine the short-run income growth when money enters a state economy.

Primary elections are held sequentially by state and each election cycle varies in duration due to changes in the competitiveness of elections. In some years, there is no primary in many states, as the nomination is determined long before each state has its turn to vote for a nominee.[4] For example, in 2004 Senator Kerry clinched the Democratic nomination in March, whereas in 2008 President Obama did not win the nomination until June. In

[1] See for example, Wilson (2011), Shoag (2010), Serrato and Wingender (2010), Chodorow-Reich et al. (2011), Ramey (2011), and Ramey (2011a).

[2] To a certain degree, this question has been addressed in the literature on the economic impact of mega-events such as the Superbowl, Presidential Nomination conventions, and the Olympics, (See Matheson (2006) and citations therein). However, it differs in certain respects, most importantly in that we have a stronger identification stratedy. In primary elections, there is ex-ante uncertainty as to whether or not a state will be reached by primary campaigns, whereas mega-events are planned far in advance. Mega-events allow an area to anticipate additional consumption expenditures and internalize the benefits by increasing up front costs. However, the value of consumption spending in a primary is unanticipated ex-ante and the variance in spending between hosting and not hosting a primary is high, deterring businesses from internalizing the benefits prior to the event. Second, candidates campaign in areas to reach the maximum number of pivotal voters not in the most desirable tourist locations, so it is unlikely that crowd out of the local tourist sector occurs in this setting as in the prior vein of literature.

[3] Authors' calculation based on CRP (2011).

[4] We consider the nomination determined once there is only one candidate remaining in the contest.

particularly long primary elections, local businesses in states that are not normally exposed to primary campaigns receive an exogenous increase in revenue. In addition, many states change their position on the primary calendar between election cycles.

This paper first establishes the exogeneity of campaign spending and economic indicators. Next, we exploit the variation in whether or not a state receives campaign spending in each year to test how this increased spending affects local economies. Specifically, we study how income growth is affected by the presence of a primary in a given state and quarter.[5]

To conduct this analysis, we create a novel dataset of primary and caucus dates from 1976-2008, where we determine if a state held a primary based on the scheduled primary date and the date in which only one candidate remained in each party's election. We pair this primary elections data with quarterly state-level and sector-specific information on personal income levels from the Bureau of Economic Analysis (BEA).

We find that the presence of a primary increases overall income, as well as income in service-related sectors. From 1976-2008, income growth increased by 0.53 percentage points in states with primaries, compared to an average income growth of 1.3 percentage points per quarter. This implies about a 41% increase in the quarterly income growth rate in quarters when there is primary spending. Our results are robust to controlling for factors related to the amount of spending as well as to including state fixed effects. We verify these results using data on campaign expenditures for 2004 and 2008 from the Center for Responsive Politics.[6] In this setting, we find that doubling campaign expenditures increases overall income growth by about 0.05 percentage points (or hosting a primary results in a 35% increase in quarterly income growth rates), and this effect is particularly pronounced in the accommodations sector.

[5]The idea that election outcomes could affect the economy is not new. Snowberg et al. (2007) use prediction market analysis of elections from 1880-2004 to show that electing a Republican President raises equity valuations by 23%. Knight (2006) shows that policy platforms in the 2008 Presidential general election were capitalized into equity prices. No one has previously asked how the act of campaigning can affect the economy.

[6]Data on campaign expenditures are only available for these two years.

We appeal to two distinct literatures in this paper. First, the existence of primary elections provides a new environment in which to study local economic development, through exogenous shocks to consumption expenditures. Recently, scholars and policymakers have expressed interest in the American Recovery and Reinvestment Act (ARRA) spending. Wilson (2011) and Chodorow-Reich et al. (2011) use instrumental variable strategies and find that one new job created costs $125,000 and $26,300 per year, respectively.[7] Asking a similar question Serrato and Wingender (2010) find that an additional job costs $30,000 per year, using an instrumental variables strategy and data on federal investment spending. Similarly, Shoag (2010) uses the idiosyncratic component of state-managed defined benefit pensions to predict government spending. He finds that $35,000 of spending generates one additional job.

In comparison to the papers just mentioned, we avoid the natural endogeneity concern that spending is often allocated to states in the most need of growth.[8] Candidates campaign as to maximize their chances of winning the election, which generally means following the primary calendar. Candidates campaign in states sequentially, and tend to not visit a state until the primary is upcoming. One reason for this is that individual victories create momentum to propel a candidate to his next contest.[9] In addition, candidates also have a disincentive to over-spend in the primary, as they want to save any potential funds for the general election battle, conditional on winning the nomination. For these reasons, the optimal strategy for candidates is to campaign sequentially, meaning that the allocation of funds will depend on the primary schedule and will be exogenous to local economic conditions.

In addition, our paper studies the effect of spending on a different set of sectors than is normally assessed. Most of the ARRA funds were centered around Medicaid and

[7]Chodorow-Reich et al. (2011) find that the jobs resulting from Medicaid spending are concentrated in the state and local government, health, and education sectors.

[8]This is particularly true in the cases of the ARRA spending, though Knight (2002) shows that this can also be true in the transportation sector.

[9]See Abramowitz (1989), Abramson et al. (1992), Mutz (1998), Adkins and Dowdle (2001), Callander (2007), Strumpf (2002), and Klumpp and Polborn (2006) for more on the necessity of momentum in primary contests.

education, and other federal spending initiatives focused on infrastructure investment, energy efficiency, unemployment assistance, and state and local government stabilization (111th Congress 2009). On the other hand, primary spending likely benefits the local economy in the service-related sectors. Another unique feature of our work is that transfers do not entirely come from the federal government, allowing us to study how increases in consumption expenditures in the form of transfers can affect income growth. Primary campaigns are sometimes funded through federal matching, but candidates vying for their party's presidential nomination rely on money from individual donors and from Political Action Committees.[10]

Second, while we establish that the duration of a primary and the time in which states changed their primary dates are uncorrelated with economic indicators, our paper adds to the literature investigating the incentives for states to hold early primaries.[11] States early in the primary process are presumed to have a disproportionate effect on candidate selection by building candidate viability, attracting donors and volunteers, and creating momentum (Abramowitz 1989; Abramson et al. 1992; Mutz 1998). Some work examines the policy benefits of early contests. Taylor (2010) finds no effect, while Knight and Schiff (2010) find that early contests had a 20% greater influence over candidate selection than later contests in 2004.[12] Similarly, Malhotra and Snowberg (2011) find that the order mattered less than pivotal, or competitive, primary contests in 2008. Theoretical work demonstrates that voters can use early contests as cues in determining their vote choices.[13] This paper is the first to investigate the potential economic benefits of having an early

[10]See Section 6 for more on federal funding percentages.

[11]States have a demonstrated interest in holding early primaries. For example, in 2008 Michigan and Florida moved their primaries to January, and this was rejected by the DNC. Democratic candidates agreed to refrain from campaigning in these states, and the delegates were not counted in the candidates' totals. This did not deter Florida from moving its primary up in the order again in 2012, which was this time rejected by the RNC, costing the state half of its delegates (Grice 2012). Thus, moving a primary contest too early can be costly, yet states are still attempting to change their primary dates.

[12]Taylor (2010) uses state procurement data from 1984 to 2004 to show that primary order matters only in competitive nominations when the victorious candidate won that states contest. Knight and Schiff (2010) use changes in prediction markets over the election to identify influence.

[13]See Morton and Williams (2001), Callander (2007), Serra (2011), and Ali and Kartik (2006).

nomination contest.[14]

The remainder of the paper is organized as follows. Section 2 describes the construction of the dataset. Section 3 provides descriptive statistics and motivates our identification strategy. Section 4 explains our empirical strategies and presents our findings. Section 5 discusses the source of campaign funds, and Section 6 provides concluding remarks.

# 2 Data

We combine institutional details of primary races dating back to 1976 with state-level personal income data from the Bureau of Economic Analysis (BEA), creating a comprehensive Presidential primary and local economic database. In the next 3 sub-sections, we explain how we collected these data. For more information on the specifics of the variables created, including summary statistics, the source of each variable and the calculation of each variable, see Tables 8-10 in Appendix A.

## 2.1 Primary Information

We hand-collect a thorough database of the dates of each primary or caucus in each state starting from 1976, which is the first year the Democratic National Committee (DNC) and Republic National Committee (RNC) held conventions in their current forms, and ending in 2008.[15] We obtain this information from the Green Papers (for primaries), as well as Frontloading HQ (for caucuses), and confirm these with state election boards when the two are not consistent. When a state's delegates are determined by only state party officials (and not in caucuses or primaries with individual voters), we count this as

[14]A parallel literature looks at the effects of the primary structure on general election outcomes. The primary process may constrain candidates from converging to the position of the median voter, as they will take on more extreme positions to satisfy primary voters who are less moderate than the general population (Geer 1988; Norrander 1989). Malhotra and Snowberg (2011) study the effects of early contests more broadly, including candidates' difficulties of returning to the center in the general after trying to attract primary voters.

[15]This means that individual voters, not party elites, began selecting candidates in each state. The candidate with the most delegates earned the nomination at a national convention.

a case where the state did not have a "primary." In cases where states hold a "beauty contest" nomination, where individual voters choose their favorite candidate but there are no delegates at stake, we count this as having a "primary," as some candidates find it important to win a symbolic victory in these states to gain momentum.[16,17]

Next, we collect information on the date at which the nomination was clinched for each party in each year. We award a candidate the nomination when he is the only candidate left in the contest, meaning that the primary campaigning has ended. This sometimes occurs months before the convention date. Table 1 contains the dates at which candidates clinched the nominations over time. In cases where the incumbent was not challenged in the primary, such as 1984 for Ronald Reagan, we code the primary for that party as "no primary."[18]

Additionally, in certain situations there could be spending for the primary and the general election at the same time. For example, in 2004, when President George W. Bush was the incumbent, he immediately began campaigning for the general election because he had no competition in the primary. During this same time period, Democrats were competing for their party's nomination. Likewise, in 2008 Senator McCain started to campaign for the general election once he clinched the nomination in March, whereas the Democratic primary continued for three additional months. We want to be sure that we are measuring the effect of primary election, not general election, spending. Thus, we collect data on the battleground states for each election cycle, asserting the conventional wisdom that candidates only campaign in battleground states in Presidential general elections (Stromberg 2008; Ashworth and Clinton 2007; Huber and Arceneaux 2007).[19]

[16]States holding these "beauty contests" usually choose their candidate based on conventions and state party officials' decisions. After 2000, there are some instances where there were no delegates at stake, after a state had moved up in the primary process and one of the national committees considered this unconstitutional , i.e. Michigan and Florida in 2008. These two states still had campaigning from the Republicans, so we include them in this context alone.

[17]The primary dates by party for each state and year combination from 1976 to 2008 are available upon request.

[18]All incumbents do not have the luxury of having no opposition in the primary election. For example, President Carter's low approval ratings gave the DNC justification to push other candidates, including Edward Kennedy, to challenge him in the primary contest.

[19]See Section 2.3 for more on spending.

We label a state as a battleground state if the difference in the likelihood the Democratic candidate wins and the Republican candidate wins is ever within 10 percentage points in Intrade prediction markets or polling data (specifically, pollster.com and David Leip's polling report). In earlier elections when polls are more sparsely available (i.e., 1976-1992), we instead look at the races where the candidates' end vote shares were within 10 percentage points of one another.[20] Finally, a state can only be labeled as a battleground state if 1) the election cycle has started and 2) the primary contest in at least one party has been completed (i.e., only one candidate is remaining).[21]

## 2.2 Income

The BEA reports total personal income in each quarter and state, for each sector of the economy. For the purpose of this paper, we refer to total earnings (excluding government transfers) as total income. We transform this into per-capita values using population data from the US census. In addition to total income per capita, we focus on the sectors where we would expect large effects from primary spending, which are mostly service related sectors. Accommodations and retail are two sectors we focus on, in that the visiting campaign staff and media will need to stay in hotels and make purchases during the campaigns. The accommodations and retail sector accounted for about 5% and 9% of total income in 2008, respectively.

The BEA data is divided into 2 periods: 1974-2001, and 1990-2009, and the sector definitions changed across the two periods. We focus our analysis on the services sector, particularly food and accommodations, because that is where we expect to see the largest effect. In the data from 1974-2001, the BEA only reports total income in the services sector. However, in the 1990-2009 data, they divide services into different groups, including food and accommodations, which we focus on. We therefore do the analysis separately

[20] A list of each state and the years in which the state was a battleground in competitive in the general election is shown in Appendix B.

[21] Conditional on hosting a primary in a given quarter, the probability that a given state is labeled a battleground state in the same quarter is less than 39 percent.

for each period due to these data limitations.[22]

## 2.3 Campaign Expenditures

We obtain campaign expenditures data for the 2004 and 2008 primary election cycles from the Center for Responsive Politics (CRP), which collects and compiles data from the Federal Election Commission.[23] These data contain information on each expenditure made in House and Presidential races by campaigns, Political Action Committees (PACs), and state parties, where each expense contains a date, location (down to zip code), and information on what the expense entailed (i.e. hotel). We narrow this dataset to include only expenses made in pursuit of the primary nomination by the Presidential candidate's official campaign, i.e. "Barack Obama for President, 2008." We do not include PAC spending as it is difficult to understand for which campaign the PAC is spending its funds (i.e. Presidential or House) in the data.

These data also include information on the division of the campaign in which the expense was made. We create two different measures of expenditures. Campaign expenditures consist of all money spent by the candidate and his direct staff on travel, hotel rooms, and meals, as well as local polling, Get-out-the-Vote campaigns (GOTV), and campaign events. In addition, campaign expenditures include what the campaign calls "administrative expenditures," which includes all money spent on the offices within a state and its staffers. This mostly consists of spending on catering for meetings, rent, utilities, cable, and internet in campaign offices, administrative supplies (associated largely with IT costs), and staffer travels (rental cars, housing, flights, etc.). Total expenditures include all expenses listed under our campaign expenditures measure, as well as money spent on broadcast, radio, and print advertising, along with other media-related costs (i.e., media consultants, production costs of advertisements, and miscellaneous costs related to getting

[22]We attempted to aggregate the 1990-2009 data to get a total measure of income in the services sector. Since the years 1990-2001 are included in both datasets, we can compare to see how similar the two measures are. They are very different, which is why we could not use this aggregated services income in the same analysis as the 1974-2001 services data.

[23]See CRP (2011) for more information on the dataset.

out the message).

The total expenditures are likely to include some expenses that do not directly affect a state's local economy at the time of a primary, though they are expenses made for the primary campaign. For example, the production of an advertisement run in Iowa could be done in California, and thus included in this measure. The production could also be done in Iowa, however, and it is not feasible, given the data, to distinguish the two. Thus, for the remainder of the paper, we choose to focus on the campaign spending measure in favor of the total expenditures measure.

We expect that campaign expenditures are a good proxy for the candidate's travel and the campaign's direct expenses. However, the administrative portion of the campaign expenditures are likely a lower bound for the amount of money staffers spend in each state during the campaign. For example, if campaign staff goes to a restaurant in the evening, this will not be covered as a campaign expense, especially if the meal includes alcohol. This spending amount is a lower bound for total exogenous spending in the area, since national news and media crews also tend to follow and cover the primary schedule state by state. Even with this lower bound, states with primaries tend to see between one half a million and 19 million dollars in spending over an election cycle. Comparing this to the median total income in the retail and accommodations sectors, 7.14 and 3.3 billion respectively, this is still enough money to modestly boost local income growth.[24]

# 3 Descriptive Statistics

In this section, we first argue that the timing and existence of a primary campaign is exogenous to local economic growth. We next look at the campaign expenditures data from 2004 and 2008 to establish that there is more spending during primary campaigns.

[24]If we instead use total expenditures instead of campaign and administration expenditures in the analysis that follows, our results are slightly smaller in magnitude, though they remain substantively similar to the estimates provided. These results are available upon request.

## 3.1 Exogeneity of Primary Campaigns

The identification strategy in this paper comes from the orthogonality of primary campaign spending in a given state and the state's local economy, where the nature of primary contests gives candidates an incentive to campaign sequentially. Since this money is not targeted to states with the most need, the shock to consumption expenditures generated from primary campaign spending is exogenous to income levels. Iowa's primary is always first in the election cycle, so the state should expect the millions of dollars spent in local businesses by the Presidential campaigns, media crews, and the ceremony of the primary election. Since the natural experiment fails in this case, we drop all states that have a primary in every year in our analysis. Other states, however, experience more variation in regards to (1) whether or not any money will be spent in primary campaigns and (2) how much money will be spent. This variation comes from two main channels.

First, the duration of any primary campaign is unknown ex ante. While some primary campaigns leave only one candidate in each party after only a few months (i.e. in 2004 when Senatory Kerry clinched in March), other election cycles (i.e. 2008) carry on until June, reaching every state. Figure 1 shows the variation, by party, of the number of states reached by campaigns in each election cycle. This shows significant fluctuations in the number of states that have primary elections each year, particularly in Republican primaries. Alternatively, Figure 2 plots the duration of primary campaigns over time, where the duration is defined as the number of days from the first primary until only one candidate remained in the contest.[25] In general, the early contests from 1976-1992 took longer to determine each party's candidate.

Figure 2 additionally plots the average real GDP per capita in the US over time, reassuring us that the duration of primaries is uncorrelated with the state of the economy.[26] To provide a specific example of the changes in primary campaigning between years, we

[25]Since there are potentially 2 primaries in each state and year, there is a duration for each contest. We plot the length of the longer primary in each year.

[26]When regressing real GDP per capita on the duration of primaries, we find no statistically significant relationship between the two variables.

show the changes in primary status by states between the 2004 and 2008 elections. Figure 4 shows which states switched primary status between 2004 and 2008. Comparing just these 2 election cycles, we see that there are many states that had primaries in 2008 but not 2004, due to both the fact that there was no Republican primary in 2004 and the length and competitiveness of the 2008 Democratic primary.

Second, the ordering of primaries across states has changed drastically from 1976 through the present day. Although national parties have some influence on the timing of primaries, the decisions are ultimately made by each state. There has been significant movement in the primary calendar over time. The change in ordering also allows for some states to experience campaign spending in some election cycles and not others. In addition, if a state's primary moves to a day in which many other states hold their contests, this may lead to a reduction in campaign spending in that state. This gives us variation in both the existence of and amount of spending by primary campaigns.

The argument in our paper implies that states should have an incentive to move their primaries earlier in the calendar in order to gain economic benefits. If this were true, then we could no longer argue that primaries are exogenous. However, we do not believe that this is the case, due to the lengthy process involved in changing primary dates. In order for a state to be able to change its Presidential primary date, the state legislature must propose a bill, which in most states is an extremely lengthy process, where less than 5-10% of bills are passed.[27] The lengthy process creates difficulty for states to change their date in a timely fashion, making it unlikely that the primary date will be switched (and reached) when the state's economy is at its worst. In addition, the state and national party officials must approve the change in date for the state's delegates to count in the nomination process.

Furthermore, even though this change of date is under the authorization of state

[27]Most states have dates like the following from Montana's Constitution: 13-1-107. Times for holding primary elections. (1) On the first Tuesday after the first Monday in June preceding the general election provided for in 13-1-104(1), a primary election shall be held throughout the state (The Constitution of the State of Montana, 2011).

elected officials who have an interest in state policy, a state's change in ordering is seemingly uncorrelated with a change in economic indicators. To demonstrate this, in each year we split the states into two groups: those who changed their primary date from the previous election, and those that did not.[28] Figure 3 plots the average GDP growth in both groups over time.[29] The graph also shows the number of states that changed their primary date in each year. This figure shows no systematic difference between the GDP growth in both groups over time.[30] We also see that there are a large number of states that change their primary dates each year, showing that this provides an important source of variation.

An additional literature on vote-buying suggests that politicians can adjust funds on a state-by-state basis (See e.g., Levitt and Snyder (1995); Fleck (2008)). If government funds are correlated with campaign spending, this could additionally confound our effect. However, the ability of politicians to adjust the allocation of government funds quickly on a state-by-state basis is limited. For example, Senator Kerry would have trouble providing a voting record that appeased each state he visited in his Presidential primary campaign surrounding the time of that state's election. This makes the approach taken in this paper more compelling than studies that focus on differences in policy spending over time as exogenous variation.

## 3.2 Primary Spending

In this paper, we study whether the existence of a primary increases local income. For there to be an effect, there has to be more campaign spending in states with primaries. To verify that this is true, we use data on campaign expenditures from the 2004 and 2008 primary elections. Table 2 shows the distribution of spending for primaries by quarter,

[28]We label a state as having changed their primary date if the date of the primary made a substantial change (i.e. more than 2 weeks) such that it took an initiative within the state's Board of Elections and changed the ordering of the primary schedule.

[29]The average GDP growth takes percentage growth of GDP between two years of each state (in each group) and takes the average of those observations by year.

[30]A t-test shows that the difference in the means is not statistically different than 0.

where states with primaries in the current or next period have higher spending than areas without primaries. We see that spending increases not only increased during the quarter of the primary, but also in the quarter before the primary. Early spending could occur because candidates campaign in some states for an extended period of time, especially when the race is on the cusp of two quarters.

Next, we look at the changes in spending in states as they change primary status over the years, to ensure that having a primary leads to increased spending. In general, we see that states that did not have a primary in 2004 and did have one in 2008 tended to have more spending in 2008. Figure 4 shows the states that held a primary in 2008 and not in 2004, and Figure 5 shows the percentage change in expenditures between the two election cycles. States such as Pennsylvania and Utah, which were reached in the lengthy Democratic campaign in 2008, had over 20 percent more primary spending in this election cycle than they did in 2004, when the process culminated before the state was reached. There is also an increase in spending from 2004 to 2008 in early states like Iowa, South Carolina, and New Hampshire, where the increased number of candidates and the fact that both parties held primaries increased the spending in those states. Conversely, the state election boards in Michigan and Florida moved their Presidential primary contests up, and set the elections in January 2008. The DNC challenged these moves, and in turn, Democratic candidates opted to not campaign in these states. Thus, spending in these states actually decreased from their later primary day in 2004.[31] Overall, these figures show variation in spending in states, depending on whether or not there is a primary in that year. This supports our argument that there will be more spending in states with primaries.

Using the spending data and the primary dummies in 2004 and 2008, we estimate the

[31]There are cases where state boundaries provide a neighboring state with additional spending when there is not a primary in that state. For example, New Jersey benefited from New York's early primary on a day independent of all other primary contests in 2004. This is because candidates spent money renting cars, purchasing hotel rooms, and eating some meals in New Jersey, though they were officially campaigning in NY. When compared to 2008, even though NJ held its own primary, it did this on a day when many other states also held primaries, as did NY. This made spending higher in the previous election cycle.

relationship between the existence of a primary and spending growth, while controlling for the same factors we take into account in our later analysis. We first construct a set of control variables we expect to be correlated with the intensity of spending. The structure of the primary calendar is such that there is often one day with many of the elections, typically called "Super Tuesday." We control for whether or not an election in a state is on this day each year.[32] Another possibility is that in states with late primaries, early spending for the general election when one party's nominee has been determined and the other has not could falsely lead to higher levels of income growth, especially in battleground states. To account for this, we control for whether or not a state is a battleground state in periods after one party's candidate has been chosen.[33]

The first column in Table 3 shows that the existence of a primary more than doubles spending growth in that quarter, when compared to states without primaries. Primary spending growth is lower in "Super Tuesday" states when compared to states with primaries on other days, as "Super Tuesday" elections make it hard for time-constrained politicians to campaign everywhere. In addition, battleground states tend to have significantly lower spending growth than non-battleground states. This result is not surprising since our dependent variable is only primary spending growth, and does not include money earmarked for the general election.[34] In addition, competitive states are always labeled as "battleground" in the third quarter of the election year, or the height of the general election. This is the time in which primary growth is most likely to be negative, or lower than the previous period. If we add state level fixed effects to this model, as in Column (2), we see that primary campaigning still more than doubles spending growth when com-

[32]Our "Super Tuesday" control is defined as the day each year that has the most primary elections in a given state. The list of states with primaries on "Super Tuesday" in each year is shown in Appendix B. "Super Tuesday" is always reached, so it is an interaction term between the primary dummy and having an election on the given date.

[33]We could include a control for whether or not a state held a competitive primary. For example, in President Bush's home state of Texas, he may have already been a favorite and not needed to campaign. However, enough states have a proportional share of electoral votes, so candidates still receive votes towards the final count if they do not win a majority in a given state.

[34]The probability of being in a battleground state in a given quarter conditional on having a primary in the same state, quarter is less than 36% in this sample.

pared to a period when the state did not have a primary. Hosting a primary on "Super Tuesday" lowers this substantially, as does being in a battleground state.

# 4 Empirical Analysis

In this section, we estimate the effect of primary spending on local economic development. We first test how the existence of a primary before the nomination has been determined affects changes in income growth from 1976-2008. We then verify these results using data on campaign expenditures across states in the 2004 and 2008 elections.

## 4.1 Existence of a Primary

We assume that a state's income in a given quarter depends on whether or not there is a primary in a given time period, a set of control variables, and state and year fixed effects. Let $P_{it}$ be a dummy variable indicating whether or not there is a primary in state $i$ at time $t$. Denote the log average per capita income in sector $s$ in state $i$ at time (year) $t$ as $y_{ist}$, state fixed effects as $\mu_{is}$, time fixed effects as $\gamma_{st}$, control variables as $X_{it}$, and the error term as $\epsilon_{ist}$. Then we can write

$$y_{ist} = \beta_{0s} + \beta_{1s}P_{it} + \beta_{2s}X_{it} + \mu_{is} + \gamma_{st} + \epsilon_{ist} \tag{1}$$

Taking first differences of Equation (1), the state and year fixed effects drop out:[35]

$$\Delta y_{ist} = \beta_{1s}\Delta P_{it} + \beta_{2s}\Delta X_{it} + \hat{\epsilon}_{ist} \ , \tag{2}$$

where $\hat{\epsilon}_{ist} = \Delta\epsilon_{ist}$.

We estimate equation (2) and look at how changes in the primary dummy variable

[35]The year fixed effects do not drop out in every period. Since we are using quarterly data, as we go from the 4th quarter of one year to the first quarter of the next, the year fixed effects technically will not difference out. However, since they would only be identified off of one quarter per year, we chose to drop these year fixed effects.

affect income growth in different sectors. Identification in this specification comes from comparing states with primaries to those that do not have primaries. We define a state as having primary spending if there is a primary in the current quarter or in the next quarter, acknowledging that candidates sometimes spend an extended amount of time campaigning in a state.

We drop states that have primaries in every election year, as it is hard to argue that the existence of a primary is exogenous in states that anticipate primary spending each cycle. Perfect foresight of primary spending may allow individuals to internalize more upfront costs, where business that normally would not be open in a given season may change their behavior since they know primary campaigns will spend there with certainty each cycle. These states invalidate the natural experiment present, where it is necessary to maintain uncertainty in the timing and duration of primary elections. Dropping these traditionally early states leaves us with a sample of states for which there is variation in whether or not there is a primary, so each election cycle contains uncertainty as to whether or not they will receive primary spending.

We present the unconditional effects of hosting a primary. Since the existence of primary campaigns are exogenous to the state of the economy, the unconditional effects of campaign spending will be unbiased. In this specification, we still include quarter fixed effects to control for seasonal fluctuations in income. We control for variables that may affect the volume of spending, such as having a primary on "Super Tuesday" and whether or not the state was a battleground in the given period.

In Table 4, we show results for total earned income, as well as in sectors where we would expect the largest effect from primaries: accommodations, services, and retail trade. We expect accommodations to be particularly affected; however, this measure is not available for the early data, so we instead use the services sector for the first time period. The data from the later time period shows that accommodations is the service sector most affected by primary spending. We expect that primary campaign spending will directly affect the accommodations sector, as increased revenues from hotel room, catering, food services,

and additional expenses the campaigns incur flow straight into this sector. The definition of retail trade changed slightly between the two periods provided. However, since we are looking at growth, we pool the observations from the two time periods. To account for this difference, we include a dummy variable in the estimation to account for which time period the data is from.

The first three columns of Table 4 show that primary spending increases total income growth by approximately 0.53 percentage points, where the average state income growth reported in Table 8 in Appendix A is 1.3%. Primary spending increases income in the services and accommodations sectors by 0.76 and 0.47 percentage points, respectively (where the mean growth rates are 2.1% and 1.1%, respectively). For retail trade, we see a positive effect of primary spending on income levels, though this is not statistically different from zero.

Table 4 also shows that having a primary on Super Tuesday decreases the overall effect in Columns (1)-(5), so much so that they negate any positive effect of hosting a primary. This is expected because candidates devote less resources to each state if there are multiple primaries on the same day, as shown in Table 3. We do not find a statistically significant effect of being a battleground state. The timing is set such that states count as a battleground starting, in the calendar year of the election, when one candidate in either party has clinched the nomination. When an incumbent is not challenged in a primary, a state that is competitive in the general election is classified as a battleground state starting in the first quarter of the election year. However, the most intense campaigning occurs during the 3rd quarter of each election year. When we only allow states to be classified as battleground states in the third quarter, the battleground dummy variable is positive and statistically significant. This implies that income growth increases in battleground states later in the election cycle, possibly due to spending for the general election.

In an alternate specification, we also include state fixed effects when estimating Equation (2). In the initial setting, the state fixed effects dropped out of the regressions because we study income growth. In this next specification, we allow for state fixed ef-

fects in growth rates. This changes the identification of the dummy variable for primary elections. Without state fixed effects, the coefficient on the primary election variable was identified by comparing the income growth in states with and without primaries. By including state fixed effects, the coefficient is identified by comparing income growth in a given state when the primary variable changes values. The results with state fixed effects are in Table 5. This does not substantively change the results.

This increased income could come through increased labor force participation, or an increase in hours worked (as well as overtime pay) for current workers. Using data from the Bureau of Labor Statistics on the number of workers in each sector on a monthly basis, we find no effect of primary elections statistically different from zero. This implies that our results are due to increased hours worked for current workers in the sector.[36]

## 4.2 Expenditures

Next, we verify the results in the previous section with data on the amount spent by campaigns in each state during the 2004 and 2008 primary elections. This setup allows for an extra source of variation resulting from differences in expenditures across states and time.

Denote logged spending in a state as $e_{it}$, and $y_{ist}$ is defined identical to Equation (1).[37] Then

$$y_{ist} = \beta_{0s} + \beta_{1s} e_{it} + \beta_{2s} X_{it} + \mu_{is} + \gamma_{st} + \epsilon_{ist}$$

Taking differences,[38]

$$\Delta y_{ist} = \beta_{1s} \Delta e_{it} + \beta_{2s} \Delta X_{it} + \hat{\epsilon}_{ist} \tag{3}$$

[36] In these results, we use the same specification as above. These results are available upon request.

[37] If we instead use per capita spending, our results are almost synonymous. This is because there is little change in state population between quarters. These results are in Table 13 in Appendix C.

[38] The year fixed effects will not difference out as we go from the last quarter of each year to the first quarter of the following year. However, since they would only be identified off of one quarter per year, we choose to drop the year fixed effects.

The parameter $\beta_{1s}$ tells us how changes in spending growth affect income growth in each sector. This provides a more precise estimate of the effect of spending growth on income growth since we also have variation in spending in each state and quarter. Our identification largely comes from states that were reached in the 2008 election but not in 2004. However, we argue that the amount spent is orthogonal to a state's economic growth, as even if a state is consistently reached (and is reached in both 2004 and 2008), there is still uncertainty about the degree of spending in each year. For example, some years provide competition between candidates in both parties, while others have competition from only one. In addition, there is large variation in the number of entrants within each party between years. At times, favored candidates do not win the early states, turning the tide of the election, thereby increasing the competitiveness. Changes in primary dates affected the spending in some states as well. For example, New York moved its primary in 2008 to an election day with other states, causing a decrease in its expenditures between the two cycles. Thus, our variation comes from states that had both increased and decreased expenditures over the two election years. Finally, we exploit variation in spending over the course of the primary election cycle, where earlier contests with more competitors tend to exhibit more spending. As in the previous section, we drop the states with early primaries (Iowa, New Hampshire, and South Carolina), which have primary elections in every year.[39]

We use quarterly data on campaign expenditures in a given state to estimate Equation (3), and are interested in the coefficient on the growth rate in expenditures, $\beta_{1s}$. In this analysis, we use data from 2003-2004 and 2007-2008. We continue to control for battleground status of the state, though we no longer control for different attributes of the primary, as the spending amounts will capture the existence of a "Super Tuesday."[40]

Table 6 reports the coefficient and standard errors for $\beta_{1s}$ in Equation (3), which is

[39]If we restrict the sample further to include only the states that change primary status between the two election cycles (or only estimating the extensive margin), our results remain substantively similar, though our standard errors become slightly larger.

[40]If we additionally control for lagged spending growth or the "Super Tuesday" dummy variable, $\beta_{1s}$ is not statistically different from the specification shown in Table 6.

the coefficient on the growth rate in expenditures. In order to generate results that are comparable to those found in Tables 4-5, we estimate what the increased economic growth from having a primary. To do this, we use the results from Table 3, which show that having a primary more than doubles campaign spending in a state (or over 100%). We find that campaign spending modestly increases quarterly growth, where doubling campaign expenditures between quarters results in a 0.054 percentage point increase in a state's total income from the previous quarter, adjusting for seasonal increases in income. We see the largest effects in the accommodations and retail trade sectors, where doubling expenditures results in a 0.13 and 0.061 percentage point increase in income, respectively. We find larger effects in the accommodations sector than we do for total income. Comparing these to the mean income growth rates for the time period in Table 8 in Appendix A, we find that these results are about a 35% increase in total income, making these results consistent with the previous analysis.

The results for the retail trade sector are slightly different from the previous results using a primary dummy variable, as they are now statistically different from zero. While this sector has smaller growth rates on average when compared to the other two sectors, the increased growth in the later period may in part be influenced by the many technological and startup needs of the campaign offices' expenses that happened from 2004-2008 moreso than in previous periods. In addition, given a larger effort of grass roots campaigning from 2004-2008, staffers likely spent more time in less populated areas, allowing them to promote local economies more than in the longer time period. The battleground dummies again appear to slightly decrease income growth.

Similar to the previous section, we also include state fixed effects, where the comparison now comes from changes in spending growth within the same state. This is shown in Table 14, and does not substantially change the results. In addition, we replicate the results using the primary dummy variables from the previous subsection on this subsample. These results, in Table 15 in Appendix C, are consistent with the results in Tables 4-5.

Theoretically, these expenditure results can be used to calculate a multiplier, which

would give the effect of additional spending on income levels. We expect that a multiplier effect will exist if service sector employees are receiving higher wages and exuding higher levels of spending. For example, if a waitress receives a greater amount of tips than usual, she may be more inclined to make additional purchases, or even tip her hairdresser more. This money will continue to circulate in the state's economy. Calculating this multiplier would provide a comparison to the traditional literature on fiscal stimulus multipliers, given that this multiplier would reflect previously unstudied sectors. However, we do not have a complete measure of the amount spent during primary campaigns. Our measure of spending is a lower bound on the actual amount of additional spending brought forth by a Presidential primary campaign, and does not include spending by the media, individual spending by staffers, or the additional expenditures put forth by a state's residents in order to engage in campaign events. For simplicity, we will refer to these additional expenses as "media spending" for the remainder of the discussion. This mis-measurement of total spending makes it hard to calculate accurate multipliers.

We assume that media spending and our expenditure values are highly correlated,[41] which implies that our estimate of $\beta_{1s}$ will not be biased. However, this makes it difficult to estimate the multiplier. The multiplier tells us how much total income would grow with an additional \$1 of spending. In our setup, an additional \$1 of primary spending does not just account for a \$1 increase in spending, as it would also be associated with an increase in media spending. Because we do not have an accurate measure of media spending, we are uncertain of the degree to which media spending would increase, and therefore cannot calculate an accurate multiplier. This argument implies that multipliers would be (and are) unreasonably large (just over 10). When we instead run simulations varying the amount of media spending, between 50% and 100% of our expenditure values, our estimates of $\beta_{1s}$ remain statistically equivalent to the previous estimates. This simulation also produces lower and reasonable multiplier estimates within ranges of media spending

[41]We think this is a valid assumption since a race with greater primary spending may have more electoral votes and garner more media attention. Also, like candidates, networks are constrained if many contests occur on the same day and have to spend less covering each given state.

between 50% and 100% of total campaign spending (between 2 and 3.5). The biggest difference between our work and the traditional public finance literature looking at local multipliers is the lack of public investment spending in this paper.

# 5 Where is the Money Coming from?

A discussion of the economic benefit of primaries would be incomplete without considering the sources of these funds. In particular, concern may arise that campaign contributions from individuals within a state are approximately equal to campaign spending in that same state. If, for example, Iowa residents are contributing at a higher rate than the rest of the country (especially at the time of the primary), funds may simply be moving amongst Iowa citizens.

Campaign spending differs from traditional government spending because campaigns are financed through three sources: individual level contributions, federal matching funds, and Political Action Committee (PAC) contributions. Individual level contributions in presidential races are generally considered consumption goods, where an individual donates to a campaign if it increases his/her utility (Ansolabehere et al. 2003). Thus, individuals who enjoy following politics, as well as those with more resources, tend to contribute more money to candidates and do this more frequently (Brady et al. 1995). While we do not precisely know the counterfactual, we postulate that this money would not be spent in the absence of primaries, as those who contribute in primaries tend to be more high-income individuals whose budgets allow for some flexibility in spending. However, we cannot fully assess the value of individuals' participation in the process, where they give their time, or small dollar donations to the campaign. These resources would likely be reallocated in the absence of the race. An additional source of "individual" funds, which are less frequently utilized in primary races, is a candidate's personal expenditures, which likely would not be spent to the same extent in the absence of a race and are a direct transfer to individuals in the service sector of states with a high degree

of campaigning.

Second, partial public funding is available to Presidential primary candidates in the form of matching payments of up to $250 per individual contribution.[42] To obtain these funds, candidates must become eligible and limit themselves to spending caps.[43] Again, these funds differ from the traditional federal spending in that they are not targeted at aiming an impoverished area, but instead are entrusted to viable Presidential candidates with intentions of getting out their messages to help voters make an informed decision. There has been little variation in the total federal funds allocated for Presidential primary contests over our full sample period (1976-2008), and this money can be seen as a transfer from all taxpayers to those receiving campaigning.

Third, candidates receive money from PACs. While PAC contributions have increased significantly since 1976 (FEC 2010),[44] candidates still receive most of their money during the primary from individuals and matching funds. This is because partisan PACs generally wait until a candidate has clinched the nomination to stand behind him. In 2008, candidates raised a total of $534 million from individuals, $63 million from PACs, and $21 million from federal matching funds. Similarly, in 2004, candidates raised $130 million from individual contributors, $10 million from PACs, and $27 from federal funds.[45]

Recognizing that the majority of campaign spending comes from individuals, we analyze the geographic sources of the donations in Figures 6 - 7 for 2004 and 2008, respectively. We construct a measure, entitled Campaign Ratio, by dividing total campaign-related expenses (i.e., money spent specifically on the travel-related activities for campaigning, not on ads, media, consultants, etc.) in a given state by that state's total individual-level campaign contributions. Thus, the greater the measure, the more relative money that is coming from out of state than being spent in state.

[42]Variation in total federal funding will come via the number of contributions as well as the number of candidates raising the threshold amount to begin collecting federal dollars within each primary cycle.

[43]See `www.fec.gov` for more on these rules.

[44]Also, see the CRP `http://www.opensecrets.org/pres08/totals.php?cycle=2008` for more trends on giving and expenditures.

[45]Calculations based on Federal Election Commission data on Presidential candidates' primary fundraising.

In Figure 6, we see that in early states like Iowa, New Hampshire, South Carolina, Missouri, Arkansas, and Virginia, there is the greatest ratio of spending to contributions. States like Texas, Washington, and California had some of the lowest ratios in 2004, meaning that residents were contributing more money than was being spent in the state on campaigns. Similarly, Figure 7 shows that Iowa, New Hampshire, Wisconsin, Missouri and Iowa have the highest amount of money spent on primary campaign expenditures, compared to he total contributions by state residents. However, South Carolina and Kansas still saw more money spent in their states than what their residents contributed. In general, what we see is a transfer of funds from individuals in some states with many contributors to states early in the primary process, or on days with their own contest. These figures imply that the money being spent during primaries is mostly coming from outside the state.[46]

# 6 Conclusion

This paper takes a traditional public finance and macroeconomics question, asking how government spending affects local economies, and looks at primary campaign spending as an exogenous shock to previously unstudied sectors of a state's economy. We find that this money modestly increases income growth in a state. Specifically, the service sectors see the largest effects, where the accommodations sector seems to be the main source of this finding.

While other papers have investigated the ability of early primaries to influence policy, as candidate's attempt to appease early state's preferences in order to clench the nomination early (Malhotra and Snowberg 2011), our paper is the first to show the economic value of hosting a primary race. We also find that when there are few candidates in the race, it is more valuable to have a primary race that occurs independently of other states, making a Super Tuesday primary less valuable in terms of spending and economic

[46]Again, we do not look at small donations or within-state volunteering as inputs.

growth. This paper provides additional incentives for states to move their primaries up in the ordering, though to do so strategically.

Additionally, this paper provides a new insight on fiscal stimulus. While previous work has established a link between government spending and increases in employment, earnings, and income, this paper asserts that additional spending in states' service sectors provide short-run increases to personal earnings on the intensive margin. Thus, when individuals are greeted with a political campaign, they should relish in the stimulus this provides (and the transfers from individuals in other states that allow this to occur). A federal re-ordering of the primary calendar may best be structured to help states with struggling service sectors.

As policymakers continue to reform campaign finance legislation, they should consider the potential positive effects, though short-run and sector-specific, that can ensue from campaign spending in states.

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# Figures

Figure 1: Number of primaries over time

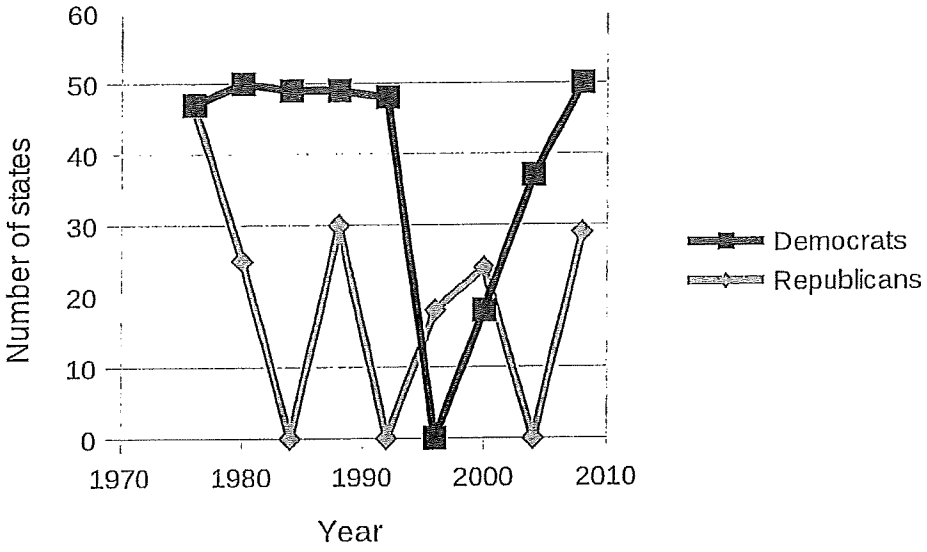


Figure 2: Primary Length and GDP

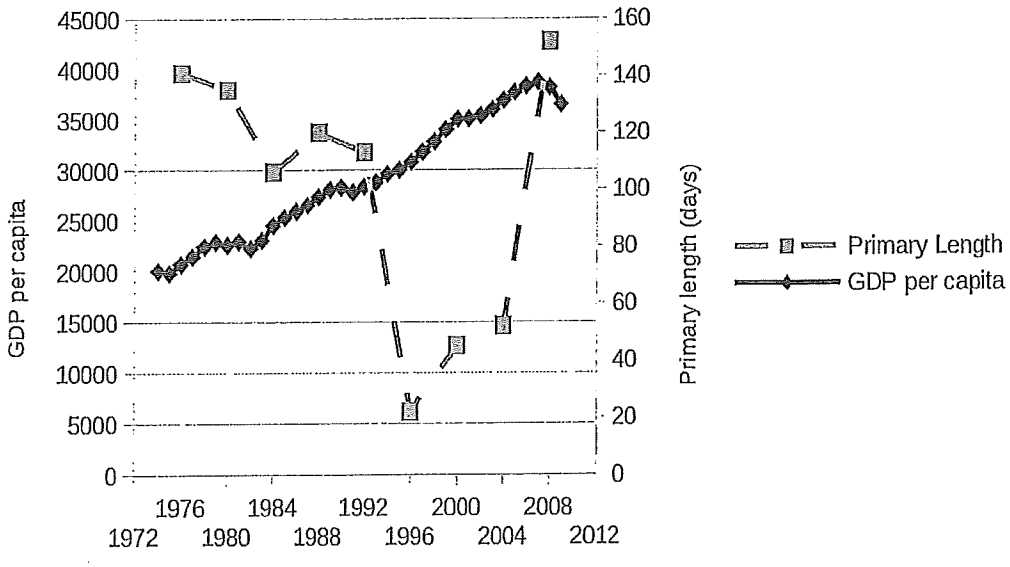



Figure 3: States that switch primary dates and GDP

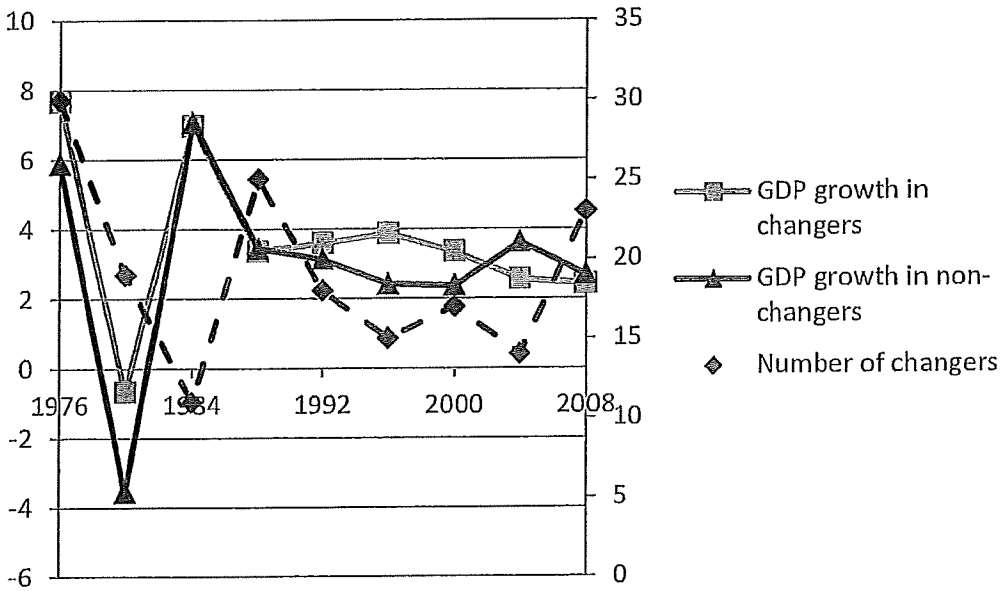


Figure 4: Primary Status Between 2004 and 2008

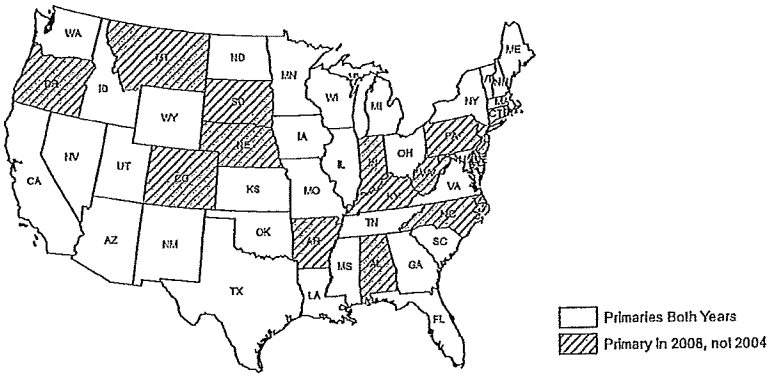



Figure 5: Changes in Expenditures from 2004-2008

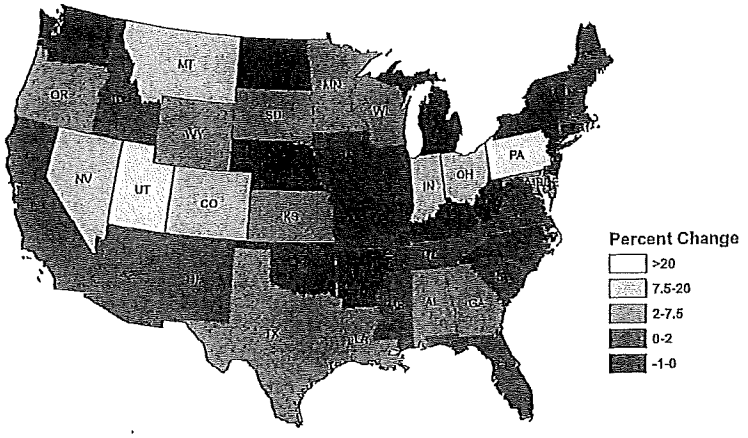


Figure 6: Campaign Expenditures and Contributions in 2004

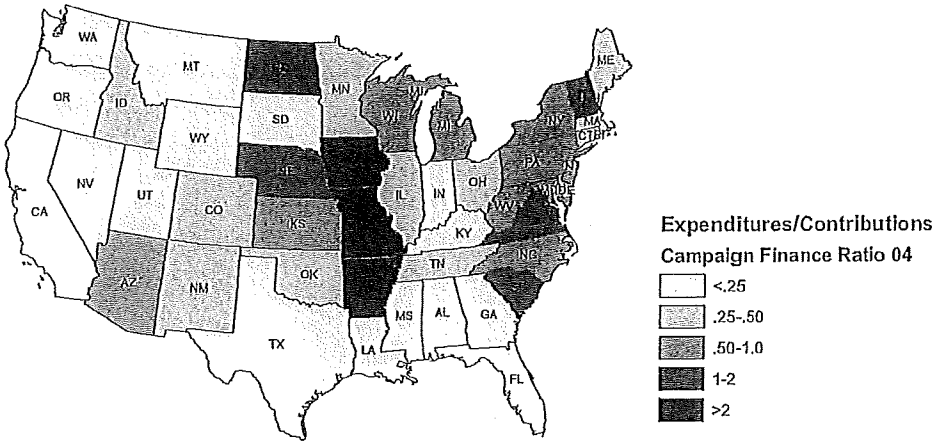
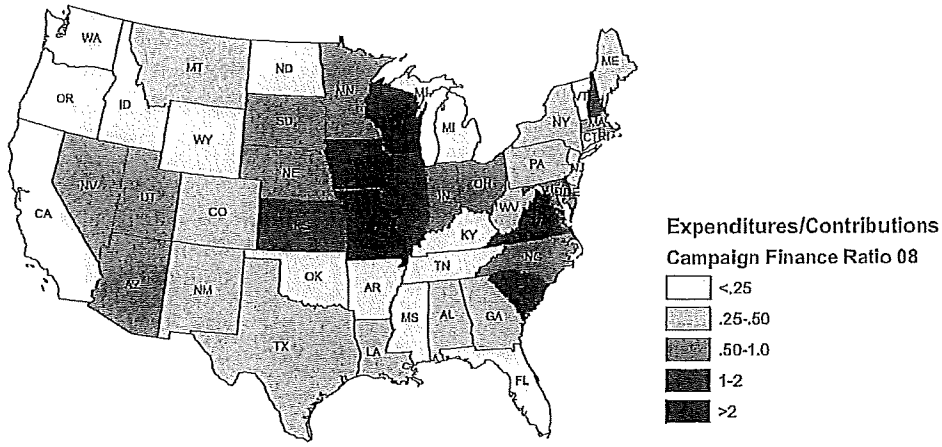



Figure 7: Campaign Expenditures and Contributions in 2008



# Tables

Table 1: Dates when only one candidate remains by party

| | Republicans | | Democrats | |
|---|---|---|---|---|
| | Date Clinched | Nominee | Date Clinched | Nominee |
| 1976 | 8 June | Gerald Ford | 8 June | Jimmy Carter |
| 1980 | 1 May | Ronald Reagan | 4 June | Jimmy Carter |
| 1984 | No Contest | Ronald Reagan | 5 June | Walter Mondale |
| 1988 | 15 March | George H.W. Bush | 7 June | Michael Dukakis |
| 1992 | No Contest | George H.W. Bush | 2 June | Bill Clinton |
| 1996 | 5 March | Bob Dole | No Contest | Bill Clinton |
| 2000 | 9 March | George W. Bush | 9 March | Al Gore |
| 2004 | No Contest | George W. Bush | 11 March | John Kerry |
| 2008 | 4 March | John McCain | 3 June | Barack Obama |

Notes: President Carter had a very low approval rating and was forced by the DNC to run in the primary in 1980. No Contest means that there were no contenders against the incumbent president.

Table 2: Spending by Primary Existence

| Primary Status | Total Spending | Campaign Spending |
|---|---|---|
| Primary in current quarter | | |
| Average | 1,507,529 | 703,237 |
| Median | 423,584 | 222,641 |
| 25th Percentile | 86,755 | 55,653 |
| 75th Percentile | 1,487,526 | 721,901 |
| Observations | 89 | 89 |
| Primary in next quarter | | |
| Average | 1,733,553 | 638,328 |
| Median | 276,206 | 138,157 |
| 25th Percentile | 33,115 | 27,522 |
| 75th Percentile | 1,336,009 | 679,948 |
| Observations | 89 | 89 |
| No primary | | |
| Average | 861,762 | 372,993 |
| Median | 99,962 | 35,286 |
| 25th Percentile | 16,191 | 4,207 |
| 75th Percentile | 533,750 | 255,636 |
| Observations | 624 | 624 |

Total Spending includes all money spent by campaigns (in $s).
Campaign Spending removes ad and media expenditures from Total Spending.
Compares quarter/states with and without primary elections
in 2003-2004, 2007-2008.

Table 3: Primary Existence Predicts Primary Campaign Expenditures

| Dependent Variable=Spending Growth | | |
|---|---|---|
| | (1) | (2) |
| Primary | 1.128*** | 1.218*** |
| | (0.281) | (0.335) |
| Primary on Super Tuesday | -0.481 | -0.693* |
| | (0.341) | (0.392) |
| Battleground State | -1.500*** | -1.688*** |
| | (0.222) | (0.229) |
| Observations | 658 | 658 |

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies. Column (2) includes state fixed effects.
Primary is a dummy for whether or not there is a primary campaign
in the given state and given quarter or following quarter.

Table 4: Primary Elections Increase Income Growth

| Dependent Variable=Per Capita Income Growth | | | | |
|---|---|---|---|---|
| | (1) | (2) | (3) | (4) |
| | Income | Services | Accommodations | Retail Trade |
| | 1974-2009 | 1974-2001 | 1990-2009 | 1974-2009 |
| Primary | 0.00525*** | 0.00761*** | 0.00473** | 0.000798 |
| | (0.000678) | (0.000958) | (0.00227) | (0.000970) |
| Primary on Super Tuesday | -0.00399** | -0.0140*** | -0.0146*** | -0.00746** |
| | (0.00188) | (0.00316) | (0.00486) | (0.00294) |
| Battleground state | 0.000202 | -0.000194 | -0.00214* | 0.000474 |
| | (0.000576) | (0.000842) | (0.00125) | (0.000736) |
| Observations | 5586 | 4370 | 2997 | 5586 |

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies. State-quarter observations.
Drops IA, NH, SC.
Primary is a dummy for whether or not there is a primary campaign in the given state
and given quarter or following quarter.

Table 5: Primary Elections Increase Income Growth (state fixed effects)

| Dependent Variable = Per Capita Income Growth | | | | |
|---|---|---|---|---|
| | (1) | (2) | (3) | (4) |
| | Income | Services | Accommodations | Retail Trade |
| | 1974-2009 | 1974-2001 | 1990-2009 | 1974-2009 |
| Primary | 0.00528*** | 0.00764*** | 0.00497** | 0.000833 |
| | (0.000492) | (0.000635) | (0.00215) | (0.000679) |
| Primary on Super Tuesday | -0.00401* | -0.0137*** | -0.0153*** | -0.00771** |
| | (0.00210) | (0.00295) | (0.00400) | (0.00303) |
| Battleground state | 0.000378 | -0.000154 | -0.00188* | 0.000531 |
| | (0.000509) | (0.000849) | (0.00107) | (0.000642) |
| Observations | 5586 | 4370 | 2997 | 5586 |

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies and state fixed effects. State-quarter observations.
Drops IA, NH, SC.
Primary is a dummy for whether or not there is a primary campaign in the given state and given quarter or following quarter.

Table 6: Campaign Expenditures Modestly Increase Income Growth

| Dependent Variable= Per Capita Income Growth | | | |
|---|---|---|---|
| | (1) | (2) | (3) |
| | Income | Accom. | Retail |
| Spending Growth | 0.000541*** | 0.00134*** | 0.000606*** |
| | (0.000155) | (0.000259) | (0.000215) |
| Battleground | 0.000768 | -0.00938*** | -0.00333** |
| | (0.00125) | (0.00187) | (0.00153) |
| Observations | 658 | 658 | 658 |

Robust standard errors in parentheses.
* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies. State-quarter observations.
Drops IA, NH, SC.

Table 7: Campaign Expenditures Modestly Increase Income Growth (state fixed effects)

| Dependent Variable= Per Capita Income Growth | | | |
|---|---|---|---|
| | (1) | (2) | (3) |
| | Income | Accom. | Retail |
| Spending Growth | 0.000520*** | 0.00128*** | 0.000586*** |
| | (0.000134) | (0.000267) | (0.000207) |
| Battleground | 0.000222 | -0.0125*** | -0.00430** |
| | (0.00120) | (0.00221) | (0.00165) |
| Observations | 658 | 658 | 658 |

Robust standard errors in parentheses.

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Includes quarter dummies and state fixed effects.

State-quarter observations. Drops IA, NH, SC.

# Appendix A: Data Appendix

Table 8: Summary Statistics

| | Mean | Standard deviation | Minimum | Maximum |
|---|---|---|---|---|
| **Full Sample** | | | | |
| Income growth | 0.0128 | 0.0147 | -0.1020 | 0.1833 |
| Services income growth | 0.0209 | 0.0171 | -0.2070 | 0.3299 |
| Accommodations income growth | 0.0107 | 0.0237 | -0.4903 | 0.3630 |
| Retail trade income growth | 0.0110 | 0.0173 | -0.2736 | 0.2800 |
| Primary dummy | 0.1011 | 0.3015 | 0 | 1 |
| Super Tuesday dummy | 0.0146 | 0.1200 | 0 | 1 |
| Battleground dummy | 0.0984 | 0.2978 | 0 | 1 |
| Only for election years | | | | |
| Primary dummy | 0.4156 | 0.4930 | 0 | 1 |
| Super Tuesday dummy | 0.0600 | 0.2376 | 0 | 1 |
| Battleground dummy | 0.4044 | 0.4909 | 0 | 1 |
| **2004-2008 Sample Only** | | | | |
| Income growth | 0.0143 | 0.0284 | -0.0443 | 0.2404 |
| Accommodations income growth | 0.0110 | 0.0294 | -0.0752 | 0.2158 |
| Retail trade income growth | 0.0031 | 0.0222 | -0.0857 | 0.1458 |
| Campaign spending growth | -0.4350 | 3.0736 | -12.0499 | 9.3338 |
| Campaign spending growth* | 0.4401 | 1.7784 | -8.8538 | 8.8708 |
| Campaign spending growth** | -0.7289 | 3.3502 | -12.0499 | 9.3338 |
| Battleground Dummy | 0.2475 | 0.4318 | 0 | 1 |
| Super Tuesday dummy | 0.0437 | 0.2047 | 0 | 1 |
| Only for election years | | | | |
| Battleground dummy | 0.4950 | 0.5006 | 0 | 1 |
| Super Tuesday dummy | 0.0875 | 0.2829 | 0 | 1 |

* Includes only periods with primaries.

** Includes only periods without primaries.

Table 9: Variables Collected

| Variable | Measured | Years | Source |
|---|---|---|---|
| Primary Dates | Date each Presidential primary was held, by state and party | 1976-2008 | Green Papers (for primaries)<br>Frontloading HQ (for caucuses) |
| Clinch Dates | Date Presidential candidate was last remaining in contest for party nomination | 1976-2008 | Various sources |
| Battleground States | Competitive States in election based on polls (< 10 perecentage points between winner and loser) | 1996-2008 | Intrade Prediction markets, David Leip's Polling Report |
| | Competitive states in election based on ex-post results (< 10 perecentage points between winner and loser) | 1976-1992 | David Leip's Election Results |
| Income | Quarterly state earnings | 1974-2008 | Bureau of Economic Analysis (BEA) |
| Services Income | Quarterly state earnings in the "service" sector | 1974-2001 | BEA |
| Accommodations Income | Quarterly state earnings in the accommodations sector | 1990-2008 | BEA |
| Retail Income | Quarterly state earnings in the retail sector | 1990-2008 | BEA |
| Population | Annual state population interpolated by quarter | 1974-2008 | Census |
| GDP | Annual state GDP | 1974-2008 | BEA |
| Unemployment | Annual state unemployment rate | 1974-2008 | BLS |
| Campaign expenditures | All expenses by Presidential primary candidates spent in pursuit of the primary race<br>Includes: administrative and campain expenses, i.e. hotel rooms, meals, local polling, Get-out-the-Vote, campaign events, money spent by staffers for catering meetings, rent, utilities, cable, internet, administrative supplies, staffer travel. Does not include advertisements | 2004-2008 | Center for Responsive Politics |

Table 10: Variables Measured

| Variable | Measured |
|---|---|
| Primary Dummy | Dummy Variable = 1 if there was a primary in state $i$ in quarter $t$ or $t+1$ based on state primary dates and clinch dates |
| Battleground States | Dummy Variable=1 if state $i$ was competitive in election year, and primary nomination clinched for at least one party at time $t$ |
| Primary on Super Tuesday | Dummy Variable=1 if state $i$ had primary at time $t$ and that day had the highest number of primary elections during that cycle |
| Per Capita Income Growth | $log\left(\frac{\text{Income}_t}{\text{Population}_t}\right) - \log\left(\frac{\text{Income}_{t-1}}{\text{Population}_{t-1}}\right)$ |
| Per Capita Services Income Growth | Same as income, but only for 1974-2001 |
| Per Capita Accommodations Income Growth | Same as income, but only for 1990-2008 |
| Per Capita Retail Income Growth | Same as income, but only for 1990-2008 |
| Population | Annual population data, by state (interpolated by quarter) |
| Spending Growth | $log(\text{Spending}_t) - \log(\text{Spending}_{t-1})$ |
| Per Capita Spending Growth | $log\left(\frac{\text{Spending}_t}{\text{Population}_t}\right) - \log\left(\frac{\text{Spending}_{t-1}}{\text{Population}_{t-1}}\right)$ |

# Appendix B: Election Information

Table 11: Battleground states by year

| | |
|---|---|
| Alabama | 1980, 1992, 1996 |
| Alaska | 1992 |
| Arizona | 1992, 1996, 2000, 2008 |
| Arkansas | 1980, 2000, 2004 |
| California | 1976, 1988 |
| Colorado | 1968, 1988, 1992, 1996, 2000, 2004, 2008 |
| Connecticut | 1980, 1992, 1996, 2008 |
| Delaware | 1976, 1980, 1992, 2004 |
| Florida | 1976, 1992, 1996, 2000, 2004, 2008 |
| Georgia | 1992, 1996, 2008 |
| Hawaii | 1976, 1980, 1988, 2004 |
| Illinois | 1976, 1980, 1988 |
| Indiana | 1976, 1992, 1996, 2008 |
| Iowa | 1984, 1992, 2000, 2004, 2008 |
| Kansas | 1976, 1992 |
| Kentucky | 1976, 1980, 1992, 1996 |
| Louisiana | 1976, 1980, 1992, 2000 |
| Maine | 1980, 1992, 2000, 2004 |
| Maryland | 1976, 1980, 1984, 1988 |
| Massachusetts | 1980, 1984, 1988 |
| Michigan | 1976, 1980, 1988, 1992, 2000, 2004 |
| Minnesota | 1980, 1984, 1988, 2000, 2004 |
| Mississippi | 1976, 1980, 1992, 1996 |
| Missouri | 1968, 1976, 1980, 1988, 1996, 2000, 2004, 2008 |
| Montana | 1980, 1988, 1992, 1996, 2008 |
| Nevada | 1976, 1992, 1996, 2000, 2004 |
| New Hampshire | 1992, 1996, 2000, 2004, 2008 |
| New Jersey | 1976, 1992, 2004 |
| New Mexico | 1976, 1988, 1992, 1996, 2000, 2004 |
| New York | 1976, 1980, 1984, 1988 |
| North Carolina | 1980, 1992, 1996, 2008 |
| North Dakota | 1976, 1996, 2008 |
| Ohio | 1968, 1976, 1992, 1996, 2000, 2004, 2008 |
| Oklahoma | 1976, 1992, 1996 |
| Oregon | 1968, 1976, 1980, 1988, 1992, 1996, 2000, 2004 |
| Pennsylvania | 1968, 1976, 1980, 1984, 1988, 1992, 2000 |
| Rhode Island | 1984 |
| South Carolina | 1980, 1992, 1996, 2008 |
| South Dakota | 1976, 1988, 1992, 1996, 2008 |
| Tennessee | 1980, 1992, 1996, 2000 |
| Texas | 1976, 1992, 1996 |
| Vermont | 1980, 1988, 2000 |
| Virginia | 1976, 1992, 1996, 2000, 2004, 2008 |
| Washington | 1976, 1988, 2000, 2004 |
| West Virginia | 1980, 1988, 2000 |
| Wisconsin | 1968, 1972, 1976, 1980, 1984, 1988, 1992, 2000 |
| Wyoming | 1992 |

Table 12: Super Tuesday states by year

| | |
|---|---|
| Alabama | 1980, 1984, 1988, 2008 |
| Alaska | 1980, 2008 |
| Arizona | 2008 |
| Arkansas | 1976, 1988, 2008 |
| California | 2000, 2004, 2008 |
| Colorado | 1996 |
| Connecticut | 1996, 2000, 2004, 2008 |
| Delaware | 1992, 2008 |
| Florida | 1980, 1984, 1988, 1992 |
| Georgia | 1980, 1984, 1988, 1996, 2000, 2004, 2008 |
| Hawaii | 1980, 1984, 1988, 2000 |
| Idaho | 1976, 2008 |
| Illinois | 2008 |
| Kansas | 1988, 2008 |
| Kentucky | 1976, 1988 |
| Louisiana | 1992 |
| Maine | 1996, 2000 |
| Maryland | 1988, 1996, 2000, 2004 |
| Massachusetts | 1984, 1988, 1996, 2000, 2004, 2008 |
| Minnesota | 1996, 2000, 2004, 2008 |
| Missouri | 1988, 1992, 1996, 2000, 2008 |
| Montana | 2008 |
| Nevada | 1976, 1984, 1988 |
| New Jersey | 2008 |
| New Mexico | 2008 |
| New York | 2000, 2004, 2008 |
| North Carolina | 1988 |
| North Dakota | 2000, 2004, 2008 |
| Ohio | 2000, 2004 |
| Oklahoma | 1980, 1984, 1988, 1992, 2008 |
| Oregon | 1976 |
| Rhode Island | 1984, 1988, 1992, 1996, 2000, 2004 |
| Tennessee | 1976, 1988, 1992, 2008 |
| Texas | 1988, 1992 |
| Utah | 2008 |
| Vermont | 1996, 2000, 2004 |
| Virginia | 1988 |
| Washington | 1980, 1984, 1988, 2004 |
| West Virginia | 2007 |

# Appendix C: Robustness

Table 13: Per Capita Campaign Expenditures Modestly Increase Income Growth

| Dependent Variable= Per Capita Income Growth | | | |
|---|---|---|---|
| | (1) | (2) | (3) |
| | Income | Accom. | Retail |
| Spending Growth | 0.000542*** | 0.00134*** | 0.000607*** |
| | (0.000155) | (0.000259) | (0.000215) |
| Battleground State | 0.000769 | -0.00938*** | -0.00333** |
| | (0.00125) | (0.00187) | (0.00153) |
| Observations | 658 | 658 | 658 |

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies. State-quarter observations.
Drops IA, NH, SC.

Table 14: Per Capita Campaign Expenditures Modestly Increase Income Growth (state fixed effects)

| Dependent Variable= Per Capita Income Growth | | | |
|---|---|---|---|
| | (1) | (2) | (3) |
| | Income | Accom. | Retail |
| Spending Growth | 0.000521*** | 0.00128*** | 0.000587*** |
| | (0.000134) | (0.000267) | (0.000207) |
| Battleground | 0.000223 | -0.0125*** | -0.00430** |
| | (0.00120) | (0.00221) | (0.00165) |
| Observations | 658 | 658 | 658 |

Robust standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
Includes quarter dummies and state fixed effects.
State-quarter observations. Drops IA, NH, SC.

Table 15: Results are robust restricting sample to 2004 and 2008 expenditures sample

| | (1) Income | (2) Accom. | (3) Retail |
|---|---|---|---|
| Primary | 0.00734*** | 0.0131*** | 0.00680*** |
| | (0.00162) | (0.00273) | (0.00196) |
| Primary on Super Tuesday | -0.000656 | -0.00935** | -0.00731* |
| | (0.00301) | (0.00443) | (0.00438) |
| Battleground State | -0.000263 | -0.0114*** | -0.00411*** |
| | (0.00123) | (0.00188) | (0.00147) |
| Observations | 658 | 658 | 658 |

Robust standard errors in parentheses

Includes quarter dummies

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Primary is a dummy for whether or not there is a primary campaign in the given state and given quarter or following quarter.

# CHAPTER 23: EXPENDITURE MULTIPLIER

Consumption and Savings Function:

- Consumption is primarily a function of Yd (disposable income) or "after-tax" income. Although it is also influenced by the rate of interest, expectations about future Yd, wealth effects etc.
- if plot Consumption as a function of Yd it will have a positive vertical intercept ('autonomous consumption') and a positive slope but less than one (i.e, the slope of the consumption function is the coefficient on Yd in the Consumption equation and represents the Marginal Propensity to Consume (MPC). Therefore, $0<MPC<1$
- if plot the consumption function versus a 45 degree line (with the mathematical property that any point on the 45 degree line has the same vertical coordinate as horizontal coordinate, or $x = y$) then where Consumption intersects the 45 degree line is referred to as "breakeven level of Yd".
- at Yd < Yd breakeven, then C > Yd (the individual is 'dissaving' as savings <0)
- at Yd > Yd breakeven, then C < Yd and the individual is "saving", Savings >0.
- the Savings function is derived from the consumption function (if the consumption function changes then so does the savings function). For example, if

  $C = a + b(Y - T)$ where $a>0$, $0<b<1$ and $Yd = Y-T$

  then the implied savings function is:

  $S = -a + (1-b)(Y - T)$ where $(1-b) = MPS$ (marginal propensity to save)

Note: $MPC + MPS = 1$

- Mathematical example:

  if $C = 1000 + 0.80(Y - T)$ then the implied savings function is:

  $S = -1000 + 0.20(Y - T)$

where $MPC = 0.80$ and $MPS = 0.20$. See the graphs pg. 529

Effects of other variables on Consumption function:

- if the interest rate falls or expected future disposable income increases, then the consumption function shifts upwards and the implied savings function shifts downwards (see pg. 531)

Other Components of Aggregate Expenditure (AE):

i) Investment function:

- depends on interest rate, expected future profits. Not related to current GDP or Yd. Therefore, if we plot the investment function in diagram with Investment expenditures on the vertical axis and real GDP on the horizontal axis, the Investment (I) line is horizontal at $I_0$. That is, we assume that:

  $I = I_0$.

ii) Government expenditures:

- changes in government expenditures (G) or taxes (T) represents a "fiscal policy" decision of the federal government. Therefore, a change in G is a policy choice and does not respond automatically to the level of GDP (Y). So in a diagram, G is also assumed to be autonomous,

  $G = G_0$.

iii) Exports:

- exports represent Canadian goods sold abroad. The level of exports will depend primarily on the Canadian price level (P), foreign price level (Pf), the exchange rate (E) and foreign GDP (Yf). Therefore, once again, X does not respond to the level of Canadian GDP so exports are

autonomous.

$$X = X_0.$$

iv) Imports:

- depends on relative prices (Canadian and foreign prices), the exchange rate (E), and Canadian GDP (Y). As GDP (Y) increases, we buy more goods and services and some of these will be imported from the rest of the world. Therefore,

  Imports (M) = m Y where $0<m<1$ and m=MPM (marginal propensity to import)

**Aggregate Expenditure function (AE):**

- will have a positive intercept (see graph pg. 534)
- the slope of the AE function is given by:
  - slope of AE = MPC (1-t) - MPM where $0<t<1$ and t represents the tax **rate**
- Note if we have lump sum taxes, T = To ( a constant) then t=0 and the slope of the AE function is just = MPC - MPM

- Numerical Example:

  If MPC = 0.80, MPM = 0.10 and t = 0.25 then the slope of the AE function is:
  slope of AE = 0.80 (1 - 0.25) - 0.10
  slope of AE = 0.50

Equilibrium GDP (Y):

- when AE = Y (planned spending = production) we have an equilibrium
- graphically this occurs anywhere along the 45 degree line with AE on the vertical axis and real GDP (Y) on the horizontal axis. Specifically, the equilibrium is where the given AE function intersects the 45 degree line. (see pg. 536)

Calculation of Equilibrium GDP (Y):

- Suppose you are given the following equations:

  C = 1000 + 0.80 (Y- T)
  I = 180
  G = 100
  X = 200
  M = 0.20 Y
  T = 100

- To find equilibrium GDP, follow these steps:
- **Step 1**: Calculate the AE equation by adding C, I G, X and M together and substitute the T value into the consumption equation

  AE = C + I + G + X - M
  so AE = 1000 + 0.80(Y -100) + 180 + 100 + 200 - 0.20 Y
  or AE = 1400 + 0.60 Y

-**Step 2:** Impose the equilibrium condition, AE = Y

  so 1400 + 0.60 Y = Y

and since the equilibrium condition has been imposed, the value of Y solved for is then equilibrium Y.

- **Step 3:** Solve for equilibrium GDP

  $0.40\ Y = 1400$

  so $Y = 3500$

**The Multiplier:**

- the definition of the multiplier is: $\text{multiplier} = \frac{\text{change in equilibrium Y}}{\text{change in autonomous spending}}$

- the formula for the expenditure multiplier is: $\text{multiplier} = \frac{1}{1 - \text{slope of AE function}}$

Example: If the MPC = 0.80, t = 0, and MPM = 0.05 then
the slope of the AE function is = 0.75 and the multiplier is = 4
Therefore, for everyone $1 increase in spending (whether it be from C, I, G, X) it will generate a $4 increase in equilibrium GDP.

- continuing the example from above where equilibrium Y = 3500, if full employment GDP (Y*) = 4300 then in order to get to full employment GDP the government could increase its spending by 200 (once subject to the multiplier, the overall increase in GDP is going to be $800 bringing the new equilibrium GDP level to $4300 (=Y*)

**The Lump sum Tax multiplier:**

- if the government has a lump sum tax (so the tax rate, t = 0),then a $1 increase in taxes would reduce Consumption expenditures by the value of the MPC (eg 0.80). This reduction in expenditures is then subject to the multiplier. The end result is that when taxes (T) change, equilibrium GDP changes according to the value of the tax multiplier,
- definition of the tax multiplier: $\text{tax multiplier} = \frac{-\text{MPC}}{1 - \text{slope of the AE function}}$

Example:
If the MPC = 0.80, t = 0 and MPM = 0.05 then the tax multiplier is:

$$\text{tax multiplier} = \frac{-0.80}{1 - 0.75}$$

then the tax multiplier is -3.2
The tax multiplier is always a negative number because from the definition of the tax multiplier above, we know that if taxes increase (decrease), then real GDP will decrease (increase) so the tax multiplier is negative.

- you use the tax multiplier to determine the required change in taxes to bring about full employment GDP. Suppose again that Y (eq'l) = 3500 and Y* = 4300 and the tax multiplier is -3.2

then from the definition of the tax multiplier:

$$\text{tax multiplier} = \frac{\text{change in equilibrium GDP}}{\text{change in taxes (lump sum)}}$$

so if the tax multiplier is -3.2 and to get to full employment GDP we want the change in equilibrium GDP to be +$800, then the change in taxes should be = 800/-3.2 or = -$250

**The Multiplier and the Price Level:**

- the price level (P) was held constant in deriving the AE function. Therefore, if the price level changes it will shift the AE curve (due to the wealth effect and the substitution effects, see page 543).
- specifically, if the price level increases, AE shifts down (the increase in price reduces real wealth and encourages international and intertemporal substitution so consumption expenditures decrease and imports increase lowering equilibrium GDP). See graphs on page 544.

**Derivation of the AD curve:**

- can derive the AD curve (from chapter 22) by changing the price level and tracing out what happens to equilibrium GDP following the shift in the AE curve. See page 544.
- we can also trace out the effects of changes in other variables (eg changes in the interest rate or exchange rate etc) on the AD curve itself. See page 545. If the AE curve shifts upwards due to any effect but a change in price, then the AD curve will shift in response. See page 545.

Note: you should read over the Appendix to Chapter 23 (the mathematical note at the end of the chapter).

The State Auditor's office did not receive a response from the **Department of Agriculture,** the **Department of Elementary and Secondary Education,** the **Missouri House of Representatives,** the **Department of Transportation,** the **Missouri Senate,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Hannibal 60 School District, State Technical College of Missouri,** and **St. Louis Community College.**

**Fiscal Note Summary**

State governmental entities estimate increased annual operating costs of at least $62,000. Local governmental entities estimate no impact to operating costs. Any potential impact to state and local governmental revenues is unknown.

STATE AUDITOR'S OFFICE
RECEIVED
NOV 12 2014

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

16-004

November 12, 2014

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article III, version 2 (2016-004)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Bradley Ketcher on November 12, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-004

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

RECEIVED
2014 NOV 12 AM 9:40
SEC OF STATE

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____
I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong. Dist. | NAME (Printed or Typed) |
|---|---|---|---|---|---|---|
| 1. | / / | | | | | |
| 2. | / / | | | | | |
| 3. | / / | | | | | |
| 4. | / / | | | | | |
| 5. | / / | | | | | |
| 6. | / / | | | | | |
| 7. | / / | | | | | |
| 8. | / / | | | | | |
| 9. | / / | | | | | |
| 10. | / / | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer

_____

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

16-004

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article III of the Constitution is revised by amending Sections 12, 19 and 39 and adopting 3 new sections to be known as Article III Sections 16(a), 19(a), and 19(b), to read as follows:

Section 12. 1. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This subsection shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

2. No senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist until the expiration of two calendar years after the conclusion of the session of the general assembly in which the member or employee last served. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any knowing violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

3. No senator or representative or their employees or any entity controlled by a senator or representative or their employees shall act or serve as a paid employee or consultant to a candidate or issue campaign or solicit prospective employers or clients as a paid employee or consultant to a candidate or issue campaign. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any knowing violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

Section 16(a). No senator or representative or their employees or staff shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value in excess of five dollars from any lobbyist or lobbyist principal. Senators or representatives, their employees and staff may accept informational material relevant to the general assembly's official functions and items that are available or distributed free of charge to members of the general public. Candidates for senator or representative or offices within the senate or house, including candidates for reelection, may accept campaign contributions consistent with section 19(a) of this article. Any knowing violation of this section shall be punishable by a term of imprisonment of up to six months and the imposition of a fine of up to five hundred dollars or both.

Section 19. 1. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place.

2. Legislative records shall be public records and subject to generally applicable state laws governing public access to public records. Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member, their employees and staff. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate respectively.

16-004

Section 19(a). 1. The amount of contributions, including cash and in-kind contributions, to a candidate for state senate, state representative or any office within the senate or house made by or accepted from any natural person or independent entity other than the candidate in any one election shall not exceed the following:

(a) To elect an individual to the office of state senator or an office within the senate, two thousand dollars;
(b) To elect an individual to the office of state representative or an office within the house, one thousand dollars;
(c) These contribution limits shall be recalculated on January 1 of even-numbered years by multiplying the original contribution limit by the cumulative consumer price index, as defined by law, for all years since January 1, 2017 and rounding to the nearest twenty-five dollars.

2. Unless the illegal contribution is refunded within ten business days, any person or entity making, accepting or retaining a contribution to a candidate for state senate, state representative or an office within the senate or house in excess of those allowed in subsection 1 shall be subject to:

(a) For the first violation, a civil fine of five thousand dollars plus an amount equal to the illegal contribution.
(b) For the second and subsequent violations, any person or entity knowingly making, accepting or retaining an illegal contribution shall be guilty of a crime and upon conviction be punished by a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars plus an amount equal to the illegal contribution or both.

3. The legislative contribution limits in subsection 1 shall not apply to a "truly independent expenditure." As used in this section, "truly independent expenditure" means one or more wholly independent expenditures that support the nomination, election, or defeat of a clearly identified candidate that is made without the cooperation or consent of, communication, coordination or consultation with, or the request or suggestion of the candidate, the candidate's committee, the candidate's campaign, the candidate's agents, consultants or advisors. In addition to other penalties of this section, any person or entity who knowingly violates the contribution limits of subsection 1 by making, accepting or facilitating an excessive expenditure that does not meet the requirements for a truly independent expenditure shall be guilty of a crime and upon conviction be punished by a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars plus an amount equal to the illegal expenditure or both.

4. The penalties in this section do not limit the power of either the house of representatives or the senate to discipline its own members. Nothing in this section shall restrict the general assembly or the People from passing campaign finance requirements that are more restrictive than those in this section.

Section 19(b). No political fund-raising activities or political fund-raising event, including the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party or political party committee, shall occur in or on any premises, property or building owned, leased or controlled by the house, senate or general assembly. Any knowing violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars plus an amount equal to the illegal contributions or both.

Section 39. The general assembly shall not have power:

(1) To give or lend or to authorize the giving or lending of the credit of the state in aid or to any person, association, municipal or other corporation;

(2) To pledge the credit of the state for the payment of the liabilities, present or prospective, of any individual, association, municipal or other corporation;

16-004

(3) To grant or to authorize any county or municipal authority to grant any extra compensation, fee or allowance to a public officer, agent, servant or contractor after service has been rendered or a contract has been entered into and performed in whole or in part;

(4) To pay or to authorize the payment of any claim against the state or any county or municipal corporation of the state under any agreement or contract made without express authority of law;

(5) To release or extinguish or to authorize the releasing or extinguishing, in whole or in part, without consideration, the indebtedness, liability or obligation of any corporation or individual due this state or any county or municipal corporation;

(6) To make any appropriation of money for the payment, or on account of or in recognition of any claims audited or that may hereafter be audited by virtue of an act entitled "An Act to Audit and Adjust the War Debts of the State," approved March 19, 1874, or any act of a similar nature, until the claim so audited shall have been presented to and paid by the government of the United States to this state;

(7) To act, when convened in extra session by the governor, upon subjects other than those specially designated in the proclamation calling said session or recommended by special message to the general assembly after the convening of an extra session;

(8) To remove the seat of government from the City of Jefferson;

(9) Except as otherwise provided in section 39(b), section 39(c), section 39(e) or section 39(f) of this article, to authorize lotteries or gift enterprises for any purpose, and shall enact laws to prohibit the sale of lottery or gift enterprise tickets, or tickets in any scheme in the nature of a lottery; except that, nothing in this section shall be so construed as to prevent or prohibit citizens of this state from participating in games or contests of skill or chance where no consideration is required to be given for the privilege or opportunity of participating or for receiving the award or prize and the term "lottery or gift enterprise" shall mean only those games or contests whereby money or something of value is exchanged directly for the ticket or chance to participate in the game or contest. The general assembly may, by law, provide standards and conditions to regulate or guarantee the awarding of prizes provided for in such games or contests under the provision of this subdivision;

(10) To impose a use or sales tax upon the use, purchase or acquisition of property paid for out of the funds of any county or other political subdivision[.];

(11) To prohibit the counting of a genuine signature of a registered voter on a petition because of the signature means, manner, medium, form or format used by the registered voter, and no such law enacted by the general assembly shall be valid.

RECEIVED
NOV 0 7 2014
STATE AUDITORS OFFICE

16-003

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 7, 2014

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Bradley Ketcher regarding a proposed constitutional amendment to Article III (2016-003)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Bradley Ketcher on November 7, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-003

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

RECEIVED

INITIATIVE PETITION

2014 NOV -7 AM 9:25

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong. Dist. | NAME (Printed or Typed) |
|---|---|---|---|---|---|---|
| 1. | / / | | | | | |
| 2. | / / | | | | | |
| 3. | / / | | | | | |
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| 7. | / / | | | | | |
| 8. | / / | | | | | |
| 9. | / / | | | | | |
| 10. | / / | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer

_____

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

16-003

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

Section A. Article III of the Constitution is revised by amending Sections 12, 19 and 39 and adopting 3 new sections to be known as Article III Sections 16(a), 19(a), and 19(b), to read as follows:

Section 12. 1. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This subsection shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

2. No senator or representative or their employees shall act or serve as a paid lobbyist, register as a paid lobbyist, or solicit prospective employers or clients to represent as a paid lobbyist until the expiration of two calendar years after the conclusion of the session of the general assembly in which the member or employee last served. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any knowing violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

3. No senator or representative or their employees or any entity controlled by a senator or representative or their employees shall act or serve as a paid employee or consultant to a candidate or issue campaign or solicit prospective employers or clients as a paid employee or consultant to a candidate or issue campaign. When any senator or representative violates this subsection their office shall thereby be vacated and shall thereafter perform no duty and receive no salary as senator or representative. In addition, any knowing violation of this subsection shall be punishable by a term of imprisonment of up to four years and the imposition of a fine of up to five thousand dollars or both.

Section 16(a). No senator or representative or their employees or staff shall accept directly or indirectly a gift of any tangible or intangible item, service, or thing of value in excess of five dollars from any lobbyist or lobbyist principal. Senators or representatives, their employees and staff may accept informational material relevant to the general assembly's official functions and items that are available or distributed free of charge to members of the general public. Candidates for senator or representative or offices within the senate or house, including candidates for reelection, may accept campaign contributions consistent with section 19(a) of this article. Any knowing violation of this section shall be punishable by a term of imprisonment of up to six months and the imposition of a fine of up to five hundred dollars or both.

Section 19. 1. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place.

2. Legislative records shall be public records and subject to generally applicable state laws governing public access to public records. Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member, their employees and staff. The chief clerk of the house or the secretary of the senate are the custodians for all other legislative records relating to the house and the senate respectively.

16-003

Section 19(a). 1. The amount of contributions, including cash and in-kind contributions, to a candidate for state senate, state representative or any office within the senate or house made by or accepted from any natural person or independent entity other than the candidate in any one election shall not exceed the following:

(a) To elect an individual to the office of state senator or an office within the senate, two thousand dollars;
(b) To elect an individual to the office of state representative or an office within the house, one thousand dollars;
(c) These contribution limits shall be recalculated on January 1 of even-numbered years by multiplying the original contribution limit by the cumulative consumer price index, as defined by law, for all years since January 1, 2017 and rounding to the nearest twenty-five dollars.

2. Unless the illegal contribution is refunded within ten business days, any person or entity making, accepting or retaining a contribution to a candidate for state senate, state representative or an office within the senate or house in excess of those allowed in subsection 1 shall be subject to:

(a) For the first violation, a civil fine of five thousand dollars plus an amount equal to the illegal contribution.
(b) For the second and subsequent violations, any person or entity knowingly making, accepting or retaining an illegal contribution shall be guilty of a crime and upon conviction be punished by a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars plus an amount equal to the illegal contribution or both.

3. The legislative contribution limits in subsection 1 shall not apply to a "truly independent expenditure." As used in this section, "truly independent expenditure" means one or more wholly independent expenditures that support the nomination, election, or defeat of a clearly identified candidate that is made without the cooperation or consent of, communication, coordination or consultation with, or the request or suggestion of the candidate, the candidate's committee, the candidate's campaign, the candidate's agents, consultants or advisors. In addition to other penalties of this section, any person or entity who knowingly violates the contribution limits of subsection 1 by making, accepting or facilitating an excessive expenditure that does not meet the requirements for a truly independent expenditure shall be guilty of a crime and upon conviction be punished by a term of imprisonment of up to four years or the imposition of a fine of up to five thousand dollars plus an amount equal to the illegal expenditure or both.

4. The penalties in this section do not limit the power of either the house of representatives or the senate to discipline its own members. Nothing in this section shall restrict the general assembly or the People from passing campaign finance requirements that are more restrictive than those in this section.

Section 19(b). No political fund-raising activities or political fund-raising event, including the solicitation or delivery of contributions, supporting or opposing any candidate, initiative petition, referendum petition, ballot measure, political party or political party committee, shall occur in or on any premises, property or building owned, leased or controlled by the house, senate or general assembly. Any knowing violation of this section shall be punishable by imprisonment for up to one year and or a fine of up to one thousand dollars plus an amount equal to the illegal contributions or both.

Section 39. The general assembly shall not have power:

(1) To give or lend or to authorize the giving or lending of the credit of the state in aid or to any person, association, municipal or other corporation;

(2) To pledge the credit of the state for the payment of the liabilities, present or prospective, of any individual, association, municipal or other corporation;

16-003

(3) To grant or to authorize any county or municipal authority to grant any extra compensation, fee or allowance to a public officer, agent, servant or contractor after service has been rendered or a contract has been entered into and performed in whole or in part;

(4) To pay or to authorize the payment of any claim against the state or any county or municipal corporation of the state under any agreement or contract made without express authority of law;

(5) To release or extinguish or to authorize the releasing or extinguishing, in whole or in part, without consideration, the indebtedness, liability or obligation of any corporation or individual due this state or any county or municipal corporation;

(6) To make any appropriation of money for the payment, or on account of or in recognition of any claims audited or that may hereafter be audited by virtue of an act entitled "An Act to Audit and Adjust the War Debts of the State," approved March 19, 1874, or any act of a similar nature, until the claim so audited shall have been presented to and paid by the government of the United States to this state;

(7) To act, when convened in extra session by the governor, upon subjects other than those specially designated in the proclamation calling said session or recommended by special message to the general assembly after the convening of an extra session;

(8) To remove the seat of government from the City of Jefferson;

(9) Except as otherwise provided in section 39(b), section 39(c), section 39(e) or section 39(f) of this article, to authorize lotteries or gift enterprises for any purpose, and shall enact laws to prohibit the sale of lottery or gift enterprise tickets, or tickets in any scheme in the nature of a lottery; except that, nothing in this section shall be so construed as to prevent or prohibit citizens of this state from participating in games or contests of skill or chance where no consideration is required to be given for the privilege or opportunity of participating or for receiving the award or prize and the term "lottery or gift enterprise" shall mean only those games or contests whereby money or something of value is exchanged directly for the ticket or chance to participate in the game or contest. The general assembly may, by law, provide standards and conditions to regulate or guarantee the awarding of prizes provided for in such games or contests under the provision of this subdivision;

(10) To impose a use or sales tax upon the use, purchase or acquisition of property paid for out of the funds of any county or other political subdivision[.];

(11) To prohibit the counting of a genuine signature of a registered voter on a petition because of the signature means, manner, medium, form or format used by the registered voter.

16-002

RECEIVED
NOV 0 6 2014
STATE AUDITORS OFFICE

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 6, 2014

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Todd Jones regarding a proposed constitutional amendment to Article VIII. (2016-002)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Todd Jones on November 6, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-002

County_____
Page No._____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

RECEIVED
2016 NOV -8 PM 1:39
SEC. OF STATE

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(OFFICIAL BALLOT TITLE)

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I,_____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONG. DISTR. | NAME (Printed or Typed) |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |
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| 10. | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLEAD GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not_____(check one) expect to be paid for circulating this petition. If paid, list the payer _____.

_____
Signature of Affiant
(Person obtaining signatures)

_____
(Printed Name of Affiant)

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary

Notary Public (Seal)
My commission expires _____.

# Missouri Constitution Article VIII

16-002

*BE IT RESOLVED by the people of the state of Missouri that the Constitution be amended:*

One new section is adopted by adding one new section to be known as section 23 of Article VIII to read as follows:

Section 23. 1. This section shall be known as the "Missouri Campaign Contribution Reform Initiative."

2. The people of the State of Missouri hereby find and declare that excessive campaign contributions to political candidates create the potential for corruption and the appearance of corruption; that large campaign contributions made to influence election outcomes allow wealthy individuals, corporations and special interest groups to exercise a disproportionate level of influence over the political process; that the rising costs of campaigning for political office prevent qualified citizens from running for political office; that political contributions from corporations and labor organizations are not necessarily an indication of popular support for the corporation's or labor organization's political ideas and can unfairly influence the outcome of Missouri elections; and that the interests of the public are best served by limiting campaign contributions, providing for full and timely disclosure of campaign contributions, and strong enforcement of campaign finance requirements.

3. (1) Except as provided in subdivisions (2), (3) and (4) of this subsection, the amount of contributions made by or accepted from any person other than the candidate in any one election shall not exceed the following:

(a) To elect an individual to the office of governor, lieutenant governor, secretary of state, state treasurer, state auditor, attorney general, office of state senator, office of state representative or any other state or judicial office, two thousand six hundred dollars.

(2) (a) No political party shall accept aggregate contributions from any person that exceed twenty-five thousand dollars per election at the state, county, municipal, district, ward, and township level combined.

(b) No political party shall accept aggregate contributions from any committee that exceed twenty-five thousand dollars per election at the state, county, municipal, district, ward, and township level combined.

(3) (a) It shall be unlawful for a corporation or labor organization to make contributions to a campaign committee, candidate committee, exploratory committee, political party committee or a political party; except that a corporation or labor organization may establish a continuing committee which may accept contributions or dues from members, officers, directors, employees or security holders.

(b) The prohibition contained in subdivision (a) of this subsection shall not apply to a corporation that:

(i) Is formed for the purpose of promoting political ideas and cannot engage in business activities; and

(ii) Has no security holders or other persons with a claim on its assets or income; and

(iii) Was not established by and does not accept contributions from business corporations or labor organizations.

(4) No candidate's candidate committee shall accept contributions from, or make contributions to, another candidate committee, including any candidate committee, or equivalent entity, established under federal law.

(5) Notwithstanding any other subdivision of this subsection to the contrary, a candidate's candidate committee may receive a loan from a financial institution organized under state or federal law if the loan bears the usual and customary interest rate, is made on a basis that assures repayments, is evidenced by a written instrument, and is subject to a due date or amortization schedule. The contribution limits described in this subsection shall not apply to a loan as described in this subdivision.

(6) No campaign committee, candidate committee, continuing committee, exploratory committee, political party committee, and political party shall accept a contribution in cash exceeding one hundred dollars per election.

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(7) No contribution shall be made or accepted, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to conceal the identity of the actual source of the contribution or the actual recipient. Any person who receives contributions for a committee shall disclose to that committee's treasurer, deputy treasurer or candidate the recipient's own name and address and the name and address of the actual source of each contribution such person has received for that committee.

(8) No anonymous contribution of more than twenty-five dollars shall be made by any person, and no anonymous contribution of more than twenty-five dollars shall be accepted by any candidate or committee. If any anonymous contribution of more than twenty-five dollars is received, it shall be returned immediately to the contributor, if the contributor's identity can be ascertained, and if the contributor's identity cannot be ascertained, the candidate, committee treasurer or deputy treasurer shall immediately transmit that portion of the contribution which exceeds twenty-five dollars to the state treasurer and it shall escheat to the state.

(9) The maximum aggregate amount of anonymous contributions which shall be accepted per election by any committee shall be the greater of five hundred dollars or one percent of the aggregate amount of all contributions received by that committee in the same election. If any anonymous contribution is received which causes the aggregate total of anonymous contributions to exceed the foregoing limitation, it shall be returned immediately to the contributor, if the contributor's identity can be ascertained, and, if the contributor's identity cannot be ascertained, the committee treasurer, deputy treasurer or candidate shall immediately transmit the anonymous contribution to the state treasurer to escheat to the state.

(10) Notwithstanding the provisions of subdivision (9) of this subsection, contributions from individuals whose names and addresses cannot be ascertained which are received from a fund-raising activity or event, such as defined in section 130.011, RSMo, as amended from time to time, shall not be deemed anonymous contributions, provided the following conditions are met:

(a) There are twenty-five or more contributing participants in the activity or event;

(b) The candidate, committee treasurer, deputy treasurer or the person responsible for conducting the activity or event makes an announcement that it is illegal for anyone to make or receive a contribution in excess of one hundred dollars unless the contribution is accompanied by the name and address of the contributor;

(c) The person responsible for conducting the activity or event does not knowingly accept payment from any single person of more than one hundred dollars unless the name and address of the person making such payment is obtained and recorded pursuant to the record-keeping requirements of section 130.036, RSMo, as amended from time to time;

(d) A statement describing the event shall be prepared by the candidate or the treasurer of the committee for whom the funds were raised or by the person responsible for conducting the activity or event and attached to the disclosure report of contributions and expenditures required by section 130.041, RSMo, as amended from time to time. The following information to be listed in the statement is in addition to, not in lieu of, the requirements elsewhere in this chapter relating to the recording and reporting of contributions and expenditures:

(i) The name and mailing address of the person or persons responsible for conducting the event or activity and the name and address of the candidate or committee for whom the funds were raised;

(ii) The date on which the event occurred;

(iii) The name and address of the location where the event occurred and the approximate number of participants in the event;

(iv) A brief description of the type of event and the fund-raising methods used;

(v) The gross receipts from the event and a listing of the expenditures incident to the event;

(vi) The total dollar amount of contributions received from the event from participants whose names and addresses were not obtained with such contributions and an explanation of why it was not possible to obtain the names and addresses of such participants;

(vii) The total dollar amount of contributions received from contributing participants in the event who are identified by name and address in the records required to be maintained pursuant to section 130.036, RSMo, as amended from time to time.

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(11) No candidate or committee in this state shall accept contributions from any out-of-state committee unless the out-of-state committee from whom the contributions are received has filed a statement of organization pursuant to section 130.021, RSMo, as amended from time to time, or has filed the reports required by sections 130.049 and 130.050, RSMo, as amended from time to time, whichever is applicable to that committee.

(12) Political action committees shall only receive contributions from individuals; unions; federal political action committees; and corporations, associations, and partnerships formed under chapters 347 to 360, RSMo, as amended from time to time, and shall be prohibited from receiving contributions from other political action committees, candidate committees, political party committees, campaign committees, exploratory committees, or debt service committees. However, candidate committees, political party committees, campaign committees, exploratory committees, and debt service committees shall be allowed to return contributions to a donor political action committee that is the origin of the contribution.

(13) The prohibited committee transfers described in subdivision (12) of this subsection shall not apply to the following committees:

(a) The state house committee per political party designated by the respective majority or minority floor leader of the house of representatives or the chair of the state party if the party does not have majority or minority party status;

(b) The state senate committee per political party designated by the respective majority or minority floor leader of the senate or the chair of the state party if the party does not have majority or minority party status.

(14) No person shall transfer anything of value to any committee with the intent to conceal, from the Missouri ethics commission, the identity of the actual source. Any violation of this subdivision shall be punishable as follows:

(a) For the first violation, the Missouri ethics commission shall notify such person that the transfer to the committee is prohibited under this section within five days of determining that the transfer is prohibited, and that such person shall notify the committee to which the funds were transferred that the funds must be returned within ten days of such notification;

(b) For the second violation, the person transferring the funds shall be guilty of a class C misdemeanor;

(c) For the third and subsequent violations, the person transferring the funds shall be guilty of a class D felony.

(15) No person shall make a contribution to a campaign committee, candidate committee, continuing committee, exploratory committee, political party committee, and political party with the expectation that some or all of the amounts of such contribution will be reimbursed by another person. No person shall be reimbursed for a contribution made to any campaign committee, candidate committee, continuing committee, exploratory committee, political party committee, and political party, nor shall any person make such reimbursement expect as provided in subdivision (5) of this subsection.

(16) No campaign committee, candidate committee, continuing committee, exploratory committee, political party committee, and political party shall knowingly accept contributions from:

(a) Any natural person who is not a citizen of the United States;

(b) A foreign government; or

(c) Any foreign corporation that does not have the authority to transact business in this state pursuant to Chapter 347, RSMo, as amended from time to time.

(17) Contributions from persons under fourteen years of age shall be considered made by the parents or guardians of such person and shall be attributed toward any contribution limits prescribed in this chapter. Where the contributor under fourteen years of age has two custodial parents or guardians, fifty percent of the contribution shall be attributed to each parent or guardian, and where such contributor has one custodial parent or guardian, all such contributors shall be attributed to the custodial parent or guardian.

(18) Each limit on contributions described in subdivisions (1), (2)(a), and (2)(b) of this subsection shall be adjusted by an amount based upon the average of the percentage change over

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a four year period in the United States Bureau of Labor Statistics Consumer Price Index for Kansas City, all items, all consumers, or its successor index, rounded to the nearest lowest twenty-five dollars and the percentage change over a four year period in the United States Bureau of Labor Statistics Consumer Price Index for St. Louis, all items, all consumers, or its successor index, rounded to the nearest lowest twenty-five dollars. The first adjustment shall be done in the first quarter of 2019, and then every four years thereafter. The secretary of state shall calculate such an adjustment in each limit and specify the limits in rules promulgated in accordance with Chapter 536, RSMo, as amended from time to time.

4. (1) Notwithstanding the provisions of subsection 3 of section 105.957, RSMo, as amended from time to time, any natural person may file a complaint with the Missouri ethics commission alleging a violation of the provisions of section 3 of this Article by any candidate for elective office, within sixty days prior to the primary election at which such candidate is running for office, until after the general election. Any such complaint shall be in writing, shall state all facts known by the complainant which have given rise to the complaint, and shall be sworn to, under penalty of perjury, by the complainant.

(2) Within the first business day after receipt of a complaint pursuant to this section, the executive director shall supply a copy of the complaint to the person or entity named in the complaint. The executive director of the Missouri ethics commission shall notify the complainant and the person or entity named in the complaint of the date and time at which the commission shall audit and investigate the allegations contained in the complaint pursuant to subdivision (3) of this subsection.

(3) Within fifteen business days of receipt of a complaint pursuant to this section, the commission shall audit and investigate the allegations contained in the complaint and shall determine by a vote of at least four members of the commission that there are reasonable grounds to believe that a violation of law has occurred within the jurisdiction of the commission. The respondent may reply in writing or in person to the allegations contained in the complaint and may state justifications to dismiss the complaint. The complainant may also present evidence in support of the allegations contained in the complaint, but such evidence shall be limited in scope to the allegations contained in the original complaint, and such complaint may not be supplemented or otherwise enlarged in scope.

(4) If, after audit and investigation of the complaint and upon a vote of at least four members of the commission, the commission determines that there are reasonable grounds to believe that a violation of law has occurred within the jurisdiction of the commission, the commission shall proceed with such complaint as provided by sections 105.957 to 105.963, RSMo, as amended from time to time. If the commission does not determine that there are reasonable grounds to believe that such a violation of law has occurred, the complaint shall be dismissed. If a complaint is dismissed, the fact that such complaint was dismissed, with a statement of the nature of the complaint, shall be made public within twenty-four hours of the commission's action.

(5) Any complaint made pursuant to this section, and all proceedings and actions concerning such a complaint, shall be subject to the provisions of subsection 15 of section 105.961, RSMo, as amended from time to time.

(6) No complaint shall be accepted by the commission within fifteen days prior to the primary or general election at which such candidate is running for office.

5. Any person who knowingly and willfully accepts or makes a contribution in violation of any provision of section 3 of this Article or who knowingly and willfully conceals a contribution by filing a false or incomplete report or by not filing a required report under Chapter 130, RSMo, as amended from time to time, shall be held liable to the state in civil penalties in an amount of at least double and up to five times the amount of any such contribution.

6. (1) Any person who purposely violates the provisions of section 3 of this Article is guilty of a class A misdemeanor.

(2) Notwithstanding any other provision of law which bars prosecutions for any offenses other than a felony unless commenced within one year after the commission of the offense, any offense under the provisions of this section may be prosecuted if the indictment be found or prosecution be instituted within three years after the commission of the alleged offense.

(3) Any prohibition to the contrary notwithstanding, no person shall be deprived of the rights, guarantees, protections or privileges accorded by sections 130.011 to 130.026, 130.031 to 130.068, 130.072, and 130.081, RSMO, as amended from time to time, by any person, corporation, entity or political subdivision.

7. As used in this section, the following terms have the following meanings:

(1) "Appropriate officer" or "appropriate officers", the person or persons designated in section 130.026, or any successor section, to receive certain required statements and reports;

(2) "Candidate", an individual who seeks nomination or election to public office. The term "candidate" includes an elected officeholder who is the subject of a recall election, an individual who seeks nomination by the individual's political party for election to public office, an individual standing for retention in an election to an office to which the individual was previously appointed, an individual who seeks nomination or election whether or not the specific elective public office to be sought has been finally determined by such individual at the time the individual meets the conditions described in paragraph (a) or (b) of this subdivision, and an individual who is a write-in candidate as defined in subdivision (26) of this section. A candidate shall be deemed to seek nomination or election when the person first:

(a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote the person's candidacy for office; or

(b) Knows or has reason to know that contributions are being received or expenditures are being made or space or facilities are being reserved with the intent to promote the person's candidacy for office; except that, such individual shall not be deemed a candidate if the person files a statement with the appropriate officer within five days after learning of the receipt of contributions, the making of expenditures, or the reservation of space or facilities disavowing the candidacy and stating that the person will not accept nomination or take office if elected; provided that, if the election at which such individual is supported as a candidate is to take place within five days after the person's learning of the above-specified activities, the individual shall file the statement disavowing the candidacy within one day; or

(c) Announces or files a declaration of candidacy for office.

(3) "Cash", currency, coin, United States postage stamps, or any negotiable instrument which can be transferred from one person to another person without the signature or endorsement of the transferor.

(4) "Committee", a person or any combination of persons, who accepts contributions or makes expenditures for the primary or incidental purpose of influencing or attempting to influence the action of voters for or against the nomination or election to public office of one or more candidates or the qualification, passage or defeat of any ballot measure or for the purpose of paying a previously incurred campaign debt or obligation of a candidate or the debts or obligations of a committee or for the purpose of contributing funds to another committee.

(5) "Committee", does not include:

(a) A person or combination of persons, if neither the aggregate of expenditures made nor the aggregate of contributions received during a calendar year exceeds five hundred dollars and if no single contributor has contributed more than two hundred fifty dollars of such aggregate contributions;

(b) An individual, other than a candidate, who accepts no contributions and who deals only with the individual's own funds or property;

(c) A corporation, cooperative association, partnership, proprietorship, or joint venture organized or operated for a primary or principal purpose other than that of influencing or attempting to influence the action of voters for or against the nomination or election to public office of one or more candidates or the qualification, passage or defeat of any ballot measure, and it accepts no contributions, and all expenditures it makes are from its own funds or property obtained in the usual course of business or in any commercial or other transaction and which are not contributions as defined by subdivision (7) of this section;

(d) A labor organization organized or operated for a primary or principal purpose other than that of influencing or attempting to influence the action of voters for or against the nomination or election to public office of one or more candidates, or the qualification, passage, or defeat of any ballot measure, and it accepts no contributions, and expenditures made by the organization are from its own funds or property received from membership dues or membership fees which were given or solicited for the purpose of supporting the normal and usual activities and functions of the organization and which are not contributions as defined by subdivision (7) of this section;

(e) A person who acts as an authorized agent for a committee in soliciting or receiving contributions or in making expenditures or incurring indebtedness on behalf of the committee if

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such person renders to the committee treasurer or deputy treasurer or candidate, if applicable, an accurate account of each receipt or other transaction in the detail required by the treasurer to comply with all record-keeping and reporting requirements; or

(f) Any department, agency, board, institution or other entity of the state or any of its subdivisions or any officer or employee thereof, acting in the person's official capacity.

(6) The term "committee" includes, but is not limited to, each of the following committees: campaign committee, candidate committee, continuing committee and political party committee;

(a) "Campaign committee", a committee, other than a candidate committee, which shall be formed by an individual or group of individuals to receive contributions or make expenditures and whose sole purpose is to support or oppose the qualification and passage of one or more particular ballot measures in an election or the retention of judges under the nonpartisan court plan, such committee shall be formed no later than thirty days prior to the election for which the committee receives contributions or makes expenditures, and which shall terminate the later of either thirty days after the general election or upon the satisfaction of all committee debt after the general election, except that no committee retiring debt shall engage in any other activities in support of a measure for which the committee was formed;

(b) "Candidate committee", a committee which shall be formed by a candidate to receive contributions or make expenditures in behalf of the person's candidacy and which shall continue in existence for use by an elected candidate or which shall terminate the later of either thirty days after the general election for a candidate who was not elected or upon the satisfaction of all committee debt after the election, except that no committee retiring debt shall engage in any other activities in support of the candidate for which the committee was formed. Any candidate for elective office shall have only one candidate committee for the elective office sought, which is controlled directly by the candidate for the purpose of making expenditures. A candidate committee is presumed to be under the control and direction of the candidate unless the candidate files an affidavit with the appropriate officer stating that the committee is acting without control or direction on the candidate's part;

(c) "Continuing committee", a committee of continuing existence which is not formed, controlled or directed by a candidate, and is a committee other than a candidate committee or campaign committee, whose primary or incidental purpose is to receive contributions or make expenditures to influence or attempt to influence the action of voters whether or not a particular candidate or candidates or a particular ballot measure or measures to be supported or opposed has been determined at the time the committee is required to file any statement or report pursuant to the provisions of this chapter. "Continuing committee" includes, but is not limited to, any committee organized or sponsored by a business entity, a labor organization, a professional association, a trade or business association, a club or other organization and whose primary purpose is to solicit, accept and use contributions from the members, employees or stockholders of such entity and any individual or group of individuals who accept and use contributions to influence or attempt to influence the action of voters. Such committee shall be formed no later than sixty days prior to the election for which the committee receives contributions or makes expenditures; and

(d) "Connected organization", any organization such as a corporation, a labor organization, a membership organization, a cooperative, or trade or professional association which expends funds or provides services or facilities to establish, administer or maintain a committee or to solicit contributions to a committee from its members, officers, directors, employees or security holders. An organization shall be deemed to be the connected organization if more than fifty percent of the persons making contributions to the committee during the current calendar year are members, officers, directors, employees or security holders of such organization or their spouses.

(7) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value for the purpose of supporting or opposing the nomination or election of any candidate for public office or the qualification, passage or defeat of any ballot measure, or for the support of any committee supporting or opposing candidates or ballot measures or for paying debts or obligations of any candidate or committee previously incurred for the above purposes. A contribution of anything of value shall be deemed to have a money value equivalent to the fair market value. "Contribution" includes, but is not limited to:

(a) A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

(b) Payment by any person, other than a candidate or committee, to compensate another person for services rendered to that candidate or committee;

(c) Receipts from the sale of goods and services, including the sale of advertising space in a brochure, booklet, program or pamphlet of a candidate or committee and the sale of tickets or political merchandise; 16-002

(d) Receipts from fund-raising events including testimonial affairs;

(e) Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in an election campaign or used or intended for the payment of such debts or obligations of a candidate or committee previously incurred, or which was made or received by a committee;

(f) Funds received by a committee which are transferred to such committee from another committee or other source, except funds received by a candidate committee as a transfer of funds from another candidate committee controlled by the same candidate but such transfer shall be included in the disclosure reports;

(g) Facilities, office space or equipment supplied by any person to a candidate or committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or committees, on an equal basis for similar purposes on the same conditions; and

(h) The direct or indirect payment by any person, other than a connected organization, of the costs of establishing, administering, or maintaining a committee, including legal, accounting and computer services, fund raising and solicitation of contributions for a committee.

(8) "Contribution" does not include:

(a) Ordinary home hospitality or services provided without compensation by individuals volunteering their time in support of or in opposition to a candidate, committee or ballot measure, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

(b) An offer or tender of a contribution which is expressly and unconditionally rejected and returned to the donor within ten business days after receipt or transmitted to the state treasurer;

(c) Interest earned on deposit of committee funds; or

(d) The costs incurred by any connected organization listed pursuant to subdivision (4) of subsection 5 of section 130.021, RSMo, as amended from time to time, for establishing, administering or maintaining a committee, or for the solicitation of contributions to a committee which solicitation is solely directed or related to the members, officers, directors, employees or security holders of the connected organization.

(9) "County", any one of the several counties of this state or the city of St. Louis.

(10) "Disclosure report", an itemized report of receipts, expenditures and incurred indebtedness which is prepared on forms approved by the Missouri ethics commission and filed at the times and places prescribed.

(11) "Election", any primary, general or special election held to nominate or elect an individual to public office, to retain or recall an elected officeholder or to submit a ballot measure to the voters, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections.

(12) "Expenditure", a payment, advance, conveyance, deposit, donation or contribution of money or anything of value for the purpose of supporting or opposing the nomination or election of any candidate for public office or the qualification or passage of any ballot measure or for the support of any committee which in turn supports or opposes any candidate or ballot measure or for the purpose of paying a previously incurred campaign debt or obligation of a candidate or the debts or obligations of a committee; a payment, or an agreement or promise to pay, money or anything of value, including a candidate's own money or property, for the purchase of goods, services, property, facilities or anything of value for the purpose of supporting or opposing the nomination or election of any candidate for public office or the qualification or passage of any ballot measure or for the support of any committee which in turn supports or opposes any candidate or ballot measure or for the purpose of paying a previously incurred campaign debt or obligation of a candidate or the debts or obligations of a committee. An expenditure of anything

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of value shall be deemed to have a money value equivalent to the fair market value. "Expenditure" includes, but is not limited to:

(a) Payment by anyone other than a committee for services of another person rendered to such committee;

(b) The purchase of tickets, goods, services or political merchandise in connection with any testimonial affair or fund-raising event of or for candidates or committees, or the purchase of advertising in a brochure, booklet, program or pamphlet of a candidate or committee;

(c) The transfer of funds by one committee to another committee; and

(d) The direct or indirect payment by any person, other than a connected organization for a committee, of the costs of establishing, administering or maintaining a committee, including legal, accounting and computer services, fund raising and solicitation of contributions for a committee.

(13) "Expenditure" does not include:

(a) Any news story, commentary or editorial which is broadcast or published by any broadcasting station, newspaper, magazine or other periodical without charge to the candidate or to any person supporting or opposing a candidate or ballot measure;

(b) The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders, provided that the cost incurred is reported pursuant to subsection 2 of section 130.051, RSMo, as amended from time to time;

(c) Repayment of a loan, but such repayment shall be indicated in required reports;

(d) The rendering of voluntary personal services by an individual of the sort commonly performed by volunteer campaign workers and the payment by such individual of the individual's necessary and ordinary personal expenses incidental to such volunteer activity, provided no compensation is, directly or indirectly, asked or given;

(e) The costs incurred by any connected organization listed pursuant to subdivision (4) of subsection 5 of section 130.021, RSMo, as amended from time to time, for establishing, administering or maintaining a committee, or for the solicitation of contributions to a committee which solicitation is solely directed or related to the members, officers, directors, employees or security holders of the connected organization; or

(f) The use of a candidate's own money or property for expense of the candidate's personal food, lodging, travel, and payment of any fee necessary to the filing for public office, if such expense is not reimbursed to the candidate from any source.

(14) "Exploratory committees", a committee which shall be formed by an individual to receive contributions and make expenditures on behalf of this individual in determining whether or not the individual seeks elective office. Such committee shall terminate no later than December thirty-first of the year prior to the general election for the possible office.

(15) "Fund-raising event", an event such as a dinner, luncheon, reception, coffee, testimonial, rally, auction or similar affair through which contributions are solicited or received by such means as the purchase of tickets, payment of attendance fees, donations for prizes or through the purchase of goods, services or political merchandise.

(16) "In-kind contribution" or "in-kind expenditure", a contribution or expenditure in a form other than money.

(17) "Labor organization", any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(18) "Loan", a transfer of money, property or anything of ascertainable monetary value in exchange for an obligation, conditional or not, to repay in whole or in part and which was contracted, used, or intended for use in an election campaign, or which was made or received by a committee or which was contracted, used, or intended to pay previously incurred campaign debts or obligations of a candidate or the debts or obligations of a committee.

16-002

(19) "Person", an individual, group of individuals, corporation, partnership, committee, proprietorship, joint venture, any department, agency, board, institution or other entity of the state or any of its political subdivisions, union, labor organization, trade or professional or business association, association, political party or any executive committee thereof, or any other club or organization however constituted or any officer or employee of such entity acting in the person's official capacity.

(20) "Political action committee", a committee of continuing existence which is not formed, controlled or directed by a candidate, and is a committee other than a candidate committee, political party committee, campaign committee, exploratory committee, or debt service committee, whose primary or incidental purpose is to receive contributions or make expenditures to influence or attempt to influence the action of voters whether or not a particular candidate or candidates or a particular ballot measure or measures to be supported or opposed has been determined at the time the committee is required to file any statement or report pursuant to the provisions of this chapter. Such a committee includes, but is not limited to, any committee organized or sponsored by a business entity, a labor organization, a professional association, a trade or business association, a club or other organization and whose primary purpose is to solicit, accept and use contributions from the members, employees or stockholders of such entity and any individual or group of individuals who accept and use contributions to influence or attempt to influence the action of voters. Such committee shall be formed no later than sixty days prior to the election for which the committee receives contributions or makes expenditures.

(21) "Political merchandise", goods such as bumper stickers, pins, hats, ties, jewelry, literature, or other items sold or distributed at a fund-raising event or to the general public for publicity or for the purpose of raising funds to be used in supporting or opposing a candidate for nomination or election or in supporting or opposing the qualification, passage or defeat of a ballot measure.

(22) "Political party", a political party which has the right under law to have the names of its candidates listed on the ballot in a general election.

(23) "Political party committee", a state, district, county, city, or area committee of a political party, as defined in section 115.603, RSMo, as amended from time to time, which may be organized as a not-for-profit corporation under Missouri law, and which committee is of continuing existence, and has the primary or incidental purpose of receiving contributions and making expenditures to influence or attempt to influence the action of voters on behalf of the political party.

(24) "Public office" or "office", any state, judicial, county, municipal, school or other district, ward, township, or other political subdivision office or any political party office which is filled by a vote of registered voters.

(25) "Write-in candidate", an individual whose name is not printed on the ballot but who otherwise meets the definition of candidate in subdivision (2) of this section.

8. The provisions of this section are self-executing. All of the provisions of this section are severable. If any provision of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this section shall be and remain valid.

RECEIVED
NOV 0 6 2014
STATE AUDITORS OFFICE

16-001

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

November 6, 2014

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Dan Viets regarding a proposed constitutional amendment to Article I (2016-001)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Dan Viets on November 5, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

16-001

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

RECEIVED
2016 NOV -3 PM 1:31
JASON KANDER
SEC. OF STATE

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2016, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[SPACE RESERVED FOR OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

| NAME (Signature) | Date Signed | REGISTERED VOTING ADDRESS (Street, No PO Boxes) | (City, Town or Village) | Zip Code | Cong. Dist. | NAME (Printed or Typed) |
|---|---|---|---|---|---|---|
| 1. | / / | | | | | |
| 2. | / / | | | | | |
| 3. | / / | | | | | |
| 4. | / / | | | | | |
| 5. | / / | | | | | |
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| 8. | / / | | | | | |
| 9. | / / | | | | | |
| 10. | / / | | | | | |

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant
(Person obtaining signatures)

_____

_____
Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____.

_____
Signature of Notary
Address of Notary: _____

_____

Notary Public (Seal)

My commission expires _____

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri--- Sections 9, 10, 14, 15, 31 & 32 of Article I; Sections 36, 39 & 39(a) of Article III; Sections 7, 12, 15, 22, 23, 27(a) & 48 of Article IV; Sections 14, 18 & 24 of Article V; Section 18(d) of Article VI; Section 1 and 4 of Article VII; Sections 2 of Article VIII; Sections 3(a), 7, and 9(b) of Article IX; Sections 1, 2, 3, 4(a), 6, 10(b), 17, 18, 18(e), 19, 20 & 24 of Article X; and Section 2(b) of Article XII.

16-001

*Be it resolved by the people of the state of Missouri that the Constitution be amended:*

One new section is adopted to be known as Article I, Section 36 and to read as follows:

35(a) 1. Citizens over the age of twenty-one years shall have the right to engage in the production, sale, distribution, and consumption of marijuana and the manufacture of goods from hemp, subject to reasonable regulations adopted by the state government pursuant to this section.

2. The purposes of this section are:

(1) To promote the vital state interest in the regulation of the sale and distribution of marijuana in order to combat illegal underage use of marijuana, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;

(2) To eliminate the problems caused by the prohibition and uncontrolled criminal manufacture, production, delivery, and possession of marijuana within this state;

(3) To prevent the production, sale, distribution, and recreational consumption of marijuana by those under twenty-one years of age, as the consumption of marijuana poses particular hazards to minors, whose brains are still in a state of development;

(4) To legalize under state law the use of marijuana by individuals who are suffering from a medical condition when their doctors advise that such use may provide a medical benefit to them;

(5) To raise tax revenue from the production and sale of marijuana, and to allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans, for elementary, secondary, and higher education, for the cities and counties of this state, for substance abuse and underage drug use prevention programs, for veterans' services, and for the division for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;

(6) To legalize under state law the manufacture, production, and delivery of industrial hemp, and to regulate industrial hemp under state law in a manner separate and apart from the regulation of marijuana;

(7) To legalize under state law the manufacture, production, possession, and use of marijuana by persons twenty-one years of age and older; and

(8) To legalize under state law the delivery of marijuana by persons twenty-one years of age and older to persons twenty-one years of age and older.

3. The people of the state of Missouri intend that the rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section, together with the other provisions of existing state law, will:

(1) Prevent the distribution of marijuana to persons under twenty-one years of age;

(2) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

(3) Prevent the diversion of marijuana from this state to other states;

(4) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) Prevent violence and the use of firearms in the cultivation and distribution of marijuana;

(6) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(7) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;

(8) Prevent the possession and use of marijuana on federal property; and

(9) Prevent the marketing and advertisement of marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or marijuana usage to those under twenty-one years of age.

4. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:

(1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.

(2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.

(3) "Department" means the department of health and senior services, or any successor department.

(4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.

(5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.

(6) "Expungeable marijuana offense" means:

(a) The manufacture, production, possession, or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia; or

(b) The delivery, possession with intent to deliver, or trafficking of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to one or more individuals if such individuals were twenty-one years of age or older at the time of the offense.

(7) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.

(8) "Household exemption limits" means, at any given time:

(a) Six marijuana plants and twelve ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form; and

(c) Twenty ounces of marijuana products in liquid form.

(9) "Industrial hemp" means Cannabis Sativa L. containing no greater than one percent tetrahydrocannabinol.

(10) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local governmental body, agency, or official.

(11) "Licensee" means any person who holds:

(a) A marijuana license; or

(b) A license issued by any state agency for the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp.

(12) "Manufacture" means the production, preparation, propagation, compounding or processing of marijuana paraphernalia or of marijuana, marijuana products, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

(13) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, other than marijuana extracts.

(14) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water, vegetable glycerin, plant oils, and dairy products, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.

(15) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(16) "Marijuana paraphernalia" means all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or marijuana extracts.

(17) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption. Marijuana products does not mean marijuana by itself, or a marijuana extract by itself.

(18) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia to a consumer in this state.

(19) "Person" includes any individual or entity.

(20) "Person twenty-one years of age and older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.

(21) "Produce" or "production" includes the manufacture, planting, cultivation, growing, or harvesting of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia.

(22) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

(23) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.

(24) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum, or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.

(25) "Usable marijuana" means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

5. Except as otherwise provided in this section, no state law shall:

(1) Prohibit the possession or use of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(2) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;

(3) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;

(4) Prohibit the purchase, sale, manufacturing, production, processing, transportation, or delivery of industrial hemp; or

(5) Provide for the seizure or forfeiture of any property used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana paraphernalia, or industrial hemp if such manufacture, production, delivery, possession, or use is lawful under state law.

6. Notwithstanding subsection 5 of this section, a state law may:

(1) Prohibit the importation and exportation of marijuana, marijuana products, and marijuana extracts into and from this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, and marijuana extracts in or on, or within one thousand feet of, real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(4) Prohibit the use of marijuana, marijuana products, and marijuana extracts in a public place, provided however that the penalty for violation of such law may not exceed that for an infraction;

(5) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, and marijuana extracts by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with subsection 7 of this section;

(6) Classify the penalties for violations of such laws;

(7) Impose an excise tax on the first fair market sale of all marijuana produced in this state at a rate of twenty-five percent of the purchase price.

7. Subject to the provisions of subsection 8 of this section, on or before June 1, 2017, the division shall promulgate rules and regulations that control and regulate the purchase, sale, labelling, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(2) Provide for the collection of the excise tax provided in subdivision (7) of subsection 6 of this section;

(3) Provide for the enforcement of such laws and for the examination and inspection of the books, records, and premises of licensees;

(4) Regulate the advertising of marijuana, marijuana products, marijuana extracts, and marijuana paraphernalia;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license and other fees collected under such laws, as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

(b) Next, the remainder of such funds, to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty percent; (ii) for public institutions of elementary and secondary education, twenty percent; (iii) for substance abuse programs and prevention of underage drug use, twenty percent; (iv) for services to Missouri military

veterans, fifteen percent; (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and (vi) for cities and counties, ten percent and

(c) All moneys appropriated by the general assembly from the excise taxes authorized in subdivision 7 of subsection 6 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding.

(6) Limit the amount of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time, provided however that the penalty for violation of such law may not exceed that for an infraction for the first violation and a misdemeanor for any second or subsequent violation.

(7) Require accurate labeling of marijuana, marijuana products, or marijuana extracts, disclosing the amount of THC contained therein.

(8) Regulate the amount of THC in a marijuana product or marijuana extract.

8. No state law or combination of state laws shall:

(1) Except for the tax provided in subdivision (7) of subsection 6 of this section, impose any tax on marijuana, marijuana products, marijuana extracts, or transactions involving marijuana, marijuana products, or marijuana extracts that is not imposed on other products generally;

(2) Limit the amounts of marijuana, marijuana products, or marijuana extracts that a person other than a licensee may possess at any given time to amounts less than:

(a) Six marijuana plants and twelve ounces of usable marijuana;

(b) Sixteen ounces of marijuana products in solid form;

(c) Twenty ounces of marijuana products in liquid form; and

(d) One ounce of marijuana extracts.

(3) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per every 10,000 inhabitants, or any portion thereof, in such county, according to the most recent census of the United States;

(4) Limit the number of marijuana licenses that may be granted to or held by the same person;

(5) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(6) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or a resident of this state;

(7) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating: (i) any non-discretionary expungeable marijuana offense in subdivision (1) or (2) of subsection (14) of this section; or (ii) any marijuana-related offense that has been expunged;

(8) Require an individual twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia;

(9) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(10) Require an individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia for no consideration to an individual twenty-one years of age or older if:

(a) The marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia were purchased from a licensed marijuana retailer; or

(b) The marijuana or marijuana products were manufactured or processed by a person without a license in accordance with subdivision (12) of this subsection;

(11) Require any marijuana retailer to record the name or any other personally identifiable information of any consumer twenty-one years of age or older;

(12) Require a person twenty-one years of age or older to obtain any license or pay any tax to manufacture or process marijuana or marijuana products at a household for noncommercial personal use if the aggregate amounts of such marijuana and marijuana products at the household do not exceed the household exemption limits; or

(13) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under subdivision (12) of this subsection may not exceed a misdemeanor, punishable by a fine of not more than one thousand dollars, or by imprisonment in the county jail for a term not exceeding one year, or by both such fine and jail sentence; or

(14) Make the ownership or operation of a licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct the business.

9. On or before June 1, 2017, the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, and marijuana extracts to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice;

(2) Permit individuals suffering from a medical condition to be allowed to use marijuana, marijuana products, and marijuana extracts without being subject to civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use; and

(3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, or marijuana extracts for medical purposes unless the individual's custodial parent or legal guardian with responsibility for the individual's health care decisions consents to such use.

10. No licensed doctor may be subjected to any criminal or civil penalty, or to any discipline by any state licensing division, board, or commission, for:

(1) Advising a person whom the doctor has diagnosed as having a medical condition, or a person who the doctor knows has been so diagnosed by another licensed doctor, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition, provided the advice is based on the doctor's personal assessment of the person's medical history and current medical condition; or

(2) Providing any written documentation that evidences or confirms such advice and assessment.

11. The division is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

12. The department is directed and authorized to enforce, administer, and make rules and regulations that are not inconsistent with this section.

13. The general assembly may enact laws that control, regulate, and tax the manufacture, production, and delivery of industrial hemp.

14. Convictions of marijuana offenses shall be expungeable as follows:

(1) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense, and who was twenty-one years of age or older at the time of the offense, may apply to the court in which he or she was

sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has plead guilty to or has been convicted of an expungeable marijuana offense, the court shall enter an order of expungement. An individual shall be entitled to one or more expungements pursuant to this subdivision (1).

(2) After a period of not less than one year, an individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense for the first time, and who was under twenty-one years of age at the time of the offense, and who since such conviction has not been convicted of any other marijuana-related offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. If the court determines, upon review, that such individual has not been convicted of any other marijuana-related offense at the time of the application for expungement, the court shall enter an order of expungement.

(3) An individual who has plead guilty to or has been convicted of violating any expungeable marijuana offense that is not expungeable under subdivisions (1) or (2) of this subsection may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that an expungement is in the interests of justice, the court may enter an order of expungement. An individual may be entitled to one or more expungements pursuant to this subdivision (3).

(4) The effect of an order of expungement shall be to restore the applicable individual to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. A person imprisoned solely as a result of one or more expungeable marijuana offenses that are expunged shall be released from prison immediately upon the issuance of the applicable order or orders of expungement. No individual as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever.

15. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using marijuana, marijuana products, marijuana extracts, marijuana paraphernalia, or industrial hemp is prohibited by federal law.

16. Nothing in this section shall be construed:

(1) To amend or affect in any way any state or federal law pertaining to employment matters;

(2) To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;

(3) To amend or affect in any way any state or federal law that permits an owner, lessor, or lessee of real property or any other person who has a legal estate in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;

(4) To amend or affect in any way any state law pertaining to the operation of a vehicle, watercraft, aircraft, railroad train, or any similar device while using or under the influence of marijuana;

(5) To require a person to violate a federal law; or

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law.

17. If any subsections, subdivisions, phrases, or words of this section shall be held unconstitutional, void, or illegal, either on their face or as applied, the applicability, constitutionality, and legality of any and all other subsections, subdivisions, phrases, and words of this section shall not be affected. To that end, the subsections, subdivisions, phrases, and words of this section are intended to be severable. It is hereby declared to be the intent of this section that each and every subsection, subdivision, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, subdivisions, phrases, or words of this section is held unconstitutional, void, or illegal.

18. The provisions of subsections 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 of this section and subdivisions (1), (2), and (5) of subsection 5 of this section shall become effective on January 1, 2017. The provisions of subsections 1 and 8 of this section and subdivisions (3) and (4) of subsection 5 of this section shall become effective on June 1, 2017. All state laws that are inconsistent with any provision of subdivision (1), (2), or (5) of subsection 5 of this section shall no longer remain in full force and effect on and after January 1, 2017. All state laws that are inconsistent with any provision of subsections 1 or 8 of this section or subdivision (3) or (4) of subsection 5 of this section shall no longer remain in full force and effect on and after June 1, 2017. All of the provisions of this section shall be self-enforcing.